

An Introduction to Police Operations and Methods: The Connection to Law and History



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Section 1 The Role of Police in American Society

Introduction

The purpose of this section is to provide a general introduction to the role of law enforcement in American society with particular attention given to local / [municipal policing](#). While there exists a need for law enforcement at all levels of government, the fact that most police departments in the United States have 50 or fewer officers illustrates the need to focus on those agencies that perform the bulk of day-to-day law enforcement service to local communities. Within this section, and through class lectures, the immediate goal is to develop an appreciation for the fact that law enforcement agencies as well as individual officers are frequently required to solve very [complex problems](#) while operating within a democratic system of government that places considerable emphasis upon [individual rights and liberties](#). This is certainly not an easy balance to strike and often results in conflict and confusion regarding what the police “can and cannot do” as well as what “they really do”.

The [role of police](#) from both a theoretical and practical perspective has been the subject of much interest since the earliest organized police forces were created in the United States. Because the police are agents of the government in a nation founded upon very closely held principles of liberty, their role and authority have, perhaps not surprisingly, faced a healthy level of scrutiny which has evolved over time. Like the law itself, police officers play a significant role in [regulating social behavior](#), maintaining limits on individual freedom and working to solve disputes. More controversial is the debate regarding the role of police in protecting the interests of those in power and the use of physical [force](#) to accomplish legal objectives. Policing as an institution certainly did not place itself in this tenuous position voluntarily, but nonetheless finds itself there through a confluence of various historical, political, social and cultural factors. Given this unalterable fact, the issue thus becomes one of operating within existing and emerging constraints.

Law

Keeping in mind that law enforcement falls within the [executive branch](#) of government responsible for [enforcing the law](#), police officers must be aware of and adhere to several types and sources of law on an almost call-by-call basis. Three types of law with which the police must be very familiar include the substantive, procedural, and case law. The substantive law, also referred to as the [penal code](#), specifies acts or omissions that constitute a [criminal offense](#). The [procedural law](#) specifies how [police](#) and courts must operate. Case law refers to the decisions of appellate courts (such as the [Supreme Court](#)). At the same time, the police must operate within the principles of the [Constitution](#) and attending [Bill of Rights](#). Those that find direct application in policing include the First, Second, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments. Because the substantive, procedural and case law are constantly evolving, it is imperative that police officers remain up-to-date on significant changes in the law because many of the actions they undertake are largely premised upon these sources. Failing to do so places both officers and citizens at considerable peril for mistakes that often times, once made, cannot be easily undone. Additional attention will be given to the topic of “police and the rule of law” in the final section.

Criminal Justice System

Another important factor to remember about law enforcement is that it is only one component of a larger [criminal justice system](#). Compared to the other component parts (courts and corrections), policing is the most publicly visible of the three and in almost all instances is the initial [point of contact](#) between individuals and the larger system. While both the news and popular television shows sometimes depict the work and realities of the other two components, police occupy the most high-profile public role given their distinctive uniforms as well as the fact that they operate 24/7/365. They are also the [largest component](#) of the system not only in terms of personnel but fiscal resources and support in the form of taxpayer dollars. Add to this the fact that the police exercise very broad and powerful discretion and it should not be surprising to find that they are often referred to as the “[gatekeepers](#)” of the criminal justice system. Finally, it is important to note that what the police do not only affects the individuals who are involved, but the entire [criminal justice system](#). Thus, public pressure to make more arrests means more cases will have to be tried by the courts thereby increasing the number of people to be incarcerated or supervised and eventually released for the police to deal with again in a [cycle](#) that defies simple solution.

Media

Perhaps not surprisingly, many people get their information about law enforcement and the criminal justice system from the [mass media](#). Compared to other sources of information, this outlet does not accurately depict the practical realities of police work. [Television dramas](#) are exactly that – dramatic depictions of atypical situations that occur far less frequently than the daily tasks associated with the more common role of maintaining order. Within this context, [media depictions](#) of the police often include shootouts, high-speed pursuits, interrogations of violent offenders, dramatic rescues, conducting large-scale undercover operations, and the like. While police work certainly has its fair share of excitement, these events occur far less often than the more routine and mundane tasks of directing traffic, taking reports, assisting motorists, interacting with the community, working with other public service providers and agencies, intervening in private disputes, helping those who cannot help themselves, and the like.

