



You Have the Right to Remain Innocent

James Duane , Stephen G. Breyer (Quoted)

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An urgent, compact manifesto that will teach you how to protect your rights, your freedom, and your future when talking to police.

Law professor James J. Duane became a viral sensation thanks to a 2008 lecture outlining the reasons why you should never agree to answer questions from the police—especially if you are innocent and wish to stay out of trouble with the law. In this timely, relevant, and pragmatic new book, he expands on that presentation, offering a vigorous defense of every citizen's constitutionally protected right to avoid self-incrimination. Getting a lawyer is not only the best policy, Professor Duane argues, it's also the advice law-enforcement professionals give their own kids.

Using actual case histories of innocent men and women exonerated after decades in prison because of information they voluntarily gave to police, Professor Duane demonstrates the critical importance of a constitutional right not well or widely understood by the average American. Reflecting the most recent attitudes of the Supreme Court, Professor Duane argues that it is now even easier for police to use your own words against you. This lively and informative guide explains what everyone needs to know to protect themselves and those they love.

You Have the Right to Remain Innocent Details

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From Reader Review You Have the Right to Remain Innocent for online ebook

Athan Tolis says

More pamphlet than book, and with a single message: don't talk to police.

Here's the summary:

By law, a prosecutor can see to it that nothing you tell the police is used in court to help you. That's a law. Save the good stuff for your lawyer and your day in court!

Conversely, everything you tell them can be used in court to hurt your case:

- You may inadvertently tell them something inaccurate; potentially, that's perjury.
- You could waste a perfectly good alibi by getting a detail wrong.
- You may tell them something absolutely correct that some expert falsely disputes and then you've lied, again, and you've provided them with an "aha" moment for the jury.
- You may tell them something that to you seems irrelevant, but to them helps bolster or build a case against you out of nothing.
- You may even bend under their pressure and confess to something you did not do!

The cops are allowed to lie to extract a confession: they can lie about whether you're a suspect or not, they can lie about what you're suspected of, they can lie about details of the case, they are in all probability lying about any lenience they may be offering you, they are trained to legally set you up to look like you possess information that you only could have gotten if you were at the scene of the crime. They are very unlikely to transcribe or record your conversation accurately and, again, any errors will play against you.

The police can legally feed back everything you discussed with them to whoever is accusing you and help them build their case!

None of this is because the police are bad; it's because they are people. As people they are both fallible and liable to look for every possible angle that can support an initial wrong guess. Some may even be more than fallible and venal and not want to admit they were wrong to suspect you.

Keeping quiet can help you stay away from all this trouble.

Sadly, even this advice is no longer perfect, because the Supreme Court has ruled that an innocent person would have no reason to say something as straightforward as "I would not like to speak with you because the constitution affords me the right to avoid self-incrimination." These days, you have to invoke the Sixth Amendment rather than the Fifth, and firmly ask for a lawyer!

So that's what the book says. I have plenty to add, but will keep it brief:

I'll be fifty in June, so now I have friends who have gone to jail. It is invariably for a statement they have naively given, which the cop afterwards baptized "a confession." But don't take it from me, read Michael Lewis' book about Sergey Aleynikov; or compare and contrast what happened to the Barclays LIBOR guys (who asked for a lawyer) and the Citibank LIBOR guy, who spent 86 hours talking to the cops first. The way

a dear friend tells it who got 13 years for a crime he had nothing to do with, "jail is for the stupid." (The Greek word he used has three a's in it.)

In short, the justice system is a system that closes cases, not a system that seeks justice. The antechamber of this Kafkaesque hell is the police station. If you have not managed to avoid the visit to the antechamber, keep stumm until you've hired the best legal help you can. In doing so, you're hiring part of the system, you're paying cash into the system, you're getting the system on side. And you're involving part of the system that's a pay grade (or ten) above the cop who's looking to feed you with your confession and write it up for you. That's your best bet.

Ed says

Like a lot of people who watched James Duane's video on what to do when questioned by the police I was as taken with his extremely articulate almost glib style as I was his message which was very simple--don't talk to the police, you cannot help yourself and and may cause yourself harm. He expands that slightly in this book--if you have something that is exculpatory regarding the offense about which you are being questioned, for example you were out of the country and have the ticket receipts and stamped passport to prove it, then offer that but nothing else if the questions are about a crime that happened in the past. Asked about the present, you should cooperate. Identify yourself (it is a violation not to do so when asked by a police officer) and answer their questions asked in the present tense: why are you at this place at this time, for example.

