

Why People with FASD Fall for Manipulative Ploys: Ethical Limits of Interrogators' Use of Lies

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Introduction

People with FASD are easily manipulated by others, and such social vulnerability is a major reason why they are so likely to get into serious legal and other forms of difficulty. Police interrogations are also manipulative, in that a detective is attempting to use various ploys—including deceptive statements—to persuade someone to do something he is initially reluctant to do, namely admit to having committed a criminal act. In this paper, the authors use an audiotape of an actual interrogation of a young man with FASD who initially strongly denied guilt, to better understand the way interrogative manipulations (including lies) were used to break his will and get him to confess to a crime which he may or may not have committed. Cognitive and other impairments in people with FASD are discussed in relation to specific interrogative ploys—particularly the introduction of pseudo-factual and other forms of lies—that take advantage of those impairments. Ethical cautions regarding lie-infused interrogation, particularly when used with brain-impaired people who have trouble discerning factual-potential and the motivations of liars, are raised. A point that is strongly emphasized in this paper, and derived mainly from the writings of Jerome Bruner about narrative story-telling, is that for an adolescent or adult to stay out of jail requires a level of meta-cognition in which the intentions of a manipulator (whether a co-criminal or an interrogator) are thought about on a functional and abstract level. Unfortunately, people with FASD operate on a concrete and non-reflective level, which is why so many people with that disorder end up in jail or prison.

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Social Vulnerability of People with FASD

People with Fetal Alcohol Spectrum Disorder (FASD) do not, as a rule, show good social insight or judgment (Streissguth and Kanter 2002). Nor do they possess an ability to adequately apply their thoughts and intuitions to determine how to act safely in complicated or multifaceted situations. That is the main reason why they get in trouble with the law and “mess up” in other ways, such as getting fired from jobs (Edwards and Greenspan 2011). A big contributor to the poor social judgment of people with FASD and other brain-based disorders is their inability to see through, and resist, the risky manipulations, pressures and temptations offered by others (Greenspan and Woods 2014). These manipulations often involve pseudo-factual hypothetical statements that are in effect lies; a real life example (which resulted in a lengthy prison sentence) involved a young man being falsely told by a peer that his mother was being physically abused by a boyfriend, who needed to be beaten up in order to be taught a lesson. The assault took a severe turn and the targeted man died, which likely was the manipulator’s intention all along. But manipulation can take many forms other than committing assault or murder, ranging from being persuaded to consume drugs or alcohol when one is trying to quit, to being pressured to confess to a crime when one is trying to maintain one’s innocence.

Susceptibility of people with FASD to being manipulated by others is an obvious result of their neuro-cognitive limitations, but other factors enter in as well (Greenspan and Driscoll 1997a). These include their social neediness, which is a reflection of having few if any non-deviant friends, and their personality adaptations (a tendency to mimic and accede to the requests of others) which people with a history of failure tend to make (Zigler 2013). Suggestibility is a personality trait with a cognitive component that has been found to be high in people with FASD and which makes them susceptible to being manipulated in various contexts (Brown et al. 2011). Various studies have established that people with FASD and related neurodevelopmental disorders have a several-times greater probability of giving false confessions (Fast and Conry 2006), a reflection of the fact that interrogations, even those undertaken with the most honorable of intentions, are heavily reliant on the use of manipulative methods, typically involving some form of deception.

Although there is an acknowledged cognitive basis for the susceptibility of people with FASD to manipulation, that basis has generally been analyzed on a global and superficial level, such as by general reference to their impairments in “executive functioning” without linking it to specific actions. While executive functioning is a valid and useful construct, a more helpful analysis would delve deeper, by identifying specific ploys engaged in by a manipulator, and then seeing how those ploys tie in with specific cognitive processes, including executive functioning, and limitations. Such a more contextualized approach to understanding the poor judgment (with usual predictable bad outcomes) of people with FASD has not been widely attempted, to our knowledge.

