SUBMISSIONS TO - The Royal Commission into
Metropolitan Toronto Police Practices

FROM - Canadian Civil Liberties Association
Metropolitan Toronto Chapter

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Table of Contents

Introduction

The Canadian Civil Liberties Association is a national organization with a cross-country membership of more than 3000 individuals, more than 50 associated groups which, themselves, represent several thousand people, and eight affiliated chapters one of which operates in Metropolitan Toronto. Our membership roster includes a wide variety of callings and interests - lawyers, writers, housewives, trade unionists, minority groups, media performers, business executives, etc.

Among the objectives which inspire the activities of our organization is the desire to promote legal protections against the unreasonable invasion by public authority of the freedom and dignity of the individual. It is not difficult to appreciate the relationship between this objective and the issue of excessive police violence. The infliction of violence by the police represents one of the most substantial invasions which a public authority can commit upon the freedom and dignity of the individual.

For this reason, the Canadian Civil Liberties Association attached considerable importance to the proceedings of this Royal Commission. Indeed, we retained special counsel, Messrs. Ronald G. Atkey and William M. Trudell, to hold a watching brief here on our behalf. This involvement did not concern primarily the accuracy of the several allegations or the credibility of the various witnesses. It concerned essentially the fairness and scope of the proceedings, themselves. In this connection, our counsel periodically participated in private consultations with interested parties and public representations to the Commission, itself.

In recalling the role of our counsel, it is appropriate also to acknowledge the cooperation that they received. Accordingly, the Canadian Civil Liberties Association expresses herewith its gratitude for the many courtesies which were extended to our representatives by this Commission, its counsel, and its staff.

The Significance of the Allegations

Regrettably, the Canadian Civil Liberties Association cannot assist this Royal Commission in assessing the validity of the many allegations which have been made here. Such an exercise is more appropriate for those who have observed the demeanor of all the witnesses and studied the transcripts of all their testimony. Our more limited involvement in these proceedings requires a more limited focus for our submissions.

While we are unable to comment on the validity of these allegations, we are able to comment on their significance.

The most elementary insight into human conduct would suggest that these hearings represent only a small proportion of the totality of grievances against the police Most people in our society are intimidated by the prospect of testifying at public hearings. When one's adversaries are police officers, such feelings can only be compounded. Public complaints against the police are likely to attract public suspicion of those who complain. The greatest number of grievors, therefore, are not likely to volunteer for participation in any such public forum.

It follows that the disposition of the specific cases heard here will not suffice to dispel the larger discontents in Toronto's police-citizen relationship. This Royal Commission owes its very origin to the acknowledged need for ensuring the public credibility of Metro police performance. When the Globe and Mail published its fall 1974 series on alleged police brutality, the Metro Police Commission itself recognized the inadequacy of existing methods for coping with such allegations. Indeed, it was the request of the Police Commission which triggered the Government's establishment of this Royal Commission

Thus, it will no longer suffice to return to whatever conditions predated the establishment of this Royal Commission. If such conditions were not adequate in the fall of 1974, they will not be adequate in the spring of 1976. In the interests, therefore, of promoting the very credibility which precipitated the birth of this Royal Commission, it is imperative that we address ourselves to the

machinery which will survive its death. By what means can our community hereafter more effectively curtail and correct whatever undue police violence there may be?

This consideration transcends all of the other issues at this inquiry. Whether or not the police are faulted in the cases heard here, whether or not excessive force is found to be a "tendency or practice" among Metro police, it is essential for the public to be assured that henceforth everything possible will be done to curb excesses within the police.

Improving the Corrective Remedies

Police officers will be less likely to misbehave as aggrieved citizens become more likely to seek redress. One way, therefore, to reduce the occurrences of police misconduct is to increase the effectiveness of corrective remedies. This leads to a consideration of the public agency in this city which bears the key responsibility for the investigation of impugned police officers - the Complaint Bureau of the Metro Police Commission. Fortunately, the inquiries conducted here into the allegations of police violence also illuminated something of the methods employed by the Complaint Bureau.