Order Maintenance

These and other practical realities of police work are consistently supported by the results of empirical inquiry conducted by independent researchers as well as official government reports. Here, the early work of James Q. Wilson is instructive insofar as he described a macro-level typology of law enforcement agencies in his book “[Varieties of Police Behavior](#).” In particular, Wilson suggests that there are three types of law enforcement agencies which he identifies as: “watchman,” “legalistic,” and “service oriented,” each with their own unique characteristics and priorities. While insightful, there are some limitations to Wilson’s to such a simplistic view of policing in a complex society such as ours. In the years and decades that have since elapsed, additional empirical research into “what the police actually do,” indeed confirms that the bulk of police work may be appropriately categorized as “[order maintenance](#)” which, loosely translated, refers to making sure that things do not get out of hand. The fact that much of what the police “really do” involves multiple tasks that are closely associated with [order maintenance](#) is supported by countless empirical studies which reveal that only about 10% of the calls received by the police require some form of enforcement action. The remaining (and largest) portion of incoming calls for service are exactly that – requests for assistance from the police to help

solve individual or community problems, gather intelligence, investigate suspicious persons or circumstances, and take offense or information reports.

Conclusion

As the preceding overview illustrates, the role of police in a modern democratic society is complex and constantly evolving. They are expected to respond to the demands of competing constituencies and resolve complex social and individual problems. At times this requires invocation of the formal criminal justice system and the use of force to accomplish lawful objectives. In such instances police work is not always “pretty” and at times manifests unpleasant realities about the “underbelly” of problems that continue to exist despite our best efforts to improve as both a nation and a people.

The remaining sections that follow will give consideration to various topics intended to provide an overview of what it is that the police actually “do”. In order to understand how and why the police operate as they do, it becomes necessary to first examine the history of organized law enforcement in the United States (Section 2). Attention will also be given to the manner by which qualified police officers are selected and trained for the job (Section 3). Given that patrol work and criminal investigations constitute a significant portion of the police function, it becomes important to better understand how such work is actually performed and what measures can reasonably be taken to improve the efficiency and effectiveness of both endeavors (Sections 4 & 5, respectively). Underlying the day-to-day work of police officers are the pervasive issues of ethics and discretion (Section 6) which, if not properly inculcated and controlled, can lead to abuses of power and result in problems of deviance and corruption (Section 7). The final section (8) will provide an overview of police and the rule of law by identifying significant Supreme Court decisions that have shaped the limits of law enforcement authority under the Constitution, with particular attention given to dispelling considerable misconception about what they actually “can and cannot do”.

Discussion Questions

1. What specific characteristics of American democracy make the task of law enforcement more difficult than might otherwise be the case in other countries or under differing forms of government?
2. Why is it important for the public to understand the role and mission of the police in contemporary society?
3. What practical measures can the police take to better inform the public about their mission and accompanying scope of lawful authority to accomplish such objectives?

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Other Resources

To locate additional library resources related to an Introduction to Criminal Justice and Law Enforcement, please enter your search terms (keywords) into the search tool located at www.lib.usm.edu. You will find several books on the 3rd Floor of the Cook Library in the call number range HV 6789-9990, as well as, on the 4th Floor in the call number range KF 9200-9300.

Section 2 History of Policing

Introduction

The objective of this section is to provide a brief history of organized law enforcement. In particular, attention will be given to the origins of policing in England and the various stages of evolution and development in the United States. Specific individuals who made notable contributions to both our early and contemporary perspectives on policing will also be identified.

Developments in England

The history of law enforcement is, in the larger scheme, relatively short by comparison to other collective human endeavors. Although night watch systems existed and were generally effective in many societies, a more organized approach was required in order to effectively combat the emergence of crime in more advanced societies. By the mid-1700's, England had experienced rapid urbanization and crime was abundant. Individuals such as [Sir Henry Fielding](#) and [Patrick Colquhoun](#) undertook initial efforts to create more formalized systems of policing and private security forces, respectively. By 1829, Home Secretary Sir Robert Peel introduced a bill in Parliament to create a [Metropolitan Police force](#). Despite popular conception, Peel himself did not oversee daily operations of the newly-created force. Rather, two joint commissioners shared this responsibility – Charles Rowan used his military experience to organize and train the force while [Richard Mayne](#) used his experience to define the legal mandate and parameters.

Given that there existed limited organizational theory around which to organize and model the newly-created force, it is perhaps not surprising to find that there was significant turnover and attrition during just the first few years. For example, during the first three years of operation there was a turnover of 11,000 officers – 5,000 of which were due to dismissals (e.g., firings) and another 6,000 due to resignations. Additional information regarding issues such as this confronted during the formative years of the London Metropolitan Police as well as the foundation for its creation laid by Fielding, Colquhoun and Peel may be found in the books and articles cited at the end of the section.

