

# Comparative Analysis of Patterns of Compliance with Supreme Court Decisions

## “Miranda” and the Police in Four Communities

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Political scientists until recently have ignored the study of the process involved in complying with Supreme Court decisions. As Richard M. Johnson (1967: 4) has stated, to neglect such studies “is to neglect an indispensable segment of the total judicial process.” Despite the increasing awareness of the importance of this aspect to the judicial process, there are still almost no studies which attempt a comparative analysis of patterns of compliance with or resistance to Supreme Court decisions.

Many of the compliance studies have been concerned with response to Supreme Court decisions involving religious activities in schools (Johnson, 1967; Patric, 1957; Birkby, 1966; Sorauf, 1959; Muir, 1968). This concentration on a single policy area would be more worthwhile if these studies could be easily compared with one another. Unfortunately, they provide neither the conceptualizations nor the methods which would facilitate such comparisons. The foci of the studies vary greatly. For example, some of them attempt to give a detailed account of the reaction to Court decisions in one small geographic area (Johnson, 1967; Muir, 1968). Others are less systematic in discussing patterns of compliance, but discuss the impact of Court decisions on a much more general scale (Sorauf, 1959; Patric, 1957). Not only is it difficult to generalize from these studies, but also one finds very little agreement over the meaning of such concepts as “impact” or “compliance.”

The present study compares four Wisconsin police departments (see Table 1) in their process of complying with the Supreme Court’s *Miranda v. Arizona* (1966) decision. Primarily, it relates this process to the degree of professionalization

**TABLE 1**  
**POPULATION AND SIZE OF POLICE DEPARTMENTS—FOUR WISCONSIN**  
**CITIES (population from 1960 Census unless otherwise indicated)**

	City			
	Green Bay	Kenosha	Racine	Madison
Population	76,888 <sup>a</sup>	62,899	89,144	160,000 <sup>b</sup>
Size of department	120	120	158	202

a. Includes 1963 annexation of about 14,000.

b. Special census, 1964.

found within each department. In the majority opinion of the *Miranda* case, Chief Justice Warren established certain procedures that the police must follow before and during the interrogation of a suspect. Prior to interrogation, the police must advise a suspect of his right to remain silent. The suspect must also be told at this stage that anything he says may be held against him. The police officer must further inform the suspect that, even if the suspect decides to talk, he may discontinue talking at any time. The suspect must also be told that he has a right to have an attorney present during the interrogation, and that, if he is indigent, a lawyer will be provided at government expense. Confessions or other self-incriminating statements made during the interrogation are inadmissible in court unless the suspect was informed of these rights and, prior to making these statements, intelligently waived such rights.

Compliance and deviance are both regularized and routine patterns of behavior on the part of all classes in organized society. One cannot divide society into two groups—individual compliants (or conformists) and deviants. Because of the regularity with which both compliance and deviance occur, and because both manifest a complex combination of behavior and attitudes, one must study the *conditions and distribution* of compliance (Krislov, 1963: 5). Only certain aspects of these conditions and distribution of compliance will be considered in this study.

### Aspects of Compliance

This study investigates the *degree* of compliance with a Supreme Court decision. Degree of compliance depends upon perceptions and attitudes held by those who evaluate whether a decision-making body is complying with the Court decision. For example, a civil rights organization might have far more stringent criteria for evaluating school board compliance than does the school board itself. Both the school board members and members of the civil rights group might agree on what the school board's behavior was, but might violently disagree about whether such behavior should be considered compliance. In the present study the goals that the Supreme Court justices posited in the *Miranda* majority

opinion will be used as the criteria. Other important actors in the communications process may have different standards and goals, and other sources may be more important and more frequently used than is the opinion of the Court. Nonetheless, the opinion sets the initial standards and can be used as an indicator of the goals which the majority of the justices desired to communicate about police interrogation.<sup>1</sup> One cannot assume, however, that these goals and standards are automatically communicated from the Court to the decision makers who are expected to implement the Court's decision. Thus the communications process must also be studied.