From the evidence of the Bureau investigator in the Henderson case, we learn that the Bureau officer who receives complaints has been pretty much on his own as to whether and how much of an investigation to conduct.[1] In the Henderson case, itself, this investigator says he warned the complainant about the possibilities of criminal penalties, in the event the complaint were not substantiated.[2] And, if this was not discouraging enough, the official here evinced some reluctance to pursue an investigation, while the complainant retained his option to sue for damages.[3]

Notwithstanding these many impediments, the investigation of the Henderson complaint was begun. But the Bureau effort left much to be desired. Beyond the one officer named in the complaint, virtually nothing was done. Apparently there was no attempt to investigate the other officer or officers who were involved in the alleged incident. Indeed, the evidence indicates that there was no attempt even to ascertain the identity of any other officers.[4] Finally, we are told, the Bureau curtailed its investigation in part because of Henderson's subsequent failure to confirm his intentions in the matter.[5]

The evidence of other Bureau officials seems to corroborate, in some important respects, the foregoing indication of Bureau predispositions. From the Tomlinson case, the complaint investigator acknowledges both delays he countenanced and avenues he failed to pursue. But he explains that his conduct of the matter was influenced by the fact that the complainant had retained counsel and the counsel had indicated some lack of interest in the Bureau investigation. Apparently, the lawyer had expressed a preference for a civil law suit.[6] From the Hyland case,

the complaint investigator says he suspended his investigation because the complainant was uncooperative; he was interested only in the names of his alleged assailants.[7] Apparently, he too was planning separate action.

Some of the Bureau's investigations appear to have been undermined by undue delay. In the Swalle case, for example, as early as April 10, 1974, the Bureau investigator was told the identity of the two officers who were with the complainant at the time of the alleged beating. But it was not until June 2 that the investigator obtained an explanatory report from the second of these officers.[8]

Another problem in the Bureau disclosed by the evidence here is insensitivity. In the Tomlinson case, the investigator explained his failure to interview a number of the complainant's friends on the grounds that,although they had witnessed the alleged police brutality, none of them complained about it to the impugned officer. Thereupon, the investigator was asked whether it had ever occurred to him that such witnesses might not complain out of fear of receiving the same treatment. His reply was, "I don't think it did, no sir".[9]

The testimony revealed also some confusion about the role of the Bureau. From the Hyland case, we have the statement of the responsible Bureau official that he might have resumed the investigation he had earlier suspended in the event that the impugned officers were charged or sued. The investigator agreed, however, that such resumption would be undertaken "for the protection of the officers, for the defence of their case".[10]

These disclosures prompt a number of administrative recommendations.

The power to determine whether and how to investigate complaints cannot be left to intake officers. The exercise of such discretion should depend upon agency policy, not upon the coincidence of who is in the office at any given time. Complaint officials must take care to ensure that, while advice may be given against false accusations, threats not be made that will scare off complaints. Until it is demonstrated otherwise, complainants should be treated as though they have behaved in good faith.

The investigation of a complaint should depend upon the nature of the allegations and not upon the intentions of the complainant. Even if a complainant were to lose interest, even if he were to consider a civil law suit, the public interest demands a public effort to curb police wrongdoing.

Without compromising thoroughness, the complaint process should be conducted as quickly as possible. Lengthy delays undermine public trust.

In addition to their expertise in the art of investigation, complaint personnel should be selected on the basis of their sensitivity to the problems of complainants and respondents. A complaint staff should not include, for example, an investigator who is oblivious of citizen fears of police retaliation. Moreover, the nature of the complaint investigation must be impartial. The exercise is not undertaken for the special protection of either party, officer or citizen . The object of the process is to determine the truth. This should be conveyed to all agency staff.

While the foregoing cases provide some useful insights into the current workings of the Complaint Bureau, it might be instructive to consider some grievances that will never be investigated.

