

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: SB-1071
AN ACT CONCERNING DECEPTIVE OR COERCIVE INTERROGATION
Title: TACTICS.
Vote Date: 3/27/2023
Vote Action: Joint Favorable Substitute
PH Date: 3/13/2023
File No.:

***Disclaimer:** The following JOINT FAVORABLE Report is prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose.*

SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

The use of deception in interrogations is an ongoing and substantial risk to public safety in Connecticut. Deceit used by investigators diminishes the community's trust in law enforcement and leads to citizens not cooperating with law enforcement during investigations. This bill, requested by the ACLU, seeks to end the use of deception, which is no longer essential to modern policing. The intent is to trigger judicial review of confessions made during custodial interrogations if certain tactics are employed to elicit the confession. If the courts find the confessions are reliable in spite of the use of any of those tactics, the confessions would remain admissible.

SUBSTITUTE LANGUAGE:

Changes were made to clarify malicious intent by the interrogator.

RESPONSE FROM ADMINISTRATION/AGENCY:

Patrick Griffin, Chief States Attorney, Division of Criminal Justice: He testified in support of the effort to increase reliability of statements from interrogations and offered several suggestions.

Tanya Hughes, Executive Director, Commission on Human Rights and Opportunities: The Commission supports the bill on the grounds that a significant number of false convictions derive in part from false confessions extracted using false or coercive treatment in interrogation, disproportionately targeting minority groups.

Deborah Del Prete-Sullivan, Legal Counsel, Office of the Chief Public Defender: The Chief Public Defender supports the bill with respect to the fact that wrongful convictions can result in the loss of years for individuals and that deceit tactics results in a higher rate of false convictions. The testifier notes that wrongful convictions levy significant expenses on the state, as the payouts for compensation have totaled \$37.5 million, as well as the impact of having the true perpetrator loose for the entirety of the false sentence. Finally, the Office of the Chief Public Defender noted the case of Bobby Johnson, who was wrongfully convicted at the age of 16 using a confession coerced out of him.

NATURE AND SOURCES OF SUPPORT:

SEIU Healthcare, District 1199NE: The testifier notes that 29% of wrongful convictions involve false confessions, and that people of color are disproportionately targeted, as well as people with acquired brain injuries being impacted by deception to a higher degree. The testifier recounts the story of Bobby Johnson, a person of color (POC) who was coerced into confessing to a murder he did not commit, serving 9 years; Richard Lapointe, a man with a congenital brain impairment who falsely confessed to sexual assault, kidnapping, and murder after a nine-hour interrogation including threats to lock him and his wife up, ultimately served 26 years for a crime he did not commit.

Jennifer Bourn, Past President, CT Criminal Defense Lawyers Association: The testifier supports elimination of deceptive tactics for any interrogations, as the use of them circumvents the right to remain silent, undermining the judicial process.

Paul Casteleiro, Legal Director, Centurian Ministries: The testifier supports the bill, as a false confession was extracted from their client, Richard Lapointe, using deceptive tactics over a nine-hour interrogation; Lapointe ultimately served 26 years for a crime which he did not commit.

Marie Cerino: The testifier supports the bill as coercive tactics are abusive, can result in false confessions (which allows the true perpetrators to go free), undermines public confidence in the police, and wastes financial resources.

Laura Copland: The testifier supports the bill, as it protects the public from overzealous police.

Nathaniel Erb, Policy Advocate, Innocence Project: The testifier supports the bill, as the elimination of deceitful tactics will help to ensure no children are wrongfully convicted. The testifier notes that in *Illinois v. Perkins*, Justice Brennan opinioned that deception and manipulation by the police was incompatible with the presumption of innocence until proven otherwise. Financially, the costs of false imprisonment have totaled \$37.5 million in compensation and \$10.74 million in other civil settlements; The testifier notes the wrongful conviction of Bobby Johnson, Richard Lapointe, and Peter Reilly, and the police tactics which resulted in their imprisonment. The testimony notes the counterintuitive nature of human false self-incrimination, explaining that it arises out of compromised mental status, perceived threat from law enforcement, stress, hunger, substance abuse, mental limitations, limited education, and ultimately out of a sense of self-preservation which intense interrogation can result in. The testifier states that nearly 30% of DNA exonerations had self-confessions as one of their main pieces of evidence. The testifier also notes the lack of safeguards, with video record of the interrogation only helping to an extent, and the presence of parents is an incomplete

solution, with only 62% of parents knowing that police are allowed to lie. The testifier calls attention to current lack of evaluation on the strength of confessions. They submitted suggested language changes.

Barbara Fair, LCSW, Stop Solitary CT: The testifier supports the bill out of concern for the impact deceitful police have had on her and her seven sons. The testifier supports expanding the bill to people of all ages. She also believes that the New Haven police have been retaliating against her and her children because of her complaints against them. The testifier notes that police promise more lenient sentences if a confession is given.

Kathy Flaherty, Executive Director, Connecticut Legal Rights Project: The testifier supports the bill, as police should not be lying to anyone, but especially children.

Gloria and Bob Grey: The testifier supports the bill because of their experience with a neighbor who had Down's Syndrome, who was intimidated by the police.

Robert Goodrich, Executive Director, R.A.C.C.E: The testifier, despite decreasing crime in Waterbury, opposes the increasing levels of force used by police. The testifier supports the bill as a method of combating the "school-to-prison pipeline", with deception and fear dynamics used to carry out duties.

Leanne Harpin: The testifier supports the curbing of the "Reid technique", a method of interrogation whereby a high-pressure scenario is relaxed with friendly and understanding emotional manipulation. The testifier notes the imprisonment of Bobby Johnson, who falsely confessed to a crime he did not commit. The testifier also comments on the financial payments made because of false imprisonment in the form of compensation.

