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NETFLIX'S MAKING A MURDERER: INVOLUNTARY CONFESSION — AN INTERROGATOR'S PERSPECTIVE

By admin / In August 19, 2016 / On WZ Blog / 1 Comment / 2245 Views

The scales of justice are tilting in the case of Brendan Dassey from the Netflix Documentary "Making a Murderer" and the real-life horror of a false confession and possible wrongful conviction of the young man.

Federal Judge William Duffin, found Dassey's confession "involuntary" and detailed his decision by stating the following:

"...the state courts unreasonably found that the investigators never made Dassey any promises during the March 1, 2006 interrogation. The investigators repeatedly claimed to already know what happened on October 31 and assured Dassey that he had nothing to worry about. These repeated false promises, when considered in conjunction with all relevant factors, most especially Dassey's age, intellectual deficits, and the absence of a supportive adult, rendered Dassey's confession involuntary under the Fifth and Fourteenth Amendments..."

IT IS THEREFORE ORDERED that Brendan Dassey's petition for a writ of habeas corpus is GRANTED."

It is difficult to argue with Judge Duffin's decision after reviewing the multiple hours of interrogation footage that Dassey was subject to with no representation. Reviewing the several hours of questioning shows a young and impressionable 16 year old Dassey who listens to several remarks made by the investigators that are unsettling. A few of these statements that correlate directly to Judge Duffin's rulings include the investigators telling Dassey:

"Talk about it, we're not just going to leave you high and dry"

"I'll stand behind you"

"I'm your friend..."

"I'm in your corner"

"Your mom said you'd be honest"

"I'm thinking you're alright...don't have to worry about things"

"Honesty will set you free"

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It is clear to see that the suggestion of leniency, an assurance of support and the lack of consequences were close to being promised to Dassey by the investigators. Outwardly incentivizing an admission, rather than simply promoting the opportunity to tell the truth is

shown here to potentially have a role in a false confession and ultimately resulted in the Judge's decision to rule it as "involuntary".

As **Certified Forensic Interviewers (CFI)**, it is imperative that we are able to reflect on interviews and interrogations, critique and learn from them to ensure we are obtaining the truth morally, ethically and legally. Unfortunately, there are interrogations out there which don't comply with the code of ethics set forth by the **International Association of Interviewers (IAI)** which can result in false confessions, wrongful convictions and a cloudy version of the truth.

The goal of any interview or interrogation should be a finding of reliable information that results in determining the truth. Regrettably, some interrogators enter a conversation with a goal of a confession or admission of guilt which clearly demonstrates a confirmation bias.

If an interrogator is in a position where they have little or no evidence prior to an interview, then they should be looking to obtain reliable information in that conversation. However, any good interrogator is aware that a witness or subject's version of the truth should not stand alone. In these cases, it is vital that the investigation is aimed to substantiate any confession by obtaining further evidence which corroborates the subjects' statement. Clearly, in the case of Brendan Dassey, the lack of substantial physical evidence that corroborates his statement is apparent.

In some cases, there is evidence available to the investigator prior to the interrogation taking place. The power of information or evidence in an investigation is invaluable unless, of course, it is misused. The investigators in the Dassey interrogations had some evidence, including the fact that the victim, Theresa Halbach, had been shot in the head. The investigators told Dassey, *"We can't say it for you"* when referring to the admission of guilt. However, they quickly contradicted that statement with a sequence of questions that almost eliminate the ability to qualify any truth of Dassey's statements.

"He needed help, didn't he?"

"I think he told you..."

"Maybe you got his mail?"

"You heard screaming"

"You went inside, didn't you?"

Each of these leading questions were followed by a short utterance of agreement by Dassey. Shortly after, an even more direct line of leading questions removed any ability to determine the truth. The investigators continued to press Dassey for information relating to Halbach's death. In this series of questions, the investigators continued to feed Dassey the confession they needed to hear. Ultimately ending with the following:

"Come on, something with the head...Brendan...what else did you do?"

"What else was done to her head?" - "He punched her"

"It's ok, what else did he make you do?" - "Cut her"

"Cut her where?" - "Her throat"

"What else happens to her head...extremely important you tell us"

"We just need you to tell us" - "That's all I can remember"

With this next question, the investigator's obtained the confession they needed and in the same moment they released the only method of substantiation they had withheld.

"Alright, I'm just going to come out and ask you, who shot her in the head?" - "He did"

"Why didn't you just come out and tell us that?" - "I couldn't remember"

Due to the reasons listed above, and others that were argued by attorneys Steve Drizin and Laura Nirider on behalf of Dassey - it appears that there will be some justice for Brendan. However, there are other far-reaching implications of this interrogation and decision by Judge Duffin. The possible release of Dassey could set the stage for further arguments being made on behalf of his Uncle, Steven Avery. Avery is still serving his sentence with attorneys working on a review of his case as well, and this may help progress their platform. The other, more unfortunate victim of this entire investigation is Theresa Halbach and her family. Already having lost Theresa, family and friends may now have doubts as to what happened in the last moments of Theresa's life. Eventually, this may result in additional trials, alternative theories and anything but closure for a family that has already suffered too much.

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Because of the way the entire investigation took place, including this interrogation, it is difficult to determine any truth. Unfortunately the method used took away the ability for us to answer the question if Dassey was actually involved in Halbach's death - and now we may never know.

An interview or interrogation is a vital part of an investigation and often leads to closure in a case or additional information unveiled to the investigator. It is important that investigators from all sectors take notice of how improper questioning or biased strategies can not only result in poor information, but ultimately suppress any legal use of that conversation. When discussing interrogations and confessions - the ends do not justify the means.

For a **related article**, our first take on the "Making a Murderer" documentary from an Interrogator's Perspective, visit the **Wicklender-Zulawski blog**.

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Attending NRF next week? Join WZ Speaker Dave Thompson, CFI and Laura Nirider, Assistant Professor with Pritzker School of Law at Northwestern University on Tuesday at 10:30AM when they present "An Interrogator's Perspective" based on Netflix's Making a Murderer. Do you have questions