Developments in the United States

The formative experiences of England, along with those of France and Spain to a lesser extent, provided a basis for what would become the unique American experience with early organized [law enforcement](#). The first formally organized agencies in the United States emerged in the mid 1800's with creation of the [Boston Police Department](#), New York and Chicago police departments. Important to note is the fact that many of these agencies were created at a time when very little was actually known about how to best organize, supervise and motivate employees. Furthermore, several [issues](#) that confronted law enforcement during these early years in the United States included: 1) whether or not the police should be armed, 2) whether or not the police should wear distinctive uniforms, 3) how much authority the police possessed, and 4) how much force the police were lawfully authorized to use.

Political Spoils and Professionalization

Beyond these early years, American law enforcement was initially characterized by a period of political spoils in which officers owed their jobs to local officials through a system of patronage. Jobs and promotions in law enforcement were routinely bought and sold given that the job offered secure employment and carried some social prestige along with certain job-related benefits and “perks.” This system clearly presented multiple ethical issues, such that by the late 1800’s effort was undertaken to professionalize the police and remove control from local politicians. Such initiatives can be traced to formation of the International Association of Chiefs of Police ([IACP](#)) in 1893. The work of August Vollmer, widely regarded as the “Patriarch of Police Professionalism” inspired the later writings of O.W. [Wilson](#) who authored the first text on police planning and administration in 1950. Instances of organizational and individual corruption in law enforcement also prompted the creation of various “blue ribbon” commissions. Notable among these was the Knapp Commission which relied heavily upon the testimony of NYPD officer Frank [Serpico](#). This video provides a thoughtful reflection on those culminating and captivating events

Modernization

By the 1960’s, American society was experiencing radical and significant change to such an extent that questions existed regarding the future of democracy itself. Widespread rioting occurred on a regular basis across the country due to racial inequality and involvement of the United States in the Vietnam War. These events placed the police in an extremely adversarial position with the public, perhaps even more so than during Prohibition. As a result of these clashes, the U.S. Riot Commission and the President’s Commission on Law Enforcement and The Administration of Justice made sweeping [recommendations](#) intended to improve the quality of law enforcement personnel and service. Among the recommendations were racial integration of the police and enhanced training and education supported by federal funding through creation of the Law Enforcement Assistance Administration. At the same time, several high-profile legal cases prompted the Supreme Court to become more actively involved in regulating and setting limits on certain police behaviors. Cases such as [Mapp v. Ohio](#) (applied the Exclusionary Rule to state criminal proceedings); [Escobedo v. Illinois](#) (established the nexus between the 5th and 6th Amendments); and [Miranda v. Arizona](#) (criminal suspects must be informed of certain constitutional rights during custodial interrogation), significantly altered the legal landscape and arguably furthered efforts to professionalize the police.

Contemporary Issues

In the years that have since elapsed, law enforcement has been shaped by other external influences such as the War on Drugs of the 1980’s, the discovery and application of [scientific advances](#) to criminal investigations, and the rapid evolution of more sophisticated criminal activity due to technological advances. As a result of these more recent factors, taken in combination with its cumulative history, the contemporary nature of policing in the United States is such that both law enforcement agencies and individual officers alike are confronted with delivering core criminal justice and public safety services to an extremely diverse society which manifests complex problems that often defy simple resolution.

Conclusion

The history of organized law enforcement in the U.S., albeit brief in comparison to other collective human endeavors, has nonetheless provided countless valuable insights over the years into the topic and attending debate regarding the need for social control within an open and democratic society. Many of these lessons have been hard learned and warrant recognition for both the positive and negative implications they have presented. In some ways law enforcement today is not that far removed from years past while in other ways it is significantly advanced. At times the history of policing has been eerily cyclical with mistakes of the past repeated as though such experiences had never before occurred. Perhaps this is due in part to the less-than-appealing nature of history itself. The seductive aspects of police work certainly have the tendency to draw attention away from historical perspective and present the risk of unnecessarily repeating mistakes of the past. For this reason, police officers, administrators and scholars must remain ever-mindful of these experiences with an eye toward capitalizing on positive accomplishments and minimizing mistakes. In light of this brief historical overview, the sections that follow will focus upon some of the most pressing issues confronting the police today, namely: selection and training of qualified personnel, patrol operations, criminal investigations, law enforcement culture, and operating within the law.

Discussion Questions

1. Why is it important to understand the history of law enforcement in the United States?
2. Is there value in studying the evolution of law enforcement as it exists in other developed nations and societies?
3. What are the emerging / evolving social, political, economic factors that pose significant potential to influence the future of American law enforcement?

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Section 3 Police Personnel Systems

Introduction

The purpose of this section is to explore a number and variety of issues related to the selection and training of qualified individuals to serve as police officers. Specifically, this section will: 1) briefly describe the importance of hiring the “right people” to be police officers, 2) outline relevant laws that guide the hiring of police officers, 3) review the most common stages to the selection process, and 4) provide an overview of how police officers are trained at the time of initial appointment as well as over the course of their careers.