An obstacle to conducting such an analysis is that we typically do not know, on a moment-to-moment basis, the deceptive tactics that are used in a particular incident. An exception to that generalization, however, can be found in recorded police interrogations, where the ebb and flow of a manipulative transaction can be minutely observed and analyzed. Police interrogation of people with FASD is an interesting subject for investigation in its own right, independent of its providing a window into the problems cognitively impaired individuals have in perceiving and resisting manipulative ploys. That is because people with brain-based impairments are notoriously susceptible to giving false confessions (Kassin et al. 2009), and are unable to resist the deceptive questioning ploys by interrogators, the use of which have been authorized by the US Supreme Court (Skolnick 1985) and prominently promoted in interview training manuals (Imbau et al. 2011). The current paper, therefore, is intended to shed light on how the cognitive limitations of people with FASD contribute to the ease with which they can be deceptively manipulated in general, and also to shed light on how this tendency contributes in particular to their vulnerability to giving false, as well as truthful but involuntarily-given, statements in police interrogation situations.

In pursuing these purposes, we shall first describe all of the deception ploys used in a successful (in the sense of producing a breakdown of will to resist) interrogation of a young man with FASD; examine the appropriateness of using a “big lie” to break down his resistance to incriminating himself; and then explain why it is that FASD and related modes of impaired cognitive functioning made him especially vulnerable to having his “will overborne” by a persistent interrogator. In a final section, we discuss ethical and legal implications flowing out of an enhanced understanding of the deceptibility and gullibility of people with FASD and related disorders.

A Listing of Ploys Used to Break the Will of a Person with FASD

The case used in this paper involves “Juan,” a homeless young man of 20 who was diagnosed with Fetal Alcohol Syndrome at a specialized FAS clinic as a pre-adolescent. Because Juan’s legal case is still wending its way through the legal system, we shall slightly change some facts and take various other pains to disguise his identity. The basic crime of which he was charged was statutory rape, although the more serious but in this case, less provable charge of forcible rape was also alleged. Juan was on probation for an earlier relatively minor property crime. He has no history of violence or crimes against persons. He had failed to fulfill some requirement of his probation, as people with FASD have a difficult time remembering meetings with probation officer, paying fines, giving urine samples, etc. He consequently probably expected to be rearrested. The arresting person, “Officer Truax,” delivered Juan to the presence of “Detective Smith,” without telling him

the reason. In the following paragraphs, we shall list each of the ploys told, and the response of Juan to each ploy. We shall save an analysis of each ploy and how it intersected with Juan's impairments, for a later section.

False Friendliness Ploy

Officer Truax brought Juan into a room in the police station, and introduced him to Detective Smith, who he described as "a really nice guy." Truax offered to fetch Juan a soft drink and told him that it was the only time he had ever offered such a kindness to anyone brought in for questioning. Juan was wary but seemed somewhat reassured.

Concealing True Purpose Ploy

Detective Smith told Juan that he was picked up for a probation violation but that he also wanted to question him about another matter. Juan was never told the nature of this other matter, and was asked not a single question about the probation violation. Juan made no audible response other than "okay."

Ploy to Create an Incentive to Cooperate

Juan was told that he was technically under arrest for the probation violation. Detective Smith told Juan that after they cleared up the probation matter, he could not be released right away but would have to be brought to the jail before he could be released. Likely, this caused Juan to think that by cooperating he would go free, while refusing to cooperate would land him in jail. It also minimized the seriousness of the situation and caused Juan to think that he was not in any real danger. Juan said "I understand" and asked no questions, such as the one that would occur to most people: "If I am not here for the probation violation, then just what do you want to question me about?"

Ploy of Reading Miranda Rights Quickly and Without Real Probes

Detective Smith read Juan the Miranda warning in a very cursory and formulaic manner. After every sentence was read quickly, the detective said to Juan "Do you understand that?" and Juan replied reflexively with "yes." Juan was never asked to repeat it in his own words, or to demonstrate what it really meant, such as that he

could stop talking at any moment and walk out, which he probably felt he could not do in this case as he was told he was under arrest for the probation violation warrant. This ploy was intended to comply with the law by reading the rights without giving Juan any encouragement to actually assert those rights.

Ploy of Asking Many Irrelevant Questions

The first 30 min of the interrogation consisted of a string of questions having nothing to do with the alleged criminal offence, which still was not divulged. They had to do with Juan's life and touched on such things as his parents, siblings, extended family, friendships, past addresses, current living arrangements, school history, past court experiences, etc. Often, Juan was asked for specific dates about past events, such as when he attended a particular school. The effect was to create almost a trance-like question and answer sequence, where Juan would reply to each question with a truthful response, and no question stood out as particularly challenging. Juan replied without delay to every question and demonstrated good recall about various details of his life and its history.

