Alaska Justice Forum

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Kick a Cop And He May Sue

by Doug Barry

American policemen are not as stoic as they once were. Some no longer silently expose their vaunted thick skin to gunshot wounds, broken bones and insults suffered while on duty.

With growing frequency lawmen are retaliating against their assailants, not just with arrests, but with civil lawsuits, aimed at their opponents' wallets. According to a Chicago-based interest group, Americans for Effective Law Enforcement, the number of lawsuits filed with policemen as plaintiffs has quadrupled since 1970.

A Virginia police sergeant recently won a $250,000 judgment, including $100,000 in punitive damages, against a robber who shot him and is now serving a 40-year prison term. An Oregon lawman was awarded $33,000 against a pair of thugs who mauled him during a barroom punch-up. A Washington officer limped to the bank after winning a $10,000 settlement against his assailant. The policeman successfully argued for damages beyond medical on the grounds that the trauma of being shot with a pistol had hurt his work performance.

One Million for Damages

The biggest single judgment on record was awarded to a group of Los Angeles policemen for injuries received in a skirmish with the Progressive Labor Party, a leftist political group with a penchant for violence. The nine battered cops received $1,000,000.

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Is Specialization Worth the Cost?

by John Havelock

Chief Justice Burger, proclaiming that half the trial lawyers in the country are incompetent, shares a problem with the educator who solemnly pronounces that half the high school graduates in the country perform no better than the eighth-grade literacy level. How did each calculate the standard to be met?

The Chief Justice may have performed a service in dramatizing the need for specialty training and certification in the branches of law. But before forging ahead on the jurist's clarion call, we need to address a problem raised by his solution: increased cost of service.

Specialization within the medical profession has been association with rising costs. More training is an investment. Delayed earnings must be compensated for in increased income.

Specialization will also produce real or imagined shortages in particular skills. When most people think they need a separate specialist for each ailment, cost of each special service will rise as a result of the smaller number of sellers and demand pressure. Ironically, the near disappearance of the general practitioner gives that service a premium also.

So it is in law. The more people that think they need an F. Lee Bailey to handle their auto accident, the higher the fees charged by publicist-attorneys.

Justice Burger wants to divide the bar, English style, into barristers and solicitors. Solicitors handle the office practice. Barristers constitute a highly educated and exclusive elite with a monopoly on trial practice.

When the Englishman goes to court, his solicitor retains a barrister for courtroom presentation. Guess who gets paid most? And look at how many lawyers there are to pay!

This is a high price to pay to satisfy judicial impatience with imperfect courtroom performance.

Consider where Justice Burger's information comes from. It is some years since he saw a journeyman lawyer in court. His complaint is the trickle up from federal trial judges through appellate judges.

A judge's job is boring. His role, properly played, is inobtrusive neutrality. All day he sits and watches lawyers who spend only a small part of their day in court perform the tasks of the trial lawyer. It doesn't take very many years before the judge has strong opinions on how he would try a case better than almost all who appear before him. The lawyers before him suffer in comparison.

They should. After all, the judge had years of experience before he went on the bench, experience which has been polished through watching years of trials. Nobody pays the attorney to watch someone else try cases.

In one sense, Justice Burger doesn't go far enough. The judge may see low skill levels in court. But in a world of increasing legal complexity, all lawyers, in courtroom or office, increasingly find they are far more knowledgeable and skillful in some areas than others. The public is no better served when the nonspecialist lawyers undertake to advise a client in his office than when he represents him in court.

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Is Specialization Worth the Cost? (Continued from page 1)

While this rarely rises to the level of malpractice, the client will frequently pay unwittingly for the education of an attorney when, if he could have found him, another already has the necessary knowledge at his fingertipe.

Courtroom ineptitude by attorneys is usually more of a nuisance than a danger to the public served. The highest forensic skills are not necessary to effective presentation of the general run of cases.

Lawyer specialization will come and with it certification, continuing education requirements and higher costs. Some level of advertising will also be required so that the prospective client can better match his problem with the lawyer's skills and fees.

But the net result will be higher cost service for marginal increase in value unless, at the same time, a major effort is made to expand the availability of lower cost services to handle elements of legal transactions which do not require the skill of the legal surgeon.

Medical Arts are now surrounded by new or expanded professions educated to a level of need to know. The physician is but one actor in a medical complex of pharmacists, nurses, x-ray technicians, anesthetists, nurse practitioners, laboratory technicians, medical technologists, nutritionists, physical and respiratory therapists, medical administrators and so on.

