3 Two Futures for Police Cautioning
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INTRODUCTION

In 1993, the *Royal Commission on Criminal Justice* recommended that police cautioning be governed by statute. This recommendation reflected the failure of advice in successive Home Office Circulars to promote consistency across police force areas, in terms of both policy approaches and decision-making practices. Yet, despite this, given the ineffectiveness of existing national standards for cautioning, it is difficult to foresee the difference that a statutory approach will make, especially as there are definite structural, organizational and occupational limits to achieving a satisfactory level of uniformity.

However, it is precisely the failure to explore these limitations in almost five decades of research work which is responsible for the current political climate surrounding cautioning, and in particular recommendations for greater statutory control. With only two notable exceptions (Pratt, 1986; McConville, Sanders and Leng, 1991), successive research has constantly failed to understand the practice in a relational way. While it is one thing to select out cautioning policy and practice as a discrete analytical topic, it is quite another to ignore its embeddedness in a wide configuration of policing relations. It is in the light of the above that this chapter outlines the need for a sociological analysis of cautioning, and particularly of the possibilities such an approach might bring to the areas of cautioning research and practice. In doing so, this chapter addresses the future of police cautioning in two ways. First, by clearing the ground of the analytical debris of the past, it is hoped that the contours of potential research agendas show up in sharp relief; and second, it throws open to more critical debate the political future of cautioning.

The chapter begins with discussion of the problematic nature of police cautioning, including an analysis of its paradoxical function as diversion, and a broader consideration of its endemic geographical variability. It will be shown how, in the absence of theory, the vagaries of cautioning
have been largely understood as a function of ‘unfettered police discretion’ in cautioning affairs. Following this, discussion suggests that political solutions have remained equally transparent, settling around the idea that the practice needs to be structured, regulated and controlled – culminating in governance by statute. In this way, both problem definition and its solution are formulated in conventionally legalistic ways. In highlighting current cautioning praxis, it will be suggested that such a perspective not only ignores the importance of context and process in understanding the nature of discretion in cautioning, but also obscures the need to appreciate discretionary actions from a sociological point of view. The final section of the chapter suggest that it is only through a sociological analysis that new ways of thinking can be explored. For example, it may be that the extent of police discretion in cautioning affairs is overstated; the idea that the practice is always-already\(^1\) structurally overdetermined remains, at least, a theoretical possibility. I explore this possibility at the macro, mezzo, and micro levels of analysis, to show the difference that a sociological approach to the question of constraint and control might make.

CAUTIONING: PANACEA AND PARADOX

Diversion from formal prosecution in court is predominantly achieved by way of a police caution. In 1994, for indictable offences, 70 per cent of known offenders\(^2\) under 18 years were cautioned; as were 36 per cent of young adult offenders (18 to 20 years); and 8 per cent of adult offenders (aged 21 and over). Two possible ways of interpreting such figures are as follows. From a 'managerial' point of view, it could be suggested that the disposal of cases at an early stage in the criminal process saves the time and resources involved in a full prosecution case.\(^3\) At the same time, diversion at the pre-trial stage reduces the volume of cases to be tried at court, promoting greater efficiency in the trial process itself, and possibly reducing the downward pressure for prison places – the latter being reserved for only the most serious and violent offenders. A more humanitarian view would look towards the impact cautioning has on offenders, suggesting that early diversion reduces the stigmatizing and labelling effects resulting from formal processing and can help to minimize the development of criminal careers associated with a court conviction. However, it has been suggested that the principles of managerialism, with its emphasis on cost effectiveness and efficiency, and humanism, which looks to alleviate