



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

Office of Chief Public Defender

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Testimony of Deborah Del Prete Sullivan, Legal Counsel Office of Chief Public Defender

Judiciary Committee - March 9, 2022

Raised S.B. 306 - An Act Concerning Deceptive Interrogation Tactics

Mission Statement of the Division of Public Defender Services

Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us. We are committed to holistic representation that recognizes clients as individuals, fosters trust and prevents unnecessary and wrongful convictions.

The Office of Chief Public Defender supports *Raised Bill No. 306, An Act Concerning Deceptive Interrogation Tactics*. The bill would ban the use of such deceptive tactics during interrogations conducted by law enforcement and reduce the risks of false confessions and wrongful convictions.

This office requests one change to the bill in line 38. The state has the burden to overcome the presumption of involuntariness. The state should show not only that the statement was voluntary and not induced by the use of deceptive or coercive tactics, but also that the use of deceptive or coercive tactics did not undermine the reliability of the person's admission, confession, or statement and did not create a substantial risk that the person would falsely incriminate themselves. The word "or" that appears after the "tactics" and before "(2)" should be deleted and the word "and" inserted in lieu as follows:

34 (c) The presumption that any such admission, confession or

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35 statement is involuntary and inadmissible may be overcome if the state
36 proves by clear and convincing evidence that the admission, confession
37 or statement was (1) voluntary and not induced by the use of deception
38 or coercive tactics, ~~[or]~~ AND (2) any alleged use of deception or coercive tactics
39 did not undermine the reliability of the person's admission, confession
40 or statement and did not create a substantial risk that the person might
41 falsely incriminate themselves.

By inserting "and," the purpose of this proposal would be to disallow statements where the state cannot prove all that is required in lines 34-41. Without this change, the risk of false confessions and wrongful convictions remains.

Current law permits law enforcement to lie knowingly to a person and promise them leniency or that stiffer penalties could be imposed. Law enforcement can knowingly describe inaccurately or give false evidence to the person about the evidence that exists linking the person to a crime. These tactics have resulted in false confessions and people being wrongfully convicted of offenses they did not commit. A wrongfully convicted person can spend years, if not decades, trying to reverse their conviction and prove their innocence.

Wrongful convictions cost innocent people years of their lives. They also cost the State, as financial resources are expended to pursue post-conviction relief. Once exonerated, individuals can seek compensation from the State. According to the NY Innocence Project and the ACLU of Connecticut, compensation to those wrongfully convicted here and in cases where there was a false confession exceeded \$37.5 million. In addition, there have been millions of dollars paid in civil suit settlements. All of this financial cost is in addition to the real cost: the destruction of the lives of innocent persons, their families, and the victims and their families. Meanwhile, the real perpetrator may remain unapprehended.

In Connecticut there are true stories of innocent people wrongfully convicted and incarcerated for years based on faulty evidence obtained using deceptive tactics. Bobby Johnson was 16 when he was interrogated multiple times by law enforcement and threatened with the death penalty and false evidence. He has been exonerated after being incarcerated for 8 years. Richard Lapointe, who suffered from physical and mental impairments, was interrogated by law enforcement for 9 ½ hours and threatened not only with false evidence, but also that his son would be taken away and his wife incarcerated if he did not confess.

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In Connecticut, our Supreme Court has considered these tactics. In State v. Bobby Griffin, 339 Conn. 631, 747, (2021), Justice Stephen D. Ecker stated in his dissenting opinion:

“The broad societal harms caused by allowing the police to lie during interrogations, along with the risk of false confessions, may support a per se ban on this practice, whether as a matter of legislative action or the exercise of the court’s supervisory authority. The best course of action would be for our state and local police to abandon this tactic before such action is necessary...”

While these tactics have not yet been abandoned in Connecticut, this office is hopeful that this legislature will consider prohibition of such tactics. Other states have adopted bills to ban such practices. In Oregon and Illinois, legislation to prohibit deceptive tactics passed with the support of law enforcement and prosecutors. Other states including New York and Utah are currently considering passage of similar legislation.

The Office of Chief Public Defender urges this Committee to vote this bill out favorably.