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David W. Neubauer

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CONFESSIONS IN PRAIRIE CITY: SOME CAUSES AND EFFECTS

DAVID W. NEUBAUER*

The area of police interrogations has been one of the most controversial in criminal justice, and, as a result, one of the most difficult in which to provide workable legal guidelines. For several decades the Supreme Court has attempted to develop guidelines on what constitutes physical and/or psychological coercion. If a confession has been determined to be the product of such coercion, it has been held inadmissible in evidence. In *Miranda v. Arizona*,[1] the Court supplemented the coercion standards by requiring the police to warn a suspect of his rights prior to questioning. If the police could not show that the suspect had intelligently waived his rights to silence or an attorney, the confession was inadmissible in court. *Miranda* quickly become the focal point in a political and philosophical debate over crime. From the police perspective, interrogations were a vital investigative technique and the Court's restrictions hampered crime fighting. Civil libertarians agreed with the police that interrogations were an important part of the criminal process, but argued that because interrogations were so critically important the suspect's rights required protection.[2]

Despite the widespread agreement that police interrogations are an important aspect of the criminal justice system, the Court's long term scrutiny of the process and the controversy surrounding *Miranda*, little research has been conducted on the interrogation process. The lack of research is reflected in the *Miranda* decision itself. In seeking to document police interrogation practices, Chief Justice Warren referred to *Criminal Interrogations and Confessions*,[3] a manual on how the police should interrogate, not a study on what they actually do. Studies on the impact of *Miranda* have only partially filled in the gaps in our knowledge. One such study in Pittsburgh[4] exemplifies the goals of most such efforts. The Pittsburgh study sought to "determine the extent to which the *Miranda* decision had impaired the ability of Pittsburgh's law enforcement agencies to apprehend and convict...."[5] Such a narrow and legalistic focus[6] ignores broader questions of how the interrogation process operates and its effects on the criminal courts.

This article examines two neglected dimensions of confessions in the criminal process. The first section discusses the question of who confesses to the police, and explores reasons why some suspects confess to the police while others do not. It is commonly held that police interrogations prey upon the weak, and, as a result, the police obtain confessions mainly from disadvantaged groups. The objective of this section is to ascertain if these propositions stand up to empirical testing. The second section examines the effects of confessions upon the criminal justice process. Again, it is assumed, with only limited data, that once a suspect confesses to the police, the case is largely over. The purpose here is to determine if such common-sense knowledge is supported by data.

THE SETTING OF THE RESEARCH

Confessions were examined as part of a larger study of the administration of criminal justice in Prairie City. The community is a medium-sized city in central Illinois with a population of over 100,000. In studying how defendants are processed from the time of arrest until they are sentenced,

* Assistant Professor of Political Science, Louisiana State University in New Orleans. This is a revised and shortened version of a paper presented at the 1971 Southern Political Science Association Convention, Gatlinburg, Tennessee, November 13, 1971. The author wishes to thank Stephen Wasby (Southern Illinois University) and Thomas Henderson (Georgia State University) for their comments on an earlier version of this paper. The author also wishes to thank those who provided financial assistance: Department of Political Science, University of Illinois; The Social Sciences Institute of the University of Florida; and the computing centers of those two universities.

[1] 384 U.S. 436 (1966).

[2] *See* S. WASBY, THE IMPACT OF THE UNITED STATES SUPREME COURT: SOME PERSPECTIVES 154–62 (1970).

[3] F. INBAU & J. REID, CRIMINAL INTERROGATIONS AND CONFESSIONS (1962).

[4] Seeburger & Wettick, *Miranda in Pittsburgh—A Statistical Study*, 29 U. PITT. L. REV. 1 (1967).

[5] *Id.* at 6. For a similar study, see Witt, *Non-Coercive Interrogation and the Administration of Criminal Justice: The Impact of Miranda on Police Effectuality*, 64 J. CRIM. L. & C. 320 (1973).

