

# If lying is okay to gain a confession, why not beating or torture?

## What quality of confession did Wyatt Johnson make about the downtown fire of 2004?

Does the ends justify the means?

The time has long passed that a maxim, a principle, of the justice system, "It is better for a thousand guilty men go free than one innocent man be punished," truly applied in the United States of America.

Many Americans do not understand that the Miranda protection (you must be advised of your rights and offered an attorney before questioning can commence or continue) does not apply unless you are in physical custody. You can be a suspect and law enforcement can believe you've committed a crime but if they are simply carrying on a conversation with you and you have not been taken into custody, anything you say can be used against you later in court proceedings.

How do you feel about law enforcement lying to a suspect to gain a confession or information implicating him or others in a crime?

When it's on *Law and Order* or *Shark*, it's something you may cheer for. But what if it were done to you or someone you loved? While legal, is it really something law-abiding citizens favor or abhor?

When Sipowitz told a "perp" that his partner had fingered him as the shooter when actually he hadn't and then the suspect spilled his guts, you may have cheered.

But we don't have to watch television programs to see the deception played out.

It happened right here in Cheyenne.

The "confession" of Wyatt Johnson is riddled with questionable tactics and then the weak admissions that came from those deceptions may not see the light of a courtroom.

Miranda not only protects a person from surrendering his own Fifth Amendment rights by testifying against himself during questioning, it provides a "cease" provision. When one being questioned, even though willingly submitting to the grilling up to that point, says "enough," the questioning must stop. That is the law.

A confession gained after such a directive by a suspect will usually be considered "fruit of the poison tree" and will not be admitted into the proceedings.

Wyatt Johnson's confession falls within this area.

First, some review is in order.

The buildings housing Mary's Bake Shoppe and Wyoming Home Furniture were extensively damaged in a fire in late December of 2004. Investigators determined, rightly or wrongly, that the fire was of suspicious origin - arson. For a very long time, the City of Cheyenne fueled the suspicion that Mary Coonts, owner of Mary's Bake Shoppe, started the fire. It was clear by their treatment of her that she was considered guilty of that crime.

We have reached the point in this country where the justice system principle is now, "better a thousand innocent men be punished than one guilty man go free." Mary was caught up in that mentality.

Several stories about the fire have appeared in the Cheyenne Herald over the past two years. Suddenly, with no expectation or warning, a young man named Wyatt Johnson confessed to having started that downtown fire.

Shortly after that confession, I personally interviewed Wyatt Johnson at the Laramie County jail, where he was being held.

He had recanted the confession almost as soon as it was made, saying it had been coerced. I came away from that interview very skeptical of his guilt.

Unlike the man who recently murdered his brother and walked away after spending only 15 jalls in jail before his trial, Johnson has been held on a bond he cannot hope to make - \$100,000 Cash. He is charged with 1st Degree Arson and Burglary - not a violent crime as the other guy was. But Wyatt Johnson does not have influential friends or family. He sits.

He was interrogated about his involvement in the arson on February 21, 2006 (the record shows 2005 but it was 2006). Subsequent to the interrogation and "confession," he was sent to Evanston for mental evaluation on two occasions - on February 24, 2006 and April 10, 2006.

When I spoke with him, he seemed mentally stable and he also believed he was.

He was arraigned on July 20, 2006 and a jury trial was set for October 17th. On October 23, 2006, Wyatt Johnson waived his right to a speedy trial. A suspect never wants to do that when represented by a public defender. His trial date has been reset several times - to November 14, 2006 - then to January 16, 2007 - then to April 16, 2007 - finally to May 21, 2007.

The State made the final request for continuance and stated: "The State is requesting more time to prepare its trial case and speak to its potential witnesses, due to the complexity and need to speak to possible expert witnesses."

There are more escape routes in that motion than a maze appears to offer.

Why Judge Peter Arnold didn't say to the State, after a suspect had been held a year,

*"No more delays. You've had plenty of time to prepare, talk with witnesses and determine how you were going to make this flimsy confession stick. Bring it on."*

But he did not.

On April 18, 2007, Johnson's public defender filed a **"Motion to Suppress Statement of Defendant."**

I finally had the opportunity to read Wyatt Johnson's 81 page confession last week. It is not very strong for the prosecution. It is my opinion that the Defense has a very strong case to get the confession tossed. Three times during the course of questioning by five different law enforcement people, two ATF agents and three officers of the Cheyenne Police Department, Johnson effectively ended the interrogation. Yet it went on. They just tag-teamed him. He said, "... *this conversation is over.*" And even though the ATF agent told him at the very beginning, *"So if you feel uncomfortable about something you can stop the questioning at any time, okay?"* They didn't. He had.