Ploy of Easing Indirectly into Dangerous Territory

Detective Smith started to ask Juan about his sexual history, and also about his use of alcohol and other intoxicants. When asking about his female friends, Smith wanted to know their ages, the dates and frequency of sexual encounters, and the locations. He also asked about Juan's male friends and one young man in particular, a slightly older person nicknamed "Ratman," who lived in an abandoned house. Ratman purchased alcohol for under-aged youths and had video-watching parties where various young people would lounge on mattresses, drink and sometimes have sex, which Ratman apparently liked to watch. Juan answered every one of these intensely personal questions without hesitation or apparent evasion, and did not once say "none of your business." The one time Juan stiffened a little was when Smith mentioned a girl named "Caroline" and asked if Juan had ever had sex with her. Juan quickly denied it, saying he considered her like a younger sister and would never have sex with her.

Ploy of Seizing on a Minor Inaccuracy

At least a half dozen young women with whom Juan had been intimate were discussed in the course of the interview. None of them were under-age, with the exception of Caroline. One of the girls, "Brenda," apparently was several months

older than the age that Juan said she was. The detective told Juan that he was sure he knew Brenda's real age and that he was intentionally lying. The detective said to Juan "I know the answer to most of the questions I am asking you, and if you tell a falsehood I will know it and I will think poorly of you. If you want me to trust you and think you have a good character, it is important that you answer truthfully to every question I ask you." Juan said he understood.

Ploy of Telling a Lie About Incriminating Evidence

Detective Smith returned to the topic of Caroline, with several questions about the nature of their relationship. Juan mentioned that Caroline had a huge crush on him, and had several times asked him to sleep with her but that he had always resisted the temptation, both because of her age and the fact that he had promised her brother he would look out for her. Juan indicated that he thought of Caroline as a kind of younger sister and he made it a point to never have sex with family. He even broke off a relationship with another young woman when he discovered they may have been distantly related. Smith asked about a particular evening at Ratman's house when Juan admitted being drunk to the point of blacking out and waking up later lying next to Caroline. The detective asked Juan if he could have had sex with Caroline that night and he replied by saying he was certain he did not. Smith then asked Juan "well how then can you explain how your DNA came to be found inside Caroline's vagina when she was checked at a medical clinic?" Juan replied to this totally fabricated assertion by saying "I have no idea."

Ploy of Mixing Truth or Hypothetical Truth with Fiction

A key to causing an emotional breakdown in Juan came when Detective Smith asked him if he had ever had a sexually transmitted disease. Juan replied that he found out he had an STD when one of his sexual partners told him she was pretty sure she had contracted it from him. Smith then truthfully told Juan that Caroline had contracted the same disease, and that was how Juan's name came to the attention of the police, as Caroline was asked by a nurse to reveal the names of her sexual partners. Detective Smith again told Juan that they knew he had sex with Caroline, as he had gotten the information from others at the party, which was not exactly true. Detective Smith then repeated the big lie about finding Juan's DNA inside Caroline's vagina. At this point, Juan started to sob and said that his practice was to pull out when he felt himself about to come, but he supposed it did not always work perfectly.

Ploy of Suggesting a Culpability-Minimizing Theory

Once Juan started to cry, it became likely that Detective Smith would be able to “reel him in.” The key to this lay in offering Juan a hypothetical story that Smith believed to be true, and then getting Juan to confirm and elaborate on that story. Three motivational components to Smith’s success in “closing the deal” were: (a) convincing Juan that he would feel better if he came clean, (b) telling him repeatedly that what he did was “not the worst thing in the world,” “most of the people I have interviewed have done much worse things”, etc., thus minimizing the seriousness of the crime and implying a confession would likely would not bring serious consequences, (c) implying that it would be in Juan’s interest in terms of a lesser consequence if he was truthful, and (d) providing Juan with a plausible explanation for his conduct on the night in question that reduced Juan’s feelings of shame and guilt for an act of sex with a young girl he had promised to protect and felt bad about.

