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A Corporate Abuse- Coerced Confessions

by Ralph Nader *Saturday, May. 20, 2006 at 8:57 PM*

In a recent column I wrote about police interrogation tactics that lead a surprising number of people to confess to crimes they didn't commit. It turns out that corporate America has followed suit. Many large corporations take a "loss prevention" approach that utilizes training manuals modeled after the leading police manuals -- using the very techniques that cause false confessions. Indeed, the group that produces the leading manual, John Reid and Associates, boasts about its infiltration into loss prevention.

When a large chain finds money missing (which, needless to say, happens often), and is convinced that one of its employees is guilty of theft, it comes trained interrogators with well-honed tactics of isolating the individual and cutting off all escape routes until he feels he is better off confessing--even if he's innocent. (The June 2005 issue of *Scientific American Mind* features an excellent discussion of the prevailing interrogative methods and their perils titled *True Crimes, False Confessions* by Saul M. Kassin and Gisli H. Gudjonsson).

It's even worse in the case of private companies than the police, because they don't have to issue Miranda warnings and give employees the opportunity to consult an attorney and remain silent. Instead, they place the defenseless employee in a small, claustrophobic room and systematically break down his will--confronting him with fabricated evidence of his guilt, threatening to fire him instantly (and get the police involved) unless he confesses and promising leniency if he does so.

Last month, we learned more about the way this works from a trial in the Superior Court of San Diego County. A civil jury struck a blow for corporate accountability, socking AutoZone with a verdict of \$7.5 million in punitive damages.

The case stemmed from events several years ago, when a store manager became convinced that one of his employees (a loyal worker with a sterling reputation) had stolen \$800. The manager followed the playbook. He had a security guard grill the employee in a small office for almost three hours, confronting him with false evidence and threatening his discharge and arrest unless he confessed. If he did confess, he was assured, he could pay the company back and keep his job, and the matter would remain private.

The innocent employee became convinced of the futility of maintaining his innocence, especially since

he feared losing his job (and perhaps his freedom) and the ability to support his two young children.

Is it surprising that, under these circumstances, the employee confessed? The more we learn about widespread interrogation tactics, the more we realize that the decision to confess falsely can be rational -- a mistake, to be sure, but the product of an understandable cost-benefit analysis made under extreme circumstances--circumstances created by interrogators precisely to make the suspect feel hopeless. AutoZone inculcated such methods in its 200-page handbook for managers. And it isn't just AutoZone--corporations around America have imported the worst aspects of police interrogative techniques.

In the case of the AutoZone employee, the company didn't even keep its coercive promise -- it fired him almost immediately after his confession and took the amount he "stole" out of his last paycheck. But Joaquin Robles turned out to be the wrong person to mess with. His lawsuit not only gave him justice, but also shed the spotlight on the corporate coercion industry. The trial exposed the manual used by AutoZone's so-called "loss prevention" managers and produced testimony from other employees about similarly coercive treatment.

The episode exemplifies the grandeur of the civil justice system, with ordinary citizens holding the powerful accountable and establishing that blatant violations of social norms will not be tolerated. Punitive damages play an important role in that process. This case first went to trial several years ago, and a jury found that the AutoZone manager "falsely imprisoned" Robles, and awarded \$73,000 in compensatory damages. The trial judge would not allow Robles' attorney to ask the jury for punitive damages. The Court of Appeal of California, Fourth Appellate District reversed that decision, holding that Robles had the right to argue to the jury that AutoZone's policies were sufficiently outrageous as to warrant punitive damages. The case was finally retried in March of this year. Now, AutoZone is \$7.5 million poorer (or at least will be if the verdict survives the inevitable appeal) but perhaps a bit wiser.

AutoZone is not the first company to be called out for its bullying interrogations of employees or customers. (Law buffs can check out 340 F. Supp. 2d 308 and 501 A.2d 561.) But this verdict is comparatively large, and we can only hope that corporations all over America take notice. When they investigate alleged intra-company theft, it isn't asking too much that they follow fair procedures and eschew tactics that predictably lead to the punishment of innocent people.

Robles v AutoZone was brought to my attention by author Alan Hirsch, whose website <http://www.truthaboutfalseconfessions.com> provides a valuable overview about false confessions as well as provocative analyses of both cases in the headlines and cases ignored by the major media.

www.counterpunch.org/nader05202006.html

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