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# Some Practical Suggestions for the Taking of Criminal Confessions--With Particular Reference to Arson Cases

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in the enforcement of state laws, for the Superintendent of the County Police has primary responsibility for the enforcement of these laws in both the incorporated and the unincorporated areas. The deputization procedure also gives to the Superintendent of County Police some discretionary control of personnel over whom he does not possess direct authority. Furthermore, Ordinance 570-1955 vested in the Superintendent the duty, ". . . to evaluate or cause to be evaluated once each year, each police department whose personnel have been deputized. . . ."[28]

It has become the general policy of the County Department to limit deputization to departments employing full-time, salaried, and commissioned police officers, although with the approval of the Board, the Superintendent may deviate from this policy. In such cases, part-time police personnel of the municipal department must be duly elected or appointed, wear suitable uniforms and badges of authority, and agree to exercise the powers conferred by deputization only when they are on duty and in uniform.[29] It further became the general policy of the County Department not to deputize personnel of a municipal department unless all personnel of that department are deputized.[30]

The goals implied in the deputization procedure could be far-reaching, but neither the Board nor the Superintendent have been under any delusion concerning the ease with which the objectives could be accomplished. In a general policy declaration, the Board recognized that:

> it may take considerable time before the goals set out above, particularly with respect to training and record keeping, can be met. Uniform Crime Reporting Forms will be made available to the municipal departments. It is also anticipated that, in cooperation with the Chiefs of Police of municipal departments, appropriate training programs can be developed, all for the purpose of improving law enforcement in St. Louis County.[31]

The second unique feature included in the program of police reorganization in St. Louis County was the explicit provision in the Charter amendment for contracts between the County Department and municipal governments. Service contracts between agencies of government are becoming a more common solution to area-wide problems, but such contracts are not yet a common instrument of police administration.[32] Of the small number of county police departments in the country, to this writer's knowledge, only the Nassau County (N. Y.) Police Department has provided for such contracts. In that county the problems encountered in the fixing of such contracts have thrown this useful instrument into disuse.

By ordinance, the St. Louis County Council decreed that the Department of Police could contract with a municipality in the county to perform all or part of their municipal police function.[33] Precedent to the signing of such a contract, the County Department of Police must have conducted a survey or a pilot study in order to determine the cost of such service, and the proposed contract must be approved by a majority of the Board of Police Commissioners. Any contract ". . . shall specify the degree and type of police duties and services to be rendered by the Department. . . ."[34] Contracts may not be written for a period exceeding five years; those written for a period exceeding one year must provide for annual renegotiation of the contract price.[35] All revenues received by the County from such contracts is paid into the County's General Fund.[36]

A major difficulty which has been encountered in the negotiation of such contracts is the absence of precedents and the difficulty of assessing actual police needs in a given area. An adequate records system is basic to such an assessment; in St. Louis County this operation was made doubly difficult because of the inadequacy of the records prior to the establishment of the County Department. In 1956, the Department undertook a series of pilot studies in communities which had expressed an interest in such contractural service. Briefly, the assessment procedure used in St. Louis County has been to institute a cost accounting system in order to determine the actual man-hours and equipment costs which service to a particular community would entail. To this cost, the Department has added the cost of administrative management in order to arrive at the total operational cost of such a contract.

Effective March 1, 1957, the County Depart-

[28] Amending Sect. 23.05 of the ADMINISTRATIVE CODE OF ST. LOUIS COUNTY.

[29] PROCEDURES AND STANDARDS FOR THE DEPUTIZATION, Sect. V.

[30] *Ibid.*, Sect. V (b).

[31] *Ibid.*, Sect. V (c).

[32] The present author and Lt. Richard J. Hackmeyer of the St. Louis County Department of Police are presently collaborating on a survey of law enforcement service contracts.

[33] Ordinances 570-1955 and 914-1956.

[34] Ordinance 570-1955.

[35] Ordinance 914-1956.

[36] Ordinance 570–1955.

ment of Police began rendering police service to three incorporated communities, comprising a total population of 10,741 and an area of 12.56 square miles. Cost of these contracts to the combined communities is $22,609.31 annually. Eight additional contracts are now pending. In less than two years, therefore, the Department consummated three contracts and is negotiating eight more. Regarding the level of police service in seven of these communities prior to the contractural relationship: one offered no police service; four offered on-call service only; and, two offered only part-time service. Organization of the County Department, therefore, has meant for these seven communities uniform, full-time, professional law enforcement, contracted under equitable and economical conditions.