This hypothesized story, which Juan agreed to and even elaborated on, involved: (a) Juan being so drunk that his self-control and even consciousness was lessened, (b) Caroline being the sexual aggressor in initiating the sex and in carrying it to fruition, and (c) once the sexual encounter started, Juan got too aroused to be able to stop. The one place where Juan showed some resistance was when Detective Smith suggested that Caroline changed her mind and tried to end the encounter. Juan initially said it did not happen, but then admitted she might have weakly said “no” a couple of times, but then changed her mind again. Detective Smith later cleverly came back to this theme by asking Juan if he had ever completed a sex act with a different girl after she said “no” and he replied “yes, her name was Barbara, but she changed her mind and said to go ahead.” In asking this question, Detective Smith was less interested in pursuing another crime as he was in getting Juan to indirectly strengthen the validity of his earlier quasi-admission that the sex with Caroline might have been involuntary.

Cognitive Deficiencies that Place People with FASD at Risk in an Interrogation Situation

Although there are personality (e.g., non-assertiveness) and state (e.g., inebriation) factors which might contribute to a foolish or risk-unaware act (Greenspan 2009a, b) such as adopting an interrogators story and agreeing or even embellishing on it, our basic focus in this paper is on cognitive explanations. In this section, we approach the phenomenon of Juan’s caving into Detective Smith sequentially in terms of several cognitive theories. In each section, we relate the theory under discussion with what is known about FASD and the cognitive impairments associated with the disorder.

Categorization Perspective on Interrogative Deception Vulnerability

Jerome Bruner, one of the principal architects of the cognitive revolution in psychology, has opined that cognition is mainly a matter of categorization (Bruner et al. 1956) or procedural narrative knowledge (Bruner 1986). By that, he meant placing an event, object or situation into a self-constructed category, whose meaning comes from its resemblance to other phenomena which share some defining features. In the case of a manipulative situation such as a police interrogation, the most adaptive categorization would be “situations where somebody is trying to get one to do or say something seriously harmful to one’s interests.” In this sense, many of the narrative-enhancing ploys used by Detective Smith were intended to make it more difficult for Juan to categorize the situation in that manner and thus get into a “fight-or-flight” mind-set. Juan lacked a procedural awareness of the story telling techniques being used on him as well. Examples included initial friendliness, minimizing or obscuring the true purpose of the occasion, engineering a conversational quality which steered away from red-flag topics, mixing true, hypothetically true and false statements (thus obscuring the motives and deceitfulness of the interrogator) and effort to create the impression that keeping the esteem of the detective, rather than staying out of jail, was the real purpose of the interaction.

A key to categorizing a situation as manipulative is recognizing that there are lies being told and that hypothetical statements are not always true. That is because lying about the manipulator’s intent, about potential benefits to the target, about the facts of the manipulator’s persuasive arguments, etc., are always a central feature of any manipulation. In that sense, a particularly confusing challenge in the interrogation was the mixing of true (e.g., “Caroline contracted the same STD that you had”) with untrue (e.g., “your DA was found in Caroline’s vagina”) statements. This requires—in a manner analogous to a Piagetian conservation task—an ability to hold onto two conflicting realities, one untruthful statement such as the DNA ploy, in the face of many truthful statements which by their number are more salient and tend to create an illusion of truthfulness. For Bruner (1961), who early-on was heavily influenced by Piaget, the inability to conserve a critical reality e.g. a big lie, in the face of salient and thus reality-distorting artifices such as many irrelevant truths or half-truths is a reflection of overreliance on what he termed enactive (or action-based) or iconic (internalized image based) representational modes of thinking. Moreover, it is an indication of great limits in the use of symbolic, word and formula-based, declarative and procedural knowledge particularly at the level of meta-cognition. People who have developmental disabilities that are impacting their social thinking may be capable of categorization on a concrete symbolic level, but they will likely have increasing difficulties with functional categories and extreme problems with abstraction of categories on a hypothetical level. For instance, if an interrogator in a case similar to Juan’s were to lay the groundwork for his story version

of what “may or may not” have happened by detailing actions and images, he or she is progressing towards the use of concrete categorization and potentially functional purposive description of what may have happened as fact. At the more abstract symbolic level what may be factual is readily then classified as known verified fact. The procedure is seemingly transparently exploratory and then at once totally confirmatory.