While reading this book I could almost hear his distinctive cadence and see his practiced movements. It works a lot better as a presentation than as a book. Duane is an entertaining speaker who knows how to hold audience but with nothing more than words on the page he isn't as enthralling. The advice he gives, of course is excellent, actually vital to anyone who might be in the early stages of an encounter with the criminal justice system. But he gives it over and over, using examples drawn from his experience as a lawyer or from court records and news accounts. He does make clear that the police are allowed to lie to someone in custody to get them to answer questions so you simply shouldn't believe anything they say.

Duane was summa cum laude, Harvard undergrad, cum laude Harvard Law, clerked for two federal judges (district and circuit), co-authored a standard text on federal rules of evidence and teaches at Regent University Law School, a third or fourth tier school.

Petra X says

The advice in this book can be summed up quite succinctly:

1. Never talk to the police except you must answer these two questions if you are stopped and asked them: "Who are you?" and "What are you doing right here, right now?"
2. Do not suggest to the police that you would like a lawyer, might need a lawyer, could you please have a lawyer, instead be absolutely direct and say, I want a lawyer. Only those four words which cannot be misinterpreted by the police, attorneys, judges or juries will stop the policing questioning you and get you a lawyer. Never plead the Fifth Amendment which might be used as an indication of your guilt. Instead invoke the Sixth Amendment, your right to a lawyer.

3. In the US, the police are allowed even encouraged to tell as many lies and be as deceiving as they want as part of their investigation. The person questioned must be totally honest or risk being prosecuted for the federal offence, the felony, of lying to the government. " That is up to five years in prison if a jury decides you knew you were making an inaccurate statement.

4. Read the book. Or leave the US. Or move to a small town where the only law enforcement officer limits themselves to traffic offences and likes to knock off for the day at 5 p.m.

There are many, many people in the US who are convicted of crimes they didn't commit, some are serving long prison sentences. This book will help you avoid the fate of being damned by your own words, of having your wanting to help the police fully because you are innocent, turned against you.

Note on reading the book. (view spoiler)

Mark Robison says

If you've ever thought "What's the harm in talking to the police if I've done nothing wrong," then you need to read this book. It starts with the simple fact that police detectives and district attorneys advise their own children to never talk to the police without a lawyer present. And near the end, it chronicles multiple cases where people were wrongly convicted based largely on completely true statements they made to the police. He rolls out some incredible statistics, like in one study of wrongly convicted people later vindicated by DNA evidence that found 40% included police testimony claiming the person said something "only the killer could've known." The thing that most surprised me involved the rules of evidence regarding what you say to the police. If you say 300 things and 297 are exculpatory and 3 could be twisted against you, then in court, the police detective will only testify to the 3 things that make you look guilty and if the defense attorney tries to get the detective to discuss the other 297 things that work in your favor, that will be objected to as hearsay and the judge will agree. In other words, of the things you tell the police, only those that work against you will be allowed in court and nothing that works in your favor will. Consider that next time you think it can't hurt to talk to the police without a lawyer. A short, powerful must read. Grade: A

Megan Holstein says

What a fantastic book. Really an insight into our criminal justice system. A must read for anyone who lives in America. Especially a must read for anyone underprivileged.

Negin says

Many have seen the You Tube video by the same author, telling you to never trust anyone in the criminal justice system. I saw it a few years ago and thought it was interesting. To me, you don't necessarily need to read this book. The You Tube video and the quotes that I am sharing should be sufficient. It was a relatively short and quick read. Mind you, I had to skim through many of the horror stories with all the injustice that some have encountered. I cannot stand that sort of pain. Some of the tips:

Have a lawyer present whenever you talk to the police.

Never volunteer information or access to your property.

Here is more:

“If a police officer encounters you in one of those moments, he or she has every right to ask you two simple questions. Memorize these two questions so you will not be tempted to answer any others: Who are you? What are you doing right here, right now? If you are ever approached by a police officer with those two questions, and your God-given common sense tells you that the officer is being reasonable in asking for an explanation, don’t be a jerk.”

