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TRUTH SERUM

JOHN M. MACDONALD

John M. Macdonald, M.D. is Assistant Medical Director of the Colorado Psychopathic Hospital, University of Colorado Medical Center, Denver. This article is based upon experience he has gained as a state employed psychiatrist and as a consulting psychiatrist to the District Courts of Colorado, and represents a comprehensive analysis of the value of truth serum in criminal investigation.—EDITOR.

Much publicity has been given to the use of drugs in obtaining confessions from suspected criminals. The term "truth serum" suggests the existence of a drug with the remarkable property of eliciting the truth. The reputation enjoyed by truth serum is based on spectacular newspaper reports rather than on carefully documented case reports in professional medical or legal journals. The test is sometimes used by law enforcement officers, but it is doubtful whether it is as useful as popular belief would suggest. The description truth serum is misleading as the drug used is not a serum, and it does not always lead to the truth. Formerly scopalamine was used, but today a barbiturate drug, such as sodium amytal, is usually employed. The test may not be performed unless the suspect willingly gives his consent. The drug is injected slowly into a vein in order to induce a relaxed state of mind in which the suspect becomes more talkative and has less emotional control. The mental state produced is not unlike that seen in acute alcoholism.

It is well known that a person under the influence of alcohol may reveal information which he would not disclose when sober. Barbiturates are preferable to alcohol because results are obtained in a shorter time, under more uniform conditions which are easier to control and which are more conducive to satisfactory interrogation. The intravenous injection of a drug by a physician in a hospital may appear more scientific than the drinking of large amounts of bourbon in a tavern, but the end results displayed in the subject's speech may be no more reliable. The drugged person may be just as boastful and untruthful as the alcoholic. The risk of self-incrimination is a potent force motivating the suspect against revealing information which might lead to his conviction on a criminal charge. It is unlikely that he will reveal information under drugs unless he is prepared to do so. The test is by no means reliable, and when used indiscriminately, it may cloud rather than clarify criminal investigation. It is important to be familiar with the limitations of this technique which is variously called truth serum test, narcosis, and narcoanalysis. The value of the test will be considered in regard to the innocent suspect, the guilty suspect, and the suspect who claims loss of memory

THE INNOCENT SUSPECT

It might be thought that no problems would arise from the use of drugs on persons who are, in fact, innocent. Unfortunately, persons under the influence of drugs are very suggestible and may confess to crimes which they have not committed.

False or misleading answers may be given, especially when questions are improperly phrased. For example, if the police officer asserted in a confident tone "You did steal the money, didn't you?", a suggestible suspect might easily give a false affirmative answer. Gerson and Victoroff[1] reported the case of a soldier who, under sodium amytal narcoanalysis, confessed to a robbery in which he had not participated. In 1928 in Hawaii, a murder suspect under the influence of drugs falsely confessed to writing the ransom note, but later the real murderer was discovered.[2] False confessions under drugs may lead to a miscarriage of justice. A false confession may also interrupt the criminal investigation at a crucial time and enable the real criminal to escape detection. The test has been recommended as a valuable method of exonerating the innocent suspect, but the test is not sufficiently reliable for this purpose.

The Guilty Suspect

A confession made under the influence of drugs is inadmissible in evidence because of the rule against involuntary confessions. A confession obtained in this manner, however, may help the police to obtain further evidence which might lead to the criminal's conviction.

Occasionally, the mere suggestion of a truth serum test is sufficient to induce a confession. Some guilty suspects confess while under the influence of drugs. These confessions might appear to favor the use of truth serum tests. Experience shows that the criminal who confesses as the result of skillful interrogation without the use of drugs is the criminal who is likely to respond to examination while under narcosis. It should be emphasized that skillful interrogation requires considerable patience, effort, and psychological insight. The basis of competent criminal interrogation has been well described by Inbau and Reid, who point out that a prime requisite for successful interrogation is persistence.[3]

> Never conclude an interrogation at the time when you feel discouraged and ready to give up, but continue for a little while longer—if only for five or ten minutes. The writers have observed many instances where the subject's resistance broke just at the very time when the interrogator himself was about ready to abandon his efforts.

Truth serum has been recommended as a means of last resort when other methods have failed.[4] But one wonders how many successful truth serum tests have been employed, when the interrogator has become discouraged, just at that time when the suspect was about to confess. Inbau,[5] who has had considerable experience in observing or participating in truth serum tests, is of the opinion that such tests are

[1] M. J. Gerson and V. M. Victoroff. *Experimental Investigation into Validity of Confessions Obtained under Sodium Amytal Narcosis.* J. Clin. Psychopath., *9:* 359, July 1948.

[2] Editorial: *Medicine and the Law,* Lancet, *215:* 990, Nov. 1928.

[3] F. E. Inbau and John E. Reid. Lie Detection and Criminal Interrogation, p. 186, Baltimore: The Williams and Wilkins Company, 1953.

[4] C. W. Muehlberger. *Interrogation under Drug Influence,* J. Crim. Law, Criminol. and Police Sci. *42:* 513, 1951.

[5] F. E. Inbau. Self Incrimination, Springfield: C. C. Thomas, 1950. p. 69.

occasionally effective on persons who would have previously disclosed the truth anyway if they had been properly interrogated.

The suspect who is able to withstand competent and prolonged interrogation is usually able to withstand interrogation under narcosis. The confident criminal relishes the prospect of examination under drugs. He welcomes the opportunity of making self-serving statements in the pseudo-scientific atmosphere of the truth serum test. The only person likely to gain in these circumstances is the criminal who may strengthen the effectiveness of his denials in the eyes of a credulous jury. Some law enforcement officers have a mistaken faith in the reliability of the truth serum test. As a result, they may neglect to pursue their inquiries on a suspect who emerges unscathed from this unreliable test of truth.