Bruner (1961) posited three modes of representing reality: enactive (action-based), iconic (image-based) and symbolic (abstract). These are in some ways analogous to Piaget’s pre-operational (enactive), concrete operational (iconic) and formal operational (symbolic) stages, both in the mode of problem-solving and in that both formulations involve an invariant stage sequence. However, unlike Piaget, for Bruner the stages are not tied to specific ages, and it is thus possible for an adult, especially one with a neurodevelopmental disorder such as FASD to be operating on a very primitive level, where reality is basically a set of discrete concrete actions perhaps also functional or purposive in nature that are not approached on any meta-cognitive level. That appears to be exactly what happened in the interrogation session with Juan, where he could not step back and readily categorize the meaning of the situation beyond a concrete or functional level, let alone figure out or abstract what was happening in his present situation and what his options were in that situation. He became the main character in the confirmatory story.

Bruner (1986) more recently draws a distinction between narrative thinking and paradigmatic thinking. The latter entails truth-finding or verifiable procedures. It is paradigmatic in nature, logical and scientific. On the other hand, the narrative mode of thought seeks similarity to truth through story telling. It is a process of shared reality through mutual transactional experience and not necessarily through “learning” in the traditional sense of seeking truth. Narrative thought can be defined by changes in intention. It creates a world of possibilities rather than certainties. It introduces doubt while scientific thought utilizes falsification and verification to create certainties and establish truth. It engenders performances rather than verification of truth. Stories can be true, not true or partially true.

Theory of Mind Perspective on Interrogative Deception Vulnerability

Part of the ability to survive a manipulative interrogation depends on social perspective-taking, an important aspect of social intelligence (Greenspan and Driscoll 1997b). Today, perspective-taking is subsumed under the rubric of “theory of mind,” and refers to the ability to put oneself in the shoes of another person and understand their motives as well as how they see you. Such ability has obvious implications for surviving an interrogation session, as one cannot act purposively or skillfully in a manipulative situation without being able to understand what the

other person is up to. Theory of mind has been studied mainly as a possible explanation for the inability of people with autism to exhibit social reciprocity (Baron-Cohen 1995), but deficiencies in this ability have been found in people with FASD (Kilchenbaum et al. 2012; Rasmussen et al. 2009) and other neurodevelopmental disorders which share some of the same symptoms as found in people with Autism Spectrum Disorder.

Communicative Processing Perspective on Interrogative Deception Vulnerability

FASD is known to produce damage to the prefrontal cortex, and such damage, according to Zalla et al. (2014) is associated with deficits in “encoding and retrieving complex events, such as action and narrative knowledge...[and in] processing different aspects of narrative representations, such as the figurative moral meaning, syntactic features, and inference generation [of story processing].” Persons with frontal lobe lesions “...showed a pattern of deficit at an early stage of story comprehension that specifically involved the ability to reconstruct the sequential links among events and to extract inferential knowledge from the text during encoding” (Zalla et al. 2014). Individuals with FASD have impairments in their ability to analyze story narratives, and cannot elaborate on stories well (Thorne et al. 2007). An interrogation is basically a situation in which an interrogator develops a story and tries to convince a subject to buy into and even elaborate on that story. In the absence of an ability to semantically process a story, people with FASD and related brain disorders are very likely to confabulate (Fotopoulou 2008; Gibbard et al. 2003), that is to pretend that things happened in a way they may not have.

Depletion of Cognitive Resources Perspective on Interrogative Deception Vulnerability

It is not an accident that the most critical piece of deceptive information is usually introduced late in an interrogation, at a point when the subject is beginning to get tired. Dragging an interrogation out is, in fact, an explicit tactic used almost universally by interrogators (Gudjonsson 2003), in outlawed form involving prolonged sleep deprivation, but in routine form going on for several hours. Psychologist Roy Baumeister and colleagues (Baumeister 2001; Baumeister et al. 1998) have shown conclusively that exhaustion is a powerful force that depletes a person’s cognitive resources, causing a drop-off in intellectual functioning, and a loss of willpower (Baumeister and Tierney 2011). Given the limited cognitive resources which people with FASD have to begin with, and a general lack of

confidence and self-efficacy (Cicerone and Azulay 2006) in the ability of brain-impaired people to assert their will and prevail in a challenging situation, the fatigue induced in an interrogation is likely to have particular impact on ability of someone with FASD to stick to his or her story, regardless of whether or not it is true.