In the past few years, the Canadian Civil Liberties Association has conducted several surveys among randomly selected arrested people in the City of Toronto - winter 1970, fall 1972, summer 1973, winter 1974, and spring 1974. While the surveys usually emphasized other matters, they also attempted in a number of cases to identify complaints of physical abuse by the police. Whenever we found such allegations, we asked whether any retaliatory action was being considered.

What is most significant in our findings is the overwhelming reluctance of aggrieved people to avail themselves of their legal remedies against the police. In the winter of 1970, of the 26 people who alleged police abuse and who answered this question, 21 proposed to do nothing to rectify the wrongs that they had sustained. In the fall of 1972, the figures were 12 out of 12. In the summer of 1973, it was 21 out of 24; in the winter of 1974, 31 out of 34; and in the spring of 1974, 25 out of 28.

Even allowing for some distortion, exaggeration, and misconception in our interview subjects, the dominant trend is unmistakable. Among accused people in this city who feel victimized by police wrongdoing, the quest for legal redress is a rare phenomenon.

Our research went one step further. We attempted to learn the reason for this overwhelming resistance to take retaliatory action. 105 of the reluctant grievors answered this question. Apart from the 9 who said that the abuse was not serious enough and the one who said that he deserved what he got, the answers reveal a disquieting cynicism about the consequences of seeking justice. Some said, "It is not worth the hassle"; some feared further pressure from the police; others said they couldn't prove their allegations. As many as 72 replied flatly, "It would do no good".

To whatever extent the investigations revealed at these hearings are typical of Complaint Bureau performance, there would appear to be some basis for the skepticism expressed by the grievors in our survey. But, even if our complainants were unaware of the actual conduct of the Complaint Bureau, they could not be much inspired by the structure.

The Bureau's investigators are members of the same police department as the impugned officers. Inevitably, they will be vulnerable to the suspicion that they are "covering up" for their colleagues. The Commissioners who ultimately assess the investigation are the administrators of the Police Department and, as such, the employers of the impugned officers. Inevitably, they will be vulnerable to the suspicion that they are protecting the good name of the Department they administer. Thus, no matter how fairly the investigators or the Commissioners perform in any particular case, they are not likely to be <u>perceived</u> as impartial in conflicts between officers and outsiders.

What is needed in the public sector of this community, therefore, is the establishment of machinery that will guarantee the <u>independent</u> processing of citizen complaints against the police. In this regard, it would be useful to consider

the rather comprehensive report of Arthur Maloney Q.C. One need not subscribe to every detail of the Maloney Report in order to appreciate how the general thrust of his proposals would improve upon the present complaint operations. Of particular relevancy here, are two new institutions he would introduce to the system.

1) a complaints commissioner, independent of the Police Department, to supervise all complaint investigations and adjudicate minor complaints and
2) a trial tribunal, the majority of whose members would be independent of the Police Department, to adjudicate all major complaints.

While the Metro Police Commission recently has made a few encouraging moves in the direction of implementing the Maloney Report, as of this date, a number of the key proposals are not in effect. It has been suggested that fuller implementation may require Provincial legislation. It is appropriate, therefore, to request this Royal Commission to support at least the idea of independent supervision and adjudication for the complaint system. Faced with supporting proposals from this Royal Commission, the various levels of government are less likely to defeat or deny what needs to be done.

One concept in the Maloney Report, however, does warrant further consideration by this Royal Commission. Mr. Maloney made an unfortunate distinction between who should assess and who should conduct complaint investigations. He recommended that the assessment come from outside the Department. But the investigation, itself, would remain inside. In the opinion of the Canadian Civil Liberties Association, the continued employment of in-house personnel would represent an inappropriate response to the defective investigations which have been revealed at these hearings. Alternatively, even if one were to agree with Mr. Maloney that, in the investigation of their colleagues, Metro police officers have the "ability to be fair", such an arrangement simply cannot <u>appear</u> fair. In the interests, therefore, of developing the maximum in public confidence, the Canadian Civil Liberties Association respectfully asks this Royal Commission to recommend that complaint investigations be handled completely <u>outside</u> of the Metro police structure.