[6] KLONOSKI & MENDELSOHN, *The Allocation of Justice: A Political Approach*, in THE POLITICS OF LOCAL JUSTICE 10 (J. Klonoski & R. Mendelsohn eds. 1970).

data was gathered on all 248 felony defendants in 1968. Most of this data was obtained from the public court records. Statements made by the suspect to the police, however, are not part of this public record, but are contained in the prosecutor's working files. The prosecutor granted permission to examine these files. In order to gain a working knowledge of police interrogation practices, two weeks were spent interviewing the detectives, observing their work and sitting in during interrogations.[7]

TABLE 1

CUSTODIAL INTERVIEW FORM
By Type of Crime, Prior Felony Record, Age, Lawyer, and Bail

	Signed	Not Signed*	Total
Type of Crime			
Property**	107 73%	40	147
Non-property***	64 63%	37	101
	171	77	248
	Gamma = −.21		
Prior Felony Record			
No Prior Conviction	101 80%	26	127
Prior Conviction	32 68%	15	47
	133	41	174
	Gamma = −.29		
Age			
Minor (16 − 20)	70 69%	32	102
Adult (21 +)	97 72%	38	135
	167	70	237
	Gamma = .08		
Lawyer			
Public Defender	101 77%	31	132
Private Attorney	64 63%	38	102
	165	69	234
	Gamma = −.32		
Bail			
No Release	65 72%	25	90
ROR	41 62%	25	66
Cash Bail	62 73%	23	85
	168	73	241

* Includes 3 cases (1% of all cases) where suspect made an oral waiver of rights, 11 cases (4%) where suspect refused to sign, and 63 cases (25%) with no information.

** Property crimes: theft over $150, criminal damage to property over $150, forgery, and burglary.

*** Non-property crimes: aggravated battery, death, rape, armed and unarmed robbery, narcotics, and indecent liberties with a minor.

Note: N = 248. Due to missing data not all categories include the full sample.

Since the data is from 1968, we cannot examine how *Miranda* has affected police interrogation practices. The lack of time series data is not a major handicap, however, for other studies have shown that *Miranda* has not basically altered the dynamics of the interrogation process. Even with the *Miranda* warnings, suspects seldom request lawyers[8] (confessions are being given in roughly the same numbers as previously, although some studies indicate a slight decline). Finally, conviction rates have not been affected by the Court's decision.[9] Detectives in Prairie City also indicated that *Miranda* has not adversely affected their ability to interrogate. Thus, it is not possible to determine exactly to what extent *Miranda* has altered the output of interrogations. However, Tables 1 and 2 do show that in 1968 the Prairie City police were able to obtain a suspect's waiver of his *Miranda* rights, as well as secure confessions, in almost half of the felony cases.

The police adapted to *Miranda* by developing the custodial interview form. The custodial interview form lists the four warnings required by the Court. Before questioning a suspect, the police read the rights, ask him if he understands, and finally request that he sign the form. As Table 1 indicates, the majority of suspects comply and sign the form. Sixty-nine per cent of all suspects who were later charged with a felony signed the form. Just as importantly, only a few suspects refused. In the remainder of the cases, it is likely that the police did not attempt to interrogate. Obtaining a suspect's signature on the custodial interview form has great legal significance, for it means that any statement a suspect may make can be used in court with a minimum of legal difficulty.

Not all suspects who sign the custodial interview form, however, make a statement to the police. As Table 2 shows, 114 suspects provided the police with a confession. For this research, confession is

[7] For a more detailed examination of Prairie City, as well as a fuller description of the research methods employed, see D. NEUBAUER, CRIMINAL JUSTICE IN MIDDLE AMERICA (1974).

[8] Medalie, Zeitz & Alexander, *Custodial Police Interrogation in Our Nation's Capital: The Attempt to Implement Miranda*, 66 MICH. L. REV. 1347, 1353 (1968).

[9] *See* Seeburger & Wettick, *supra* note 4, at 15. *See also* Wasby, *supra* note 2. Wasby discusses and analyzes all of the impact studies of *Miranda* to date.

TABLE 2

CONFESSIONS AND TYPE OF CRIME, PRIOR FELONY RECORD, AGE, LAWYER AND BAIL

	N	Confession	N	Confession Property	N	Confession Non-Property
Type of Crime						
Property	147	82 56%				
Non-Property	101	32 32%				
	248	114 46%				
	Gamma = −.46					
Prior Felony Record						
No Prior Conviction	127	75 59%	87	57 66%	40	18 45%
Prion Conviction	47	17 36%	27	14 52%	20	3 15%
	174	92 53%	114	71	60	21
	Gamma = −.44		Gamma = −.28		Gamma= −.65	
Age						
Minor (16–20)	102	51 50%	70	38 54%	32	13 41%
Adult (21+)	135	60 44%	69	41 59%	66	19 29%
	237	111 47%	139	79	98	32
	Gamma = −.11		Gamma = .10		Gamma = −.26	
Lawyer						
Public Defender	132	69 52%	84	55 65%	48	14 29%
Private Attorney	102	41 40%	53	24 45%	49	17 35%
	234	110 47%	137	79	97	31
	Gamma = −.24		Gamma = −.39		Gamma = .13	
Bail						
No Release	90	43 48%	47	29 62%	43	14 33%
ROR	66	27 41%	42	18 43%	24	9 36%
Cash Bail	85	43 50%	52	34 65%	33	9 27%
	241	113 47%	141	81 57%	100	32 32%