This agent also established at the very beginning that the suspect appeared very tired. He asked Johnson how much sleep he had gotten and was told: "Went to bed at 3 - up at 7."

Johnson was told up front: *"Well, I'm here to tell you that you failed the polygraph."* Johnson basically told the agent that he didn't care what the polygraph said, that he didn't start that fire. He repeated his denial repeatedly. Dozens of times. *"I know what's true and what's not true. And one thing that I know for certain that is true, is that I did not start the fires."*

Over and over and over and over - page after page after page - the same thing. *"I did not start the fire. I am not lying."*

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**Meeting**  
**Crystal Meth Anonymous**  
 Monday and Friday .... 8 pm  
**1901 Central Avenue**  
*Open to Any Who May Benefit by Attending*

**Substantial Savings**  
  
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**2608 S. GREELEY HWY. / 634-3146**

**Annual Boys & Girls Club**  
**BACK-A-KID BREAKFAST**   
**Rulon Gardner**  
**2000 Olympic Gold Medalist**  
**Keynote Speaker**  
 Thursday, May 10<sup>th</sup>  
 Taco John's Events Center  
 Breakfast @ 6:45 am  
 Rulon Gardner @ 7:00 am  
**For a Ticket, Please call 778-6674**

## Confession (continued from page 3)

It is not only the Defense filing motions at this late stage. The Prosecution, in addition for seeking and gaining a continuance (a fancy word for delay) has filed motions to demand whether "mental illness or deficiency defense" will be used and a demand "for alibi defense."

The State's February and March motions seem kind of tardy in view of the fact that the defendant has been held for a year, considering what we've recently seen with other defendants who committed violent crimes.

That is one of the carrots held out to Wyatt Johnson - a defense that no one was hurt. Early in the first leg of three interrogations, an ATF agent led by assuring Johnson that, "you made sure nobody was in the building, nobody would be around, it was late at night." A CPD officer later, in the second leg, said "... whoopee, it's property damage," implying that the fact no one was hurt would lessen an arson charge. Arson doesn't rely on personal injury - it is about property damage.

Wyatt Johnson was never charged with attempted manslaughter, etc., as he would have been had the buildings been occupied or the fire started during normal work hours.

Here are some of the exchanges: (First with ATF agents.)

PC: Wyatt you were there when the fire started.

WJ: No, I wasn't.

PC: Yes, you were.

WJ: No.

PC: Yes.

WJ: (Shaking his head no)

PC: Yes, you were.

E: We are engaged in an active investigation and when you lie to a Federal Agent, it is a five year felony flat out.

WJ: I am not lying.

E: We operate under a different set of rules. If you lie to us, you're going to jail. It's as simple as that.

WJ: The biggest thing that I am worried about is getting convicted of something that I did not do and spending time for it.

E: That doesn't happen.

WJ: (Chuckled)

PC: Well, Wyatt, I will tell you that you were suspected of starting this fire long before anything ever happened with these other fires.

PC: We know you set the fire.

WJ: No.

PC: Why?

WJ: I didn't set it. I did not set it.

PC: Polygraphs don't lie.

WJ: Well, I guess we'll just have to see how it ends up in court. Because right now as far as I'm concerned this conversation is over.

PC: Okay.

E: Very good. Do you got your stuff?

PC: Yep. Okay. We'll send somebody in here to get you.

E: Good luck.

The two ATF agents (PC and E) left the room. First one CPD detective, then a second entered.

JP: And again, they (the polygraph results) are usable in court.

WJ: That's the thing, though. I did not set any of those damn fires! It is that simple!

*Johnson proceeded to repeat himself...*

No, I didn't. No, I did not. I did not do it. I did not start the fire. It's that simple. No, I did not. Then, "See, that's the thing, I am being honest. I did not start these fires. Absolutely, positively not.

JP: We're not here to debate whether you did it or not. You did it.

WJ: No. I DIDN'T DO IT! There is no why.

G: Why was that fire started?

WJ: I don't know. I have absolutely no clue!

JP: But you do.

WJ: No, I don't. This conversation is over.