There are several reasons why I compare police organizations according to the degree of their professionalization. Police response to legal change is often discussed in terms of police professionalization. In fact, FBI officials, prosecuting attorneys, and other influential members of professional organizations discussed the Miranda decision in these terms (Milner, 1968: 180-200). In their discussion of police reform, advocates of such reform often use criteria of professionalization which are similar to criteria usually used to measure the extent of professionalization in other occupational organizations (compare President's Commission on Law Enforcement [1967: 43-61, 120-143] with Carr-Saunders [1966: 3-9]). Furthermore, it is possible to obtain indicators of professionalization which can be used to compare organizations.

A profession is defined as an ideal type which serves as the model for an occupational group. Professionalization is thus considered to be the *process* involved in developing toward this ideal type (Vollmer and Mills, 1966: vii-viii). Organizations can be compared according to the stages they have reached in this process (Hall, 1968). Writers concerned with the concept of professionalization generally agree that, to some degree, specialization and expertise are criteria for professionalization (Greenwood, 1966).<sup>2</sup> The extent of professionalization can thus be established by criteria which measure the degree of expertise and specialization, and by criteria which indicate the nature of incentives that exist to sanction the development of expertise and specialization.

Using these criteria, I ranked the departments according to an index of professionalization. The following items were used as indicators of the degree of professionalization in each of the four departments:

- (1) patrolman's monthly salary;
- (2) detective's monthly salary;
- (3) the percentage of full-time civilian employees in the department;
- (4) the percentage of criminal investigators in the department;
- (5) the percentage of officers with at least a high school diploma;
- (6) the percentage of officers with at least some college;
- (7) weeks of required police recruit training;
- (8) annual in-service training hours per officer.

In order to rank the departments and compare them according to their degree of professionalization, I computed the sum total of each of these eight variables and then established the fraction of this total that each department composed. For example, the Green Bay department required 10 weeks of recruit training, Kenosha required 8 and Racine and Madison required 12 and 14, respectively. The sum of the required hours equals 44. Thus, for that item Green Bay received a score of .23, that is,  $\frac{10}{44}$ , while Kenosha's score was .18, Racine's .27, and Madison's was .31. For all of these items, a higher score was equated with a greater degree of professionalization. Both Green Bay's and Kenosha's mean score was .22. Racine's was .26 and the Madison department's mean score was .30. The Green Bay and Kenosha departments are the least professionalized, followed in order by Racine and Madison (see Appendix).

The data for this study were gathered between June 1966, and April 1967. Data came from literature published by local police departments (especially their annual reports), from questionnaires submitted to all police officers in the four cities, and from nonstructured interviews with informants in these cities.<sup>3</sup> Additional information about behavior during interrogation was obtained in each community through direct observation of the interrogation process and through field work with detectives.

## FINDINGS

### SOURCES OF POLICY INFORMATION

The process of disseminating law enforcement information from state to local authorities involved neither a hierarchical nor a centralized communications structure. Consequently, the four Wisconsin police departments had a great deal of discretion in choosing from which sources, if any, they would obtain information about the Miranda decision. The state attorney general made a special effort to disseminate such information, but he had no formal powers to require departments to accept his information, much less his viewpoint (Milner, 1968: 220-268). Advocates of increased police professionalization contend that professionalized police departments are more interested in receiving information about changes in law enforcement policy (President's Commission on Law Enforcement, 1967: 32-35). On the surface, the data support this contention. The officers in Green Bay, one of the least professionalized departments, received information from an average of 4.95 sources, while the averages for all the other departments were higher; Kenosha (5.20), Racine (5.24), and Madison (5.82).