defined as the presence of a statement to the police. Most of these confessions were written statements, but a few suspects made oral admissions which were also considered to be a confession.[10] This definition of confession (the presence of a suspect's statement) conforms with the working reality of the detectives. While the detectives naturally prefer that a suspect make a full written confession, they think it is of value to obtain any type of statement from a suspect, even a denial. Even statements falling short of an admission of guilt can later be used to impeach the witness during a trial by showing that his alibi is false. Obtaining such statements also has another value—it prevents the suspect from later altering his story.

[10] An alternative approach was used by Seeburger. He sought to determine the degree of culpability of a suspect's statement. Such an approach involves the difficult methodological task of making qualitative distinctions, which is avoided by treating all statements as admissions. Although a statement need not be an admission of guilt under our working definition, in practice, a suspect's statement invariably involved such an admission. All ninety-six of the written statements, and the majority of the oral admissions involved a suspect's admission of some degree of guilt. A separate analysis of written and oral admissions does not alter the conclusions reached.

A related methodological problem involves how many suspects were actually interrogated. Since we have no way to accurately determine how many suspects the detectives did attempt to question, we cannot determine how many of the no-confession cases are the product of a suspect's refusal to talk to the detectives, and how many are the result of the detectives not questioning the suspect in the first place. A partial control is the data on the custodial interview form, since the presence of the signed form indicates that the detectives made at least some effort to question the suspect. A comparison of Tables 1 and 2 indicates that the distributions are uniform in all cases except with respect to the type of attorney. Thus, only in "type of attorney" is the factor of differential interrogations requests by the detectives a potential confounding variable.

Thus, even after *Miranda*, slightly less than half of all felony suspects in Prairie City during 1968 provided the police with a confession.

GOVERNMENT ENCOUNTERS WITH CITIZENS: WHO CONFESSES AND WHY

The police confrontation of the suspect in the interrogation room represents one of the most direct encounters a citizen can have with his government. It is an encounter marked by the dominance of the state. The police are able to control the ecology of the encounter by isolating the suspect in an environment supportive of the police and not the suspect. This setting allows the police not only to dominate the encounter, but also to use a range of persuasive and manipulative techniques. The citizen-suspect then must respond to these pressures from the state. Some suspects possess personal strength which enable them to resist better than others the social and psychological rigors of interrogation.[11] The docket data allows us to examine five factors that appear important in shaping the citizen's response: 1) the nature of the crime, 2) prior experience, 3) age, 4) type of counsel, and 5) bail.

NATURE OF THE OFFENSE

Past studies which have analyzed felony cases implicitly have assumed that the concept "felony" needs no explanation. Legal definitions, however, often mask important features of social reality. Table 2 shows that confessions vary with the nature of the offense. Suspects accused of crimes against property—burglary, forgery, theft over $150 and criminal damage to property over $150—confess at a much higher rate than suspects accused of crimes against the person—death, aggravated battery, robbery, narcotics and sex offenses.[12] The data also shows that property offense suspects sign the custodial interview form to a greater extent, but this difference is not great. Why, then, do property suspects confess more than suspects accused of crimes of violence?

One important factor differentiating the two types of crimes is the nature of the evidence. In crimes like burglary, theft and forgery, the police are likely to have physical evidence linking the suspect and the crime, evidence such as stolen goods, fingerprints, or a signature on forged checks. In crimes of violence, the police are less likely to have such evidence. The importance of evidence in interrogations is suggested by several sources. Reid and Inbau, in their police interrogation manual, suggest that the interrogator first communicate that he strongly believes the suspect guilty, and then provide evidence to support the belief.[13] This technique was employed in New Haven where "[s]ometimes the detectives showed the suspect the evidence to prove they knew his original story to be false."[14] Such a practice was apparent during the interrogations witnessed in Prairie City. In one case, the police listed all the evidence they had against the suspect: eyewitnesses, a screwdriver in his possession, arrest near the scene of the crime, and summed it up by saying, "You have to realize you're not going to get out of this by lying." Similarly, in another case, the police showed a suspect the stolen goods they had seized in his possession and hinted that his fingerprints were found at the scene. Given such evidence, it is not surprising that more property suspects confess than suspects accused of crimes of violence, where less physical evidence is present.

