

# Critical Challenges: Confessions

by



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# Juvenile Understanding of *Miranda*



Researchers found that a typical set of *Miranda* advisements requires a 6th grade education level to attain 75% comprehension, and almost a 9th grade education level to attain full comprehension.

Rogers et al., “Comprehensibility and Content of Juvenile Miranda Warnings”  
[Psychology, Public Policy, and Law \(2008\) Vol. 14, No. 1, at 72.](#)

# Juvenile Understanding of *Miranda*



Another study of juveniles found only 20.9% had full comprehension of the *Miranda* warnings, and 55.3% had zero comprehension of at least one of the four warnings.

Grisso, “Juveniles’ Capacity to Waive Miranda Rights: An Empirical Analysis”  
[68 Cal. Law Rev. 1134, 1153.](#)

# Juvenile Understanding of *Miranda*



The incidence of learning disabilities among youth in the juvenile justice system is 35.6% to 46%, a rate 3 to 5 times higher than the general population.

Kvarfordt et al. "Youth with Learning Disabilities in the Juvenile Justice System"  
[Child & Youth Care Forum \(February 2005\).](#)

# WIC 625.6: General Rule



WIC 625.6 requires that juveniles receive an attorney consultation before waiving their *Miranda* rights.

# WIC 625.6: Exceptions



WIC 625.6 does not apply to situations involving imminent threat to life or property, or to probation officers.

# WIC 625.6: Capacity



Police may not ask questions about the youth's capacity under PC 26 without a *Miranda* waiver.

*In re Joseph H.* (2015) 237  
Cal.App.4th 517

# WIC 625.6: Exclusion Not Required



A violation of WIC 625.6 does not require exclusion. Under California law, evidence cannot be excluded unless required under federal constitutional law.

*In re Anthony L.* (2019) 43 Cal. App.5th 438, 449.



# WIC 625.6: Consultations



1. Explain *Miranda* rights and reasons why we have them.
2. Give concrete examples of how making a statement could hurt their defense.

# Custody Analysis



## OBJECTIVE STANDARD

Given the circumstances of the interrogation, would a reasonable person have felt free to leave and terminate the interview?

*People v. Kopatz* (2015) 61 Cal. 4th 62, 79.

# Custody Analysis



## FACTORS

- how contact was initiated
- whether contact was voluntary
- whether express purpose was to question person as a suspect
- where interview took place

*People v. Aguilera* (1996) 51 Cal. App.4th 1151, 1162

# Custody Analysis



## FACTORS

- whether person was notified they were under arrest
- whether person was notified they were free to leave or end the interview

*People v. Aguilera* (1996) 51 Cal. App.4th 1151, 1162

# Custody Analysis



## FACTORS

- length of interrogation
- number of officers present
- whether officers dominated and controlled interrogation

*People v. Aguilera* (1996) 51 Cal. App.4th 1151, 1162

# Custody Analysis



## FACTORS

- whether officer manifested belief that person was culpable and they had evidence to prove it
- whether police were confrontational, aggressive, and/or accusatory

*People v. Aguilera* (1996) 51 Cal. App.4th 1151, 1162

# Custody Analysis



For juveniles, the court may consider the youth's age in determining whether or not the interview was custodial.

*J.D.B. v. North Carolina* (2011) 564  
U.S. 261

# Custody: “Free to Leave”



Interview at police station was custodial, even though Det. 1 told minor he was free to leave, after Det. 2 then told minor to unlock his phone and that he would need to stay until they retrieved all his data. *People v. Delgado* (2018) 27 Cal. App.5th 1092



# Custody: Home Interviews



## FACTORS

1. No. of officers and whether armed
2. Whether suspect was restrained
3. Whether suspect was isolated
4. Whether suspect was told they were free to leave or terminate the interview

*U.S. v. Craighead* (9th Cir. 2008)  
539 F.3d 1073, 1084

# Hypo 1



Police go to minor's home at 6 a.m. They obtain mother's consent to questioning, but not minor's. They perform a patdown search of minor in his bedroom, then take him to the kitchen and begin to question him. Mother asks to be present, but they deny her request.

# Hypo 1



They tell minor he is not under arrest, but do not tell him he is free to leave or to end the interview. When he asks for a blanket, instead of letting him get one, they bring him one from the living room.

Is this a custodial interview?

# Hypo 1: Answer



YES. Police transformed the home into a police-dominated atmosphere.

*In re Matthew W.* (2021) 66 Cal. App. 5th 392

# Custody: Conflicted Parent



Parent's conflict of interest may be considered in custody analysis. Father's insistence that 12 y.o. cooperate with officers investigating his sister's murder contributed to making interview custodial.

*In re I.F.* (2018) 20 Cal.App.5th 735

# Custody: School Interviews



A police interview at school can be custodial, depending on whether or not a reasonable youth of minor's age would feel free to leave.