Hiring the “Right” People

The selection of qualified law enforcement personnel is a matter of significant interest and importance given the considerable trust that is placed in officers to protect and serve all segments of the community within the limits of the law. As noted in Section I, officers are authorized to use force, up to and including deadly force, to accomplish necessary and lawful objectives. While not every situation that the police encounter requires the use of force, they nonetheless exercise very broad [discretion](#) in determining what situations and which individuals are formally handled by the criminal justice system and when others can instead be handled by less formal means. Given this weighty responsibility and broad discretionary power, it is absolutely imperative that agencies act with due diligence to select the “[right](#)” individuals to be police officers.

The nature of law enforcement is substantively different from other occupations given the stakes that are involved. In light of these realities law enforcement agencies do not just hire any person that comes along looking for a job – or at least they should not! However, it is important to keep in mind that police officers are also individuals and thus equally prone to making bad decisions like others. And, while there is no real way to ensure that officers as individuals will never make mistakes or errors in judgment, certain measures can be taken to select individuals who possess the necessary maturity and mental faculties to ideally avoid or at least minimize the likelihood of committing egregious errors. Minimizing this risk is important in several regards: 1) When police officers make mistakes through errors in judgment there are “real” consequences for those involved, 2) errors in judgment by officers compromise public trust and confidence in the police, 3) egregious errors can result in costly litigation at taxpayer expense, and 4) even a single, isolated mistake can damage an agency’s reputation (and perhaps that of the larger profession as well) into the indefinite future.

Federal Laws Guiding Police Employment

Contrary to common belief, the hiring of individuals to serve as police officers is no simple matter given the abundance of federal laws that guide contemporary employment decisions. Where agencies depart from these relevant standards costly litigation may likely occur, thereby distracting the agency leadership from performing its core public safety functions. Among the relevant federal laws that guide employment matters of particular interest to law enforcement are [Title VII of the Civil Rights act of 1964](#) and [The Americans with Disabilities Act of 1990](#). Both find particular application to law enforcement and will be described below briefly with additional supporting information conveyed through class lectures.

Title VII of the Civil Rights Act of 1964 was signed into law by President Lyndon B. Johnson in an effort to ameliorate the causes and consequences of discrimination not only in employment settings, but in many other social contexts as well. Specifically, Title VII prohibits discrimination on five grounds: 1) race, 2) color, 3) religion, 4) sex, and 5) national origin. In the strictest sense, Title VII prohibits discrimination in employment-related matters on these five grounds but, as a practical reality, there may be certain limited instances in which an employer has a legitimately justifiable basis for departing from the law. In such instances the employer bears the burden of demonstrating what is referred to as a Bona Fide Occupational Qualification, or “BFOQ.” Clearly, the claimed BFOQ cannot just be a preference but, rather, must relate to an essential job duty that is necessary for operation of the organization. Race and color can never be a BFOQ. However, employers may exercise the BFOQ exception for religion, sex and national origin. Further explanation of these five categories and illustrative BFOQ justifications will be presented in class.

For years, Title VII had been widely regarded as the most complex federal law prohibiting discrimination in employment and other contexts until 1990 when President George H. W. Bush signed the Americans with Disabilities Act into law. What makes the ADA arguably more complex than Title VII is its breadth of coverage. To illustrate, consider that: A person is deemed to have a [disability](#) if s/he suffers from, “a physical or mental impairment that substantially limits one or more of the major life activities of such individual” such as, “seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning” among others. Furthermore, the ADA protects diseases such as cancer, AIDS, epilepsy, retardation, and obesity. The act does not, however, protect current drug users. Given the highly physical nature of police work, the ADA poses the potential to have significant impact on law enforcement hiring practices and, as such, will receive further consideration in class lecture and discussion.

Employment Discrimination Claims

It would be very naïve to think that discrimination in its various forms does not still occur despite these very comprehensive federal laws that are, in many instances, also supplemented by similar [state statutes](#). In very simplistic terms, employment discrimination can be categorized into two broad forms: 1) manifest (outward) or 2) latent (subtle). Proving a claim of discrimination can sometimes be difficult, especially where it is much more latent or [subtle](#). Affected employees cannot just present themselves at the courthouse and file their own lawsuit alleging discrimination. Instead, they must first file a complaint with The Equal Employment Opportunity Commission (EEOC) which is the federal agency charged with investigating such claims. Where merit to the claim is found, the EEOC will issue a “Right to Sue” letter that then allows the aggrieved individual(s) to proceed with filing an official case with the [federal judiciary](#) (which, by the way, has its own set of established standards that may not necessarily always work in favor of the aggrieved party).

