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Videotape police interrogations

THE MASSACHUSETTS Supreme Judicial Court this month heard oral arguments on the question of whether to require police to videotape all custodial interrogations. For many reasons, such a policy is sensible, civilized, and necessary.

Last year, the Manhattan district attorney moved to vacate the convictions of five men found guilty as teenagers in the infamous Central Park jogger case. In 1989, the boys had confessed, four on camera. There was not a shred of other evidence, but the taped confessions were textured with vivid details and persuasive. One boy showed how he pulled off the jogger's pants. Another expressed remorse for his first rape.

Thirteen years later, an imprisoned serial rapist admitted that he alone had assaulted the jogger — a confession that was corroborated by his DNA and by knowledge of facts only the culprit could have known. In one high-profile investigation, police had produced five false yet credible confessions.

Spectacular as it was, this case does not stand alone. Forensic DNA testing is new, but already 143 innocent prisoners have been exonerated, 20 percent of whom had confessed. This statistic betrays a tale of two tragedies: That people sometimes confess to crimes they did not commit and that police, prosecutors, judges, and juries believe these confessions. Both problems can largely be solved with a single procedural reform.

Videotaping entire interrogations will deter police from using inappropriate or coercive tactics that put innocents at risk. Likewise, it will deter guilty confessors from claiming they were coerced when they were not. This policy will also provide a full and objective record of who in the interrogation room said what to whom, and with what effect. This will eliminate the swearing contests that regularly haunt courtrooms.

In the jogger case, detectives and suspects disagreed over whether the boys were hit, yelled at, and threatened; whether they were told they could go home; and whether they invoked their Miranda rights. Some disputes seemed motivated on both sides by self-interest; others resulted from simple memory loss.

In court, videotaped interrogations will sharpen the fact-finding abilities of judges and juries now confronted with disembodied, out-of-context confessions. To evaluate a statement, judges must determine from a "totality of the circumstances" whether it was voluntary or coerced. Juries must also determine whether it was true — and whether its contents originated from the suspect or from secondhand sources.

A confession produced by a trained interrogator is like a Hollywood drama: Scripted by his or her theory of the case, rehearsed during hours of interrogation, and enacted on camera by the suspect. Often the result is a compelling but false illusion.

Opponents reflexively argue that a videotaping rule will disable police, inhibit suspects, and make it difficult to solve crimes. There is no evidence to support these claims. Combined, Alaska and Minnesota have 30 years of successful experience at mandatory taping; Illinois is set by law to follow. The practice is also common in many police and sheriff's departments across the country. Once reluctant investigators now consistently rave about the results. In 1993, a National Institute of Justice study revealed that a vast majority liked the practice once they implemented it. Recent surveys corroborate this positive reaction.

History, often doomed to repeat itself, also serves as a guide. In 1966, the law enforcement community argued that it would be handcuffed by the Miranda rule that suspects be apprised of their rights to silence and counsel. These fears were never realized. Today, 80 percent of suspects routinely waive these rights and talk to police.

Common sense demands that the veil of secrecy be lifted from the interrogation room. As feasible, a videotaping requirement should cover all custodial interviews and interrogations — and with a camera focused on all participants. This requirement offers a win-win outcome: It will protect the police and the accused, help prosecutors and defense lawyers assess their cases, promote accurate decision making at trial, and bolster the public's trust in the criminal justice system.

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