*J.D.B. v. North Carolina* (2011) 564 U.S. 261, 275-276.

# Custody: School Interviews



Interviews by school officials do not trigger *Miranda* protections, unless police coerced, dominated, or directed the actions of the school officials.

*Coolidge v. New Hampshire* (1971)  
403 U.S. 443, 489

# Hypo 2



School police officer detains 17 y.o. student and takes him to asst. principal's office. Door is shut, officer sits next to student. Asst. principal asks student about giving hydrocodone pills to other students.

Is this a custodial interview?



# Hypo 2: Answer



YES? KY Supreme Court held that no student would have felt he could remain silent or leave under the circumstances. He could not have understood he faced criminal liability, not just school discipline. *N.C. v. Commonwealth* (2013) 396 S.W.3d 852, 862

# Custody: School Interviews



## FACTORS

1. No. of officers & role in interview
2. School discipline setting vs. police-dominated
3. What student is told about interview

*B.A. v. State* (2018) 100 N.E.3d 225, 232-233

# Custody: School Interviews



## FACTORS

4. Student's age

5. Whether student is arrested

6. Whether school police officers are acting as counselors or as law enforcement

*B.A. v. State* (2018) 100 N.E.3d 225, 232-233

# Custody: School Interviews



Interview was custodial where student was detained by school police officer, and questioned about bomb threat by school safety official with two uniformed police officers standing nearby.

*In re L.G.* (2017) 2017-Ohio-2781

# Custody: School Interviews



Interview was custodial where school police officer patted down student, drove him to principal's office, and remained in the room while principal questioned him for 6 hrs.

*In re K.D.L.* (2010) 207 N.C. App. 453

# Non-Police Interviews



Post-arrest interview by social worker is not subject to *Miranda*, because social worker is not an agent of law enforcement, purpose is not to gather evidence for criminal case.

*People v. Keo* (2019) 40 Cal.App. 5th 169

# Non-Police Interviews



Use of post-arrest & post-filing interview by assessment center therapist as evidence might violate right to counsel, but there is no legal basis to seal or destroy report.

*Y.C. v. Superior Court* (2021) 72  
Cal.App.5th 241

# *Miranda* Waiver: Validity



Whether a minor's *Miranda* waiver is voluntary, knowing, and intelligent is based on a totality of circumstances, including age, education, intelligence, and experience with the legal system.

*In re Michael B.* (1983) 149 Cal. App. 3d 1073, 1083



# *Miranda* Waiver: Validity



9 y.o.'s *Miranda* waiver was invalid. He was scared and hyper-ventilating. He signed the waiver form after his mother told him to.

*In re Michael B.* (1983) 149 Cal. App. 3d 1073

# *Miranda* Waiver: Validity



14 y.o.'s *Miranda* waiver was invalid. He suffered from ADHD and had an IQ of 77. Officers pressured him, and implied leniency if he cooperated.

*Rodriguez v. McDonald* (9th Cir. 2017) 872 F.3d 908

# *Miranda* Waiver: Validity



## FACTORS

- immaturity
- inexperience
- learning disabilities
- emotional distress
- parental duress

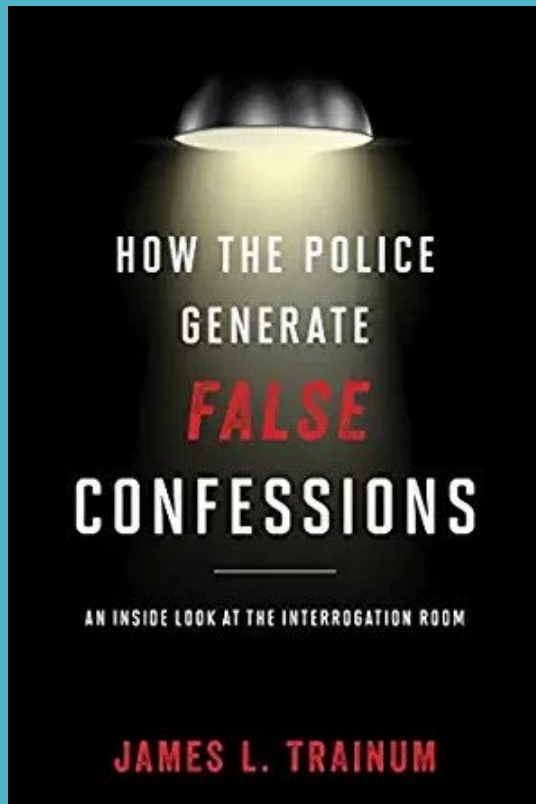
# Juvenile Confessions



A study of false convictions found that 69% of juveniles aged 12-15 who were ultimately cleared by DNA evidence confessed to the crime.