Conferences which were organized at the behest of their respective departments and in-service training sessions were the sources of information

most frequently mentioned by the officers in each department. Table 2 further compares the departments' communication processes. Table 2 shows that the degree to which officers remembered being exposed to conferences or training sessions varied almost directly with the degree of professionalization of the departments. Ninety-two percent of the Madison officers remembered learning about the Miranda decision at such sessions, while only 69% of the Racine officers, 67% of the Kenosha officers, and 61% of the Green Bay officers learned about Miranda from these sources.

While not varying directly with professionalization, the other variables in Table 2 nevertheless help elucidate the differences between Madison and the other cities. The two least professionalized departments fall between Madison and Racine in their likelihood to consider training sessions as the best source of information. Of all four departments, the officers in the Madison department were *most* likely to rate the training sessions that were organized by their departments as the best source of information about the Miranda decision, and they were *least* likely to rate local officials (judges, prosecutors, and other local attorneys) as the best source. Officers in Racine, the second most professionalized department, reacted in completely the opposite manner. That is, of the officers in the four departments, those in Racine were *least* likely to perceive the training session as the best source but *most* likely to choose local officials as the best source of information. These conclusions might surprise certain advocates of police professionalization who frequently suggest that the most professionalized police departments are most amenable to information from sources other than those from the law enforcement occupation (President's Commission on Law Enforcement, 1967: 32-35). Local judges and lawyers could conceivably have participated in the Madison in-service training program, and thus the officers might not have listed local officials as a separate source of information,

**TABLE 2**  
**OFFICERS' SOURCES OF INFORMATION IN THE *MIRANDA***  
**COMMUNICATIONS PROCESS (by department)**

Source	Department			
	Green Bay (n=70)	Kenosha (n=64)	Racine (n=58)	Madison (n=78)
<b>Percentage Responding:</b>				
Learned about decision at conference training session.	61	67	69	92
Conferences, training sessions rated <i>best</i> source of <i>Miranda</i> information.	37	34	24	45
Local officials rated the <i>best</i> source of <i>Miranda</i> information.	7	13	17	4

but in fact this was not the case. Neither the local judiciary, the local prosecutor, nor local lawyers were asked to participate in these programs. Moreover, all departments used other law enforcement personnel, namely the FBI, in their training sessions, although, as we shall see, the degree of the use of this organization varied.

Other studies of professionalization help to shed light on the reasons for this reversal of the pattern expected by advocates of police professionalization. As an occupation becomes more specialized, and as it begins to develop a systematic body of abstract principles governing the behavior of the occupation, its members begin to feel that they have a monopoly of expertise about the nature and proceeding of that occupation (Greenwood, 1966). One should then expect that, as a police department undergoes professionalization, its members would have more confidence in their ability to determine the proper rules of occupational behavior. This confidence was particularly apparent among the high-ranking policy-making officers in the Madison department. In the words of the most knowledgeable of these officers:

FBI agents are the best teachers of the police . . . . Attorneys don't know how to talk to the police. This includes the district attorney. He is not a law enforcement official; he's an attorney, and his perspective differs . . . . He [the district attorney] contributed very little [to the process of disseminating information about Miranda]. In fact, I invited his staff to sit in on the FBI lectures.

This official not only refused to recognize the expertise of a local official who was in constant contact with the police, but in fact specifically listed a member of the law enforcement profession, albeit from a different agency, as the best source of police information. Although all departments used the FBI as a source of information, this sentiment about the value of the FBI was most clearly expressed in Madison. In Racine, the second most professionalized department, the district attorney was a more important source of information than his counterparts were to any of the other departments.<sup>4</sup>

In all four communities, information furnished by the FBI was based on lectures prepared by that bureau's expert on police education. This information was presented in a more thorough manner in Madison than it was in any of the other cities. Although these lectures stressed that police must be aware of the ramifications of Miranda, the information was generally presented in a manner which suggested that the FBI was especially concerned with allaying the anxieties of law enforcement officers. Although cautioning against resistance to Miranda, these lectures definitely emphasized ways of maintaining pre-Miranda procedures.<sup>5</sup>

The Madison department was thus most exposed to this source of information which quite explicitly tried to minimize the degree to which Miranda changed the status quo. The most professionalized department, then,

made greatest use of information offered by an organization that attempted to express views that were congruent with the values and attitudes of the law enforcement profession.

