

statement, and also advised of his right to counsel, and following this if the suspect would say, "I want an attorney, I am not going to speak until you give me an attorney," how does this help the police in interrogation?

Mr. SHADOAN. Well, it helps them because then they can go in and interrogate for 6 hours. Your assumption, Senator, is he will be advised by the attorney not to talk and he won't, or after the warning he won't talk. This is the assumption of the police.

The CHAIRMAN. It would be my assumption, too. But I may be wrong.

Mr. SHADOAN. I think an appropriate analogy, and one which is useful, is to look at the experience in the Armed Forces. In the Armed Forces the suspect is told of his rights, article 32 has to be read to him. His right to remain silent, that anything he may say will be used against him, and under the case of I believe—I cannot recall the case right now, but a case in 1956—they must be advised of their right to counsel, if they talk to the staff legal officer, at least. And that does not seem—I do not think any of us are under the illusion that the armed services are unable to administer justice because of these handcuffs on the investigative forces.

But there is no question but what the bill I suggested is going to be more restrictive on the police than if they just can have carte blanche. The problem is striking an appropriate balance. And if the statistics that I have cited to the committee from the investigative arrest in 1960 are meaningful, I think we have to recognize that the help that flows to the Police Department, certainly it flows to them, is somewhat minimal, is not that 90 percent figure that we have heard, not when 1 percent are all that they even charged them with, after they hold them 8 to 12 hours.

The CHAIRMAN. I certainly appreciate your appearance. I just want to ask you one further question.

You made a considerable issue of this clearance policy. You put it on both extremes. You say one is the clearance policy and the other is the conviction policy. But it would seem to me that on this clearance policy, if the police had an adequate time to interrogate the defendant and check him out more thoroughly, they would avoid this clearance objection that you make.

Do I understand you correctly in this area?

Mr. SHADOAN. I believe that you have not fully grasped what I believe to be my position.

The CHAIRMAN. On the clearance.

Mr. SHADOAN. The problem with the clearance policy is not the time that they have to interrogate, but the absence of any interest in clearing the defense, a philosophy that this is not the job of the police. The cases that I have cited are cases in which the problem was not that he had to charge someone—there is nothing to prevent the police in those cases—there was no confession, there was nothing to prevent them from checking out the story. But they did not do that, because they did not, I believe, one, because they do not have the men. But more serious, they do not feel this is their responsibility. And as long as the police feel the responsibility is limited to getting enough evidence to hold someone, and then it is cleared, it is solved, then more time is not going to avail the innocent of any solution, because the