“Those are the only two things you should tell the police officer in that context, and they are both in the present tense. (You might as well cooperate with such a request, by the way, because the Fifth Amendment does not normally give you the right to refuse to tell the police your name anyway. That is it. But if the police officer tries to strike up a conversation with you about the past, and where you were thirty minutes earlier, and who you were with, and where you had dinner, and with whom—you will not answer those questions. You will not be rude, but you will always firmly decline, with all due respect, to answer those questions.”

“If you are asked any question by a police officer or a government agent and you realize that it is not in your best interest to answer, you should not mention the Fifth Amendment privilege or tell the police that you wish to exercise your right to avoid incriminating yourself. In this day and age, there is too great a danger that the police and the prosecutor might later persuade the judge to use that statement against you as evidence of your guilt. And if they do, to make matters much worse, you have no guarantee that the FBI agent in your case will not slightly misremember your exact words.”

“How do you request a lawyer? There is no need to be rude, naturally. And most people instinctively recognize that fact. The police officer does not deserve your disrespect, because he or she is only doing his or her job in a criminal justice system that is terribly out of control. Unfortunately, far too many individuals in the real world go in the opposite direction, and for some reason think that they need to be overly polite to the police. They seem to instinctively fear that they might come across sounding a little rude or disrespectful if they make their request sound too confident or unequivocal.”

“When you ask for a lawyer, do not worry about sounding polite, because that will make you sound unduly tentative or equivocal. Never ask the police officers what their opinion might be. In fact, do not ask any questions when you insist on the presence of a lawyer. Do not even use the words I think or might or maybe. You need to say, with no adverbs, in only four words, ‘I want a lawyer.’ And then you need to say it again, and again, until the police finally give up and realize they are dealing with someone who knows how our legal system really works.”

Hannah says

Throughout the book, James Duane explores why someone—especially someone innocent—should never talk to the police (and instead should repeat “I want a lawyer”). The content of the book is a bit dry—he uses case histories of people who have been wrongfully convicted or have given false confessions. But Duane livens up the content with some excerpts from his lecture, “Don’t Talk to Police.”

My favorite excerpt is an exercise where Duane outlines a fictional crime report and then asks four questions about the report. I only got three of the four questions right, and I can absolutely see how hours of

misleading questions and interrogation might drive someone to (mistakenly or not) give false information in a criminal investigation. I was astounded at some of the case examples and the examples of how incredibly vague many federal statutes are, allowing for much interpretation in court.

Though there were few humorous moments in the book, I liked that the overall tone was outrage and disbelief—at how efficient the police are at dragging confessions out of innocent people (false confessions aplenty), at the precedent set of holding a defendant’s use of their Fifth Amendment rights against them as evidence of guilt, and at the broken state of USA’s legal system in general. However, Duane does get a little overzealous at times, using plenty of exclamation points and calling large groups of people morons and idiots.

After watching Netflix’s “Making a Murderer” (true crime docuseries about Steven Avery’s wrongful conviction for sexual assault and, upon release from prison, near-immediate conviction for murder), reading *You Have the Right to Remain Innocent* was especially gratifying. For any who haven’t seen the series, the point is made that the police used coercive and appalling interrogation techniques on Avery’s 16-year-old nephew. This book discusses at length the ways police are allowed to lie to the public about investigations in order to “catch” someone in a lie, which follows up incredibly well on the outrage of watching “Making a Murderer.”

Granted, I work with administrative rules (which implement federal statute) for a living, but I think that anyone who enjoys true crime stories, anyone who wonders why false confessions happen, anyone who’s interested in finding out what happens when you voluntarily enter a police station as a suspect in a criminal investigation, or anyone who thinks that if you are innocent you have nothing to hide would both learn from and enjoy this book.

I received this book from NetGalley in exchange for an honest review.

Book says

You Have the Right to Remain Innocent by James Duane

“You Have the Right to Remain Innocent” is no-nonsense book that intends to educate the general populace on how to protect itself from a legal system that is designed to take advantage of ignorance and good intentions. Professor at Regent Law School in Virginia Beach, Virginia James Duane provides the public with a valuable lesson. This stimulating 154-page book includes the following three chapters: 1. Don’t Talk to the Police, 2. Don’t Plead the Fifth, and 3. Plead the Sixth.