## Conclusion

The development of the St. Louis County Department of Police has had important primary and secondary consequences. Of the primary consequences, perhaps the most important has been the provision of a professional level of law enforcement to the citizens of the unincorporated areas of the County. No less important, and certainly related, has been the insulation of the Department members from the capriciousness of the Missouri political process. Where under previous administrations, county law enforcement officers expected to obtain and to hold their jobs on the basis of political considerations, under terms of the reorganization they are specifically forbidden to do more than to cast their ballots. Where there existed before *no* minimum recruitment standards for education, age, physical, or moral attributes, rigid qualifications have been introduced and adhered to. Where *no* formal training program had previously existed for county police officers the County Department of Police has introduced both recruit and in-service training for all ranks. Where *no* departmental regulation previously existed to guide conduct of county law enforcement officers, the new Department has instituted a reasonable Code of Discipline and Ethics. The citizens of St. Louis County have clearly been the recipient of a higher level of law enforcement than they previously had.

From the organizational point of view, however, the secondary consequences of the reorganization may appear to be more important. True, the development of the County Department of Police has not transformed the myriad of police agencies in the county into a single organism. But the development has gone a long way toward the amelioration of many of the worst effects of a divisive pattern of police organization. Theoretically, the institution of the new Department left law enforcement in the great majority of the municipalities intact. The influence of the County Department of Police cannot help but be felt, though, even in the largest cities of the county where local autonomy in law enforcement is most secure. Directly or indirectly, whether the County Department develops into a paragon of police efficiency or not, the Department has been provided with the wherewithal to set the example for law enforcement throughout St. Louis County. The members of the Citizens Commission wisely provided instruments which may prove handy in encouraging even a greater degree of uniformity in law enforcement throughout St. Louis County.

# SOME PRACTICAL SUGGESTIONS FOR THE TAKING OF CRIMINAL CONFESSIONS

## With Particular Reference to Arson Cases

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Much has been written about confessions and, of course, it is a subject of discussion whenever investigators meet. Confessions are important but too often the value of a confession is overemphasized. It is about time we allotted the proper value to a confession and viewed it in its correct relation to the investigation and subsequent prosecution of a criminal case.

### POST-CONFESSIONAL INVESTIGATIONS

Too often investigators become discouraged because they do not have, or cannot obtain, a confession. Failing to realize that it is not necessary to obtain a confession in order to successfully convict on a criminal charge, they become frustrated or imbued with a hopeless attitude which forestalls the progress of an investigation that might otherwise lead to a successful prosecution. In those instances where confessions are obtained, the investigators often tend to overemphasize the importance of the confession and adopt an attitude of "Now the case is in the bag!" Even seasoned investigators are very apt to consider a confession as their ultimate goal and view the investigation as complete as soon as a confession has been obtained. They stop at the very time when they should be redoubling their energies and activities, and working longer hours in order to corroborate the confession and obtain the additional evidence that is almost always required to prove guilt beyond a reasonable doubt. The necessity for this post-confession investigation becomes more apparent when we realize that most confessions are refuted and denied by the defendant when he is tried for the offense.

Judges and juries are usually skeptical of confessions because they feel that it is not normal procedure for persons to admit or confess to something that is contrary to their best interests—something that may lead to their execution or life imprisonment. Even confessions obtained under the best of circumstances and with strict adherence to all legal requirements by the investigators may be viewed as of a non-voluntary nature when considered in the cold light of a court room some months or years after the confession has been obtained. A confession, therefore, should be considered by the investigator as merely another additional piece of evidence which links the defendant to the crime for which he is charged.

When the investigator's case is backed by a thorough and complete investigation, and reliance is not placed on the confession alone, the guilt of the accused is so well established that a guilty plea is often forthcoming, and the confession itself becomes unnecessary, although originally, of course, it had formed an integral part of the entire investigation file.

After a confession has been given and preserved in writing or otherwise, the investigators should make an effort to corroborate all the details of the confession. Let me illustrate the point with the following case experience.

