

2011

Book Review: Review, Susan Berk-Seligson, COERCED CONFESSIONS: THE DISCOURSE OF BILINGUAL POLICE INTERROGATIONS

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Recommended Citation

Janet Ainsworth, Review of Susan Berk-Seligson's *Coerced Confessions: The Discourse of Bilingual Police Interrogations*, 30 *MULTILINGUA* 408 (2011).

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been a fertile area for investigation over recent decades. Here there are many interesting parallels to be drawn. And indeed, this volume should be required reading for anyone intending to go to live, work or study in any of the countries that are the focus of this book.

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Susan Berk-Seligson, *Coerced confessions: The discourse of bilingual police interrogations*. Berlin & New York: Mouton de Gruyter, 2009, 261 pp., ISBN 978-3-11-021348-5.

The growing wave of exonerations of prisoners based on forensic evidence proving their innocence has revealed that conviction of the innocent is not freakishly rare but, tragically, all too prevalent. Studies of these erroneous convictions have shown that between 14 to 20 percent of these cases involve false confessions (Leo 2008: 238–240; see generally Garrett 2008). Despite the widely held assumption that an innocent person would never confess to a crime, we now have proof that, in many circumstances, police interrogation can indeed result in confessions by the innocent. When this happens, the odds of conviction are overwhelming – even when the confession is implausible, corroborating evidence absent, and compelling evidence of innocence exists. Most jurors simply cannot entertain the possibility of innocence when a confession, however flawed, is presented (Kassin & Neumann 1997). In the wake of these exonerations, researchers have intensified their investigation into the causes of false confessions, zeroing in on problematic police interrogation tactics – the presumption of guilt that encourages interrogators to adopt confrontational, coercive forms of interrogation; police use of trickery, lies, and false evidence in confronting suspects; and the construction by the police of what appears to be the suspect’s narrative of events but in reality is a pre-existing police narrative of the crime (Kassin 2005: 219–222; Leo 2008: 119–194; Garrett 2010). Researchers have also examined characteristics of persons likely

to confess to crimes they did not commit, identifying risk factors including adolescence, low cognitive capacity, and certain personality disorders and mental disabilities (Kassin *et al.* 2010: 19–23).

What has not been given much attention, however, is the particular vulnerability of suspects with limited proficiency in English undergoing police interrogation. Susan Berk-Seligson remedies this oversight in this volume. Berk-Seligson's earlier research (1990) represented a ground-breaking examination of courtroom problems facing non-English speaking parties. This new volume is similarly important in exploring the special dangers for foreign language speakers undergoing police interrogation. She begins with a synopsis of the research into false confessions and an overview of current police practices in interrogating non-English speakers, pointing out the practical challenges that police agencies face in providing appropriate interpreters. Interpreting is frequently conducted by untrained personnel with uneven linguistic skills. Moreover, the role of the interpreter is often unclear to the subject undergoing questioning, since interpreting is sometimes provided by bilingual police officers. Despite the inadequacy of the interpreting provided in many instances, the appellate response to challenges to such practices has been generally dismissive. Berk-Seligson's work in this volume is intended to demonstrate the need for a more responsive judicial reaction in the face of the problems that she highlights in her analysis of several such interrogations.

Each of the following chapters provides a detailed linguistic analysis of an interrogation of a suspect with limited proficiency in English. Berk-Seligson includes generous excerpts from the interrogation transcripts so that readers can judge for themselves whether the interrogation in question was problematic. In each case study, she focuses on a particular problem so that the reader is exposed to a variety of factors why and how such interrogations enhance the likelihood that a confession will be obtained, regardless of whether the suspect is guilty.

The first case study involves the interrogation of a teenaged Latino accused of murder. Two officers conducted the questioning, a monolingual English speaker and a bilingual officer with heavily accented, grammatically sub-standard Spanish. The bilingual officer played an ambiguous role; although he began by translating questions asked by the monolingual officer, he quickly assumed the stance of an interrogator, adopting the first person plural pronoun when referring to the interrogation process and expressing disbelief in the suspect's responses. Both officers ignored the suspect's repeated attempts to cut off questioning, in flagrant violation of the *Miranda* rule requiring questioning to cease immediately once the suspect indicates that he wishes to remain silent. Instead, the bilingual officer pretended that he did not

understand the *Miranda* invocation, tried to persuade the suspect to answer questions in the face of his resistance, and deflected the exchange into a discussion of religious confession. By using switches in footing from translator to questioner to fellow Catholic, the bilingual officer deployed a series of strategies to trick the suspect into admitting guilt despite his attempt to exercise his constitutional right to remain silent.

The following chapter examines a second issue presented by the same case. In this analysis, Berk-Seligson analyzes the interrogators' active construction of a detailed narrative of the murder – a narrative that the suspect repeatedly resisted. In the course of denying the version of events proposed by the interrogators, however, the suspect began to adopt some, but not all, of their suggested characterizations of the crime. Here, the bilingual officer's lack of facility in Spanish sometimes resulted in misleading word choices as he translated the monolingual officer's accusations. Nevertheless, the suspect in that case was able to partially frustrate the officers' repeated attempts to frame his admissions into their preferred confession.

