

the efficiency of the rack and thumbscrew can be matched, given the proper subject, by more sophisticated modes of ‘persuasion.’ A prolonged interrogation of the accused who is ignorant of his rights and who has been cut off from the moral support of friends and relatives is not infrequently an effective technique of terror.”<sup>305</sup>

Although the Court would not hold that prolonged questioning by itself made a resultant confession involuntary,<sup>306</sup> it did increasingly find coercion present even in intermittent questioning over a period of days of incommunicado detention.<sup>307</sup> In *Stein v. New York*,<sup>308</sup> however, the Court affirmed convictions of experienced criminals who had confessed after twelve hours of intermittent questioning over a period of thirty-two hours of incommunicado detention. Although the questioning was less intensive than in the prior cases, Justice Jackson for the majority stressed that the correct approach was to balance “the circumstances of pressure against the power of resistance of the person confessing. What would be overpowering to the weak of will or mind might be utterly ineffective against an experienced criminal.”<sup>309</sup> By the time of the decision in *Haynes v. Washington*,<sup>310</sup> however, which held inadmissible a confession made by an experienced criminal because of the “unfair and inherently coercive context” in which the confession was made, it was clear that the Court often focused more on the nature of the coercion without regard to the individual characteristics of the suspect.<sup>311</sup> Neverthe-

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<sup>305</sup> *Blackburn v. Alabama*, 361 U.S. 199, 206 (1960).

<sup>306</sup> *Lisenba v. California*, 314 U.S. 219 (1941).

<sup>307</sup> *Watts v. Indiana*, 338 U.S. 49 (1949) (Suspect held incommunicado without arraignment for seven days without being advised of his rights. He was held in solitary confinement in a cell with no place to sleep but the floor and questioned each day except Sunday by relays of police officers for periods ranging in duration from three to nine-and-one-half hours); *Turner v. Pennsylvania*, 338 U.S. 62 (1949) (suspect held on suspicion for five days without arraignment and without being advised of his rights. He was questioned by relays of officers for periods briefer than in *Watts* during both days and nights); *Harris v. South Carolina*, 338 U.S. 68 (1949) (Suspect in murder case arrested in Tennessee on theft warrant, taken to South Carolina, and held incommunicado. He was questioned for three days for periods as long as 12 hours, not advised of his rights, not told of the murder charge, and denied access to friends and family while being told his mother might be arrested for theft). Justice Jackson dissented in the latter two cases, willing to hold that a confession obtained under lengthy and intensive interrogation should be admitted short of a showing of violence or threats of it and especially if the truthfulness of the confession may be corroborated by independent means. 338 U.S. at 57.

<sup>308</sup> 346 U.S. 156 (1953).

<sup>309</sup> 346 U.S. at 185.

<sup>310</sup> 373 U.S. 503 (1963) (confession obtained some 16 hours after arrest but interrogation over this period consumed little more than two hours; he was refused in his requests to call his wife and told that his cooperation was necessary before he could communicate with his family).

<sup>311</sup> 373 U.S. at 514. *See also* *Spano v. New York*, 360 U.S. 315 (1959). (After eight hours of almost continuous questioning, suspect was induced to confess by rookie policeman who was a childhood friend and who played on suspect’s sympathies by