The delivery service in law is an anachronism. Though Justice Burger trifled with hyperbole, the American Bar Association properly declined to take him on. Underlying his exaggeration, there are serious problems with the delivery of legal services which deserve the attention of the bar and the public.

Reprinted from Anchorage Daily News

Kick a Cop (Continued from page 1)

Alaska's police agencies, meanwhile, report a steady share of gouged eyes, scratches, kicks in the groin and a multitude of other major and minor physical indignities visited upon their officers. Despite the lumps, nowhere in recent memory has there been a single incidence of cop suing citizen.

Anchorage Police Department Major Brian Porter believes that any reluctance to sue on the part of his patrolmen is a matter of chagrin and bear it. "It goes along with the job," said Porter. "Kicks and butts are almost an everyday occurrence. If the officer is in any way disabled, then I'd expect that a personal injury suit would be appropriate."

Major Porter acknowledged that an Anchorage police officer is contemplating a damage suit. The officer's right thumb was bent back at a crazy angle during a recent scuffle with a citizen, and his doctor said that tendon damage may impair the use of his right hand. Porter said that the procedure for filing a personal injury suit against a citizen was simply to inform the department of the aggrieved officer's intentions and then, "call a good lawyer."

Libel and Slander

Elsewhere, policemen are filing libel and slander suits against those who call them brutal or corrupt. Here they appear to be on more slippery ground. While the police enjoy the same rights as others in personal injury cases, they are at a disadvantage in defamation cases because, as public officials, they must accept a certain amount of guff sans legal recourse.

Nevertheless, the police have won some cases of defamation, the most famous involving the so-called Collinsville (Illinois) raid, a cause celebre for the critics of the "Nixon Supreme Court." A citizen, whose home was mistakenly and violently stormed by narcotics investigators, was later successfully sued for defaming the lawmen.

In Los Angeles, policemen have sued a group of political activists after they told news reporters that the department was "trigger happy." In referring to the nearly 50 citizens killed by police in the line of duty during the past year, the political group stopped just short of calling the police murderers. When the LAPD hired private counsel the political group wavered from fear of possible legal and financial consequences and the suit was dropped.

The Anchorage Police Officers' Association—a professional organization represented at contract renewal time by the Teamsters Union—has sued the Los Angeles Times Publishing Company for alleging the existence of some sort of conspiratorial relationship between the Department, the Union and hence with questionable goings-on during construction of the Alaska pipeline. Inspector Ken Foster, President of the Police Officers' Association, could not be reached for additional comment about specific details concerning the suit nor on the amount of damages requested.

Police do not often hope to be paid the full amount when they win personal injury or defamation cases. The defendants are frequently penniless.

More often than not, the intent is to prevent disrespect by showing the police officers are not as docile as their detractors may think.

Third APPA Institute

The Third Annual Institute of the American Probation and Parole Association will be held at the Red Lion Motor Inn, Portland, Oregon, August 19-20, 1978, just preceding the American Correctional Association's 108th Congress of Correction. Underscoring the institute will be the pervasive theme: "Decisions: The Cornerstone of Justice Systems."

The institute intends to offer to line officers, to middle-management and administrators a critical process in their respective areas of expertise.

The buttressing spinoffs of the institute's theme will be several scheduled morning and afternoon workshops on August 20, 1978:

- The Sentencing Decision: The Probation Officer's Role
- A Framework for Effective Case Management Decisions
- The P.O.'s Crucial Decision: Time Management
- Legal Issues and Their Impact on Decision-Making
- The Impact of Senate Bill 1437
- A Blueprint for Sound Management Decisions
- Prediction Devices: Computerized Decisions?
- Research/A Basis for Future Decisions
- The Public's Role in the Decision-Making Process
- Changing Public Concerns/A Need for Ongoing Decisions

For further information, registration and hotel reservation forms, contact the Institute Coordinator:

Frank Gilbert
c/o Probation Office
U. S. District Court
P.O.B. 350
Portland, Oregon 97207

Proposed Legislation Introduced This Year

The proposed new criminal code for the State of Alaska is the single, most important measure relating to criminal justice introduced in this session of the state legislature.

It has been introduced into both houses, as HB 661 in the House of Representatives and as SB 443 in the State Senate.

The proposed criminal code for the State of Alaska comes 18 years after statehood; and following 2½ years of intensive effort to create a single, comprehensive criminal code for the state.