PRIOR CRIMINAL RECORD

The suspect's response to police pressures to confess is strongly shaped by the nature of the offense involved. Many have suggested that the suspect's response is also shaped by his prior experience with the criminal justice process. This line of reasoning was used by the Supreme Court in justifying the imposition of procedural restrictions upon the police. Some contended that the Court was not creating new rights, only providing a forum for telling the inexperienced person what the experienced one already knew. Given the strange and often hostile environment of the police interrogation room, one could hypothesize that suspects who have had prior experience with criminal justice would be more likely to resist police pressures to confess. Table 2 examines this relationship, using a prior felony conviction to measure past experience with the criminal justice system. As the data shows, the hypothesis is confirmed.

[11] Driver, *Confessions and the Social Psychology of Coercion*, in LAW AND ORDER IN A DEMOCRATIC SOCIETY 74 (M. Summers & T. Barth eds. 1970).

[12] This article divides crimes into two categories: property crimes, and crimes against the person. Robbery was placed in the latter category because the nature of the victim (a person) is more important than the motive (economic).

[13] INBAU & REID, *supra* note 3, at 23. *See also* Driver, *supra* note 11, at 79.

[14] Project, *Interrogations in New Haven: The Impact of Miranda*, 76 YALE L.J. 1519, 1544 (1967).

Suspects who have been previously convicted of a felony are less likely to initially cooperate with the police by signing the custodial interview form. Even when this cooperation has been secured, these suspects are less likely to confess. While 60 per cent of the suspects without a prior record confess, less than 40 per cent of the more experienced defendants do so. This finding contradicts the Denver study of fifty public defender clients which concluded that previous criminal record (measured by two to five previous convictions) did not correlate with the presence of a confession.[15]

Although ex-convicts as a group are less likely to confess, 40 per cent of these suspects nevertheless do confess. Controlling for the type of crime indicates that even suspects who have previously been convicted respond to police interrogations on the basis of the nature of the crime. In property offenses, the experienced suspect confesses well over half the time, whereas in crimes of violence he confesses only 15 per cent of the time. This specification pattern reinforces our earlier reasoning on the importance of physical evidence. Even the ex-con who possesses the skills most likely to enable him to resist police interrogation pressures confesses 52 per cent of the time in property offenses. Absent such physical evidence, the ex-con seldom confesses.[16]

AGE

Suspects with prior experience in criminal justice are better able to resist police interrogation pressures. One would expect, therefore, that other suspects who were generally more experienced would also be better able to resist the "inherently compelling pressures"[17] of police interrogations. One measure of general experience is age. Age is an indirect measure of a suspect's maturity. More mature suspects should be better able to cope with the unfamiliar environment of the police station. The Supreme Court has found age to be an important background factor in deciding which confessions were psychologically coerced. For example, in *Gallegos v. Colorado*,[18] the Court held that a "14-year old boy, no matter how sophisticated, is unlikely to have any conception of what will confront him when he is made accessible only to the police."[19] The Denver study confirmed this proposition, concluding that the older suspect confessed less.[20] Again, however, the Prairie City data reaches an opposite conclusion.

Table 2 shows that those individuals who are twenty or younger confess at about the same rate as older suspects. Given the interval level measure, though, it is better to use the t-test. When the t-test is used and the type of crime is controlled, one also finds that age is not a significant factor associated with confessions. While those who do confess are slightly younger, the relationship is not statistically significant.[21] In Prairie City, at least, younger suspects are as likely to confess as older ones.

COUNSEL AND BAIL

One of the strongest criticisms leveled against the administration of justice, both civil and criminal, is that it favors those with some economic resources.[22] Although this study did not collect any direct social class indicators, two legal variables—the type of counsel and pre-trial release—were gathered, and both of these measure a suspect's ability or inability to raise money. Not only are pre-trial release and type of counsel important legal considerations in their own right, but they also represent major differences in the types of defendants being processed by the criminal courts. One would expect that defendants who can not hire their own lawyer and can not secure pre-trial release would be more likely to confess at the police station.

In Prairie City a defendant either hires an attorney, or, if he is too poor, has the public defender appointed. Several studies have indicated that clients of the two types of attorneys differ markedly. Clients of the public defender not only lack money to hire a lawyer, but are also more likely to be charged with a property crime for

[15] Leiken, *Police Interrogation in Colorado: The Implementation of Miranda*, 47 DENVER L.J., 21, Table 5 (1970). It is necessary to recompute the data in Leiken's table in order to apply standard measures of association. These conflicting findings may result from differences in measurement and/or contrasting samples.

