

An example of Dr. Richard Leo's testimony

In the case, *US v. Begay* (February 2018) the US District Court, D. New Mexico described Dr. Ricahrd Leo's testimony as follows:

Dr. Leo is a Professor of Law and Psychology at the University of San Francisco School of Law. See Richard A. Leo Hamill Family Chair Professor of Law and Social Psychology and Dean's Circle Scholar

"Dr. Leo is one of the leading experts in the world on police interrogation practices, the impact of *Miranda*, psychological coercion, false confessions, and the wrongful conviction of the innocent." Leo Biography at 1.

"Dr. Leo has authored more than 100 articles in leading scientific and legal journals as well as several books." Leo Biography at 1.

Dr. Leo was previously a professor at both the University of California, Irvine and the University of Colorado, Boulder. See Leo Biography at 1.

Approximately thirty-five years of empirical research and dozens of peer-reviewed books exist on the topic of police interrogations. See Second Hearing Tr. at 176:19-25 (Leo).

"[N]obody in the social sciences disputes that [the study of police interrogations] is a valid and recognized area of empirical social science." Second Hearing Tr. at 190:16-18 (Leo).

"There are five or six empirical methods that social scientists use" to study interrogation tactics. Second Hearing Tr. at 191:13-14 (Leo). These methods include field research, observational research, laboratory experiments, analysis of documents or archival research, interviews, and survey studies. See Second Hearing Tr. at 191:14-24 (Leo).

In using these methods, Dr. Leo explained that "we gather data, we form hypotheses, gather data, go out and get that data, write it up, [and] submit it for peer review." Second Hearing Tr. at 192:5-7 (Leo).

"[T]here has been peer review, there has been training, there has been substantial research and publication going back many years" on the study of police interrogation tactics. See Second Hearing Tr. at 192:14-16 (Leo).

The study of police interrogations is generally accepted in the social scientific community. See Second Hearing Tr. at 177:15 (Leo).

Dr. Leo has published dozens of peer-reviewed articles, several books, and has "been researching and writing in this area longer than almost anyone else." Second Hearing Tr. at 178:1-5 (Leo).

Regarding the application of police interrogation techniques to this case, Dr. Leo's methodology involves listening to interrogation recordings, studying the transcripts, identifying which techniques were used, and what I think about those techniques in light of the issues that the attorney directs me to. If there is a fully recorded interrogation, then it's all there. I'm just really applying my expert knowledge in evaluating the research techniques and the risks that may have been created, or anything else that somebody with expert knowledge would see and be concerned about one way or the other. Second Hearing Tr. at 210:7-15 (Leo). If the interrogation was not recorded, Dr. Leo's methodology involves interviewing those present at the interrogation. See Second Hearing Tr. at 210:16-25 (Leo).

Dr. Leo has testified as an expert witness approximately 300 times over the past twenty years. See Second Hearing Tr. at 179:15 (Leo).

The police interrogation process is not designed for innocent people; rather "it's designed for guilty people to move them from denial to admission." Second Hearing Tr. at 187:17-20 (Leo).

Police officers "are taught and trained to make a judgment that somebody is guilty [of the] crime before they interrogate ... and that the goal of the interrogation is to get a confession." Second Hearing Tr. at 192:5-10 (Leo).

Police officers are often taught various techniques to get a confession, including, first, "to convince the suspect he or she is caught; the evidence establishes their guilt ... [and] there is no way [out]," Second Hearing Tr. at 195:4-6 (Leo), and, second, to induce "a suspect to think that it's to their advantage, to their benefit, whether for moral or psychological or legal or other reasons to confess," Second Hearing Tr. at 195:9-12 (Leo).

Another interrogation technique is to minimize a confession's consequences or to magnify the consequences of refusing to confess. See Second Hearing Tr. at 194:4-9 (Leo).

"[I]nterrogators are trained when somebody says they don't remember a crime, don't tell them they remember. That increases the risk [of] false confessions." Second Hearing Tr. at 232:15-17 (Leo).

Regarding the frequency of false confessions, We cannot say how frequently [false confessions] occur, because there is no database maintained by the government or a private organization that makes all police interrogations available to us, from which we could do a random sample and then come up with an error rate or, you know, a false confession rate. Second Hearing Tr. at 223:17-23 (Leo)(alteration added).

Although social scientists have documented hundreds of false confessions, "[w]hen we document a proven false confession, it's very hard to prove the negative. You'd have to show it was physically impossible for somebody to commit a crime ... or you have to show that no crime occurred." Second Hearing Tr. at 224:1-6 (Leo).

“[T]here are lots of confessions where there is an allegation that it’s false, and we can't prove it one way or another. So when I say we prove—we have hundreds of proven false confessions, these have to be the tip of the iceberg, because oftentimes you just don't know.” Second Hearing Tr. at 224:16-21 (Leo).

“There is a type of false confession where the person admits to something despite having no memory.” Second Hearing Tr. at 232:18-22 (Leo). A sign of this kind of false confession is conditional or subjunctive language where the suspect says “I could have done this, I probably did this. I would have done that, I might have done the other.” Second Hearing Tr. at 232:24-25 (Leo); id. at 233:1 (Leo).

Dr. Leo distinguished between the terms “interview” and “interrogate” in the police context, explaining that “there is no reason an innocent person should ever be interrogated according to police training,” and that the police “interview” innocent people rather than “interrogating” them. Second Hearing Tr. at 187:20-23 (Leo).

.....

In January, 2018 we prepared a document entitled, “Clarifying Misrepresentations About Law Enforcement Interrogation Techniques” which addresses many of the statements made by social psychologists, such as Dr.Leo – you can access this document on our website at <http://www.reid.com/pdfs/20180126.pdf>.