Other bills which have been thus far during this session include:

DRUGS:

HB 693 – To amend AS 17.11.110 to make it a misdemeanor punishable by a fine of $1,000 or less for a person to use, possess or control any amount of marijuana in a public place; and for a person under 18 to use, possess or control any amount, even for his own use, in other than a public place.

SB 415 – To make it a misdemeanor punishable by a fine of not more than $1,000 to use, possess or control any amount of marijuana in a public place, while operating a motor vehicle, airplane or watercraft; or to use, possess or control any amount for his own use in other than a public place.

SB 437 – To authorize an advisory vote on whether the possession, control and use of marijuana should be a crime.

HB 794 – To consolidate the state's various drug laws into one comprehensive chapter.

POLICE:

HB 741 – To provide state aid for extending municipal police protection services.

HB 565 – An act amending AS 11.60.290(1) to make it unlawful to use an eavesdropping device to hear or record all or any part of a conversation without the consent of every party.

HB 706 – To amend AS 47.37.010 to permit criminal prosecution of public drunkenness.

SB 376 – To permit peace officers to seize money or property held for gambling purposes and provides that the money or property may be forfeited to the state.

SB 402 – To make it a felony offense to drive, tow away or take a motor vehicle without the consent of the owner; and that a minor accused of a second or subsequent violation may be charged, prosecuted and sentenced in the same manner as an adult.

CORRECTIONS:

SB 389 – To require that prisoners may not be required to perform work other than personal housekeeping while detained or confined unless compensated.

HB 587 – An act establishing a correctional industries program for prisoners, establishing a revolving fund for the operation of this program and to provide for wages for prisoners participating in the industry program.

COURTS:

HB 727 – To include full-time magistrates under the judicial retirement system.

HB 784 – To extend the jurisdiction of magistrates to hear, try and enter judgments in all cases involving state motor vehicle statutes as well as violation of ordinances of political subdivisions.

SB 378 – To repeal the authority of judges to impose less than the minimum prescribed penalty for criminal offenses by repealing AS 11.05.150.

VIOLENT CRIMES COMPENSATION:

AS 767 – To amend the violent crimes compensation act to permit compensation of victims who may be a relative of the offender or living with the offender at the time of injury

SPECIAL APPROPRIATIONS:

HB 628 – To the Department of Health and Social Services:

$111,934 for payment to the City of Anchorage and funding of temporary positions;

$192,833 for jail services in Bethel and Nome;

$6,700 to the parole board.

SB 401 – To the Department of Public Safety:

$22,400 for redesign of the Cordova Jail;

$15,000 for prisoner transportation;

$13,226 for an audit exception on an FY 74 Criminal Justice Planning Agency grant.

SB 420 – $253,578 to the Municipality of Anchorage to meet costs of increased police protection during the fiscal year ending June 30, 1978.

CS for SB 421 – $1,785,000 to the Alaska Court System for FY 79:

$60,000 for the Fairbanks Court Building planning;

$50,000 for the Nome Court Building planning;

$1,563,000 for the Galena Court Building;

$121,500 for Sitka cooling system.

SB 398 – $20,200 for the Public Defender Agency.

HB 609 – An act to appropriate $31,000 from the general fund to the Alaska Court System for increased rentals and maintenance costs for the court in Barrow.

HB 570 – An act appropriating $150,000 to the Department of Health and Social Services to conduct a feasibility study of an alcoholism treatment facility on Umnak Island.

Contribute!

All our readers are encouraged to contribute articles and notices of events pertinent to criminal justice. The more practitioner participation we have, the more effective our work will be in providing a single forum for the entire field.

Second in a Series

The Law on Confessions: A Look

by Peter S. Ring

As indicated at the close of the first installment of this survey, the **Miranda** decision left a number of issues in a state of ambiguity. Foremost among these issues are (1) the question of what constitutes "custody" and (2) what constitutes an "interrogation".

Custodial Situations

The **Miranda** decision, itself, provides a convenient jumping off point for a discussion of what constitutes "custody". In its opinion, the Court noted.

> The principles announced today deal with the protection which must be given to the privilege against self-incrimination when the individual is first subjected to police interrogation while in custody at the station or otherwise deprived of his freedom of action in any way. (384 U. S. at 477 emphasis added.)

