Interrogation and the Criminal Process*

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ABSTRACT: The relative absence of formal provision for the resolution of conflict among organizations in the American legal system results in each one controlling others in the system through constraints on the processing of people and information as inputs to their own organization. This paper focuses on the specific case where the courts attempt to control the behavior of the police through the exclusionary rule, particularly as set forth in the *Miranda* decision. Data on interrogations of suspects in field patrol settings show that arresting officers always had evidence apart from the interrogation itself as a basis for arrest. It would appear that the introduction of *Miranda*-type warnings into field settings would have relatively little effect on the liability of suspects to criminal charges, particularly in felony cases, assuming current police behavior with respect to arrest.

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THE legal system in American society is a loosely articulated set of subsystems. Where the criminal law is concerned, the subsystems are law enforcement, the public prosecutor, legal counsel, the judiciary, and corrections. The legitimacy and administrative responsibility for any of them may derive from different government jurisdictions, giving rise to problems of mutual cooptation and control. Nowhere within the legal system is there formal provision for organizational subordination of one subsystem to the other so that decisions in any one subsystem can be directly and effectively enforced in others by administrative or other organizational sanctions. The law itself, rather than organizational implementation, generally governs such relationships.

Though each subsystem is highly dependent upon the others and they are hierarchically organized so that the outputs of one become the inputs of another, each is more highly integrated around its focal orientation than around an orientation that is common to the legal system. This paper focuses on conflict over legitimacy of means that arises between the police in the law enforcement system and the appellate courts in the judicial system. It examines a current controversy over the legality of means of interrogation. The conduct of interrogation by the police has received much attention since the *Escobedo* and *Miranda* decisions of the United States Supreme Court.[1]

All subsystems within the legal system may be regarded in organizational terms as primarily information- and people-processing systems. The law-enforcement system is the major originating point for both people and information about them as they are processed in the legal system. Given the loose articulation of units in the system and their divergent ends, conflict arises as to the means which each organization may use to achieve its immediate organizational ends vis-à-vis those of the legal system qua legal system.

[1] *Escobedo* v. *Illinois*, 378 U.S. 478 (1964); *Miranda* v. *Arizona*, 384 U.S. 436 (1966).

PROCEDURAL CONFLICT IN THE LEGAL SYSTEM

Conflict between the judicial and the law-enforcement subsystems is, in a broad sense, endemic in the legal system, particularly conflict between the appellate courts and the police. The judicial system, especially its higher courts, is organized to articulate a moral order—a system of values and norms—rather than an order of behavior in public and private places. By contrast, the police are organized to articulate a behavior system—to maintain law and order. Theirs is a system of organizational control. Nowhere is this more apparent than in their processing of people and information.

Indeed, the justices of our highest courts and the police officer on patrol represent almost opposite poles in their processing of people and information. The officer in routine patrol is principally oriented toward maintenance of behavior systems and is least likely to interpret the law as he exercises discretion in making decisions. By contrast, a justice of the Supreme Court is least likely to see organizational and behavioral consequences of his decisions and most likely to interpret the law in terms of a moral order.

The police organization bears the major responsibility for implicating persons in the criminal legal system and for gathering information that the public prosecutor may effectively process in the courts. While the information for a case that may be prosecuted effectively in the courts is governed by rules of

evidence and procedure, the organizational emphasis of the police is upon generating information that links a person with a criminal event or helps to maintain public order. The appellate courts, however, control the criteria for admissibility of evidence including the legitimacy (legality) of the means for securing it. Their criteria are established by the moral system of the law rather than in terms of organizational criteria of effective enforcement of the law.

To be sure, the appellate courts are enmeshed in the balancing of interests and in the pursuit of such abstract ends as the protection of society and the maintenance of justice. Both ends and interests, however, get defined in terms of a moral order. Where judicial interpretation is concerned, the courts may respond to behavioral and organizational changes, but within the confines of articulating a moral order that is the law. Where law enforcement is concerned, the police may respond to behavioral and organizational changes, but within the confines of organizational control of behavior.