In reviewing claims of discrimination, courts have developed and relied upon variety of standards for determining if, in fact, a violation of federal law has occurred. Among these standards are [disparate treatment](#), [disparate impact](#), disparate rejections, population comparisons and the [McDonnell-Douglas](#) test. Each of these standards can have varied and significant implications for law enforcement hiring policies and employment practices given the extremely diverse society in which we now live.

Selection Strategies & Procedures

Attention now turns to the process of actually selecting qualified individuals to serve as police officers. This task may be approached from [two perspectives](#) generally referred to as: 1) a “screen in” strategy, or 2) a “screen out” strategy. The “screen in” strategy is often used by highly competitive agencies that receive a large number of applications from very qualified candidates. Under this approach the agency articulates its organizational goals / values and the desired qualities / characteristics of its personnel and then only gives consideration to the absolutely best qualified applicants who meet those ideal standards. The more conventional and widely relied upon approach is the “screen out” strategy which effectively orders a set of figurative “hurdles” designed to eliminate applicants with undesirable traits through various stages of the selection process. Those applicants that “clear the hurdles” and make it to the end of the process are deemed suitable for employment. However, the important caveat worth noting is that those individuals who successfully navigate the “screen out” process are not necessarily the best qualified candidates for the job but, rather, only “minimally” qualified.

Consistent with the screen out strategy, most law enforcement agencies use a selection process that orders stages based upon a combination of factors – namely effectiveness and expense. That is, stages of the selection process are ordered so that the least expensive but most effective methods for eliminating unsuitable applicants occur early on, saving the more expensive methods for later in the process. Such an approach makes practical sense when one considers that an agency does not need to incur the expense associated with a costly psychological evaluation in order to eliminate an unsuitable candidate who, for example, does not even meet the minimum educational requirement. Additionally, certain criteria may need to be satisfied before an agency will even provide an interested candidate with the actual application packet. Typically, these [pre-application criteria](#) include verifiable proof of age, education, residency, citizenship, and the like. Assuming these pre-application criteria are satisfied, the selection process typically includes the following stages (with some variation between agencies): written / practical screening examination, physical agility / fitness test, background investigation, polygraph examination, psychological evaluation, and oral interview. Each of these stages will be discussed more fully through class lectures.

The Police Academy

Assuming that an applicant successfully navigates all stages of the selection process, s/he must attend a basic training academy, the purpose of which is to impart the basic knowledge, skills and abilities required of the job as well as to figuratively initiate the individual into the police culture. Although academy length and requirements vary from one agency to the next and from state to [state](#), all must satisfy minimum standards that are generally established by an administrative board which oversees law enforcement certification and licensure within each state. The typical [topics](#) that are addressed in the academy include, but are not limited to: use of force defensive tactics, mechanics of arrest, firearms proficiency, constitutional law, traffic code, accident investigation, report writing, courtroom testimony, violator contacts, traffic stops, and, tactical driving.

Post-Academy Field Training

While the police academy is intended to introduce the “rookie” officer to various aspects of the job, it is exactly that – an introduction. Fine-tuning of these essential skills, some of which may later become a matter of life or death for the officer or perhaps another person, occurs when the rookie is paired with a more senior officer in what is referred to as the “[field training](#)” period. During this stage the Field Training Officer (FTO) verifies through continual practice and direct supervision (with sometimes very direct feedback) that the new officer can actually perform the tasks learned in the academy in real-world situations. Field training introduces additional basic skills such as radio operations, situational awareness, vehicle operations, paperwork flow, policy and procedure compliance, and the like.

In-Service Training

As one might expect, the need for law enforcement officers to remain well trained throughout the course of their careers is a practical imperative given today’s complex social and legal environment. With this in mind, agencies are typically required (again, by the state administrative board) to provide officers with regular [in-service training](#). At times these topics are mandated so that the agency has no choice but to make certain that all officers undergo the prescribed training. However, agencies are always allowed to provide more than the minimum with regard to in-service training requirements and topics. These topics generally address the “high liability” aspects of police work such as: firearms qualification, defensive tactics, emergency vehicle operations, use of force, legal updates, etc.

Conclusion

The selection of qualified individuals to serve as police officers is a matter of significant public concern given the broad discretion and power that accompanies the position. Because individual officers have the power to stop, question, arrest and use force, it is imperative that only individuals with the right temperament and cognitive faculties occupy such roles. While police work inherently requires some measure of physical ability, it also requires the ability to solve complex individual and social problems through intellect, understanding, compassion and communication. Because of this, finding the “right balance” has always been both a goal and struggle. Countless empirical studies and scholarly articles have explored these issues, most notably from a psychological perspective which seems to offer promise in helping “screen out” those individuals with undesirable traits or characteristics that potentially lend themselves to future problems.