[16] We must temper these conclusions, however, with a note about missing data. Information on prior record is available only when the suspect has been convicted, and a pre-sentence investigation has been conducted. Thus, prior record is not available for all suspects, a problem confounded when statistical controls are introduced.

[17] 384 U.S. at 533.

[18] 370 U.S. 49 (1962).

[19] *Id.* at 54.

[20] Leiken, *supra* note 15, at 21.

[21] In property crimes, t = .583; in non-property crimes, t = 1.35. Neither of these are significant at .05.

[22] Carlin, Howard & Messinger, *Civil Justice and the Poor: Issues for Sociological Research*, 1 L. & SOC'Y REV. 9 (1966).

which they are not able to post cash bail.[23] One would expect, therefore, that because the clients of the public defender are more disadvantaged, they would be less able to resist the pressures in the police station to confess. Table 2 shows, however, that while clients of the two types of attorneys do confess at somewhat different rates, the differences are small. Overall, clients of the public defender confess more (52 per cent) than clients of private attorneys (40 per cent), but the relationship is not strong (Gamma = −.24). It is important to control for the type of crime involved, since clients of the public defender are more likely to be accused of a property crime. Such a control produces an interesting reversal: in property crimes, defendants with a court-appointed attorney do confess more (Gamma = −.39), but in crimes of violence, defendants who have hired their own attorney confess more (Gamma = .13). A second control is the defendant's prior record, for defendants represented by the public defender are more likely to have a prior felony conviction. The above relationships persist when the suspect's prior convictions are controlled. Overall, then, there is a slight, but not uniform, tendency for defendants too poor to hire their own lawyer to confess more. Nevertheless, the relationship is not strong.

One would expect that defendants who cannot secure pre-trial release would follow the same pattern as those who are unable to hire their own attorney. In Prairie City, suspects can gain their pre-trial release either by posting cash bail or by qualifying for "release on their own recognizance" (ROR). Otherwise, the suspect must await trial in jail. One might hypothesize, therefore, that defendants who could not raise the money for bail or qualify for probation would be more likely to have confessed to the police. The data in Table 2, however, fails to confirm the hypothesis. Suspects who posted cash bail confessed at the same rate as those who were not released.[24] In addition, both groups were equally likely to have signed the custodial interview form. Additional control for the type of crime and prior criminal record confirm the above pattern, and therefore the data has been omitted.

THE IMPACT OF CONFESSIONS ON THE TRIAL COURT

The confession is an important, if not crucial, factor shaping the court's handling and disposition of a case. Given the fact that there are confessions, does it make any difference in the ultimate disposition of the case? Harvard Law Professor Sutherland echoes these sentiments: "Once a suspect has made a prearraignment confession which a court can hold [as a] 'voluntary' and an informed renunciation of constitutional rights, the rest of the judicial trial is largely form." [25] Unfortunately, this point of view has been seldom tested; when it has been, the tests have been less than complete. Studies of the impact of confessions on the court process usually have examined only one facet of those proceedings—guilt adjudication. This section examines three major stages in the criminal process: 1) procedural rights, 2) plea bargaining and trial, and 3) sentencing.

PROCEDURAL SAFEGUARDS

In an attempt to produce equality of treatment and to prevent abuse, the American legal system creates a number of rights between arrest and trial: preliminary hearing, grand jury, release on bail, appointment of counsel and a right to a speedy trial. In practice, however, these procedural safeguards are applied unequally. As Nagel has shown, the scales of justice are tipped. Disparities based on economic status, sex, race and region produce differential treatment of suspects prior to trial.[26] Does the presence of a confession likewise produce unequal application of the law's procedural safeguards? If a defendant has confessed, does he receive fewer of the law's protections than those who have not given a statement? While it is clear that confessions are not related to the type of counsel or to pretrial release, there remain to be examined other procedural protections: preliminary hearing, grand jury and delay.

The preliminary hearing and grand jury perform analogous functions—the screening of cases to determine if there is enough evidence to justify further court proceedings. Since the presence of a confession is usually sufficient to satisfy these legal

[23] Skolnick, *Social Control in the Adversary System*, 11 J. CONFLICT RESOLUTION 52, 64 (1967).