There is an important sense in which the relevance of information to law enforcement differs from its relevance to the courts. Again, this arises from the variation in their functions within the legal system. For the police, the end of securing information is to increase their knowledge of crimes and the solution of crimes by the arrest of persons. Along with the public prosecutor, they have an investment in "making it stick," but their organizational concern is less for the legitimacy of means than for the rather immediate end of enforcing behavior standards. For the appellate courts, information is relevant to the body of the law; it is an issue of law rather than of organizational effectiveness.

Despite a spate of scientific criminology for developing laboratory evidence by police organizations and despite a spate of rules regarding such evidence, the core of information for both systems remains that secured and presented by oral statement. For the police, as for the courts, the oral interview is crucial in supplying information. Whether dignified by names such as interrogation or testimony, it is a structure of question and answer in social encounters, be it the private or public setting, the station house or court room, the office or chambers. Until recently, however, the procedures for eliciting such oral information, whether by the police, lawyers, or judicial officers, have received relatively little formal attention.

Admittedly, there is a considerable body of rules governing the admissibility of evidence in trial proceedings. Such rules generally relate to the conduct of matters *within* the immediate jurisdiction of the court, such as the admissibility of hearsay during the trial. Given the loose articulation of subsystems within the legal system and the absence of any formal central authority to enforce conformity across subsystems, the major means any subsystem has for controlling others in the legal system is through its own operating organization. For the police, control of other subsystems is exercised through the discretionary decision to arrest. For the courts, it is exercised through the control of the admissibility of evidence, particularly by means of the exclusionary rule. *Miranda* is a case in point.

When the court establishes criteria for admissibility, however, it does so within the context of a specific legal issue rather than in terms of a generic legal or organizational problem. Thus, *Miranda* does not come to terms with the general issue of the interview as a

mode of gaining information, nor of the role of interrogation, for that matter. Rather, the decision states criteria for the admissibility of admissions or confessions, criteria that relate to the rights of persons with respect to self-incrimination.

Like the police, the behavioral scientist is oriented toward behavior in organizational systems. In designing behavioral research that has relevance to legal issues, not unlike the police he confronts problems of operationalizing legal concepts. This becomes apparent when one attempts to undertake research with respect to the legal issues relating to interrogation, particularly if one regards recent decisions as early cases in a potential series of decisions that may have relevance to information gained through questioning of suspects.

The *Miranda* v. *Arizona* decision of the United States Supreme Court makes it obligatory for police officers, *inter alia,* to apprise suspects of their constitutional rights before "in-custody interrogation" if the admission gained from the interrogation is to be admissible as evidence. It is far from clear when an "in-custody" situation legally begins, when questioning becomes interrogation, or when information becomes an admission. Furthermore, from an organizational point of view, the limiting of police practices by controlling admissibility of evidence secured through "in-custody interrogation" within an interrogation room of a station-house logically opens the way to greater use of interrogation in field settings. Moreover, for the behavioral scientist, there is a general question of the kinds of information available for processing in the system apart from interrogation. Would the elimination of all questioning within in-custody situations eliminate a major source of information? These are difficult matters for operationalization if they are to have relevance to questions at issue in the legal system.