Representative Anne Hughes, General Assembly: The Representative supports the bill.

Malissa Hurry: The testifier notes the number of individuals convicted of crimes they did not commit after giving a false confession. The testifier gives the example of the Central Park Five, who confessed as a way of avoiding the intimidation and threats from the police. The testifier argues that children are more likely to confess as a method of escaping the stressful situation, as their brains are not developed sufficiently to deal with the stress deception can put on them.

Al-Urdun Islam, Justice Advisor, Connecticut Justice Alliance: The testifier supports the bill. They raise the Central Park Five, and how their innocence was ultimately proved despite their confession. The testifier also notes the financial compensation paid out to victims of false imprisonment, such as Bobby Johnson and his 8 years in prison for a crime he did not commit.

Leighton Johnson: The testifier supports eliminating all tactics used by the police to coerce, trick, and deprive of requirements in the pursuit of a confession.

Senator Martin Looney, General Assembly: The testifier supports the bill as written, exclusively protecting children. He commends the Illinois law doing the same, and notes that children are 2-3 times more likely to falsely confess to a crime they did not commit than adults.

Linda Mahal: The testifier supports the bill as children are traumatized by the practice. She stated that it causes frequent false confessions, undermines confidence in the police, and wastes public resources when the cases are appealed.

Andriana Milner, Outreach Coordinator, CT Black and Brown Student Union: The testifier supports eliminating coercive tactics used on children, as 36% of the cases resulting in the exoneration of a child involved false confessions, significantly higher than the 10% in adult cases, which especially harms the most vulnerable demographics.

Werner Oyanadel, Policy Director, CWCSEO: The testifier supports the process of removing coercive statements from children's interrogations, as they often lack the mental capacity to exercise their Miranda rights. The testifier supports the recent move to require recording of interrogations.

Ann Percival: The testifier supports eliminating coercive tactics for all members of the public, especially children.

Christina Quaranta, Executive Director, Connecticut Justice Alliance: The testifier supports the bill as large numbers of false confessions are created by coercion, with the example of the Central Park Five given. The testifier notes that youth are particularly susceptible to deception tactics because of their lack of brain development in areas concerning planning, judgement, and decision making. The testifier raises the case of Bobby Johnson, who confessed to a crime he did not commit and served 8 years after a vigorous interrogation, whilst only being 16 at the time of the interrogation.

Marquita Reale, Smart Justice Leader, ACLU: The testifier supports the bill, recounting their personal experience with the police and their desire for no child to be imprisoned because of manipulation by the police. The testifier also notes the significant level of false confessions which are present in overturned sentences.

Peter Reilly: The testifier supports the bill because they personally were subject to coercive tactics when falsely accused of murdering their mother. The testifier notes the high levels of DNA-based exonerations which unearth coerced false confessions, with 29% of cases involving false confessions.

Olivia Rinkes: The testifier notes the essential need to protect children, especially those of minority status, from being entered into the criminal justice system purely on a coerced false confession, which is more likely to occur in the young and inexperienced.

S Rabera, Program Lead Organizing Advocate, Universal Healthcare Foundation: The testifier supports elimination of coercive tactics which can permanently harm children mentally, and result in wrongful convictions which harm their lives irrevocably. The testifier also notes the racial component of police coercive treatment, with minorities often being the target.

Nicole Sanclemente, Policy Director, CWEALF: The testifier supports the bill as children's brains are not finished maturing, and therefore they are susceptible to tactics which extract false confessions. The testifier supports expanding the reach to all persons of any age.

Manuel Sandoval, Smart Justice Leader, ACLU: The testifier notes that children are vulnerable people and speaks to the immature innocence of them that makes them a target for lies and deceit.

Dave Thompson, President, Wicklander-Zulawski: The testifier supports the bill because of the unreliability of confessions resulting from coercive tactics. The testifier notes DNA exonerations have proven that 30% of exonerations involve a false confession, showing the scale of the unreliability of confessions.

Black and Brown United in Action: The testifier notes the exoneration of the Central Park Five, who provided false confessions after police intimidated it out of them. The testifier also notes the case of Bobby Johnson, who was falsely convicted and served 8 years because of the police tactics used against them. The testifier notes the susceptibility young people's brains have towards the techniques, with a self-defense system causing many to admit to whatever will prevent the psychological strain. The testifier raises the case of Lorenzo Montoya, who spent 13 years in prison after confessing to murder at the age of 14; 38% of exonerated children provided false confessions, whilst 11% of adults did the same.

Katherine Villeda: The testifier supports the bill, as 29% of wrongful convictions occur as a result of false confessions.

Ben Wallek: The testifier supports the bill.

Jess Zaccagnino, Policy Counsel, ACLU: The testifier notes the 29% of wrongful convictions involving false confessions. The testifier opposes the pseudo-science which backs up the Reid technique, noting that police trainers such as Wicklander-Zulawski have changed their process to accommodate the changing science. The testifier notes the states which have already eliminated police deceptive practices, and the cultural biases which lead decisions on when to pursue deceitful techniques in pursuit of a confession. The testifier raises concerns about the higher levels of risk for people with disabilities, who are more vulnerable to methods designed to confuse and exhaust. The testifier notes the cases of Bobby Johnson and Peter Reilly, and the practices that the police used to extract confessions. Finally, the testifier notes the significant financial impact of false convictions. The testifier supports the bills' ability for courts to review the reliability of a confession, taking all relevant factors into account.

NATURE AND SOURCES OF OPPOSITION:

CT Police Chiefs Association: The testifier submitted several changes to the language of the bill as drafted.

James McGovern: The testifier believes the bill does not go far enough, wishing for punitive action to be taken against violators of the rules.

Reported by: James McNealey

Date: April 4, 2023