

NY Bar Association: Videos expected to reduce false confessions

By: The Associated Press

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ALBANY -- Concerned that aggressive, accusatory questioning can drive some innocents to confess crimes they didn't commit, the New York Bar Association has funneled grants for video equipment to four counties where police have begun recording interrogations.

The pilot project's goal is to ensure the reliability of evidence and prevent false confessions.

A recent study by an association task force found that false confessions had contributed to 12 wrongful convictions, later overturned.

The task force of lawyers, judges, prosecutors and scholars said confessions are persuasive in court and widely regarded as clear proof of guilt. Jurors, the groups said, commonly believe that an innocent person would never confess to a crime he did not commit.

While New York law requires corroborating evidence to support confessions, which are supposed to be voluntary, the report said that is apparently not always enough.

The group urged mandatory electronic recording of entire felony interrogations to help determine whether confessions are reliable, saying that should also reduce false claims of police coercion or dishonesty.

"Juveniles, the mentally disabled and the mentally ill — all particularly susceptible to aggressive interrogation techniques — account for a high percentage of the documented cases of false confessions," the task force reported.

While police often believe they can tell whether a suspect is being truthful, research shows they "are no more accurate in detecting deception than the average person," the report said.

The report noted one 1996 psychological experiment with college students who were told that hitting a particular computer key would cause a malfunction. They didn't know the computer was programmed to shut down automatically, regardless of what they did.

Interrogated afterward, and presented with fabricated "eyewitness" testimony, 69 percent confessed they caused the malfunction, even though they had not. Nearly 1 in 3 were convinced of their own guilt.

Dr. Saul Kassin, a psychology professor at John Jay College of Criminal Justice, said false confessions were involved in about 50 of the more than 200 overturned convictions tracked by the Innocence Project, a legal aid group. In the Annual Review of Law and Social Science, he wrote in 2008 that documented cases in studies "represent the tip of the iceberg the size of which is unknown."

"What is particularly amazing is that innocent people seldom invoke their Miranda rights and lawyer up, precisely because they are innocent and feel like they have nothing to hide," Kassin told The Associated Press. He calls videotaping a progressive step.

So far, 12 states and the District of Columbia require recordings. In New York, authorities in roughly half of the state's 62 counties voluntarily record some interrogations. Legislation in Albany to mandate recording failed to advance.

Westchester County District Attorney Janet DiFiore is using a \$50,000 grant from the bar association to buy recording equipment for seven municipal police departments. Her investigators and several other departments previously got the equipment.

Association grants also went to Greene, Schenectady and Broome counties.

In Schenectady County, city and town departments with interview rooms began taping felony interrogations in 2008. District Attorney Robert Carney said the system is working well.

It provides "the best evidence," he said, of what was said during the interrogation and protects against the possibility police aren't reporting what happened accurately.

Carney said he has had to deal with false confessions too. One, several years ago, involved a homicide suspect, later cleared by investigators, who had agreed with suggestions made by his interrogators.

"It was just a weak-minded kid," he said.

Carney said, however, that he doubts false confessions are a significant factor in wrongful convictions.

In 2006, the state Division of Criminal Justice Services awarded \$1.15 million to 23 counties, including all those in New York City, for recording equipment. It gave another \$385,000 this year to 18 counties.

Deputy Secretary Denise O'Donnell, who heads the agency, said the use of video equipment is growing, but a mandate to record all interrogations would be expensive to implement.

Statistically, the number of wrongful convictions linked to false confessions is minuscule, she said, although, though even one is "a travesty."

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