[24] *See* Ares, Rankin & Sturz, *The Manhattan Bail Project: An Interim Report on the Use of Pre-Trial Parole*, 38 N.Y.U.L. REV. 67, 68–70 (1963). The data strongly suggests that ROR suspects have been interrogated less often by the police. Since ROR suspects are usually younger and are accused of minor felonies—theft over $150 or criminal damage to property, it seems likely that the police do not perceive a need to interrogate these types of suspects as often as suspects in more serious felonies.

[25] *See* Driver, *supra* note 11, at 79.

[26] Nagel, *Disparities in Criminal Procedure*, 14 U.C.L.A.L. REV. 1272 (1967).

screens, one would expect that defendants who have confessed would be more likely to waive the preliminary hearing and the grand jury. The data in Table 3, however, shows an interesting pattern. In Prairie City, the waiver of the preliminary hearing is unrelated to the presence or absence of a confession (Gamma = .00). In contrast, the waiver of the grand jury is strongly related to the presence of a confession (Gamma = .66). These paradoxical findings reflect the varying functions of the preliminary hearing and grand jury.

In Prairie City, the preliminary hearing is held within three days of the arrest. The magistrate makes every effort to actually hold a hearing; only a strong statement by the defendant (or his attorney) indicating that he actually knows what is involved is cause for the preliminary hearing to be waived. Because the tendency is to hold the preliminary hearing, the presence or absence of a confession does not act as a waiver. However, the ecology of the grand jury operates to create pressures to waive the hearing. During 1968, the grand jury met only quarterly. Thus, a suspect who requested a grand jury would experience a delay in the disposition of his case. Defendants who had confessed were more likely to waive the formality of the grand jury and avoid delay. The speedier disposition of defendants who have confessed is shown by the figures from the docket study. Suspects who confessed had their cases disposed of at an average of 58.1 days after arrest. By contrast, suspects who had not confessed experienced a greater delay—an average of 88.6 days from arrest to final disposition.

TABLE 3

EFFECTS OF CONFESSIONS ON PRELIMINARY HEARING AND GRAND JURY

	No Confession	Confession	Total
Preliminary Hearing			
Waived	62 46%	53 46%	115 46%
Held	72	61	133
	134	114	248
			Gamma = .00
Grand Jury			
Waived	22 19%	58 53%	80 36%
Held	95	52	147
	117	110	227
			Gamma = −.66

CONFESSIONS AND PLEA BARGAINING

As in most, if not all, communities in the nation, Prairie City functions under a plea bargaining system. Most convictions result not from a jury trial, but from the defendant's plea. As in any bargaining situation, each side tries to gain advantages. The prosecution wants to secure convictions without going to trial. Defendants seek advantages in the form of dismissal of multiple charges, reductions in the severity of the charge, or a lower sentence.[27] Unfortunately, we know relatively little about how a confession affects the dynamics of plea bargaining. This lack of knowledge was highlighted in Alexander Bickel's discussion of the possible impact of *Miranda:* "The crucial bit of information that is lacking, however, goes to the relationship between station house incrimination and the ultimate plea of guilty."[28] While impact studies have used aggregate data to see if convictions have decreased since *Miranda,* they have not provided a detailed treatment of the relationship between confessions and the ultimate plea. Table 4 provides such information. As shown, the presence or absence of a confession has a marked effect on the outcomes of the plea bargaining process. A defendant who has confessed in the police station rarely has a trial, and receives fewer concessions from the prosecutor when he pleads guilty.

Trials are reserved almost exclusively for non-property cases where the suspect has not confessed. A confession makes it unlikely that a defendant will be found not guilty at a jury trial. As such, defense attorneys generally recommend against a trial. This is especially true in Prairie City, since defendants found guilty at trial receive a stiffer sentence than they would have had they plead guilty. When a case is pleaded out, those individuals who have confessed receive fewer concessions from the state than those who have not. The type of concession varies with the nature of the crime. For example, whereas in a property case the most common outcome is a plea to the original charge (60 per cent of all cases), such a result is relatively rare in a non-property offense.

The nature of the crime (property versus non-

[27] On plea bargaining generally, see D. NEWMAN, CONVICTION (1965).

[28] Bickel, *After the Arrest: Interrogation and the Right to Counsel,* 154 NEW REPUBLIC 15 (1966).