A Deputy State Fire Marshal of Ohio and the writer obtained a confession from a young man who had set a fire which completely destroyed his rented dwelling house. His motive was to collect approximately $6,500 from a company which had insured his furniture and household contents. We asked the man just how, exactly where and in what manner he had set the fire. These details were provided, and we included them in his confession. We re-examined the fire scene and corroborated the modus operandi and the incendiary

origin as being exactly as described in the confession. These corroborated facts consisted of information that only the guilty party would know.

In taking this man's confession, we also asked him if he had told anyone else about his plan to set the fire. He said that he had discussed setting the fire with his wife. We then located, interviewed, and obtained a signed statement from his wife, in which she admitted that she and her husband had discussed the setting of the fire about a week before it occurred. In this manner we corroborated that portion of the husband's confession.

In his confession the husband had also told us that on the evening prior to the fire he had removed certain articles of furniture from his house, some of which he had put in the trunk of his automobile; others he had trucked to his brother's house. We then legally searched his automobile and found some of the articles which had been removed from the dwelling before the fire and which were listed on the proof of loss as having been destroyed in the fire. We also located and interviewed the brother who admitted having received and stored the furniture on the day prior to the fire. These contents were also identified as having been listed on the proof of loss destroyed in the fire. We took a statement from the brother and tied it in with photographs of the contents at the brother's home. These photographs and statements were taken as corroborating evidence of the confession.

We reduced this confession to writing and had the confessor sign each page of the confession. In the typing of it at least one error was deliberately made on each page. We had the confessor correct each error in his own handwriting and initial the correction. Some of the apparent errors, such as the wrong age and an incorrect address, were readily seen by him; some of the other less obvious errors were not immediately observed; but we directed his attention to these errors, and he made the corrections and initialed all of them in the margin of the pages. We then had everyone who was in the room at the t[illegible] sign the confession as witnesses.

With regard to the witnesses, we were very careful to exclude from the room those officers and other hangers-on who would not have made good witnesses in the event it was necessary for the prosecutor to have these men take the stand to substantiate the free and voluntary nature of the confession as well as the fact that it was properly given and received. We did go to some pains to get trained officers and other men of good character to be present as witnesses.

### The Unsigned Written Confession

The law does not require that the witnesses sign the confession, but it has been held that it is good policy for the witnesses to a confession to sign it.

If an investigator intends to have an oral confession reduced to writing, it is advisable that he immediately have the written document signed by the confessor. Otherwise, some courts will not permit the document to be used as evidence, and the prosecutor will have to depend solely upon the testimony of the interrogator or other witnesses.

The advisability of not relying upon an unsigned written confession is illustrated by a case involving the following facts. The defendant had committed murder in the State of New Jersey and had fled to another jurisdiction where he was arrested. A prosecutor and police officials from New Jersey flew to the arresting jurisdiction, talked with the defendant, who made a complete confession of the crime, which was taken down in shorthand by a local court reporter; and immediately thereafter the defendant was returned to New Jersey. Some time later, the court reporter made a transcript of his notes and sent it to the New Jersey prosecutor. However, the written transcript was never shown to or read by the defendant prior to the time of trial, nor was he asked to sign it. At the trial, over the objection of defense counsel, the written transcript of the confession was admitted in evidence as an exhibit for the State, and the jury was allowed to read it. The defendant was convicted of murder and sentenced to death. The Supreme Court, in reversing the case[1] and remanding it for a new trial, said:

"... where the transcribed statement is not read by or to the accused and he does not sign it or otherwise acknowledges its correctness, the oral testimony of witnesses, and not the transcript, is the only admissible evidence of the purported confession...

"... True, on a retrial, the stenographer might testify to substantially everything contained in the written statement, but we are inclined to the view that the writing shears the balance of the oral testimony in the case of the weight it would otherwise have and is erroneous because: 'A thing in writing carries, particularly with the layman, a weight of its own...'"

### Oral or Written Confessions

The manner of recording confessions has of late years come under close scrutiny, and there are several sets of views as to the most effective means of preserving the confession for court use. One is

[1] *State v. Cleveland*, 6 N.J. 316, 78 A.2d 560 (1951).