### THE DEGREE AND PATTERN OF COMPLIANCE

The goals of the *Miranda v. Arizona* (1966) majority can be summarized as follows:

- (1) to discourage whenever possible the use of confessions, *all* of which are obtained under circumstances which *inherently* lead to coercion of the suspect (444-445, 467-476);
- (2) to make certain that all suspects are informed of their right to remain silent and their right to have an attorney present to protect this right, even if the suspect could not afford to hire his own lawyer (480-481);
- (3) to improve the quality of police officers so that the officers would be able to perform their jobs effectively while still operating under the norms of due process (447, 452, 460); and
- (4) to allay police anxieties by specifically stating that, despite these new constraints created by the Court, interrogation can still at times continue to be a legitimate and effective weapon (477-478).

Both the Court and the FBI sought to ease the anxieties of the police, but the FBI more greatly emphasized that the police could continue to use interrogation techniques of the type which in fact the majority of the Court in *Miranda* seemed to disapprove (compare Dalbey, 1967 with *Miranda*). Both the Court in *Miranda* and the FBI agreed that under certain circumstances police questioning was still possible without being preceded by a *Miranda* warning. The difference was one of emphasis; clearly the *Miranda* majority was more anxious to discourage the use of confessions.

Police perceptions of the meaning of the decision were obtained from responses to the following question: "Recently the Supreme Court decided the case *Miranda v. Arizona*. This case resulted in a rule about interrogation procedures. Describe this rule as best as you can by putting an 'x' next to *all* of the following statements which you think apply to the rule." On all but two items there was little difference between the departments' ability to identify the stipulations of the rule. Table 3 presents a comparison of these two items. The pattern of these perceptions, as shown in Table 3, did not vary directly with the degree of professionalization. The Green Bay department's relatively great response (forty percent) to the first item can be partially attributed to a Wisconsin Supreme Court case which explicitly sanctioned such behavior on the part of that department (*State v. Miller*, 1967). Still, the officers in Madison were most likely to perceive correctly stipulations consistent with the Court's



**TABLE 4**  
**OFFICERS' PERCEPTIONS OF EFFECTS *MIRANDA* HAD ON**  
**THEIR OWN JOBS (by department)**

Effects	Department			
	Green Bay (n=70)	Kenosha (n=64)	Racine (n=58)	Madison (n=78)
Percentage Responding:				
New methods of obtaining evidence now must be used	47	70	64	49
Education and training has increased.	41	72	53	50

were far more likely than their Green Bay counterparts to see such specific changes resulting from *Miranda*.

Perhaps among the other departments, where interrogations were more frequent and visible, the more professional organizations, prior to *Miranda*, had adjusted their education and interrogation procedures in anticipation of such a decision. Madison officers, however, were similar to Green Bay and Kenosha in their failure to anticipate the *Miranda* decision. Twelve percent of the Green Bay officers, 14% of Kenosha, 22% of Racine, and only 13% of the Madison police anticipated that decision. This finding is particularly surprising because of the relationship between approval and anticipation. In the complete sample, 32% of the officers who anticipated the decision approved of *Miranda*, while only 16% of those not anticipating the decision approved. As stated previously, Madison had the greatest percentage of approving officers, but, *despite* the differences both in the communications process and degree of approval, the Madison department was no more likely to anticipate the decision than were the two least professionalized departments.

The Racine communications process might be an important factor in explaining the greater degree of anticipation in the Racine department. Of the four departments, Racine officers were least likely to consider conferences and training sessions as the best source of *Miranda* information and most likely to look toward local groups for such information. This also seemed to be the case prior to *Miranda*. These non-law enforcement groups might have emphasized anticipation of future decisions more than the in-service training programs featuring FBI officials. There were, of course, important differences between Madison and the two least professionalized departments in regard to their in-service training programs, and these differences also existed prior to *Miranda*. The FBI training, which did not emphasize anticipation, was exceptionally important in Madison and may have decreased anticipation of future court decisions even though after *Miranda* the Madison department was more likely to approve of that decision. This explanation is tenuous, and it may well be that



the differences in professionalization were not related to this difference in anticipation.