TABLE 4

EFFECTS OF CONFESSIONS ON PLEA BARGAINING AND TRIAL

	Property			Non-Property		
	N	No Confession	Confession	N	No Confession	Confession
Dismissed	7 5%	7 13%	0	8 8%	5 8%	3 10%
Reduced to a Misdemeanor	25 19%	12 48%	13 17%	23 24%	17 26%	6 20%
Plea to Reduced Charge	14 11%	7 13%	7 9%	27 28%	14 21%	13 43%
Plea to Original Charge	78 60%	24 46%	54 69%	15 16%	8 12%	7 23%
Trial	6 5%	2 4%	4 5%	22 25%	21 32%	1 3%
		—	—		—	—
		52	78		65 99%	30 99%
			N = 130			N = 95

property) sets the parameters for those pleas upon which there can be agreement. A confession is a prime factor affecting where a specific defendant will fall on the given continuum. In property offenses, most defendants who have confessed plead guilty to the original charge (69 per cent). By way of contrast, defendants who have not confessed are much more likely to plead to a misdemeanor or to have the case dismissed. A dismissal is desireable for obvious reasons, a plea to a misdemeanor is appealing because it spares the client a felony record. In non-property crimes the types of pleas are more varied than in property crimes. Nevertheless, the same conclusion emerges: defendants who have confessed receive fewer concessions.

Because the trial category exerts a strong influence on non-property cases where there has been no confession, one can best gauge the differential pleas by eliminating the trial category (which seems largely predetermined) and concentrate on the pleas. Table 5 shows a complex pattern. Defendants who have confessed are allowed to plead to a less serious felony charge (45 per cent) more often than those who did not confess. While this is a seemingly beneficial result for the defendant, this advantage is offset by the fact that the defendant who has not confessed is more likely to be allowed to plead to a misdemeanor (39 per cent).

TABLE 5

EFFECTS OF CONFESSIONS ON PLEAS IN NON-PROPERTY CASES, CONTROLLING FOR TRIAL

	Non-Confession	Confession
Dismissed	5 11%	3 10%
Reduced to a Misdemeanor	17 39%	6 21%
Plea to Reduced Charge	14 32%	13 45%
Plea to Original Charge	8 18%	7 24%
	44 100%	29 100%

In short, defendants who have confessed are much less likely to go to trial, and, when they plead guilty, are less likely to receive favorable concessions from the state. Sutherland and others have contended that once a suspect has confessed, the rest of the court proceedings are "largely form." The information from Prairie City tempers such a conclusion. While the confession does have an impact on plea bargaining, it is not the sole determining factor. This is apparent when one considers the fact that some suspects who confess do receive concessions from the state. In 21 per cent of the cases where the state procures a confession, the charges are dismissed or reduced. An additional 18 per cent of the cases result in a plea to a reduced charge (a lesser felony), the same percentage as those who have not confessed. In short, almost 40 per cent of the suspects who do confess do not plead guilty to the original charge.

CONFESSIONS AND SENTENCING

Past studies of confessions have concentrated on guilt adjudication to the neglect of sentencing. Yet, from the defendant's perspective, the most crucial consideration is sentencing: will he go free on probation or go to prison? The evidence suggests that defendants who confess may expect a more lenient sentence. During interrogations in Prairie City, the detectives tell the suspect that if he confesses he might be treated more leniently. In one interrogation, for example, a detective suggested, "One consideration in sentencing is if some-

TABLE 6

EFFECTS OF CONFESSIONS ON SENTENCING

	No confession	Confession	Total
Sentence			
Probation	30 45%	46 55%	76 50%
Prison	37	38	75
	67	84	151

	Property		Non-Property	
	No Confession	Confession	No Confession	Confession
Sentence Controlling for Type of Crime				
Probation	20 63%	38 60%	10 29%	8 38%
Prison	12	25	25	13
	32	63	35	21
	Gamma = .05		Gamma = −.21	

one gets caught up in something and is man enough to admit it." Likewise, Skolnick found that in Oakland, the police would seek concessions from the prosecutor and the court for some suspects who were cooperative.[29] Thus, at least from the perspective of the interrogation room, one would expect that suspects who confess might expect greater leniency from the courts.

The data in Table 6, however, shows that in Prairie City the presence or absence of a confession is not related to sentencing. Defendants who do not confess are just as likely to be granted probation as defendants who do confess. The slight tendency for defendants who confess to receive probation disappears when controls for the type of crime are added. The lack of relationship between confessions and sentences is a reflection of the sentencing process in Prairie City. The system has developed a well-defined list of informal rules about sentencing, and these rules do not incorporate the suspect's cooperation with the police. From the presecutor's perspective, a suspect's cooperation with the detectives is irrelevant. Thus, the detective's statements that the court takes into consideration the suspect's cooperation is not supported by the data.