This paper reports selected findings pertaining to interrogations in encounters between police officers and suspects in patrol settings. For purposes of the field study, an interrogation was defined operationally as any questioning of a probing nature that went beyond mere identification of the person and that led to defining the person as a suspect or offender. The field patrol officer, unlike the detective or officer who interrogates in the now stereotyped setting of the interrogation room at the station, must use an interview or questioning to define the situation and the participants in it. Both the assertion of some authority and the development of facts are essential elements in such a process.[2]

Furthermore, in field patrol work, the officer usually encounters suspects in the situation where an event is presumed to have occurred and generally at a point relatively immediate to the event itself. By way of contrast, the detective usually encounters a suspect at a time and place removed from the occurrence of the event—either at the station where the suspect has been brought for questioning or in a public or private place where he seeks information from the suspected person. Interrogation or questioning thus may play a somewhat different role for the two types of officers. Yet in both cases, a central question is how much is gained by questioning or admission that would aid in conviction over and above that already gained from other sources of evidence. If there is a witness to a criminal event prior to questioning of the arrested person by detectives at

[2] David J. Bordua and Albert J. Reiss, Jr., "Sociology in Law Enforcement," in Paul F. Lazarsfeld, William Sewell, and Harold Wilensky (eds.), *Uses of Sociology* (New York: Basic Books, 1967).

the station, what is added through interrogation?

THE OBSERVATION STUDY

The data for this paper were gathered through direct observation by thirty-six observers in high-crime-rate police precincts of Boston, Chicago, and Washington, D.C., during the summer of 1966.[3] It should be emphasized that the information pertains only to questioning of suspects by uniformed police officers in encounters of field patrol. To the degree that *Miranda* is strictly interpreted as applying to in-custody interrogations in a station house, the data are not immediately relevant to the frontal issue raised in that decision; rather, they relate more to questions concerning the extension of the *Miranda* rule to field settings.[4]

Patrolmen are the first police to enter most crime situations and hence the first to have contact with any suspects available in the immediate setting. Typically, the police are mobilized to handle incidents in one of two major ways. The great majority of incidents handled by patrolmen arise subsequent to a citizen complaint by telephone followed by a "*dispatch*" to the patrol car. The second major way in which the police become involved in incidents is through "*on-view*" work—police intervention in a field situation that occurs at the officer's discretion rather than in response to a radioed command. The "stop-and-frisk" is an example of an on-view incident. The two types of mobilization carry with them differential opportunities for discretionary action and differential limiting conditions on how the officer exercises his discretion.

Moreover, the way the police are mobilized to deal with incidents affects the kind of evidence they secure, and hence the relative importance of questioning of suspects. The police must link evidence to crimes *and* to violators. Specifically, they must demonstrate that a criminal or other violation has occurred (evidence of a crime) and that a particular person is liable for it (evidence of guilt). Broadly speaking, there are two major kinds of evidence that can be offered in each case—oral and physical. Most oral testimony is by way of witnessing an event or acknowledging participation in it.

Evidence of guilt is differentially available depending upon the type of mobilization in field settings. In on-view encounters with suspects, the major evidence of guilt lies in the testimony of the officer as complainant and witness. Physical evidence such as a weapon in the suspect's possession, stolen property, and the like usually depends as well upon the officer's testimony that it was found in the crime setting or on the suspect. Questioning of the suspect and an admission from him may add little to what is available from the officer in on-view encounters.

Evidence of guilt in dispatched encounters of the police with suspects usually rests upon the testimony of

[3] See Donald J. Black and Albert J. Reiss, Jr., "Patterns of Behavior in Police and Citizen Transactions," in Albert J. Reiss, Jr. (ed.), *Studies in Crime and Law Enforcement in Major Metropolitan Areas,* U.S. President's Commission on Law Enforcement and Administration of Justice Field Survey III (Washington, D.C.: U.S. Government Printing Office, 1967).