There is another possible explanation for the lack of perceived change in more professionalized departments. Perhaps, contrary to the assumptions of police reformers, more professionalized departments like Madison were simply less willing to change their procedures. Officers in the two most professionalized departments with high interrogation visibility were least likely to perceive change in interrogation methods. Admittedly, the more approving attitudes of the more professionalized departments and the greater congruence between their perceptions of some of the Court's goals and the actual goals suggest that such departments are more likely to react to the Miranda decision in ways which disseminators of information about the Court's decision would call compliance. There was no apparent difference, however, between the degree of a department's professionalization and the interrogation behavior of its detectives. The Miranda stipulations were quite regularly given in all departments, but this procedure was to a great extent *pro forma*. The detectives informed the person of his rights but then required this person to make an *immediate* decision about whether he wished to waive these rights. Usually waiver was obtained, and the suspect was then immediately questioned. Psychological ploys, which, according to Chief Justice Warren's majority opinion in *Miranda*, made confessions inherently coercive, continued to be used. Thus the officers' behavior may be considered congruent with the Court's goal of stressing the advisement of right, but interrogation behavior was not congruent with the Court's goal of encouraging alternatives to confessions as sources of evidence. In fact, in all departments the general procedure was to attempt at least initially to obtain incriminating statements. Also contrary to the Court's goals was the fact that lawyers played almost no active part in actually supervising the interrogation process. As previously mentioned, most suspects waived their rights to an attorney. If an attorney was called into the case, he usually told his client to say nothing.<sup>10</sup> Consequently there occurred either interrogations using pre-Miranda techniques or no interrogations at all.<sup>11</sup>

The evidence suggests that despite a more sympathetic attitude toward the decision, professionalized departments did not change interrogating behavior any more than did less-professionalized departments. Changes were minimal perhaps because upper-level police administrators were unable to supervise such isolated and often decentralized police activity (Wilson, 1968: 57-83). Furthermore, officers in more professionalized departments who might be more concerned with bringing formal action against a suspect and thus pressure for a confession would consequently be greater in these departments (compare Wilson, 1968). Two limitations in the methods of gathering the interrogation behavior data must be noted. First, no attempt was made to observe the interrogation behavior differences between officers who approved of *Miranda* and those who did not, and no such comparison was made between officers who viewed *Miranda* in a

expense. (9) Voluntary confessions are no longer legal sources of information. (10) A police officer can still ask a person to come voluntarily to the police station without first advising him of his constitutional rights." Items 1, 4, 7, 8, and 10 are considered to be stipulations consistent with the Miranda rule. Thus an officer responded correctly to each of items 1, 4, 7, 8, and 10 if he marked these items and responded correctly to each of items 2, 3, 5, 6, and 9 if he did not.

7. For a discussion of the importance of ideology in the professionalization process, see Skolnick (1966: 238-239) and Wilson (1966: 184-193).

8. The following criteria were used as a measure of professionalism. An officer was considered to view Miranda in terms of professionalism if: (1) the reasons that he gave for the Court's decision were generally consistent with those given by those advocates of police professionalization whose views of the Court's Miranda goals are consistent with the Court's view; or (2) he approved of the Miranda decision on the grounds that it would improve the police profession. Choosing item 1 does not necessarily mean that the officer approved of the decision.

9. The particularly great emphasis on change in Kenosha can partially be explained by the fact that a suspect in an especially brutal murder, which was quite important in the community and in the department could not be interrogated by the police because his attorney would not allow it. The detectives insisted that this suspect was the killer, and attributed to the Miranda rule their inability to question him.