Gross et al., "Exonerations in the United States 1989 through 2003," [Journal of Criminal Law & Criminology](#), Vol. 95, No. 2, at 545.

# Recommended Reading

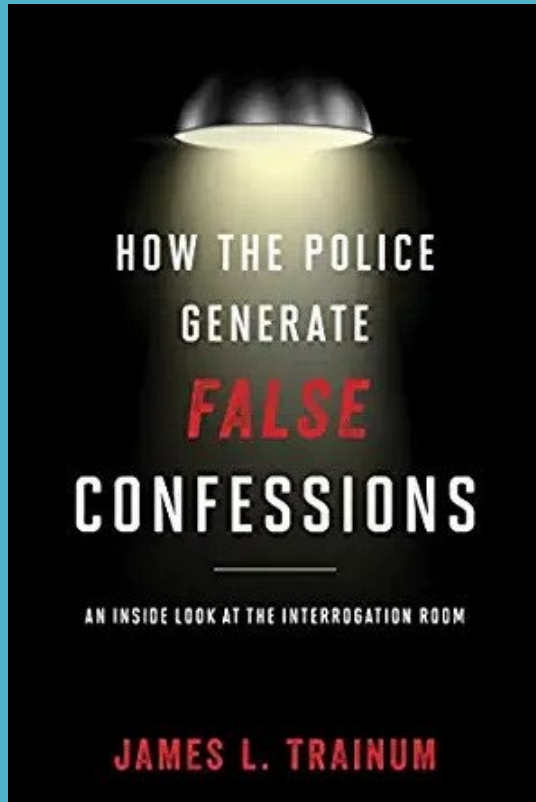


*How the Police Generate  
False Confessions*

by

James. L. Trainum

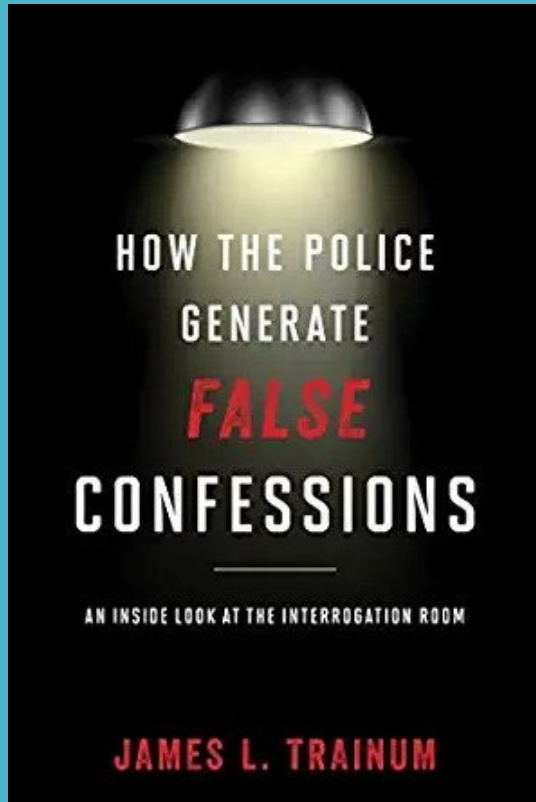
# Recommended Reading



Standard Interview Technique (p.137):

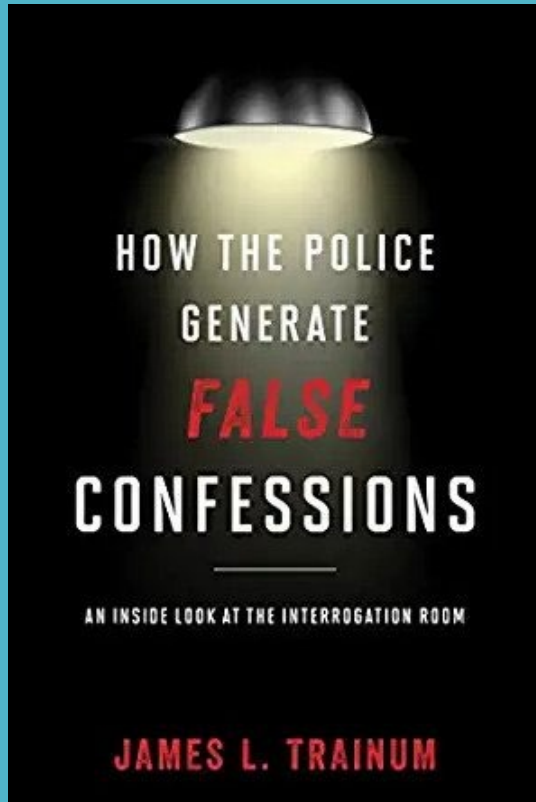
1. Conclude the suspect is guilty.
2. Tell them that there is no doubt of their guilt.
3. Block any attempt by the suspect to deny the accusation.
4. Suggest psychological or moral justifications for what they did.

