Deception in the interrogation room

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Print version: page 26

According to constitutional law, the government may not coerce confessions, as provided by the Fifth Amendment privilege against self-incrimination and the due-process prohibition against admitting involuntary confessions into court. To determine whether a defendant's confession was voluntary, reviewing courts usually engage in a fact-specific inquiry into the totality of the circumstances including the defendant's personal characteristics (e.g., age, mental health); the circumstances under which the confession was obtained (e.g., interrogation length); and the conduct of the police. (See LaFave, Israel, & King, 2004.)

The notion that confessions must be given voluntarily seems straightforward, but becomes complicated when one considers certain police behaviors. Although police have long been prohibited from using physical force, they are able to use a variety of powerful psychological ploys to extract confessions from criminal suspects, including the use of deception during interrogation. For example, the U.S. Supreme Court has allowed police to falsely claim that a suspect's confederate confessed when in fact he had not (*Frazier v. Cupp*, 1969) and to have found a suspect's fingerprints at a crime scene when there were none (*Oregon v. Mathiason*, 1977), determining such acts insufficient for rendering the defendant's confession inadmissible. State courts have permitted police to deceive suspects about a range of factual matters, including, for example, falsely stating that incriminating DNA evidence and satellite photography of the crime scene exist (*State v. Nightingale*, 2012).

Although deceptive interrogation practices are generally allowable, they are not without limits. For instance, courts tend to be intolerant of police misrepresenting a defendant's legal rights, such as telling a suspect that his or her incriminating statements will not be used to charge the suspect (*Commonwealth v. Baye*, 2012). It is important to note that because the totality-of-the-circumstances inquiry is fact specific, determinations of the limits of police deception are case specific. In *People v. Thomas* (2014), the New York Court of Appeals unanimously concluded that the officers' conduct in eliciting incriminating statements from a father suspected of killing his infant son rendered the defendant's statements involuntary as a matter of law. The officers repeatedly offered false assurances that they believed the child's injuries were accidental and that the defendant would not be arrested, threatened to arrest the defendant's wife, and falsely told the defendant that his child was alive and the defendant should disclose what he did to save his child's life. The court ruled that these deceptive tactics, combined with a lengthy interrogation during which the defendant was hospitalized for suicidal ideation, all converged to overbear the defendant's will.

Are the case-law distinctions between deceptive police tactics that are allowable and those that render a statement involuntary accurate? Although most potential jurors view police tactics as coercive, they generally believe such tactics are necessary to elicit truthful confessions and unlikely to elicit false ones (see, e.g., Leo & Liu, 2009). Future research should examine whether judges and justices hold the same beliefs. Further, mock interrogation studies could compare the coercive strength of various deceptive tactics to elucidate which ones are sufficient to overbear a suspect's will. Findings from such studies might disabuse legal decision-makers of the view that certain deceptive tactics are not coercive.

Further, if such distinctions are not based on accuracy, research will be needed to determine what they are based on. Considering studies showing that moral judgments influence legal decision-making (e.g., Salerno et al., 2010), future work should consider whether certain tactics are perceived as more morally outrageous than others. That is, decisions about whether deception is allowable may be driven not from beliefs about what is required to overbear a suspect's will, but rather from moral boundaries that define what is acceptable for police to lie about. Lying about nonexistent evidence may fall on the acceptable side of this boundary, whereas lying about saving a child's life may not.

In recent years, cases that question police deception in the interrogation room have been handled mainly in the lower courts, but the frequency with which such cases arise highlights the lack of clarity regarding this issue. Psychologists interested in interrogation dynamics and legal decision-making can contribute to this area of law by investigating the links between such tactics and the actual and perceived voluntariness of confessions.

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