

By John P. MacKenzie
Washington Post Staff Writer

The Supreme Court has been asked to look at textbooks written for policemen before deciding whether standard stationhouse questioning of suspects is inherently coercive.

A brief filed in five major criminal cases by the American Civil Liberties Union says that police handbooks provide strong evidence that a suspect's constitutional rights cannot be safeguarded when he is questioned without a lawyer.

Quotations in the friend-of-the-court brief are from manuals written by law teachers who have argued consistently for wider police powers to investigate crime. The ACLU claims that the books show instead the need for more individual safeguards.

"If a subject refuses to discuss the matter under investigation," one text excerpt advises police, "concede him the right to remain silent, and then proceed to point out the incriminating significance of his refusal."

Such a concession "has a very undermining effect" on a prisoner who is alone in a precinct interrogation room, according to the text's authors, Northwestern law professor Fred Inbau and lie detector expert John E. Reid. "First of all, he is disappointed in his expectation of an unfavorable reaction on the part of the interrogator. Secondly, a concession of his right to remain silent impresses the subject with the apparent fairness of his interrogator."

The text adds that "the following comments have been found to be very effective: 'Joe, you have a right to remain silent. That's your privilege and I'm the last person in the world who'll try to take it away from you. If that's the way you want to leave this, O.K. But let me ask you this. Suppose you were in my shoes and I were in yours and you called me in to ask me about this and I told you I don't want to answer any of your questions. You'd think I had something to hide, and you'd probably be right in thinking that. That's exactly what I'll have to think about

you and so will everybody else. So let's sit here and talk this whole thing over.'"

The text then suggests that the policeman ask some innocuous questions that the "subject" would not hesitate to answer, then gradually shift to the crime under investigation. "Except for the career criminal, there are very few persons who will persist in their refusal to talk . . ."

If the person says he wants to talk to a relative, an employer "or to any person," the interrogator "should respond by suggesting that the subject first tell the truth to the interrogator himself rather than get anyone else involved in the matter. If the request is for an attorney, the interrogator may suggest that the subject save himself or his family the expense of any such professional service, particularly if he is innocent of the offense under investigation. The interrogator may also add, 'Joe, I'm only looking for the truth, and if you're telling the truth, that's it. You can handle this by yourself.'"

Another how-to-do-it passage in the ACLU brief is by Charles E. O'Hara, author of a book called "Fundamentals of Criminal Investigation":

"If at all practicable, the interrogation should take place in the investigator's office or at least in a room of his own choice. The subject should be deprived of every psychological advantage. In his own home he may be confident, indignant, or recalcitrant. He is more keenly aware of his rights and more reluctant to tell of his indiscretions of criminal behavior within the walls of his home."

Both books, the ACLU brief says, show that "varied and sophisticated methods" of extracting confessions are available to police, making physical coercion an outmoded tool of law enforcement. The ACLU adds that these recommended procedures "probably represent the most enlightened, and the least objectionable, standards of police work."

The books ought to prompt a re-examination of the term "voluntary" confession, the ACLU says.

A tentative draft of a model

prearrest code prepared for consideration by the American Law Institute would allow police to question suspects up to four hours without counsel—holding them as long as 22 hours in some cases — but would require

police to warn suspects of their right to consult a lawyer, relatives or friends.

Opponents of the code argue that the police warning is useless to many poor and ignorant suspects because they wouldn't know how to get a lawyer. The

ACLU excerpts from interrogation manuals also suggest that the police warning may be an inadequate safeguard if the policeman has the time and opportunity to persuade the suspect not to exercise his rights.

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Police Texts

ACLU Claims Books Show

Called Rights

Need for More Suspect

Threat

Safeguards