Improving the Custodial Safeguards

Even a vastly improved complaint arrangement is not likely to attract more than a small minority of the aggrieved people. Whatever the complaint system, it will have to rely on the willingness of aggrieved people to take initiatives and to get involved. Invariably, however, most of the grievances will continue to arise in the bottom sectors of society - petty offenders, small time criminals, and suspected petty offenders and small time criminals - in short, our society's perennial losers. Even if their claim are meritorious, such people rarely will have the confidence to challenge the police.

Moreover, the greatest number of misconduct allegations arise in the context of custodial confinement - between initial arrest and pre-trial release. Usually, the only witnesses to what transpires are the arresting or interrogating police officers and the complainant, himself. If a complaint is made, it frequently represents a straight credibility contest between several police officers and one complainant.

In the absence of corroboration, and corroboration is so often absent, the most independent investigators and adjudicators will find great difficulty believing the allegations of proven or suspected criminals against the denials of accredited police officers. Everyone knows this. The complainants, the police, the investigators, and the adjudicators know it. Most important, the public knows it.

The development of public trust in police performance will require, therefore, an approach to this problem which is not so totally dependent on the initiative and credibility of aggrieved people.

Many of the allegations of police brutality surround the practice of custodial interrogation. Messrs. Henderson and Bain, for example, contend that their ordeals occurred after arrest, during a police effort to make them yield information. Daniel and Robert Ethier claim that the police tried to beat confessions out of them. Whether or not these and other allegations are ultimately substantiated, the practice of custodial interrogation cannot fail to generate public uneasiness. It represents

an inherently coercive situation. The only participants are the adversaries - police and suspect. No judges, lawyers, or witnesses. Since the object of the exercise is to incriminate the suspect, there is a ready incentive to intimidate the suspect. The interests of dispelling the inevitable suspicions call forth consideration of appropriate safeguards.

A good starting place is the existing law. The Canadian Bill of Rights already provides that arrested people be entitled to "retain and instruct counsel without delay". To whatever extent this safeguard were operationally observed, the custodial interrogation would be denuded of much of its intimidating potential. Early involvement by counsel could serve to forestall police misconduct in a number of ways. In some cases, counsel might encourage a recalcitrant suspect to cooperate with the police, thereby removing some of the incentives for misconduct. In other cases, counsel might help the suspect to avoid the interrogation completely - by persuading the police to forego it or by negotiating a faster release from custody. In virtually all cases, however, if the lawyer is consulted early enough, the prisoner's custodial ordeal at least can be moderated by the advice he receives and the support it provides.

Despite the number of cases before this inquiry where interrogations occurred, there is little indication of a custodial consultation with counsel. The potential of this safeguard to reduce police misconduct impelled us to investigate more fully the practice in Toronto. During the year 1975, the Canadian Civil Liberties Association conducted two surveys among randomly selected arrested people in the City of Toronto - 100 in the winter and 100 in the fall. Of the 200 we interviewed, as many as 163 (or more than 80%) said they were interrogated by the police while in custody. Yet not a single one of them reportedly consulted with counsel before the interrogation.

In recognition of the perils inherent in pre-trial custody, the Ontario Legal Aid Committee during 1973 inaugurated, for people arrested at night, a publicly paid "dial a lawyer" service. Notwithstanding the two years that this service has been in effect, only 30 of our 200 interviewees (all arrested at night) claimed any knowledge of it. And only four of these people named the police as the source of their knowledge.

Since lawyers are not normally posted in police stations, the only way to facilitate custodial consultation is by resort to the telephone. Accordingly, we asked whether the police informed the arrested people in our survey that they could make a telephone call. 81 of our respondents reported receiving such advice. But in only 7 cases did this occur before the interrogation.