Positives:

1. A brief, well-written book. Duane is direct and fair.
2. An important topic, how to protect yourself legally.
3. Mastery of the topic.
4. Doesn’t waste time to get to the heart of the matter. “Nobody of sound mind can dispute that there is something fundamentally wrong, and intrinsically corrupt, about a legal system that encourages police officers and prosecutors to do everything in their power to persuade you and your children (no matter how young or old) to “do the right thing” and talk—when they tell their own children the exact opposite.”
5. There are in fact two questions a police officer has a right to ask. Find out what they are.
6. He has two specific problems with the police. “The only two problems I have with the police (although

they are very big problems) are these: The first problem with the police is that they are only human.”

7. Makes use of recent research to back up his points. “The most recent and comprehensive investigation, which took a careful look at 250 prisoners exonerated by DNA evidence, found that 16 percent of them made what’s called a false confession: admitting their commission of a crime that they did not commit.”

8. Provides many examples throughout this brief book. “In a California case, a sixteen-year-old defendant agreed to talk to the police only after one of them told him, “The fact is this, Freddy, is I can’t help you unless you talk to me.” He then gave a statement that was used to help convict him, and he was sentenced to life in prison without any possibility of parole.”

9. Words of wisdom to live by. “The bottom line is plain: you cannot safely trust a single word that you hear from the mouth of a police officer who is trying to get you to talk.”

10. Examples of legal abuse. “Because of these rules of evidence, a prosecutor is allowed to handpick the parts of your statement to the police that might be used against you, reveal those parts to the jury, and keep back the rest.”

11. Practical advise that may save your life. “All he needs to do is respectfully tell the police that he will not answer any questions and that he would like a lawyer—the same thing that the officers have instructed their own kids to do in that situation.” “If you give the police information that turns out to be inaccurate, and the police mistakenly believe that you were lying to them on purpose, that fact can be devastating to your defense in three different ways.”

12. How a conservative majority on the Supreme Court has diminished the power of pleading the fifth. “In the case of Salinas v. Texas, decided in 2013, the five most conservative justices on the court (the only five appointed by Republican presidents) held for the first time that the silence of a criminal suspect, at least if the suspect is not in custody, is logically relevant evidence that is admissible against the suspect at trial and may be used to help persuade the jury that the suspect is guilty!”

13. Find out the couple of rules that you must observe about what you should say, and what you must NOT say.

14. Reasons on why NOT to assert the Fifth Amendment privilege. “The Department of Justice has now served official notice that it believes the courts should allow a prosecutor to argue under any circumstances that your willingness to assert the Fifth Amendment privilege can and should be used against you as evidence of your guilt.”

15. Why you should mention the Sixth Amendment instead of the Fifth. “Do not even use the words I think or might or maybe. You need to say, with no adverbs, in only four words, “I want a lawyer.” And then you need to say it again, and again, until the police finally give up and realize they are dealing with someone who knows how our legal system really works.”

16. Links to notes.

Negatives:

1. This is a one-trick pony so if you are looking for something beyond the main topic look elsewhere. In

another word, repetitive.

2. No formal bibliography.

3. Not as good as his famous YouTube video on the subject.

In summary, Professor Duane provides the public with a valuable lesson. His approach is direct and brief but it may protect you from an imperfect system. He also provides many interesting cases; an important lesson worth learning, I recommend it!

Further suggestions: “The Know Your Bill of Rights Book” by Sean Patrick, “The Conservative Assault on the Constitution” by Erwin Chemerinsky, “Mistrial” by Mark Geragos and Pat Harris, “Unfair” by Adam Benforado, and “Uncertain Justice: The Roberts Court and The Constitution” by Laurence Tribe and Joshua Matz.

Terrence Daugherty says

Being already privy to the problem of false confessions and the unethical interrogation tactics utilized by LEOs, I didn't really expect a lot more from this book as an exposé on such matters. Fortunately for me, James Duane not only cited specific cases, but presented to the reader the 'dos and don'ts' of law enforcement interaction.

Far from being vitriolic towards LEOs, James Duane was actually rather kind in his opinion of them, despite his clear disdain for the justice system and its failure to be just as a whole. The author made it quite clear that his qualms were more so with legislators and judges than with LEOs. In my opinion, this was the only flaw of the book.