[4] *State* v. *Intogna*, 419 P. 2d 59 (Arizona, 1966). The court explained "custodial interrogation" to mean questioning when a person "has been taken into custody or otherwise deprived of his freedom in any significant way." This definition was then applied to an interrogation that occurred in a field setting, with the conclusion that "a defendant questioned by an officer with a drawn gun within three feet of him was deprived of his freedom in a significant way." This case was tried before *Miranda*, but the court followed the interpretation of *Escobedo* given in *Miranda* to rule on the admissibility of the defendant's admission. *Intogna*, then, represents an early extension of *Miranda* to field settings.

others who are witnesses to the event. This arises from the simple fact that the officer usually arrives after the offense has occurred. Even when there is some physical evidence lending weight to the belief that a crime has occurred, the officer has to rely on testimonial evidence as to who is suspect. Without a sworn complaint in such situations, "probable cause" may not be satisfied. Questioning of suspects and admission thus may loom large as factors in whether or not an officer arrests in dispatched situations, particularly when conflicting statements are made by complainants and suspects. The role that questioning plays in police work then may depend to a great extent on how the officer enters a situation and on what kind of oral testimony is available to him.

CHARACTERISTICS OF FIELD INTERROGATIONS

Patrolmen conduct interrogations in only about one-third of their encounters with suspects. The proportion is roughly the same in dispatched situations and on-view situations. The frequency with which patrol officers interrogate is greater than that with which they conduct personal and property searches, as only one-fifth of the police-suspect transactions included a search. However, in almost one-third of the encounters where an interrogation took place, a search of person, property, or both also was conducted.

One characteristic of field interrogations distinguishing them from those conducted in an interrogation room at a police station is that, not uncommonly, more than one suspect is questioned at the same time. In over one-third of the interrogations observed, two or more persons were questioned, and in about one-fifth, three or more were questioned. That the field interrogation is so often a confrontation between group and group places it somewhat at odds with popular stereotypes of the interrogation as an encounter between one or more officers and a lone suspect. In the absence of other patrol units to lend assistance, the classic technique of separating suspects for interrogation is often unavailable to officers in a field setting. The support and surveillance given by his fellows may well mitigate some of the suspect's vulnerability in such field confrontations.

Most field interrogations—about three-fourths—took place only in a field setting, usually on the street or in a private place such as a dwelling. Nine in ten included interrogation at the field setting, some also involving questioning during transportation to the police station or at the station itself. Less than 5 per cent of the suspects were interrogated only at the station.

Not only did most occur far from an interrogation room, but a substantial majority involved temporary field detention before the suspect was either formally arrested or released. About one-half of the suspects were detained for less than ten minutes and three-fourths for less than twenty minutes. Nearly all of these persons were released in the field setting. Over nine-tenths of the suspects were detained less than forty minutes; nevertheless, about 5 per cent were detained an hour or more before the police made a decision to book or release.

There was a good deal of variety in the content of the questions asked. Field interrogations often have more to do with ascertaining whether or not someone *might* be criminally liable than with extracting a self-incriminating statement from a person already suspected. Mere information-gathering aimed at structuring the facts in the situation is perhaps the major concern of a patrolman entering a possible crime situation. Detectives, by contrast, or-

dinarily begin their investigation after the preliminary structuring of the situation by patrol officers. Consequently, about three-fourths of the interrogations had as a manifest aim something other than obtaining an oral admission of guilt from the suspect. The questions frequently concerned such matters as what specifically occurred; the discrepancies in the versions of the parties involved; whether or not, indeed, the alleged incident occurred at all; and the like. This is not to say, however, that such seemingly innocuous probes rarely elicit admissions or incriminating statements. It is during this process that suspects quite often make admissions voluntarily.

INTERROGATION OF ADULT SUSPECTS

There were 248 encounters in which an adult suspect was interrogated in a field setting by the police. The type of evidence available to the officer on guilt of the suspect is clearly a function of how the officer entered the setting. Of the 248 encounters where an adult suspect was questioned, 116 (47 per cent) eventuated in an arrest; exactly one-fourth of the arrests were made in on-view settings. In 93 per cent of the on-view arrests as contrasted with 42 per cent of the dispatched arrests, the officer would have been able to offer some testimony that a crime event took place in his presence or that he had both evidence and observation that the suspect was definitely linked to the crime, for example, the suspect had a stolen car in his possession. The differences are even greater considering the fact that in 66 per cent of all on-view, as compared with 24 per cent of all dispatched arrests, the *only* evidence available was the on-view testimony of the officer that the offense occurred in his presence.

