THE POLICE INTERROGATION OF PERSONS WITH MENTAL RETARDATION AND OTHER COGNITIVE DISABILITIES

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When persons with disabilities get arrested, the outcomes are usually fair. There is a danger, however, that some persons will confess to crimes they did not commit. Police officers can profit from discussions with persons having disabilities and their helpers. The following outline of personal characteristics—taken from actual cases—may serve as conversation starters.

1. Relying on Authority Figures for Solutions to Everyday Problems. Zest comes from solving everyday problems. Some persons, however, may not be so good at figuring out what to say and do in certain situations. So they look for authority figures who appear to have the answers. That is why many persons with disabilities respect police officers and seek them out as friends.

2. The Desire to Please Persons in Authority. There is a need to stay on the good side of those who help us survive in the community. That is why some persons in an intense interrogation session will say, "If you say I did it, then I guess I did it—even though I can't remember doing it."

3. The Inability to Abstract from Concrete Thought. Some persons may waiver their Miranda rights because they can only grasp the words in concrete terms. After all, everyone should "wave at the right" in a police station and never "wave at the wrong." Some are unable to grasp the abstract thought that Miranda is based on a person's Constitutional rights as a citizen.

4. Watching for Clues from the Interrogator. Some persons look closely at faces and listen for emphases placed on certain words—trying to sense what an officer wants him or her to say.

5. The Longing for Friends. Some persons hunger for friends who won't shy away from them because of their disability. Almost all would love to have a police officer as a good friend.

6. Relating Best with Children or Older Persons. When some persons are shunned by those of their own age, they often try to befriend others who are much younger or more aged.

7. The Plea Bargaining of Accomplices. This hunger for friends can get some persons hooked up with an unsavory friend. Then, when both get apprehended for a crime, the so-called normal suspect plea bargains for a lesser sentence by testifying against the person with the disability.

8. Bluffing Greater Competence Than One Possesses. Most of us try to appear smarter than we really are. An untrained officer can easily reinforce this "cloak of competence" and use it against us.

9. An All-Too-Pleasant Facade. Smiling is a way of getting approval from others. An officer might see an overuse of grinning as a lack of remorse.

10. Abhorrence for the term mental retardation. This label wounds some of us so deeply, we'll do almost anything to disconnect from it. If a prosecutor argues that we are not retarded in order to convict us, we may be quick to agree.

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11. Real Memory Gaps. Some people with disabilities have real historical blind spots—not the fake "selective memories" crafty people exhibit on the witness stand. Some may even hide these lapses of memory by latching onto and believing things others told them about a crime.

12. A Quickness to Take Blame. Even if a tragedy is an "act of God" or an unforeseeable accident, some of us may feel that someone must be held responsible. Some of us may even take the blame, thinking the interrogating officer will like us more if we do.

13. Impaired Judgment. Unlike crafty criminals with anti-social tendencies, some persons will quickly do and say odd things that will make it easy for officers to pin crimes on them.

14. An Inability to Understand Court Proceedings, to Assist in One's Own Defense and to Understand the Punishment. In spite of their cloaks of competence, some may be completely unaware of the legal implications of their situation.

15. Problems with Receptive and Expressive Language. Some persons will not understand what the officer is asking them. If the officer pushes them too hard, their response system may shut down, and the officer may perceive this silence as a sassy defiance.

16. Short Attention Span. Although myriad sights and sounds will strike an officer's sensing mechanisms, he is able to concentrate on a few and tune out the rest. One the other hand, some persons with disabilities may not be able to focus as well. They may be distracted by numerous noises in a police station—even a noisy fan, or the sound of voices in another room.

17. Uncontrolled Impulses. Most persons experience a myriad of impulses. Even so, they usually act on only a few healthy ones and keep the others in check. Some persons, however, may not be able to control their impulses so effectively. They may give in to the urge to confess to a crime they did not commit in order to escape the pressures of an interrogation.

18. An Unsteady Gait and Struggling Speech. Those with motor disabilities like cerebral palsy may be excellent receivers of sights and sounds and ideas. When they try to respond, however, the impulses sent to their muscles appear to have been dispatched by a madman. Arms may flail and heads may bob. Consequently, they must exert tremendous energy trying to shape words they want to voice.

19. Seeing Persons with Disabilities as Less Than Human. Suppose an officer feels great pressure to solve a two-year-old crime and he has two prime suspects—a local bank president and a person with mental disabilities. Which would be the easiest to lean on? Seeing any person as a "fringe person" or without dignity can lead to serious prosecutorial mischief.

20. Exhaustion and the Surrender of All Defenses. If interrogating officers keep persons with certain disabilities under pressure for long periods of time, they can break them down and get them to say anything. Almost all of the persons with mental disabilities that I have worked with during my career would confess to a crime they did not commit after four or five hours of intense police interrogation.

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