In **Mathis v. United States,** 391 U. S. 1 (1968) the court reiterated this holding in a case involving a "routine tax investigation". In that case the government had sought to have the holding in **Miranda** limited to questionings in cases in which the person is in custody in connection with the very case under investigation. The court, in response to this line of argument, observed that:

> There is no substance to such a distinction, and in effect it goes against the whole purpose of the **Miranda** decision which was designed to give meaningful protection to Fifth Amendment rights. We find nothing in the **Miranda** opinion which calls for a curtailment of the warnings to be given persons under interrogation by officers based on the reason why the person is in custody. In speaking of "custody" the language of the **Miranda** opinion is clear and unequivocal:
>
> "To summarize we hold that when an individual is taken into custody, or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning the privilege against self-incrimination is in jeopardy." 384 U. S. at 479 (391 U. S. 1968).

The issue arose once more in connection with a state criminal prosecution in which the defendant was questioned in the familiar surroundings of his own bedroom. In **Orozco v. Texas,** 394 U. S. 324 (1969) the court held that since, according to the investigating officers' testimony, the defendant was not free to leave the premises and was, in effect, under arrest from the time the four officers entered his bedroom, he was in fact "in custody" in that his freedom of action had been deprived in a significant way.

Finally, in **Oregon v. Mathiason,** 429 U. S. 492 (1977), the court once again outlined the meaning of **Miranda** as it related to the "custody" issue, and in its decision, limited the effect of **Miranda** according to dissenting justices and some scholars. **Mathiason** involved a defendant whose confession was the primary evidence of his guilt. The confession had been obtained after the police, in investigating a burglary, had asked the victim if she suspected anyone of the crime. She replied that she thought the defendant might be as he was a "parolee" and a close associate of her son.

The police spent approximately 25 days trying to locate the defendant and finally ended up leaving a note on his apartment door asking him to call them "about something." He called and the investigating officer asked him where they could talk as there was a matter which the police wished to discuss with him. Mathiason indicated that he was willing to talk and would do so whenever and wherever was convenient. The investigating officer suggested the state patrol office, which was about two blocks from his apartment. He agreed. He was met in the hall of the patrol station by the investigating officer and led into an office where he was immediately informed that he was not under arrest. Seated across a desk from the investigating officer, Mathiason was informed that the police were investigating the burglary and that they wanted to talk to him about it.

The officer told him that if he were truthful, it would sit well with the district attorney and the judge. The officer then informed Mathiason that he was suspected of the burglary and (falsely) that his fingerprints had been found at the scene. After thinking about those statements for about five minutes, Mathiason admitted taking the property. He was then provided his **Miranda** warnings and a full confession was taken. After signing the confession, he was told that he was not being arrested at that time, but was free to go, pending a decision by the D.A. as to what to do with the case.

After reviewing these facts, and the holding in **Miranda,** the Supreme Court found that:

> "In the present case, however, there is no indication that the questioning took place in a context where respondent's freedom to depart was restricted in any way. He came voluntarily to the police station, where he was immediately informed that he was not under arrest. At the close of a one-half-hour interview respondent did, in fact, leave the police station without hindrance. It is clear from these facts that Mathiason was not in custody "or otherwise deprived of his freedom of action in any significant way."
>
> Such a noncustodial situation is not converted to one in which **Miranda** applies simply because a reviewing court concludes that, even in the absence of any formal arrest or restraint of freedom of movement the questioning took place in a "coercive environment." Any interview of one suspected of a crime by a police officer is part of a law enforcement system which may ultimately cause the suspect to be charged with a crime. But police officers are not required to administer **Miranda** warnings to everyone whom they question. Nor is the requirement of warnings to be imposed simply because the questioning takes place in a station house, or because the person is one whom the police suspect."

While the court has not yet been called upon to squarely address the issue, it appears that "custody" does not attach to situations in which a person is stopped

at Custody and Interrogations

by the police in a "stop and frisk" confrontation. Adams v. Williams, 407 U. S. 143 (1972) seems to indicate that such "stops" do not rise to a "custody" level which would require warnings before the person stopped could be questioned. Further, in **California v. Byers**, 402 U. S. 424 (1971) the court ruled that a person's Fifth Amendment protections were not violated by requiring him to produce identification at the scene of an accident. Moreover, there is language in **Miranda** which might support such a conclusion. There the court held that their decision was not designed to hamper traditional function of the police in investigating crimes and that "[g] eneral on-the-scene questioning as to the facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding" 384 U. S. at 477 (emphasis added).