93 of our interviewees said they requested access to the telephone and 74 said that they were granted such access. Of more significance for these purposes, however, are the 40 who reported making this request before they were interrogated. Of this group, only 5 said the request was granted at that time.

For the reasons indicated, to whatever extent the safeguards in the federal Bill of Rights and the provincial Legal Aid Plan were made operational, public uneasiness about police misconduct could be substantially relieved. To this end, the Canadian Civil Liberties Association requests this Royal Commission to recommend the following measures.

The Ontario Solicitor General should be asked to instruct all police officers to inform arrested persons in clear terms of their right to counsel and available legal aid at the earliest practicable opportunity after an arrest is effected. Whatever knowledge gaps exist can be overcome if the arresting and custodial police officer convey the necessary information to arrested persons. Moreover, prisoners will be less intimidated about availing themselves of such help if those in authority advise them that it is proper to do so.

In order to make this measure workable, it must be accompanied by a further directive that police take all necessary and reasonable steps to facilitate communication between accused and counsel, also at the earliest practicable opportunity following arrest. Obviously, there is no point in knowing of and having the right of immediate consultation if access to communication is denied or delayed. This implies immediate access to a telephone in an area sufficiently private where the conversation cannot be overheard.

In view of the centrality of the interrogation to the whole issue of police misconduct, we believe that, in the absence of some imminent and overriding peril, the police should be required to observe the foregoing measures before they undertake a custodial interrogation. The power to conduct a custodial interrogation would arise, therefore, only after an accused has consulted with counsel or, having been advised and enabled to do so, he has affirmatively waived it.

Moreover, we believe that such activation of this safeguard need not prejudice the interests of effective law enforcement. Scottish law goes considerably beyond our proposal in protecting the rights of the accused in custody. In Scotland, there is a total ban on custodial interrogation by the police. This restriction is enforced by an exclusionary rule for statements obtained in violation of it.[11] Nevertheless, in 1971 Scotland had a crime clearance rate of 38.4%.[12] This compares favourably with Canada which had a clearance rate in 1971 of about 35.5%.[13] Moreover, the conviction rates in these two countries show no significant difference.[14]

Data from the United States also appear to support the conclusion that improved custodial access to counsel need not undermine law enforcement. Since the 1966 decision of the United States Supreme Court in Miranda v. Arizona,[15] American law enforcement authorities have lived with a rule which, again, goes beyond what is advocated here. The American rule now makes custodial access to counsel a condition of the admissibility in court of custodial confessions.[16] Although there has been a decline in the confession rate in some places, competent studies have shown no significant reduction in the conviction or clearance rates since Miranda.[17] For these reasons, we believe that our recommended safeguards would strike a fair and valid balance between the reduction of custodial misconduct and the maintenance of effective law enforcement.

In response to the many allegations of police misconduct that do not refer to the practice of interrogation, we propose additional safeguards.

Much of the evidence at this inquiry related to incidents which allegedly occurred during confinements of several hours duration. It stands to reason that the longer the period of pre-trial confinement, the greater the occasion for custodial misconduct. It would be appropriate, therefore, to consider how, if at all, within the confines of the present law, to speed up the process of pre-trial release.

One situation comes readily to mind. In many instances, the police are empowered, at present, to hold an accused pending a judicial determination of bail and release. Frequently, however, such determinations are subject to purely administrative delay. The courts do not normally convene at night; justices of the peace are not always available on call. In such circumstances, the continued confinement of an accused person would depend less on what is statutorily permissible than on what is administratively accessible.

Since no shortage of facilities can justify a deprivation of liberty, it behoves our society to provide the machinery which at present is missing. Accordingly, the Canadian Civil Liberties Association asks this Royal Commission to recommend the establishment of a 24-hour per day bail and remand court. The idea is to ensure that, regardless of when an accused is arrested, he receives the earliest possible determination of his pre-trial release. It is not difficult to appreciate how the adoption of such a recommendation would help to reduce the duration of incarcerations without valid purpose and the consequent opportunities for improper conduct.