10. Interrogation behavior could conceivably have been influenced by the presence of an outside observer. Such observer bias in this study is limited for two reasons. First, the data showed that despite the presence of an observer, detectives did not always behave in a manner which seemed consistent with the goals of Miranda. Second, to check on such influence, I listened to some interrogations unbeknownst to the investigators.

11. For a criticism of the Court's refusal to consider the differences between its goals and the goals of organizations involved in the local criminal process, see Blumberg (1968: 169-184).

12. All such studies could be improved if more sophisticated methods of observing behavior in nonexperimental settings were available. See Deutscher (1966). A similar point is made from a different perspective in Froman (1968: 43-44).

13. Muir (1968) offers some insight about this in his discussion of how the subjects of his study avoided dissonance created by certain school prayer decisions.

14. For a study comparing two police departments which vary greatly in professionalization, see Wilson (1968). He finds distinct differences in the ways these departments handle juveniles. Also, departments may be more similar in the way they carry out such law enforcement as opposed to order maintenance behavior. Compare Wilson (1968).

### APPENDIX: Testing and Construction of Index of Professionalization

I used an analysis of variance to test the null hypothesis that all the data used to construct the index were drawn from the same sample. The formula is as follows:

$$F = \frac{m \sum (\bar{x}_i - \bar{\bar{x}})^2 / n - 1}{\sum (x_{ij} - \bar{x}_j)^2 / n(m-1)}$$

where

$x_{ij}$  = individual deviation for  $i^{\text{th}}$  row,  $j^{\text{th}}$  column

$\bar{x}_j$  = column mean of column  $j$

$\bar{x}$  = mean of all observations  
 m = number of rows  
 n = number of columns

F = 6.13473, which means that the null hypothesis is rejected; the statistic is significant at the .01 level. The table below presents the data which were used to construct the index of professionalization discussed in the text. It also presents an alternative method of constructing the index. The rank order of each department on each variable is presented, with the absolute number for each variable presented in parentheses. Because this alternative index does not take into consideration the extent of departmental differences in any single variable, I chose not to use it, and employed instead the index explained in the text. Note, however, that according to the alternative index Kenosha is more professionalized than Green Bay.

**ALTERNATIVE COMPARATIVE PROFESSIONALIZATION INDEX: FOUR CITIES**

Item:	Green Bay		Kenosha		Racine		Madison	
	Rank	Amount	Rank	Amount	Rank	Amount	Rank	Amount
Patrolman's Monthly Salary <sup>a</sup>	4	(\$530)	3	(\$586)	1	(\$588)	2	(\$575)
Detective's Monthly Salary <sup>a</sup>	4	(\$610)	3	(\$648)	1	(\$655)	2	(\$651)
% Full-time Civilian Employees <sup>b</sup>	3.5	(9.6%)	2	(10.7%)	3.5	(9.6%)	1	(23.8%)
% Investigators in Department <sup>c</sup>	3.5	(13.5%)	2	(15.4%)	3.5	(13.6%)	1	(18.3%)
% Officers with at least High School Diploma	3	(89.0%)	1	(94.3%)	4	(83.0%)	2	(89.7%)
% Officers with some college	3	(26.5%)	4	(17.1%)	2	(34.5%)	1	(37.2%)
Weeks of Required Recruit Training	3	(10 wks.)	4	(8 wks.)	2	(12 wks.)	1	(14 wks.)
Annual In-Service Training Hours per Officer	4	(55 hrs.)	3	(61 hrs.)	1	(100 hrs.)	2	(90 hrs.)
Total Rank Score	28		22		18		12	
Average Rank	3.50		2.75		2.25		1.50	

a. Average based on annual salary ranges.  
 b. Includes stenographers, janitors, police cadets, radio operators, dog pound, and meter officials.  
 c. Includes detectives, juvenile investigators, and special non-traffic investigators.

**CASES**

MIRANDA v. ARIZONA (1966) 384 U.S. 436.  
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