Considering the interrogation situations where the officer did not make an arrest, a similar pattern with sharper contrast prevails. For 94 per cent of the on-view encounters, the only evidence available to the officer that the suspect committed the crime would have been his own testimony, while that was true for only 11 per cent of all dispatched situations. Put another way, in dispatched encounters, the officer more often must rely upon evidence from others to satisfy the criteria of a legal arrest. Indeed, considering the arrests for Part I offenses, when the officer was dispatched, he had to rely upon other evidence in 22 of 29 arrests that were booked, whereas the officer witnessed the three Part I on-view offenses where there was an arrest and booking.

While officers need to rely on other evidence less often in Part II offenses that are booked, the same pattern is evident. Of 42 dispatched Part II offenses booked, 15 had to be made solely on other evidence while for only one of the 23 on-view bookings did the officer have to rely upon other evidence.

Clearly, too, an officer is much less likely to make an on-view arrest for a felony than for a misdemeanor. But three of the 32 bookings for Part I offenses were on-view, whereas 23 of the 65 Part II bookings were on-views. This difference undoubtedly arises from the fact that felonies typically occur in private, as contrasted with public, places; hence felonies in progress are not generally visible to the officer on patrol. The police usually are mobilized to a felony situation by a complainant. Here is a case where the law of arrest complements the empirical pattern of the organization of crime. In felony situations, the law requires only "reasonable grounds" or "probable cause" before a legal arrest is made, whereas in misdemeanor situations there generally is the "in-presence" or "war-

rant" requirement for an arrest to be made.

THE PRODUCTIVITY OF FIELD INTERROGATIONS

Recall that a rather broad definition of interrogation was used in the field observation study such that it was considered an interrogation when the officer was directing his questioning toward identifying elements of the crime and assurances that it constituted a bona fide arrest situation. Often he may not have been attempting to elicit a self-incriminating statement as an admission of guilt or a confession *per se*. The officer interrogated in 31 per cent of the 801 nontraffic encounters with adult suspects. That interrogation was not integral to making a field arrest and booking is apparent from the fact that in 54 per cent of the 198 Part I and Part II bookings of adults there was no interrogation. Correlatively, the officer interrogated in 25 per cent of 603 nontraffic encounters with adult suspects where he did not eventually book a suspect. Indeed, only 39 per cent of all 248 interrogations for Part I and Part II offenses led to a booking.

On the whole, the kind of interrogation that the officer conducts in field settings is relatively unproductive of admissions. Of the 116 *arrests* (including suspects never booked) that included interrogation by officers, 91 (78 per cent) did not eventuate in admission. Of the 132 encounters where persons were interrogated and not arrested, 121 (92 per cent) did not involve an admission. About 86 per cent of all encounters involving interrogation did not result in an admission. This is substantially below the figure reported for in-station interrogations where about 50 per cent of all interrogated suspects are reported to make an admission.[5]

Considering only Part I crimes classified as felonies, the situation is not substantially different. Among adult suspects interrogated, there were 27 arrests for felonies and 17 felonies where there was no arrest. Somewhat more than 80 per cent of the encounters with felons did not result in an admission when interrogation took place. Since 78 per cent of all interrogations of arrested persons did not lead to an admission, there is almost no difference in admissions among arrested persons depending upon the seriousness of the criminal charge. In encounters with nonarrested persons, however, a somewhat greater per cent of encounters with nonarrested felons (15 per cent) than of *all* encounters with nonarrested persons (8 per cent) resulted in an admission. In any case, admission on interrogation in field settings did not make suspects substantially more liable to arrest.