*The two detectives (JP and G) leave the room, only to be replaced in a couple minutes by Lt. Rob Korber. First, G returned.*

G: All right. We'll get you back over to the jail shortly.

RK: Okay, tell me how it happened that night.

WJ: I don't know. I have absolutely no idea how it happened. All's I know is what I've heard (sic) in the fr ---- paper.

*Korber then accused Johnson of starting the Seymour Avenue fire in 1998 - the one that was started in a dumpster and ended up burning down a carpet store.*

RK: You made the phone call. You reported the fire.

*Johnson told Korber that he "had no cell phone or home phone" at the time.*

*Korber switched tactics. Compassion - to a guy with no family to lend support, whose father had told him over the phone there was nothing he could do to help him.*

RK: I'll be with you throughout this entire process. I just need you to fill in the blanks for me, Wyatt.

Korber asked the young man to "educate me,"

WJ: How am I supposed to do that though when I don't know?

RK: So, tell me, how did the fire start?

WJ: I don't know honestly.

*Korber continued to assure Johnson of his support, spoke about his childhood, talked about God to him, etc. Then he showed WJ a diagram of Mary's Bake Shoppe basement.*

RK: This is the basement. This is the water heater, wood pile and I just need you to mark ... (Korber goes on lengthy soliloquy while WJ does not respond to his words, according to the transcript).

*When I interviewed Wyatt Johnson about a year ago, I asked him why he confessed to something he right away said he didn't do. He said they had kept in the cold basement for hours and he told them things that did not make sense and he believed they could not make a case from so wasn't worried about "confessing.*

RK: Was the business open? Was it locked or was it open?

WJ: Honestly I think at that time they closed.

RK: I mean you are, you are the major player in this.

WJ: I might be the major player, but I'm also the pawn.

WJ: I don't know the exact spot.

RK: You don't need to tell me the exact spot. Just point to where you feel it may have started, okay? Point to where you feel it may have started. Don't even use a pen. Point to where you feel it started.

WJ: But at the same time, what if I'm not anywhere close or I point to where the actually, where the fire actually started?

RK: You were in Mary's Bake Shoppe, correct, Wyatt?

WJ: As a customer. Yeah.

RK: You were in Mary's Bake Shoppe the night that this fire started Wyatt.

WJ: (No response)

RK: That basic thing, Wyatt is, first off, the very first thing, Wyatt, is how you gained access to the building, how you got in.

WJ: I don't remember. I honestly do not remember.

RK: Do you remember the door being open?

WJ: No.

RK: But you remember being in the basement? Correct?

WJ: (Nods his head yes)

RK: ... what type of liquid did you take into the business with you?

WJ: I don't remember.

RK: Well you some, you took something flammable into the business with you correct? Right?

WJ: (No response)

*The "confession" went on with no specific recollections about where the fires were started in the basement, what was used as fuel (he mentioned lighting a dirty rag without putting any flammable liquid on it), how he entered and left by the front door without a key but locked the door behind him when he departed, etc.*

WJ then told Korber, "But at the same time, I feel that I probably shouldn't do anymore until I have a lawyer here."

Korber did continue - for nine more transcript pages. Wyatt Johnson may have finally realized that he had dug himself into a hole and needed a lawyer finally.

As I said, Johnson told me about the discomfort of sitting in the cold basement. Detective G confirmed this with a comment to Johnson: "Besides sitting in this damn cold room." Johnson was finally given a blanket to wrap around himself.

Readers can decide whether Johnson's rights were violated and what this confession (after strenuous and repeated denials) is worth at trial, if admissible.

*Note: I contacted Mary Coonts with three questions that I thought would provide clarity to Johnson's responses. She refused to answer them, citing her lawyer's advice.*

The Cheyenne Grizzlies of the Mountain Collegiate Baseball League are in need of host families for the 2007 baseball season. All players come from many colleges and universities from throughout the nation to play in this highly competitive league in the Rocky Mountain Region. The host families are needed for June, July and the League Championship games being held the first week of August for the top two teams in the league. Host families will receive free season tickets for all Grizzlies home games held at Pioneer Park. If interested contact Ron Kailey Jr. [www.rkaide@aol.com](mailto:www.rkaide@aol.com), Karl A. Holden, or visit the Cheyenne Grizzlies website @ [www.cheyennegrizzlies.com](http://www.cheyennegrizzlies.com)