

Justitiële verkenningen

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The interrogation

Summaries

Justitiële verkenningen (Judicial explorations) is published nine times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with the publishing house Gouda Quint BV. Each issue focuses on a central theme related to criminal law, criminal policy and criminology. This section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (vol. 24, no. 4, 1998): The interrogation.

Controlling police interrogations: more safeguards for the suspect and the criminal justice system

J.A.W. Lensing

This article focuses on two safeguards with regard to police interrogation of the suspect: the right to consult a lawyer and the recording on tape or video. In the Netherlands the suspect does not have an explicit right to consult a lawyer before or during police interrogations. In general, only police reports are made of the statements of suspects made during questioning, but the interrogations are not recorded on tape or video. Ten years ago, a debate between parliament and the minister of justice did not result in an improvement of the safeguards. The author argues that legal developments and developments in practice reinforce the arguments for a system in which the suspect has the right to consult his lawyer privately before and during police interrogation and in which interrogations are also recorded.

Dubious interrogations, fatal consequences

J.A. Blaauw

As in other countries, police in the Netherlands too are occasionally accused of (non-ethical) practices not complying with the legal requirements of criminal interrogation and confession admissibility. Criticism is usually focused on three aspects of interrogation: improper pressure on the subject, incorrect reproduction of statements in case-reports and influencing witnesses. The author highlights three specific Dutch murder cases in all of which false confessions were obtained through dubious interrogation procedures. Despite the fact that all the accused concerned had meanwhile recanted their admissions of guilt, two of the cases eventually resulted in convictions and thus - to the authors opinion - in miscarriages of justice. The third case was dismissed after it became clear that the confession was false. The individual concerned had however also falsely confessed to a rape-case, for which he was tried but acquitted. One year later the real culprit was apprehended. Police failure in the field of interrogation is primarily caused by four elements: poor leadership, incompetence, the dubious attitude of the interrogator and the urge to obtain a confession, rather than seeking the truth. The author recommends ten

important issues on how to improve the art of criminal interrogation.

Confessions as proof; thoughts on interrogations of suspects

P.J. van Koppen

Interrogations of suspects should not be aimed at obtaining a confession, but at finding the truth. Practice shows, however, that courts consider a confession an important piece of evidence, thus inducing the police to use and rely heavily on the interrogation of the suspect. In this article wrong and right interrogation methods are discussed, as well as types of false confessions. Two examples are given. To enhance good interrogation practices, to prevent the police from focusing too much on confessions and prevent miscarriages of justice, the following rules are proposed: a confession can only be used as evidence if all interrogations of the suspect have been taped; if prior to the interrogations of a suspect enough evidence has been gathered against him, the interrogation only serves to allow the suspect to tell his own side of the story. Striving for confessions is a waste of police time in these cases; if not enough evidence is available, a confession is only the point of departure for further investigations. If these confirm the confession, the results of the investigations can be used as evidence, not the confession itself. If unconfirmed, the confession is void; a confession which does not allow for further investigations is too general to be used as evidence; if prior to the interrogations not enough evidence existed against the suspect, his confession can be used as evidence if and only if the confession contains intimate knowledge of the crime and it is confirmed that this knowledge comes from the suspect, not from the interrogators.

False statements during police interrogation

E. Rassin

Police interrogation is an important source of information in criminal justice. Incomplete recollection of the crime, or lack of motivation to cooperate (both in witnesses and suspects) may threaten the process of information gathering. Police interrogators have several techniques at their disposal to deal with these threats. Some of those techniques are thought to have memory enhancing properties, others are meant to put the interrogated subject under psycho-social stress, in order to make him more willing to cooperate. However, these interrogative techniques seem to have certain negative side-effects. More specifically, memory enhancing methods may cause the interrogated subjects to confuse fantasy with reality, while pressure during questioning increases the risk of eliciting false confessions. Thus, various kinds of false statements can be encountered. This article describes some of the reasons why false statements occur during police interrogation.

The credibility of witness statements; an empirical approach

J. Jackson

Judging the credibility of witness statements is a difficult task. statements may be inaccurate because of non deliberate distortion due to the limitations of memory processes, frequently exarated by the quality of police interviewing. Inaccuracies can also occur as a result of deliberate deception on the part of the witnesses. Legal professionals rightly expect psychologists to help in presenting theories and procedures to help them to reliably detect deception. As yet, these have not been

very impressive. In her institute, the author and her co-workers are currently engaged in a series of experiments that hopefully will advance their knowledge.

Interrogating suspects from a behavioral perspective

N. Nierop

From a behavioral crime analysis background the author states that it is very important to prepare an interrogation extensively, paying extra attention to the background of the suspect and the behavioral way in which the crime had been committed. She argues that it can be beneficial to use this information in the interrogation of a suspect. In the Netherlands this is a relatively new way of preparing and conducting an interrogation. Some critics might state that you can't treat a suspect the way you would treat a perpetrator. But if you don't use behavioral `perpetrator-information' in your interrogation, you might miss an important opportunity to confront a suspect in a tailor-made way. Of course the police have to stay within the limits of the law and they should always check whether the suspect is mentally capable of handling an interrogation at all.