CONCLUSION

In Prairie City, the police are fairly successful in obtaining statements from suspects: over 45 per cent of the felony defendants made a confession. Defendants accused of property crimes are much more likely to confess to the police than those accused of crimes against the person. Presumably, such differential confession rates are tied to the persuasiveness of the evidence that can be used to convince the suspect that a denial is hopeless. Furthermore, several factors presumed to be important indicators of a citizens response to police questioning (age, bail status and type of attorney) proved not to differentiate defendants. Taken together, these findings indicate that there is no evidence to prove the proposition that disadvantaged groups are more likely to confess. Such a finding is consistent with two studies that collected a direct measure of socioeconomic status—education. In Denver, suspects with over 10 years of education were just as likely to confess as those with less education.[30] Another study found that Yale graduate students, even after counseling from law professors, answered some of the FBI's questions.[31] In short, the ecology of the station house appears to be a more important factor in explaining who confesses than available measures of social status.

The differential confession rates between crimes of property and crimes of violence points out an

[29] J. SKOLNICK, JUSTICE WITHOUT TRIAL 178 (1965).

[30] *See* Leiken, *supra* note 15, at 20.

[31] Griffiths & Ayres, *A Postscript to the Miranda Project: Interrogation of Draft Protestors*, 77 YALE L.J. 318 (1967).

anomaly in the administration of justice. If the Prairie City experience is a guide, then it appears that the police obtain confessions in the least serious offenses. While property crimes, especially burglary, constitute the bulk of the workload of both the detectives and the felony courts, these are the crimes that are the least serious. In crimes of violence, the police obtain relatively few confessions. Claims of the importance of confessions in law enforcement must be assessed against this background. Early criticism of *Miranda* pointed to murderers and rapists going free. Perhaps *Miranda* has influenced confession rates here, but it does not appear likely. Rather, it appears that these are the crimes that suspects are least likely to confess to. Confessions, in Prairie City at least, function to clear up the large number of property cases, but are not a major tool in the more serious offenses.[32]

But how important are confessions for the criminal courts? Past studies have explored this question, primarily through the use of aggregate data. This study, however, employed a case analysis, which allows a comparison of cases with a confession to cases without a confession. In general, the presence or absence of a confession does not result in differential treatment by the Prairie City courts. Appointment of counsel for the indigent, release on bail, the holding of a preliminary hearing, and sentencing are unaffected by confessions. Only two parts of the criminal process appear to be at all influenced: the grand jury and plea bargaining. The grand jury is often waived by suspects who have confessed. The deleterious effect of such waiver is ameliorated somewhat by the fact that those who have confessed received a speedier disposition of their case.

On the other hand, confessions do have a major impact on the plea bargaining process. Our data has confirmed the hypothesis that a suspect's statement to the police affects guilt adjudication by the courts. Suspects who have confessed seldom have a jury trial. Moreover, if a suspect has made a statement to the police, he is less likely to receive major concessions during plea bargaining. Thus, a confession is an important piece of information that the courts consider in disposing of cases. We need to put such findings in proper perspective, however. While our information does confirm a common sense perception of the effect of confessions, it also points out its limitations. As the data for Prairie City shows, even suspects who have confessed do receive concessions from the state during plea bargaining. Over 40 per cent of the confession suspects received reductions in the seriousness of the offense when they plead.

The fact that some suspects receive significant concessions in plea bargaining even after having confessed suggests that we need to re-examine the conventional wisdom about confessions. The problem is that most studies have approached the confession from a vantage point of certainty. Consider the Pittsburgh study which concluded that only in a handful of cases was a confession necessary for a conviction.[33]

Viewing confessions in such either/or terms ignores the dynamics and hence lack of predictability of the plea bargaining process. The prosecutor's decision to offer a specific bargain and a defendant's decision to plead guilty is the product of a number of factors. As one prosecutor phrased it, "The pervasiveness of the facts should indicate to any competent attorney that the elements of prosecution are present." This involves a prediction that if this case went to trial, a verdict of guilty would likely be forthcoming. Given the imponderables of the trial court process (the vagaries of juries, the changing stories of witnesses, etc.), the confession does play a great part, for it greatly increases the probabilities that a guilty verdict will be forthcoming. But this view sees the confession as one component of the plea bargaining process, not a separate entity. Such a perspective is best able to guide future research into the affects of confessions in individual plea bargaining situations.

[32] *Cf.* Project, *supra* note 14, at 1566, which concluded the opposite.

[33] *See* Seeburger, *supra* note 4, at 14–15.