Interrogations

The issue of what kinds of questioning could be conducted by the police without providing **Miranda** warnings to the person being interrogated or questioned has been partially answered by the discussion of "stop and frisk" questioning just concluded. The **Miranda** decision was quite emphatic that all persons contacted by the police need not be informed of their rights. General on-the-scene questioning could be conducted without making advisements. As the court observed, "[i] t is an act of responsible citizenship for individuals to give whatever information they may have in aid of law enforcement."

Further, in holding as it did in **Miranda**, the court did not seek to bar all confessions. It clearly indicated in the opinion that should a person walk in off the street to confess to the police, the police need not inform such persons of their rights prior to the person making a statement and that confessions made under such circumstances would be admissible.

In short, it appears, at least at the Federal level, that a person who can't keep his mouth shut need not be informed of the consequences of being a motor mouth. However, if an officer is confronted by such a person, the officer should make the required **Miranda** warning prior to asking any clarifying questions since such questions are likely to be considered at the start of an interrogation.

Waiver

While **Miranda** contained a lengthy statement about the fact that the rights protected by the decision could be waived by a person; and further discussed at length the nature of the "waiver," the decision nonetheless left open a number of questions. Perhaps the most critical of these was whether a decision to exercise the right to remain silent effectively cut off any further questioning by the police of that suspect until the person was no longer in custody.

In **Michigan v. Mosley**, 429 U. S. 492 (1975) the U. S. Supreme Court concluded that under certain circumstances the answer was no. Mosley had been arrested and taken to police headquarters in connection with a robbery. After having been advised of his **Miranda** rights he refused to answer questions and the interrogation was halted. Later that day, another detective, in the course of a homicide investigation totally unrelated to the crime for which Mosley was originally arrested, brought Mosley into another office in the same building and interrogated him after giving him his **Miranda** rights. Mosley signed a waiver of the rights, and after first denying complicity later confessed. This interrogation took 15 minutes.

As the court noted, the issue in the case revolved around the following language from the **Miranda** decision:

> Once the warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after a person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise. Without the right to cut off questioning, the setting of the in-custody interrogation operates on the individual to overcome free choice in producing a statement after the privilege has been once invoked. 384 U. S. at 473-474.

After reviewing a variety of possible interpretations of the meaning of the passage, the court concluded that the critical phrase within the passage was "[w] ithout the right to cut off questioning . . ." The court found that through the exercise of this right the person could control the length of an interrogation, its scope, or the time when the interrogation takes place. Such an interpretation, the court held, would produce results consistent with the intent of the **Miranda** court in reaching a decision that created "fully effective means . . . to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored . . . ." 384 U. S., at 479. In reviewing the facts in Mosley's case, the court found that his right to cut off questioning had, in fact, been scrupulously honored by the police. In each interrogation the police had given Mosley a full warning of his rights. The first, although brief, had been ended upon Mosley's request. The second, conducted after some time lapse, by a different officer, on a different subject, was also brief. In short, the protection of the Fifth Amendment privilege sought by the **Miranda** decision had been achieved.

As the court in **Miranda** noted, a defendant could waive his rights, but the state would be under a heavy burden to demonstrate that the waiver had been made voluntarily, knowingly and intelligently. Few cases have risen to the Supreme Court since the **Miranda** decision squarely calling into question issues related to Fifth Amendment waivers. However, in **Schneckloth v. Bustamonte**, 412 U.S. 218 (1973), the court did engage in a rather lengthy analysis of "waiver" requirements in connection with a search and seizure issue, and in so doing analogized that issue to the interrogation waiver issue. Reflecting on the requirements for a good waiver, the court observed:

(Continued on page 6)

The Law on Confessions (Continued from page 5)

The most extensive judicial exposition of the meaning of "voluntariness" has been developed in those cases in which the court has had to determine the "voluntariness" of a defendant's confession for purposes of the Fourteenth Amendment. Almost 40 years ago, in **Brown v. Mississippi**, 297 U. S. 278, the court held that a criminal conviction based upon a confession obtained by brutality and violence was constitutionally invalid under the Due Process Clause of the Fourteenth Amendment. In some 30 different cases decided during the era that intervened between **Brown** and **Escobedo v. Illinois**, 378 U. S. 478, the court was faced with the necessity of determining whether in fact the confessions in issue had been "voluntarily" given. It is to that body of case law to which we turn for initial guidance on the meaning of "voluntariness" in the present context.