Executive Functioning Perspective on Interrogative Deception Vulnerability

Ability to persevere when cognitive or volitional resources are depleted, otherwise known as “willpower,” i.e., the ability to persist in thoughts feelings and actions, can be considered an overriding self-regulatory process (McCloskey and Perkins 2012) which, while not strictly cognitive in itself, has a major impact on the ability to function intelligently as in making good decisions in a manipulative interrogation situation. Other more specifically self-regulatory processes, which tap cognitive style as well as cognitive competence, and help determine how intelligently one functions in the world fit under the broad umbrella construct known as “executive functioning.” In line with the organization leadership analogy implicit in the term, executive functioning is a “cognitive control,” “cognitive supervision” or “cognitive management” system which coordinates the implementation and use of whatever intellectual capacities one may have.

While executive functions are not the same as intelligence, they determine how efficiently one can use the intelligence one possesses to develop effective use of declarative and procedural knowledge. Thus, one can function more poorly in school and in life than one could predict from one’s IQ if one has impairments in executive functioning. Such impairments typically are associated with brain lesions, especially in the frontal lobes of the brain, and are so universally found in people with FASD that deficient executive functioning is in fact one of the main diagnostic indicators for FASD. This explains why people with FASD, in spite of having average IQ’s in the 80s, almost universally function adaptively as if their IQs were in the 60s and 70s and, thus, often qualify for services for people with intellectual disability (Greenspan, Brown & Edwards, this volume).

In a comprehensive review of the executive functioning literature, Brown and Connor (2014) observe that cognitive problems in FASD demonstrate “ineffective use of *higher-level* executive skills” that require conscious effort, and “especially when tasks are complex and require rapid processing.” The authors go on to state that “adolescents and adults with FAS appear to have significant difficulty with tasks requiring complex sustained attention and shifting attention..., suggesting that attention disturbance in FASD may become noticeable when tasks involve complexity.” All of these skills are required to survive, or even to cognitively process, a manipulative interrogation session.

Do the Ends Justify the Means in Use of Deceptive Interrogation?

Joseph Buckley, a co-author of books promoting the “Reid technique” of interrogation used by Detective Smith, has argued that the use of big lies (such as explicitly referring to false evidence) should only be used as a last resort (2012), although it begs the question whether smaller lies pervade the technique. By last resort, one assumes he meant situations where absence of lying does not attain the desired confession, but that of course is based on the notion, which he denies, that the purpose of an interrogation is not to obtain the truth but rather to obtain support for what the interrogator believes to be the truth. The fact that Juan eventually caved and admitted to having had sex with Caroline will likely be seen by some readers as justification for using the “big lie” (that his DNA was found inside her body) that undoubtedly played the most critical role in causing the crumbling of his will to continue asserting his innocence. There are three counter-arguments that could be made: (a) not all confessions are truthful and the confession that Juan gave could have been false; (b) lying or hypothetical factualizing is difficult to justify for use with people experiencing social cognitive disability, regardless of the purpose, and use of a big lie as an interrogative technique is intrinsically unfair, regardless of whether or not it appears to have worked; and (c) people with FASD, and other neuro-developmental disorders, lack the skills to be socially aware of potentially deceptive situations, utilize insight or apply judgment to determine action steps in their best interests, assert their rights, or resist giving an involuntary and possibly invalid confession. Their self-determination, in other words, is overborne.

Possibility of False Confession

There is today a very substantial scientific literature on the phenomenon of false confession (Kassin and Gudjonsson 2004), and many publicized cases of long prison sentences as well as death sentences being overturned when DNA or other evidence showed that confessions used to obtain their convictions were invalid. A great many of these since-overturned confessions were made by people with neurodevelopmental disorders (Perske 2011). In the most authoritative review of the research literature on false confessions, Kassin and Gudjonsson (2004) indicate that the two major risk factors for false confession are age (children and adolescents are at very high risk of false confession) and intellectual impairment. See also McLachlan and Roesch (2012) on the vulnerability of youths to giving false confessions. The same factor is responsible for false confession in both populations: incomplete brain development, which affects one’s ability to make good decisions under conditions of pressure and ambiguity (Clare and Gudjonsson 2010). Elizabeth Loftus, the leading authority on implantation of false memories, believes that in

many cases, especially with vulnerable subjects, the giving of a false confession is made possible by convincing a subject that the interrogator's account of the person's behavior actually is what occurred. According to Leo and Drizin (2010), once a partial confession is obtained, an interrogator will, as was the case with Detective Smith and Juan, "pressure the suspect to provide a post-admission narrative that they jointly shape."