Discussion Questions

1. Explain how the “screen in” and “screen out” strategies differ from one another. Describe how these two divergent approaches can be reasonably reconciled with one another to create an ideal balance.
2. How does Title VII of the Civil Rights Act apply to law enforcement and what benefits does it bring to the task of selecting qualified individuals to serve as law enforcement officers? What aspects / provisions of Title VII might impede police personnel systems?
3. What additional screening mechanisms and procedures can be implemented for purposes of selecting the best-qualified individuals to serve as police officers?

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Section 4 Police Operations

Introduction

The purpose of this section is to provide an overview of [police operations](#) to include both the patrol and investigative functions. Specifically, the objective is to better understand matters related to the effective and efficient deployment of patrol officers as well as the manner in which criminal investigations are undertaken and conducted. Both of these topics are important because they are the very essence of what the public expects the police to do – [prevent, respond to, investigate and solve crimes](#). In an ideal world, the police would be successful in meeting each of these expectations. However, the practical realities of a complex society where police resources are often spread thin and criminal behavior assumes multiple forms makes accomplishing these goals highly impractical. Thus, the question becomes one of determining how the police can maximize the effective use of limited personnel resources to combat the problem of crime in light of such circumstances.

Prevention

Over the years, police patrols have been conducted by various means to include everything from foot patrols to the use of aircraft. Of course these means are neither present nor practical in all community settings. While it is indeed useful to know the various means by which police patrols are conducted in a given community (e.g., foot, bicycle, horseback, motorized patrol), what is more important to understand is the philosophy under which they operate. Specifically, the traditional philosophy of [preventive patrol](#), generally attributed to the early writings of O.W. Wilson, suggested that officers should conduct high-visibility random patrols, respond directly and rapidly to citizen requests for service, resolve the problem / issue at hand, and promptly return to service in order to await the next call for assistance.

Kelling Study

While the foregoing philosophy possesses considerable intuitive appeal, questions arise regarding whether or not this is, in fact, the best approach to preventing crime. From the latter months of 1972 through 1973, George Kelling with support from the [Police Foundation](#) conducted research into the effectiveness of patrol operations in what has since come to be known as the Kansas City Preventive Patrol Experiment. Specifically, Kelling explored the traditional philosophy underlying police patrols as they were then (and are still today) conducted in most police agencies across the country. That traditional philosophy centered upon high-profile, randomized patrols with rapid response to calls for assistance. The question that Kelling and his team of researchers sought to answer was whether or not such an approach was the most effective way for agencies and officers to meet the goals and objectives they sought to accomplish. In order to satisfy the research objective, the city's fifteen patrol districts were divided into three distinct groups of five each, with each district receiving a specific type of police patrol presence. The three groups were identified as the "control," "proactive" and "reactive" districts. Police presence was removed from the "reactive" district and reassigned to the "proactive" district, resulting in a decreased police presence in the former and an increased police presence in the latter. No change to police presence occurred in the "control" district. From this design, several logically derived hypotheses could be tested regarding changes in the level of crime, changes in the fear of crime, and changes in support for the police. For example, reason suggests that the level of crime would increase in

the reactive district (due to reduced police presence) and that it would decrease in the proactive district (due to increased police presence), but that there would be no change in the control district. In the end, Kelling and his team of researchers found that there were no statistically significant differences in these measures across the three types of districts thereby raising questions regarding the effectiveness of prevailing patrol deployment strategies. The consequence of this realization was that police planners and administrators began to [reconsider](#) the manner in which officers were deployed for purposes of conducting patrol operations.

In the years and decades that have since elapsed, a variety of more [strategic deployment](#) methods have emerged to include D-runs, split force configurations, saturation patrols, proactive patrols, crime-specific policing and repeat offender programs.

Against this general backdrop, class lectures will further explore both the philosophical ideals and practical realities of “patrol work” and what can be done to accomplish the goal of preventing crimes before they occur.

Criminal Investigations

In the world of police work, at least one thing is certain – the police cannot prevent all crimes in all places at all times. From this certainty emerges the practical need for follow up investigations typically conducted by detectives or in some instances the responding officers themselves. Another equally certain truth about criminal investigations in particular is that the popular media significantly distorts the realities of detective work through several [television shows](#) that tend to depict such cases as high-drama events that always result in the successful resolution and prosecution of offenders. Quite to the contrary, the vast majority of crime often goes unsolved and does not involve large-scale and time-consuming investigations. In fact, many “garden variety” criminal offenses may never even be investigated at all due to the sheer volume of cases that are reported relative to the much smaller number of detectives who are available to investigate such occurrences. Thus, the glamorized depictions of the [day-to-day work](#) that detectives do and the methods / resources at their disposal are grossly misrepresented by the popular media. Keeping in mind that most police departments in the United States have 50 or fewer officers, many such agencies lack even the most basic investigative resources let alone the support of crime scene units and the latest [forensic methods](#) and techniques.