Those cases yield no talismanic definition of "voluntariness," mechanically applicable to the host of situations where the question has arisen. "The notion of 'voluntariness,'" Mr. Justice Frankfurter once wrote, "is itself an amphibian." **Culombe v Connecticut**, supra, at 578-580. Without such investigation, those who were innocent might be falsely accused, those who were guilty might wholly escape prosecution, and many crimes would go unsolved. In short, the security of all would be diminished. **Haynes v. Washington**, 373 U. S. 503, 515. At the other end of the spectrum, is the set of values reflecting society's deeply felt belief that the criminal law cannot be used as an instrument of unfairness, and that the possibility of unfair and even brutal police tactics poses a real and serious threat to civilized notions of justice, "[I]n cases involving involuntary confessions this court enforces the strongly felt attitude of our society that important human values are sacrificed where an agency of the government in the course of securing a conviction, wrings a confession out of an accused against his will," **Blackburn v. Alabama**, 361 U. S. 199, 2060207. See also **Culombe v. Connecticut**, supra, 367 U. S., at 581-584; **Chambers v. Florida**, 309 U. S. 277, 235-238.

This court's decisions reflect a frank recognition that the Constitution requires the sacrifice of neither security nor liberty. The Due Process Clause does not mandate that the police forego all questioning, nor that they be given carte blanche to extract what they can from a suspect. "The ultimate test remains that which has been the only clearly established test in Anglo-American courts for two hundred years: the test of voluntariness. Is the confession the product of an essentially free and unconstrained choice by its maker? If it is, if he has willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process." **Culombe v. Connecticut**, supra, 367 U. S., at 602.

In determining whether a defendant's will was overborne in a particular case, the court has assessed the totality of all the surrounding circumstances—both the characteristics of the accused and the details of the interrogation. Some of the factors taken into account have included the youth of the accused, e.g., **Haley v. Ohio**, 332 U. S. 596; his lack of education, e.g., **Payne v. Arkansas**, 352 U. S. 191; the lack of any advice to the accused of his constitutional rights, e.g., **Davis v. North Carolina**, 384 U. S. 737; the length of detention, e.g., **Chambers v. Florida**, supra; the repeated and prolonged nature of the questioning, e.g., **Ashcraft v. Tennessee**, 322 U. S. 143; and the use of physical punishment such as the deprivation of food or sleep, e.g., **Reck v. Pate**, 367 U. S. 433. In all of these cases, the court determined the factual circumstances surrounding the confession, assessed the psychological impact on the accused, and evaluated the legal significance of how the accused reacted. **Culombe v. Connecticut**, supra, 367 U. S., at 603.

The significant fact about all of these decisions is that none of them turned on the presence or absence of a single controlling criterion; each reflected a careful scrutiny of all the surrounding circumstances. See **Miranda v. Arizona**, 384 U. S. 436, 508 (Harlan, J., dissenting); id., at 534-535, (White, J., dissenting). In none of them did the court rule that the Due Process Clause required the prosecution to prove as part of its initial burden that the defendant knew he had a right to refuse to answer the questions that were put. While the state of the accused's mind, and the failure of the police to advise the accused of his rights, were certainly factors to be evaluated in assessing the "voluntariness" of an accused's responses, they were not in and of themselves determinative. See, e.g., **Davis v. North Carolina**, supra; Haynes v. Washington, supra, 373 U. S., at 510-511; **Culombe v. Connecticut**, supra, 367 U. S., at 610; Turner v. Pennsylvania, 338 U. S. 62, 64.

In closing this installment of our survey on the law of confessions, we note that the grounds on which confessions were invalidated prior to Miranda such as "voluntariness," lack of counsel, etc., may still result in otherwise "valid" confessions being supressed. Put another way, if a defendant is properly informed of his **Miranda** rights, and then has a confession beaten out of him, the fact that he waived his rights will not support the confession. Or, as in the case of **Brewer v. Williams**, U. S. (1977), if a person is questioned in the absence of counsel, that error alone will suffice to suppress the confession.

Finally, in **Brown v. Illinois**, U. S. (1975) the court held that the Illinois State Supreme Court had erred in holding that the **Miranda** warnings, by themselves, always purge the taint of an illegal arrest. Thus, under the **Wong Sun v. United States**, 371 U. S. 471 (1963), fruits of the poisonous tree doctrine, an illegal arrest may result in the suppression of an otherwise properly obtained statement. As with many other aspects of the law, the question of whether such a confession was the product of a free will has to be answered by the facts and circumstances in the case. The fact that **Miranda** warnings were given will be but another factor for the reviewing court to consider. The time lapse between the illegal arrest and the statement, the presence of intervening circumstances, and the purpose and flagrancy of the official misconduct all are other relevant factors which must be considered. However, the voluntariness of the statement is the threshold question.