# Recommended Reading



5. Lie about the strength of evidence that points to the suspect's guilt.
6. Offer only two explanations for why he committed the crime. Both are admissions, but one is definitely less savory than the other.
7. Get them to agree with you that they did it.

# Recommended Reading

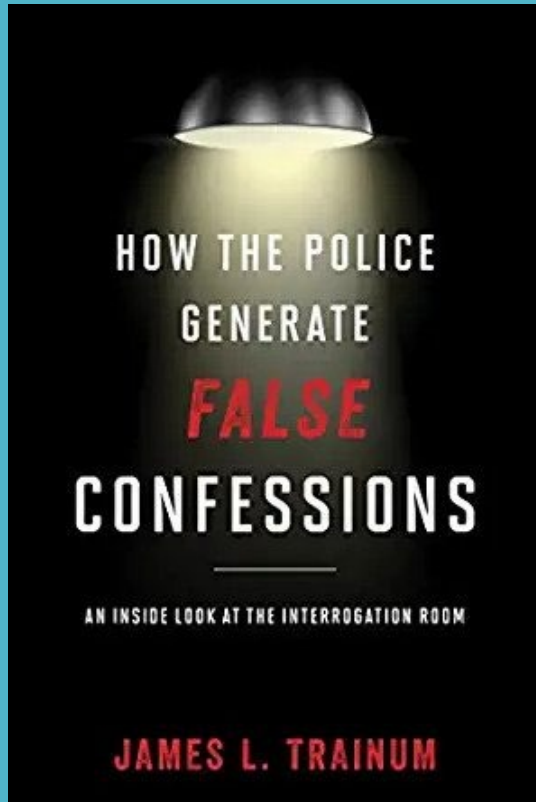


8. Have them provide details about the crime.

Unfortunately, these methods encourage “tunnel vision and confirmation bias, the conditions that cause an investigator to focus in on one theory and ignore or play down any evidence that might contradict the theory.” p. 145.



# Recommended Reading



Most investigators receive “little or no training on identifying mental health issues or other cognitive problems[.]” When symptoms of these problems manifest in the interrogation room, “they are often misinterpreted as indicators of deception and/or guilt.” p. 112.

# Voluntariness: Factors



For adults, confessions are involuntary if obtained through threats or violence or implied promises of leniency.

*People v. Linton* (2013) 56 Cal.4th 1146, 1176

# Voluntariness: Factors



For minors, their age, sophistication, prior experience with the legal system, and emotional state are factors relevant to whether or not the statement was voluntary.

*In re Shawn D.* (1993) 20 Cal.App. 4th 200, 209

# Voluntariness: *Shawn D.*



16 y.o.'s statement was involuntary. Officer lied about the existence of witnesses who had ID'd minor, suggested minor would be tried as an adult, and implied leniency if minor cooperated.

*In re Shawn D.* (1993) 20 Cal.App. 4th 200

# Voluntariness: *Elias V.*



13 y.o.'s statement was involuntary. Det. repeatedly brushed off his denials of guilt, told him he was not telling the truth. Det. falsely claimed victim "explained it perfectly" and witness "walked in and saw" him. Det. also used false dilemma. *In re Elias V.* (2015) 237 Cal.App.4th 568

# Voluntariness: *T. F.*



15 y.o.'s statement was involuntary. He had no previous experience with police and was intellectually disabled. During school interview, he sobbed and begged to go back to class or to go home.

*In re T.F.* (2017) 16 Cal.App.5th 202

# Hypo 3



Det. interviews 16 y.o. about his role in gang shootings. The tone of questioning is not aggressive. Det. presents false six-pack ID's and falsely claims youth's prints were found on gun. Youth responds that the witnesses must be mistaken, since he was there but did not shoot.

# Hypo 3



Det. tells him to admit what he did, and he will probably do a little time in camp. Youth does not admit that he commit the shooting, only that he was present.

Are the youth's statements involuntary?



# Hypo 3: Answer



NO. Although the Det. presented false evidence and suggested that youth would only do time in camp, youth had already admitted he was present.

*People v. Jones* (2017) 7 Cal.App. 5th 787, 815

# Voluntariness: *Balbuena*



16 y.o.'s statement was voluntary. There was no evidence of impairment or suggestibility, police tone was not threatening, and minor's demeanor was relaxed.

*Balbuena v. Sullivan* (9th Cir. 2020)  
970 F.3d 1176

# Voluntariness: Client Factors



- immaturity/lack of sophistication
- learning/intellectual disability
- emotional distress

# Voluntariness: Police Factors



- aggressive tone in questioning
- deception re false evidence
- false dilemmas
- threats for failure to cooperate
- promises of leniency

# Contact Information

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