The kind of interrogation conducted in field settings seems remarkably unproductive of admissions of guilt. Of all admissions in field situations, more were made voluntarily prior to questioning than were made after questioning. Among encounters with arrested persons, there were 25 admissions out of 116 interrogations; 68 per cent of these were voluntary admissions before questioning, and the questioning served only to provide the officer with additional information or evidence. Among those not arrested, there were only 11 admissions in 132 interrogations. Of these, 45 per cent were voluntary. Assuming that *Miranda* admits of volun-

[5] A study by the Georgetown University Law Center's Institute of Criminal Law and Procedure found that of the defendants questioned by the police, 34 per cent were interrogated only at the time and place of arrest, 35 per cent at the police precinct, and 25 per cent at both places. Of the suspects interrogated, 45 per cent were reported by their attorneys to have given statements. See "Miranda Impact," Georgetown University News Service, July 9, 1967.

tary confessions under nearly all circumstances, questioning in field settings is at least modestly productive of admissions that clearly would be allowed as evidence in court.[6]

A surprising fact is that admissions after questioning are less productive of arrest than are voluntary admissions in field settings. Of the 22 voluntary admissions before interrogation, 77 per cent eventuated in arrest; of the 14 admissions after questioning, 57 per cent resulted in arrest.

Among the 58 encounters with suspected felons, six resulted in voluntary admissions and three included admissions after questioning. Five of the six, including voluntary admissions, led to an arrest, compared with one of the three admissions after questioning. Though the numbers are so small as to render the comparison of doubtful value, voluntary admission seems more linked to arrest than does admission following interrogation.

INTERROGATIONS AND EVIDENCE

It is difficult to determine how important interrogation is in producing evidence that eventuates in conviction. Given the fact that evidence is evaluated at each step of a criminal proceeding and not all of it enters the trial proceeding nor judicial determination, there is no *a priori* way of assessing outcomes validly on the basis of evidence. Indeed, given the high proportion of pleas of guilt entered by the defendant, the role of evidence itself is moot in many proceedings. These and other factors make it difficult to determine how important interrogation is in a pattern of evidence.

Nonetheless, certain questions can be asked of the data that are relevant to the general problem of the role of interrogation in a pattern of evidence. One such question concerns how often an admission would be the only form of evidence available. Each interrogation involving a suspect was examined to determine what evidence was available to the patrol officer making the investigation. While detailed information was available on the kind of evidence, a simple distinction was made as to whether the evidence was available to the officer by dint of his personal observation of the alleged offense or through acquisition of physical evidence or testimony by others. In some situations, of course, both, or even all three kinds, were available to the officer.

The striking pattern is that of the fifty felonies committed by adults who were subsequently interrogated, there were only three instances where the officer needed to rely upon interrogation to secure evidence. None of these three cases involved an arrest, however. Further, the three interrogations where there was no evidence failed to yield admissions. All admissions therefore were made when there was other evidence or officer testimony as to occurrence of the event and the implication of the suspect. This suggests that people admit or confess when they are aware that "the evidence is against them."

In three of the thirty felonies where there was an arrest and booking, the officer's only evidence was his own observation. For six of the bookings, the offense was observed by the officer and there also was other evidence; in 21 bookings his case rested upon witnesses or other evidence. In those eight ar-

[6] During the observation period, the *Miranda* warning rarely was given to suspects in field settings. A citizen was apprised of at least one of the rights specified in the *Miranda* decision in 3 per cent of the police encounters with suspects. In only three cases were all four rights mentioned in *Miranda* used in the warning. Even when suspects were apprised of their rights, there is no evidence that they were less likely to make admissions. See Black and Reiss, *op. cit.*, pp. 102–109.

rests for felonies where the suspect was released without booking, all involved reliance upon other evidence, including witnesses or complainants. Generally, these are situations in which the complainant refuses to sign a complaint that could lead to effective prosecution of the felony. *For every felony arrest, then, whether the suspect was booked or not, the officer would not have needed to interrogate to offer evidence in support of the arrest.* While it could be argued that, for the eight felony suspects released without booking, an admission could have substituted for the failure of the complainant to sign a complaint, none of these suspects made an admission to the officer.