Some Lie-Based Techniques Cross an Ethical Line

Deontological/religiously-motivated ethicists such as Kant (1781), declare the use of categorical imperatives to generate universal maxims. In other words, if actions can be performed under all circumstances and conditions then they are justifiable. For instance, "it is never morally acceptable to lie". Alternatively, consequentialist/utilitarian ethicists such as John Stuart Mill (Strasser 1991) assert that there are circumstances—particularly in the service of a socially desirable end—where lying is acceptable. Police interrogation authors such as Buckley (2012) assert that lying in a police interrogation is acceptable as long as it facilitates the process of getting at the truth, but acknowledge that on occasion it may result in something that is not the truth. The 1969 U.S. Supreme Court ruling, in *Frazier v. Cupp* (394 U.S. 731, 1969) decided that it is generally acceptable for an interrogator to use lies as an interrogative tactic, but within certain limits. The limit is invoked when an interrogator does something that "shocks the conscience of the community." An example of such a line-crossing would be telling a subject that confessing is the only way to keep her child from being taken away from her custody. Another example would be manufacturing evidence, such as a phony typed statement from an alleged confederate or a phony lab report on blood evidence tying the suspect to the crime. Courts have ruled that such a step is out of bounds, although the reason seems to be as much concern over the possibility that this phony evidence could inadvertently make its way into a trial record and be used years later in an appeal as if it were real, as it is over the likelihood that such evidence is extremely coercive. However, while phony reports about evidence or eyewitness statements are improper, it is acceptable to falsely make reference to the existence of such incriminating evidence. In the case of Juan, that would translate to a "stop" sign preventing Detective Smith showing Juan a phony lab report establishing his DNA being found inside Caroline, but a "proceed" sign for the tactic of claiming that such a report exists. Excuse us if we do not see much difference, especially when it is a ploy used against a guileless, non-reflective and naively trusting brain-impaired person such as Juan.

The basis of moral philosophy, according to Rawls (Nagel 1973) is justice, which he defines as fairness, or an absence of discrimination which advances the interests of one person; in other words, every person should be treated equally. Given that people with FASD are at a distinct disadvantage in even claiming, let alone exercising, their right to avoid self-incrimination in the face of manipulation,

one can conclude that the use of interrogative ploys, especially when they involve introduction of grossly false facts, is inherently unfair or manipulation of vulnerability to suggestibility or deceivability. The most important skill needed to survive a manipulative interrogation, or any manipulative transaction for that matter, is the ability to recognize the event for the dangerous game that it is and if possible to walk or better yet run away without playing it. The US Constitution guarantees every citizen as well as (at least in theory) non-citizen resident the right to do just that, but the people most in need of protection from interrogation (those who are poor, uninformed, brain-damaged or otherwise overly trusting) generally fail to exercise that right. Once a person agrees to be interrogated, then he or she has entered into a dangerous place that requires some degree of cognitive wherewithal to keep from being led down the garden path to self-incrimination, regardless of whether or not the person has actually committed the act which he or she is suspected of having committed.

It is likely in many instances, such as the example reviewed in this paper, that the process of interrogation is a narrative story-telling technique which enlists its subject to perform his or her assigned role rather than a methodology which seeks truth through the use of the scientific method of verification and falsification. Is interrogation a means to give possible meaning to experience and/or possibly change someone's intentional view of what happened or a tool to derive real factual information? Oftentimes it is the former, namely a strategy to confirm a story as fact rather than the actual fiction it may be. In the end, people with a developmental disorder such as FASD are not equipped with the meta-cognitive and abstract thinking skills required to assess the actual situation they are in. They become caught up in the story as if it is an exercise in fact-finding rather than in story-confirming. Rather than engage in a mutual transaction, people with FASD such as Juan subjugate independent thinking to confirmation of a mutual experience carefully delineated by their interrogator/story teller.

A question to ask is: "Are interrogators story tellers with a plausible but potentially flawed story, enlisting their FASD or otherwise brain-impaired subjects into helping them factualize their hypotheses?" The answer appears in some contexts, and with some people, to be "yes."

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