Improving the Department's Orientation

Whatever the improvements in the corrective remedies and the custodial safeguards, there is no substitute for the development of a sound orientation in the front line of the system - the police officers, themselves. Ultimately, their values, beliefs, and priorities will influence, in a decisive way, the nature of their job performance.

The critical factor in the improvement of police force orientation is a recognition of the paradoxical pressures under which the police must work. Simultaneously, our society insists upon the vigorous pursuit of offenders and the scrupulous defence of their rights. A criminal suspect is entitled to the official presumption of his innocence. But the process of arrest requires a police belief in his guilt. For the sake of maintaining order, the employment of force by police is inevitable. But for the sake of protecting freedom, the force so employed must be minimal.

It is obvious that the achievement of so delicate a balance will require an exceptional effort. Some of the evidence at this inquiry suggests, however, that this objective is receiving something less than the attention it warrants.

In the first of the cases, for example, the arresting officer testified that he choked Thomas Henderson in an effort to retrieve some drugs which he thought that the suspect had tried to swallow. What is most significant about this testimony is the officer's assertion that such a quest for evidence could justify even a risk of death.[18] Indeed, several months after the incident occurred, this policeman apparently continued to believe that the use of so much force was perfectly lawful.[19]

While his immediate superior denied ever approving of such a practice, he was unable to affirm exactly what he had said to whom on this subject. When asked whether he had ever briefed the squad in the Henderson case about the use of force in drug raids, the supervisor was unable to recall. He knew that he had talked to some of his men about such matters but he could not say <u>which</u> men.[20] It follows that for this supervisor, at least, such training of subordinates could hardly qualify as policy.

Even at the next level in the chain of command, there was some question about the leadership exercised in these matters. Despite the severe allegations in the Henderson case, the divisional inspector admitted that he made no effort to do more than conduct a limited search in respect of the one officer who was named in the complaint.[21] Even though the inspector could easily have checked to determine what other officers were in attendance at the crucial time, he testified that he neglected to do so because his instructions dealt only with the one officer.[22] If Henderson had been accused of assaulting policemen rather than vice versa, it is inconceivable that a commanding officer would have declined, in this way, to exercise any further initiative.

On the basis of all this, we submit that the rights of suspects must be accorded a higher priority in the supervision and training of Department personnel. This is not simply a matter of training officers to be more careful about overstepping the line. It is also a matter of impressing upon policemen that their sworn duty to uphold the law includes the protection of those with whom they come into conflict. Enforcement of law cannot be divisible. The use, by officials, of excessive force is just as unlawful as the use, by civilians, of illicit drugs. The police are no less duty bound to avoid the one than to pursue the other. Those who train and lead the police have the responsibility to convey this message in the clearest possible terms.

This means that the orientation effort must be comprehensive and on-going. It must permeate every level of the officer's relationship with supervision - recruitment, selection, pre-service training, in-service training, promotion, demotion, discipline.

It would be helpful, however, to supplement this approach with further measures. It is obvious that the development of the desired orientation will require the increased employment of intellectual skills. Department policy should be designed, therefore, to encourage the continuing improvement of the officer's academic and intellectual qualifications. Programs should be developed wherein officers are

subsidized to go to school. Moreover, in recognition of whatever higher educational levels policemen may achieve,they should be awarded commensurate pay increases and promotion credits.

Finally, we believe that fairer treatment by police is more likely to be achieved when there is fairer treatment of police. In our view, the police in this community have some legitimate grievances concerning the way they are treated on the job. Under such circumstances, it will be increasingly difficult to recruit and retain greater numbers of high calibre people for this vital public service.

In Ontario today, police officers do not have the minimum kind of job security enjoyed by most unionized employees. Constables are not entitled, as of right, to outside arbitration of their discipline and discharge grievances. If a police officer wishes to challenge the propriety of discipline which has been imposed upon him, he is confined to appeals within the police structure. Where most unionized employees can appeal disciplinary action to independent arbitration, police officers are at the mercy of their employers and those who share their employers' interests.