Justice Training Calendar

WEST

March 6-10, Basic Juvenile Hall, Regional Criminal Justice Training Center, Modesto, Calif.

March 6-17, Basic Correctional Academy. Regional Criminal Justice Training Center, Modesto, Calif.

March 6-17, Criminal Investigation. Regional Criminal Justice Training Center, Modesto, Calif.

March 8-10, "Evidence," graduate course. National Judicial College, Reno, Nev.

March 10-June 9, Basic Police Academy. Regional Criminal Justice Training Center, Modesto, Calif.

March 12-15, "Seminar on the Management of Criminal Cases." Institute for Court Management, Denver, Colo.

March 12-17, "Court Management." National Judicial College, Reno, Nev.

March 12-17, Investigators School, National College of District Attorneys College of Law, University of Houston, Tex.

March 14-18, "Trial Techniques for Prosecutors." National College of District Attorneys, Los Angeles, Calif.

March 15 and 29, F.I.R.O.-B. Regional Criminal Justice Training Center, Modesto, Calif.

March 16 and 17, Narcotics and Dangerous Drugs. Regional Criminal Justice Training Center, Modesto, Calif.

March 18, Private Patrol Arrest Function. Regional Criminal Justice Training Center, Modesto, Calif.

March 18 and 25, Crowd Control and Use of Chemical Agents. Regional Criminal Justice Training Center, Modesto, Calif.

March 19-23, "Appellate Judges Seminar." Appellate Judges Conference, Tucson, Ariz.

March 20-23, Crime and the Senior Citizen. IACP, Phoenix, Ariz.

March 20-24, Correctional Ancillary Program. Regional Criminal Justice Training Center, Modesto, Calif.

March 20-24, Responses to Hostage Taking. IACP, San Francisco, Calif.

March 21-24, "Justice System Services for the Abused Child." Delinquency Control Institute, San Diego, Calif.

April 2-7, "Administrative Law," advanced course. National Judicial College, Reno, Nev.

April 2-7, "Equitable Remedies." National Judicial College, Reno, Nev.

April 2-7, "Evidence." National Judicial College, Reno, Nev.

April 2-14, "Spring College." National College of Juvenile Justice, Reno, Nev.

April 7-8, Testing Devices, Criminal Advocacy Institute. San Francisco, Calif.

April 9-12, "Schools, Education Services and the Justice System." Delinquency Control Institute, San Francisco, Calif.

April 9-12, "1978 National Conference of the American Society of Public Administration." Phoenix, Ariz.

April 9-14, "Information Processing Systems." Institute for Court Management, Denver, Colo.

April 9-14, "Family Court Proceedings." National Judicial College, Reno, Nev.

April 9-14, "Traffic Court." National Judicial College, Reno, Nev.

April 9-21, "Nonlawyer (special court judges)." National Judicial College, Reno, Nev.

April 10-13, "Equal Employment Opportunity and Affirmative Action." IACP, Phoenix, Ariz.

April 16-20, "Appellate Judges Seminar." Appellate Judges Conference, San Diego, Calif.

April 16-21, "Probate Court Proceedings." National Judicial College, Reno, Nev.

April 16-21, "Sentencing Misdemeanants." National Judicial College, Reno, Nev.

April 17-19, "Police Fleet Management: Selection and Maintenance of the Police Vehicle and Auxiliary Equipment." IACP, Phoenix, Ariz.

April 20-21, "Indian Law Conference." Federal Bar Association, Phoenix, Ariz.

April 23-26, "NATCA 13th Annual Conference." National Association of Trial Court Administrators, Las Vegas, Nev.

April 23-28, "Advanced Organized Crime." National College of District Attorneys, Dallas, Tex.

April 30-May 5, "Sentencing Felons," graduate course. National Judicial College, Reno, Nev.

April 30-May 19, "General Jurisdiction." National Judicial College, Reno, Nev.

MIDWEST

March 13-16, Crime Analysis. IACP, Kansas City, Mo.

March 20-24, Police Officer Survival Course. Traffic Institute, Northwestern University, Evanston, Ill.

March 20-31, Weapon Selection: Body Armor, Weapons, and Ammunition. IACP, Chicago, Ill.

March 27-April 7, On-Scene Accident Investigation. Traffic Institute, Northwestern University, Evanston, Ill.

