

BOOK REVIEW

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A Review of "Criminal Interrogation and Confessions"

REFERENCE: Inbau, F. E. and Reid, J. E., *Criminal Interrogation and Confessions*, 2nd ed., Williams and Williams Co., Baltimore, Md., 1967, \$8.50.

The present second edition of their book entitled *Criminal Interrogation and Confessions* was published following the U.S. Supreme Court decision in *Miranda v. State of Arizona* 384 U.S. 436 decided in June of 1966. The authors are also co-authors of a previously published book entitled *Truth and Deception: The Polygraph ("Lie Detector") Technique*.

The opening "Preface" and "General Introduction" of the present text appear somewhat naive in that the authors claim first: ". . . we know of not one case in which any of the interrogation methods we describe has elicited a confession from an innocent suspect," and second: "The Court's critical comments about the procedures we advocated were, we believe, for the purpose of establishing the necessity for the warnings rather than as a condemnation of the procedures themselves." In fact, the United States Supreme Court, in speaking of the suggested procedures advanced by the authors in their previous editions of *Lie Detection and Criminal Interrogation* (3rd ed., 1953) and *Criminal Interrogation and Confession* (1962), stated at page 246 in the *Miranda* Case, supra, the following:

From these representative samples of interrogation techniques, the setting prescribed by the manuals and observed in practice becomes clear. In essence it is this: To be alone with the subject is essential to prevent distraction and to deprive him of any outside support. The aura of confidence in his guilt undermines his will to resist. He merely confirms the preconceived story the police seek to have him describe. Patience and persistence, at times relentless questioning, are employed. To obtain a confession, the interrogator must patiently maneuver himself or his quarry into a position from which the desired object may be obtained. When normal procedures fail to produce the needed result, the police may resort to deceptive stratagems such as giving false legal advice. It is important to keep the subject off balance, for example, by trading on his insecurity about himself or his surroundings. The police then persuade, trick, or cajole him out of exercising his constitutional right.

Even without employing brutality, the "third degree" or the specific stratagems described above, the very fact of custodial interrogation exacts a heavy toll on individual liberty and trades on the weakness of individuals. . . .

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The Supreme Court in the *Miranda* decision went on to establish safeguards for the purpose of insuring, to a degree, that the statements made in custody, were truly the product of free choice. In commenting further on the suggestions for interrogation methods, the court at page 247 in *Miranda v. State of Arizona*, supra, stated:

It is obvious that such an interrogation environment (as suggested by Inbau and Reid and other authors) is created for no purpose other than to subjugate the individual to the will of his examiner. This atmosphere carries its own badge of intimidation. To be sure, this is not physical intimidation, but is equally destructive of human dignity. (Parentheses supplied)

In reality then, the very means suggested for use by interrogators in the prior text materials and repeated in the present publication of the authors are the reasons given for implementing the four-step "Miranda Warning."

Although the present second edition of *Criminal Interrogation and Confessions*, at the very outset of the text material, states the warnings made mandatory by the *Miranda* decision, the authors have, nevertheless, included within the first 115 pages of the text each of the very methods of custodial interrogation decried by the United States Supreme Court and used as reasons for the Court's invoking the rules established. The questions of impropriety still remain with respect to the advocated procedures, as does the question relative to procedural compulsion referred to at page 249 of the *Miranda* decision.

Thus, caution should be exercised by all interrogators in implementing the methodology suggested in the first 115 pages of this text. It may well be that if these methods continue to be employed, the Supreme Court may well decide in the future that a confession obtained by psychological compulsion or trickery "must be excluded whatever may have been the character of the compulsion, and whether the compulsion was applied in a judicial proceeding or otherwise." (*Ziang Sung Wan v. United States*, 266 U.S., 1, 455.S.ct 1).

Pages 115 through 142 of the text are extremely well written, and do in fact warn against unreasonably long interrogations. In addition, the authors advocate the reassertion of the *Miranda* warning before obtaining a signed confession. This advice to the interrogator is sound, although it may be like closing the barn doors after the cows are out, if in fact the constitutional rights of the suspect have, prior thereto, been violated. This possible dichotomy in the area of constitutional law still is to be decided.

Pages 143 through 219 present an exceedingly useful and sequential presentation of the development of the law culminating in the *Miranda* Rule. Although the authors are critical of some of the decisions, and the reasoning upon which these decisions rest, they nevertheless have done an excellent service in their presentment.

It should be noted, however, that the case law cited to substantiate the basis for some of the suggested methods advocated by the authors appears to antedate the *Miranda* Case decision of 1966. Whether these cited cases can actually be considered the real basis for continuing the advocacy of the methods described may well be subject to question.

The authors candidly recognize that the suggested methods of interrogation frequently call for the use of psychological tactics and techniques that could well be classified as unethical if viewed and evaluated in terms of ordinary social behavior. They conclude by advancing three points: 1) That some crimes are only solved by use of the confession of guilt; 2) Criminal suspects ordinarily do not admit guilt unless questioned in privacy, and perhaps for periods of hours; and 3) In dealing with criminal offenders and suspects the interrogator of necessity must employ unrefined methods. To this can only be added the words of the United States Supreme Court set forth in the *Miranda* Case at page 257:

Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the

administration of the criminal law the end justifies the means . . . would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face. . . .

Professor Inbau and director Reid are to be complimented on their efforts, both past and present, in assisting law enforcement agencies in their sincere efforts in preventing, investigating, and solving crime. Both of these men have keen insight into the problems confronting law enforcement personnel. As a professor of law, Attorney Inbau is a capable scholar and tutor. It is hoped that this critique will serve as a guide to both the authors and the readers of this excellent text. Full realization of the right of the individual citizen protected under the 4th, 5th, and 14th Amendments to the Constitution of the United States is necessary for the preservation of our system of justice. Any destruction thereof will eventually destroy society.

Any material written by authors possessing great expertise in a particular field displays the inevitable characteristics of biased content. So, too, however does a critique thereof by a former practicing criminal defense attorney. In this light both the text and this review must be read.

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