The next case study also involves a young Latino charged with murder. His interrogation was conducted in English, although he sometimes answered in Spanish. A striking feature of this interrogation is the officer's complete control of the construction of the narrative of the crime through the use of leading, close-ended questions and statements characterizing the events in question. Maintaining control over topic initiation and turn-taking is a classic discursive attribute of police interrogation (Heydon 2005: 183). In this case, the syntactic and prosodic attributes of the questioning made it impossible for the suspect to interject his own version of events. In the few instances in which he tried to interpose a counter-narrative, his attempts were rebuffed with accusations that he was lying. As a result, the transcript of the interrogation contains lengthy adjacency pair sequences in which the suspect's turn consists only of saying 'yeah' in response to the officer's narrative. In some cases, it is clear that the 'yeah' did not necessarily signal agreement with the propositional content of the previous statement by the officer, because when the officer immediately corrected himself in his next turn, the suspect concurred by saying 'yeah' a second time. Berk-Seligson explains why these 'yeah' responses should not be considered confirmation of the officer's assertions about the crime, drawing on the research of sociolinguist Diana Eades on the prevalence of gratuitous concurrence by Australian aboriginal suspects undergoing interrogation (Eades 2008). Like the aboriginal subjects in Eades' study, the arrestee's responses in this case could be seen as exemplifying a desire to be appropriately deferential in dealing with an authority figure – a

tendency that Berk-Seligson sees as culturally salient within the Latino community and which is further amplified given the power asymmetries inherent in the interrogation setting.

The fourth case study in the book involves an interrogation in which interpreting was provided by a police officer with only a rudimentary familiarity with Spanish, developed during his single year of high school study of the language. Not surprisingly, the 'interpreter' officer was unable to accurately translate either the interrogating officer's questions or the arrested subject's responses. Rather, he resorted to a largely incomprehensible mixture of English, Spanish, and mistaken attempts at words he thought were Spanish. Although the arrestee valiantly tried to comprehend the bizarre and broken Spanish of the 'interpreting' officer, he was forced to resort to what little English he knew in accommodating the linguistic inadequacies of his interrogators. Berk-Seligson's analysis of this interrogation shows what she calls 'pidginization,' where the suspect was trying to negotiate a linguistic medium in which he could communicate with the officers – in this case, a code-mixing combining Spanish and English in what the suspect hoped would be an interlanguage permitting understanding. However, the transcript instead shows an interaction in which the suspect is often confused by the officer's questions, repeatedly denies the few accusations that he is able to understand, and pleads for clarification that never comes from his 'interpreter.' The reader is left with the disquieting sense that the purported admissions by the suspect here were unreliable and his conviction likely a miscarriage of justice.

The last case study in the book differs from the earlier analyses in that the interrogation in question was not recorded, making detailed linguistic analysis impossible. The absence of a recording is especially disturbing in the light of its extreme nature. The defendant reported that he was handcuffed to a wall, deprived of sleep and bathroom facilities, and beaten during the forty-hour ordeal. Even without consideration of the allegations of physical abuse, however, this case study provides abundant reasons to be wary of the reliability of the confession. For example, the purported confession that the defendant signed was alleged by the interrogating officer to be a summary of the defendant's actual admissions, compiled by the officer and translated into English. Although the interrogating officer claimed that he read a Spanish version of the confession to the suspect, that version was not preserved and cannot be compared to the English confession ultimately signed. Under these circumstances, there are serious doubts as to whether the signed confession is reliable evidence of guilt.

Berk-Seligson concludes the book with a brief discussion of policy recommendations to ameliorate the concerns that her work raises. Like

many other researchers (e.g., Leo 2008; Garrett 2010; Kassin *et al.* 2010), she urges police agencies to record interrogations so that later examination can better judge the reliability of any confession produced. Also in common with other linguists (e.g., Rock 2007: 147), she recommends that a standard warning of rights in each language be adopted to ensure that warnings given adequately incorporate the legal protections required. Finally, she argues that qualified, professional interpreters be used during interrogation rather than supposedly bilingual police officers or other untrained persons.

Perhaps because the magnitude of the problem of coerced confessions belies easy solutions, the final policy recommendations are the weakest aspect of this study. While preserving the linguistic interaction between the suspect and interrogators is surely essential to any later analysis of a confession's reliability, all but one of the case studies here involve interrogations that actually were recorded but that nevertheless present serious issues as to the validity of the confessions obtained. Recording interrogations is thus a necessary but not sufficient guarantee of reliability. Likewise, Berk-Seligson's call for neutral, professionally qualified interpreters to assist suspects is a sensible reform, though in the present atmosphere of government budget cutbacks and increasing hostility to immigrants, one wonders how likely police agencies will be to urge its implementation.

Where this reviewer parts company with Berk-Seligson is in her suggestion that standardizing the linguistic formulation of *Miranda* warnings will be of much utility in addressing the problem of coerced confessions. Many confessions that we now know to be false were taken under conditions in which *Miranda* was scrupulously adhered to. That fact ought to give us pause in assuming that *Miranda* warnings are effective in preventing police-induced false confessions. Courts have increasingly watered down any protections that *Miranda* warnings provide against police overreaching in interrogation, to the point where the *Miranda* framework actually serves the interests of prosecutors in admitting confessions into evidence, regardless of their reliability, rather than aiding defendants in resisting police coercion (Thomas 2000; Ainsworth 2010). Legal safeguards against the kind of discursively created coercion that Berk-Seligson uncovers here are likely to require an invigorated judicial oversight testing the reliability of purported confessions before admitting them in court rather than more accurately translated *Miranda* warnings. To be fair, this is a minor quibble, and may be one that the author herself would agree with. This book is valuable for having called our attention to the plight of individuals – those with limited English proficiency – who are uniquely vulnerable to police coercion in the interrogation process. Criminal justice

scholars and forensic linguists will be drawing upon her analyses in future studies of coerced confessions for years to come.

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Kramersch, Claire, *The multilingual subject: What foreign language learners say about their experience and why it matters*. Oxford: New York, 2009, pp. xii + 231.

Claire Kramersch has long been one of the major proponents of integrating the full picture of communication into the language classroom. Through her work *Context and culture in language teaching* (1993) she highlighted various aspects of culture in language learning and their