The Suspect Who Claims Loss of Memory

It is not infrequent for criminal suspects to claim loss of memory for the period during which the crime was committed. This amnesia is rarely genuine, and it is important to detect malingering. Genuine amnesia may result from insanity, epilepsy, and head injury, or it may occur as an hysterical symptom following severe psychological stress, as in Case 2 described below. Severe emotional trauma may or may not cause amnesia in first offenders who have committed a crime by accident, or in anger, without planning and not for the purpose of financial gains. The psychopath, the repeated offender, and the offender who commits a crime for financial gain is much less likely to have a genuine amnesia. The person who suffers from a genuine amnesia is unable to recall any events over a circumscribed period of time. The malingerer may show this pattern, but often he has a patchy amnesia which differs from genuine amnesia. A patchy amnesia is one in which remembered and forgotten events follow each other indiscriminately. An assumed amnesia is often exposed by some chance remark or written statement of the accused.[6] Narcoanalysis is not likely to be of value and should not be employed in cases of malingering.

The person who fakes amnesia is usually able to continue the deception under narcosis, although he may choose to simulate a return of memory. Narcoanalysis provides suspects with a welcome and apparently honorable excuse for divulging, without "loss of face", what they claim to have forgotten. The skilled interrogator should be able to provide such a setting for confessions without resorting to the use of drugs. A criminal may choose to simulate a recovery of memory under drugs in order to form a basis for a plea of insanity. Thus, the test may help the criminal to circumvent justice. The following is a case in point.

> *Case 1.* A twenty-nine year old white man was arrested in Denver while in possession of a stolen car. The trunk of the car was bloodstained and had an unpleasant odor of decomposing flesh. The owner of the car had been missing from his home in California for some weeks, and it was suspected that he had been murdered. The suspect claimed amnesia from the time he escaped from a California mental hospital two months previously until he found himself in a Denver hospital for treatment of a bullet wound received while trying to escape from the police.

[6] John M. Macdonald. *Narcoanalysis and Criminal Law,* Am. J. Psychiat., *111:* 283, Oct. 1954.

He made several untruthful statements to the police. Prolonged questioning failed to reveal any significant information, although the detective captain thought that he was on the verge of making a statement. At this stage, he agreed to narcoanalysis. While under narcosis, he described his escape from the hospital and his subsequent meeting with the missing man. One evening he left this man in the car while he went to buy some food. On his return, he discovered the owner of the car with his head "bashed in". He was frightened that he would be blamed, as he had a criminal record. He drove to an isolated spot in New Mexico where he buried the body, which was later found in the location he had described. He displayed little emotion and no remorse as he described these events. Indeed, he was very self-possessed and appeared almost to enjoy the examination. In view of his previous untruthfulness and his behavior while under narcosis, it was considered that he was not suffering from a genuine amnesia. He later confessed to the crime and entered a plea of insanity which was subsequently rejected by the jury.

It is not considered that the use of drugs on this criminal served any useful purpose apart from extracting some information, partly true, partly false, which would probably have been obtained within a short time without drugs.

Narcoanalysis is of value in resolving a genuine loss of memory, as, for example, in the following case.

Case 2. A thirty year old white man was discovered in his apartment unconscious with knife wounds in his throat and abdomen. His wife had been murdered, death resulting from a cut throat. When the husband regained consciousness, he informed detectives that he could not remember anything that happened following an argument with his wife. He believed that someone must have wounded him and murdered his wife. Under sodium amytal, he recalled telling his wife that he was going to divorce her and obtain custody of the children, as she was neglecting them. His wife shouted that the boy was not his, but his brother's child, and the dispute became very heated. Suddenly, his wife picked up a knife and stabbed him several times in the chest and abdomen. In the struggle, he obtained the knife and attacked his wife. He recalled thinking that he was mortally wounded and that his wife would probably escape punishment for his death. He decided to cut his own throat as he was in severe pain and as he thought that he was dying anyway. The story was told with considerable release of emotion. Following the interview, the amnesia returned. The opinion that this suspect was suffering from a genuine amnesia was based on his behavior under narcosis and on the total psychiatric examination.

Conclusions

Truth serum has been overrated as an aid to criminal investigation. The criminal who is likely to confess under sodium amytal is likely to confess anyway if skillfully interrogated. The criminal who is able to withstand skillful interrogation is usually able to withstand examination while under the influence of drugs. The temptation to request a truth serum test as a short cut to the solution of a crime should be avoided. There is the danger in such a practice that narcoanalysis may be substituted for the painstaking, time consuming inquiries which form the basis of competent police investigation. As Sir James Stephen[7] stated in 1883, referring to a

[7] Sir James Stephen. History of Criminal Law, 442: 1883. Cited by: Guttmacher and Weihofen, Psychiatry and the Law, New York: W. W. Norton, 1952.

practice of police officers in India, "It is far pleasanter to sit comfortably in the shade rubbing red pepper into a poor devil's eyes than to go about in the sun hunting up evidence."

The test is of value in restoring memory in cases of genuine amnesia. As a test of truth, drug-induced examinations are unreliable and should not be used for the purpose of exonerating the innocent. Criminal suspects, while under the influence of drugs, may deliberately withhold information, persist in giving untruthful answers, or falsely confess to crimes they have not committed.