To affirm the failures of the justice system without condemning the failures of those enforcing unjust tactics is akin to the attempted exculpation of those in the Nuremberg trials who were "just following orders." "Just following orders" has put many an innocent man and woman in prison for years, if not decades.

This book still gets five stars for being immensely informative and eye-opening. Read it, and take his advice. Don't talk to cops — without making it abundantly clear that you want a lawyer present at even the slightest questioning or interrogation, even if you don't think you are a suspect. It could very well mean your life and/or livelihood.

Caidyn (SEMI-HIATUS; BW Reviews; he/him/his) says

What a dull little book.

The premise is interesting. Remaining innocent when the US legal system is set up not as we assume -- innocent until proven guilty -- but the other way around. Guilty until proven innocent. Basically, the list goes: Don't talk to officers besides giving what's happened at that moment and not in the past, do *not* use the Fifth Amendment because they'll assume you're hiding your guilt, and *do* use your Sixth Amendment right to a lawyer.

That's it. And... this book (on my Kindle) is a bit over 1000 locations long. To me, that means around 100 pages. The premise itself, especially in these times where more and more police corruption is coming out, is very helpful. I was always taught that police are there to help, and I do believe that to this day. One of my best friends is a police officer. But, it's true. Not all police are there to help you and some of the laws are set up for them and not us.

In other words, this book is far too long for its own good. Instead of making a point and moving on, it hovers over the same type of information and just becomes very dull. Ever read a nonfiction, persuasive book that's like that? Where they just give tons of examples that all say the same thing, instead of picking the one that states the point best (or even picking a couple) and using it to expand upon their meaning? That's this book in a nutshell.

Far too long and instead of making a point, it just made me space out and forget everything besides the main

points... which I outlined above so you don't have to read this whole thing.

Ariel says

This is a short informational text designed to let the reader know how to deal with law enforcement or really any other government agency that wants to question them. The author's belief of never talk to the police is one I have held for a long time, this book just gave concrete evidence to what I already instinctively knew. To sum up this book, if you are asked questions by the police or other government authority and you feel that they are trying to gain evidence on you, you should claim the sixth (not the fifth amendment) and firmly say "I want a lawyer". Saying other than those four words can open yourself open to a possible false conviction. The book is full of examples of people who said many things other than those four words and found themselves in jail for many years even though they did not commit a crime. Of course I am a law abiding citizens and do not have interactions with the police but this is just good information to have in the back of your mind or to pass on to others because information is power. 5 stars for the books information, 3 stars for it's somewhat dry delivery.

Barry says

This was a real eye-opener. Before reading this book, if questioned by the police or any government agent I would have probably agreed to answer any of their questions candidly and honestly, thinking that they would surely realize that I was one of the good guys and then move on. Now I know better. The only questions you should answer are, "Who are you?" and "What are you doing now?" The proper response to any other question is, "I want a lawyer." Any other answer could be potentially catastrophic. If you think this advice seems paranoid or overly cautious then you need to read this book. Or watch the author's YouTube video, or at least read the review by Negin.

Angela says

Say this and only this, kindly and repeatedly: I WANT A LAWYER.

Kristian says

Essential advice

I'm a former attorney and judge, but only briefly worked in criminal defense - and I learned a lot in this short, entertaining book about how the criminal justice system works (or, in too many tragic cases, doesn't) for those who get caught up in it. Hopefully this is advice most people will never need, but (1) if you do, you'll be glad to have it, and (2) even if you don't, we all would prefer to live in a society where justice feels, well, Just, and being familiar with the issues facing many stands as a call to reform, so that innocent people don't have to worry about becoming victims themselves.

Mr. Duane does a great survey of the law in the field, and presents it in a way which is informative for

anyone who doesn't deal regularly with criminal law, and is as accessible for lay readers as it is for practitioners. I feel his tone infers that most police are out to trip up the innocent public (though he denies any disrespect for law enforcement), and he really is not a fan of federal investigators, but his intention is clearly to urge consistent exercise of the right to remain silent (and to have the assistance of an attorney), to ensure you don't get tripped up in case you do happen to encounter an overzealous officer.

Douglas Wilson says

Really valuable.