Given that the patrol function consumes the largest portion of a typical agency’s personnel resources (meaning most officers are assigned to the patrol division), what often occurs is a “funnel” effect in which a large number of reports are taken by a large number of officers that then “funnel” down to a much smaller number of detectives for follow-up investigation. And this illustration raises an important point – Contrary to what many detectives may believe, the function of investigations is to support the patrol function, and not vice-versa. Thus, the investigative function is intended to support the patrol function through conducting follow-up investigations to offense reports taken by uniformed officers. With this in mind, an important issue that emerges is developing mechanisms for “screening” which cases to [actively investigate](#) and which ones to not investigate. Another dimension worthy of further consideration is what investigators actually “do” and the methods by which most cases are solved. Finally, attention should also be given to identifying mechanisms that enhance the effectiveness of criminal investigations.

Conclusion

This section was intended to provide a general overview of contemporary police operations to include the patrol and investigative functions. In particular, both divisions should work in combination with one another to achieve the goal of prevention while maximizing available resources using state-of-the-art knowledge regarding “what works.” While traditional patrol and investigative strategies provide a certain level of “comfort” because they have been so widely relied upon over the years, this does not necessarily mean that they are the most effective or efficient methods for achieving stated goals particularly in a time of shrinking budgets and resources. Further compounding issues related to how the police operate on a day-to-day basis is the ever-expanding role of local police agencies and officers to assume even greater responsibility for preventing and responding to an increasingly complex range of criminal activity. Such criminal activity does not occur in a vacuum and requires agencies to coordinate with and adapt to the operational strategies and tactics used by others in order to accomplish unified prevention and apprehension goals.

Discussion Questions

1. How do studies like the Kansas City Preventive Patrol Experiment help inform police planners and administrators about the effective deployment of limited law enforcement resources?
2. What are some quantitative methods that can be used to try and better understand the work that criminal investigators actually do to solve cases?
3. In what specific ways can the patrol and investigation divisions work more closely with one another to achieve the ideal goal of crime prevention or apprehension of offenders after-the-fact?

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Other Resources

To locate additional library resources related to Police Operations, please enter your search terms (keywords) into the search tool located at www.lib.usm.edu. You will find several books on the 3rd Floor of the Cook Library in the call number range HV 7921-8138.

Section 5 Police Culture and Behavior

Introduction

Law enforcement is unlike most other occupations in many distinct ways. On an almost daily basis, police officers observe first-hand the worst aspects of society. Perhaps the only other professions routinely exposed to such [negative experiences](#) are other emergency service workers, emergency room personnel, and combat military troops. That is, the daily work experiences of police officers (as well as those noted above) substantively differ from the type of work done by accountants, skilled tradesmen, retail employees, school teachers, and the like. While these other jobs certainly have their own fair share of drawbacks, they do not regularly pose the same [risk of assault](#), injury and death that accompanies life in a police uniform. Similarly, many citizens are quick to criticize the police but are unwilling to put themselves in harm's way to do the job or first "walk a mile in the officer's shoes" to see firsthand what the job is really like. Against this backdrop, the objective of this particular section is to provide some insight into how and why police officers "think and act" the way that they do. Clearly there are no simple explanations for the myriad of forces that drive individual and collective officer behavior. However, the information, supporting references and external resources that follow are intended to help "outsiders" better understand the way that officers view and react to the world in which they operate.

Practical Realities of Police Work

As noted above, police work is unlike other professions. Police officers both routinely see and do things that most members of the general population are never exposed to during the course of an entire lifetime. For example, officers respond to major vehicle accidents with fatalities. They conduct [death](#) investigations of suicides and murders. They see children, the elderly, and mentally disabled individuals who have been physically abused or exploited. They interact with individuals who have been sexually assaulted. They deliver death notifications to next-of-kin. They interact with criminal suspects who are, more times than not, outright deceptive and dishonest about their actions or intent. They put their own safety at peril and place themselves in harm's way to protect others they do not even know. They deal with individuals and situations that are unpredictable and can turn violent in the blink of an eye. When one considers these negative realities combined with the low pay, respect and support that most officers receive, it should come as no surprise to find that that they do, in fact, tend to see the world quite differently, and with far less positivity and optimism, than the general population.