Significantly, we have removed from the police the most potent instrument of self-help, the right to strike. Elementary equity requires that, in view of the demands we make and the rights we remove, we ensure to police officers the minimal protections available to most unionized employees. Considerations of morale also require it. Accordingly, the Canadian Civil Liberties Association recommends that police officers be given the right to independent arbitration for all of their internal discipline and discharge grievances.

Summary of Key Recommendations

The Metropolitan Toronto Chapter of the Canadian Civil Liberties Association requests this Royal Commission to recommend the adoption of the following measures.

1. Create the appropriate machinery, outside of the Police Department and Police Commission, to conduct the independent supervision, adjudication, and investigation of citizen complaints against the police.
2. Instruct all police officers to inform accused people in clear terms, at the earliest practicable opportunity following arrest, of their relevant legal rights including the right to counsel, legal aid, and emergency legal consultation.
3. Instruct all police officers to facilitate communication between the accused and counsel (including telephone privileges in situations of privacy), at the earliest practicable opportunity following arrest.
4. Instruct all police officers that, in the absence of some imminent and overriding peril, they should conduct no custodial interrogations unless:
   a) the accused has consulted with counsel, or
   b) the accused has waived his right to consult with counsel.
5. Create a 24 hour per day, seven day per week, bail and remand court.
6. Accord a higher priority to the rights of suspects.
7. Provide subsidies, pay increases, and promotion credits to police officers who take additional courses and attain higher educational levels.
8. Provide that police officers may resort to independent arbitration of their internal discipline and discharge grievances.

Footnotes

1. The Royal Commission into Metropolitan Toronto Police Practices. Transcript of the testimony. p. 2648.
2. Ibid., p. 2660.
3. Ibid.. pp. 2720-3.
4. See the Report To The Metropolitan Toronto Board of Commissioners of Police, Arthur Maloney, O.C., for a discussion of this matter, p. 68.
5. The Royal Commission into Metropolitan Toronto Police Practices. Transcript of the testimony. pp. 2696-7.
6. Ibid., p. 7985.
7. Ibid., pp. 9030-1, 9038.
8. Ibid., pp. 5974-6.
9. Ibid., p. 7966.
10. Ibid., pp. 9039-40.
11. Hardin, "Other Answers...", 113 U. Pa L. Rev.165, at 171-172, (1964).
12. Scottish Home and Health Department, Criminal Statistics: Scotland 1971, p.43.
13. Statistics Canada, "Criminal Statistics 1971".
14. In 1963 Scotland had a conviction rate of 91.1%; Canada's was 90.1% in 1963: Report of the Canadian Committee on Corrections1969, p. 153 n.
15. 384 U.S. 436 (1966).
16. The United States Supreme Court held that any statement obtained from a suspect as a result of a police interrogation was not admissible in evidence against him unless the following safeguards were complied with:
    (1) The suspect must first be told that he has a right to remain silent, and that anything he says may be given in evidence against him at trial.
    (2) The suspect must also be told that he has the right to obtain the assistance of counsel, and that, if he cannot afford to retain counsel of his choice, counsel will be appointed for him. Furthermore, he may not be interrogated in the absence of counsel unless he has given a clear and intelligent waiver of this right and that such a waiver may be withdrawn at any time during interrogation, at which point the interrogation must cease until counsel is present or until the waiver is renewed.
17. Seeburger and Wettich, "Miranda in Pittsburgh: A Statistical Study", 29 U. Pitt. L. Rev. 1 (1968).
18. The Royal Commission into Metropolitan Toronto Police Practices. Transcript of the testimony, pp. 864-9, 985-1005.
19. Ibid.
20. Ibid., p. 2508.
21. Ibid., pp. 2485-95.
22. Ibid.