For the twenty felony situations where no arrest was made, the officer could have relied on his own testimony in two cases and evidence from others in fifteen cases. In only three cases was he left essentially without evidence in the field setting, and in each of these the interrogation failed to yield an admission.

It should be clear, then, that in the large majority of cases where an officer interrogates in a field setting following an allegation about a felony, he does have some basis for proceeding, apart from any admission from the suspect, whether or not he actually makes an arrest.

CONCLUSION

The relative absence of formal provision for the resolution of conflict in the American legal system results in each organization's controlling others in the system through constraints on the processing of people and information as inputs to their own organization. This paper has focused on the specific case where the courts attempt to control the behavior of law-enforcement officers through the exclusionary rule, particularly as set forth in the *Miranda* decision. The data presented relate to arrest and interrogation of suspects in field patrol settings, situations to which *Miranda* potentially may be extended. Furthermore, the data from field settings are of relevance in that they relate to the question of how necessary incustody interrogation is, given prior processing of suspects in the field patrol setting.

Unfortunately, no study has been undertaken that views suspects in process from the field setting where arrest takes place, through processing in custody, public prosecution, and trial proceedings. In the absence of such general processing studies, the relevance of data on interrogations in field settings for legal issues is debatable. Nonetheless, a few observations are offered, addressed to the specific issues of whether the liability of suspects to criminal charges is substantially reduced by *Miranda* warnings and whether the rate of arrest, in turn, would be substantially affected by their introduction into field settings.

The data for this paper on interrogations of suspects in field patrol settings show that arresting officers always had evidence apart from the interrogation itself as a basis for arrest. Indeed, voluntary admissions were substantially more frequent than were admissions following interrogation. For the most part, however, interrogation was unproductive of admissions in the field setting. It would appear then that the introduction of *Miranda*-type warnings into field settings would have relatively little effect on the liability of suspects to criminal charges, particularly in felony cases—assuming current police behavior with respect to arrest.

Nonetheless, it is difficult to define the point at which *Miranda*-type warnings should be given in field settings. Quite clearly, the officer in field patrol must process information by questioning

in field settings in order to define the situation and the roles of participants in it. At the very least, he must often use questioning to define the roles of complainant and suspected offender. Conceivably, the introduction of such warnings very early in the process of contact with citizens could affect the liability of suspects to criminal charges adversely from the perspective of the legal system.

The extension of warnings against self-incrimination to field settings is presumed to affect the rate of arrest adversely. The general profile of police work that emerges from this investigation, however, suggests that this argument is less forceful than many presume. The extent to which patrolmen exercise their discretion not to invoke the criminal process—even in felony situations—when there is adequate evidence for an arrest, raises a serious question of whether this effect of the discretionary decision on liability for criminal charges is not greater than any potential effect of *Miranda* warnings.

The extent to which the police exercise discretion to arrest bears on the issue of the consequences of procedural restrictions in two ways. First, it makes clear the fact that the volume of cases which police generate as inputs for the prosecutor and the courts is far from a maximum, given contemporary police practice. Second, their practices throw into relief the degree to which the law-enforcement system deviates from a prosecution-oriented model to a community-oriented or behavioral-system-oriented model of "justice." The release of offenders at police discretion, for whatever reason, renders ineffective any control system based on limitation of their outputs as inputs, as is the case with the exclusionary rule.

A great deal of the conflict between the police and the courts over interrogation procedures may have less impact on the police system than is generally believed. Nevertheless, within the police system, its consequences may be greater for detectives than for routine patrol officers. This difference in consequences may be directly related to the greater organizational distance from criminal violators at which detectives do investigative work. In-station interrogation, unlike routine patrol interrogation, is more prosecution-oriented; hence, existing procedural restrictions on interrogation may be more consequential than would be an extension of those restrictions.