March 27-April 7, Supervision of Police Personnel. Traffic Institute, Northwestern University, Evanston, Ill.

March 27-April 14, Motor Vehicle Management and Accident Prevention for the U. S. Armed Forces. Traffic Institute, Northwestern University, Evanston, Ill.

April 2-6, "First Vehicular Homicide/DWI Conference." National District Attorneys Association, Traffic Institute, Chicago, Ill.

April 10-13. Workshop on Collective Bargaining in Law Enforcement Agencies. Traffic Institute, Northwestern University, Chicago, Ill.

April 10-14, "Scheduling Work Shifts and Days Off by Hand, Computer, or Programmable Pocket Calculator." Institute for Public Program Analysis, St. Louis, Mo.

April 25-26, "First Line Supervision." National Institute of Law Enforcement and Criminal Justice, Lansing, Mich.

EAST

March 15-16, "Crime Prevention Seminar for Citizens." National Institute of Law Enforcement and Criminal Justice, Washington, D. C.

March 20-22, Child Abuse Investigation. University of Maryland, College Park, Md.

March 20-June 30, Basic Course for Police Officers. Regional Criminal Justice Education and Training Center, Rochester, N. Y.

March 27-30, Legal Restrictions on Maintenance, Use and Dissemination of Criminal Justice Records. IACP, Washington, D. C.

March 27-31, Police Photography II. Regional Criminal Justice Education and Training Center, Rochester, N. Y.

March 28-31, "Pretrial Diversion." Institute of Court Management, Annapolis, Md.

(Continued on page 8)

Training Calendar (Continued from page 7)

March 28-31, Courts and Pretrial Services. Institute for Court Management. Annapolis, Md.

March 29-April 1, "Fifth Annual Conference of the National Association of Blacks in Criminal Justice," Washington, D. C.

April 2-24, "Fourth Annual International Criminal Justice Speakers Consortium." John Jay College of Criminal Justice, New York, N. Y.

April 3-14, Community Crime Prevention Programming. National Institute of Law Enforcement and Criminal Justice, Washington, D. C.

April 17-21, "Basic TV/VTR Workshop." University of Maryland, College Park, Md.

April 17-21, "Crime Prevention and the Elderly." National Institute of Law Enforcement and Criminal Justice, Washington, D. C.

April 17-21, "The Allocation and Distribution of Police Manpower." IACP, Boston, Mass.

April 24-28, "Crime Prevention and the Juvenile." National Institute of Law Enforcement and Criminal Justice, Washington, D. C.

SOUTH

March 3-4. Testing Devices, Criminal Advocacy Institute, Miami, Fla.

March 5-9, "Fifth National Conference on Juvenile Justice." National Council of Juvenile and Family Court Judges and National Defense Attorneys Association, Baton Rouge, La.

March 6-10, Police Juvenile Procedures. IACP, New Orleans, La.

March 6-17, First Line Supervisory Course. Florida Institute for Law Enforcement, St. Petersburg, Fla.

March 8-10, "Court Reporting Technologies: Audio, Video, and Computer-Aided Transcription." National Center for State Courts, Atlanta, Ga.

March 19-22, "Williamsburg II – National State Courts Conference." National Center for State Courts, Williamsburg, Va.

March 19-22, State Courts: A Blueprint for the Future. National Center for State Courts, Williamsburg, Va.

March 20-23, Police Discipline. IACP, New Orleans, La.

March 20-24, Management of Job-Related Stress. IACP, Sarasota, Fla.

March 20-24, "The Judge Trial Workshop." American Academy of Judicial Education, Miami, Fla.

March 20-31, Cash Flow Investigation. Institute on Organized Crime, Miami, Fla.

March 27-31, Police Instructors Course. Florida Institute for Law Enforcement, St. Petersburg, Fla.

April 3-4, "Law Enforcement Data Processing Management." IACP, New Orleans, La.

April 9-12, "Prosecution of Crimes Against Persons." National College of District Attorneys, Orlando, Fla.

April 10-14, "Gambling Investigation." Institute on Organized Crime, Miami, Fla.

April 24-27, "The Police Role in Child Abuse and Neglect." IACP, New Orleans, La.

INTERNATIONAL

April 10-14, "Protective Services: Meeting The Clandestine Threat." IACP, Nassau, Bahamas

April 17-20, "Developing Police Computer Capabilities." IACP, Toronto, Ontario, Canada.

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