The Police Subculture

Beyond the routinely negative experiences that individual officers confront on a day-to-day basis, the natural human tendency to seek out and associate with others who share common views and experiences also contributes significantly to how they both think and behave. The society of police officers, often referred to as the [police "subculture"](#) is "closed" and generally views anyone not closely associated with the public safety occupation an "[outsider](#)" who cannot be trusted. Such self-imposed and limited interaction with others from outside the occupation perpetually reinforces the prevailing negative worldview that officers are exposed to very early in their careers. One interesting question regarding this issue is that of determining whether officers come to the job with such beliefs, perceptions and attitudes already in place or, instead, if they emerge and develop as a result of the job

itself. Here, the early work of Arthur Niederhoffer is informative. In his 1967 book [Behind the Shield: The Police in Urban Society](#), Niederhoffer explores the issue of cynicism in police work, namely its origins and effects. Not only does he conclude that cynicism among officers is a product of the job itself, but that they also harbor considerable levels of distrust and disdain for some of their own colleagues as well as the bureaucracies in which they operate.

Typologies of Police Behavior

Using the early work of [James Q. Wilson](#) and his contribution to understanding the role orientation of agencies (e.g., watchman, legalistic, service) from a macro level of analysis, other researchers have developed and applied similar typologies to explain the behavior of individual officers. For example, the policing styles of officers may be characterized along similar lines using descriptive labels such as the “Crime Fighter,” “Law Enforcer,” or “Social Agent.” While the characteristics of these and other commonly used typologies will be discussed in class, it is important to note that strict adherence to one and only one of these roles is impractical for long-term success within the occupation given the broad variation in situations that officers regularly confront and resolve.

Academic Disciplines Useful in Understanding Police Behavior

More recent research within the specialized discipline of police and public safety psychology tends to confirm that police officers do, in fact, manifest distinctly different [personality profiles](#) and working personalities as compared to members of the general population. While some variation exists between individuals, police officers generally tend to be more conservative, cynical, suspicious, etc. than others in different occupational roles.

While the academic discipline of psychology helps to explain the behavior of individual officers, two others that provide valuable insight into collective police behavior are sociology and anthropology. The [sociological perspective](#) is particularly useful in understanding the origins of group behavior while the [anthropological perspective](#) lends insight into how group norms, customs and values are transmitted from one generation of officers to the next. Specifically, the sociological perspective examines origins and distinguishing characteristics of the police subculture (such as “street ethics,” and the “blue wall of silence”), while the anthropological perspective has explored reasons why policing as an institution and occupation has been slow to change in certain ways despite widespread and concerted effort over an extended period of time.

Negative Consequences of Police Work

On balance, the occupation of law enforcement and its resulting subcultural attitudes often result in more negative than positive consequences for individual officers. When confronted with such realities, officers eventually begin to experience job burnout and the very natural physical and mental [consequences](#) that arise from various [sources of stress](#). These sources include: life threatening stressors, organizational stressors, external stressors, functional stressors, and physiological stressors, to name a few. The issue that arises from this inevitability is how to effectively cope with the stress one experiences. Clearly there are positive coping methods (e.g., exercise, etc.) just as there are negative ones (e.g., substance abuse, etc.). Of greater concern are the negative coping methods and the implications they have for ending careers through inappropriate on or off-duty behaviors, ruining interpersonal relationships as the result of poor communication or domestic violence, or contributing to

self-inflicted harm such as suicide. In light of the overwhelmingly negative consequences associated with occupational stress among police officers, further consideration will be given to these and other issues through class lecture and discussion.

Conclusion

Knowledge of how police officers view the world, as well as how they view their individual and collective roles within it, is vitally important to understanding why they sometimes “do what they do”. This knowledge can be developed by any number of means ranging from purely qualitative or ethnographic explorations to more quantitative studies involving statistical analyses. And, just as there are no easy or simple answers for other complex issues, particularly where individuals are involved, a complete understanding of police behavior continues to remain elusive. However, continued empirical research, combined with thoughtful public discourse and dialogue regarding the practical realities of police work, seem to hold the most promise for the path forward.

Discussion Questions

1. What are some creative methods and topics that can be explored to better understand the working world of police officers?
2. What practical measures might be implemented to minimize the social and psychological barriers, either real or perceived, which isolate police officers from the people and communities they serve?
3. How can police departments and individual officers counteract the negative personal and psychological effects associated with the realities of police work?

Suggested Readings

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Typologies of Police Behavior

Wilson, J.Q. (1968). *Varieties of Police Behavior: The Management of Law and Order in Eight Communities*. Cambridge, MA: Harvard University Press. Retrieved from: <http://catalog.lib.usm.edu/record=b3181355~S1>

Academic Disciplines Useful in Understanding Police Behavior

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University at Buffalo. (2008). Impact of Stress on Police Officers' Physical and Mental Health. *Science Daily*. Retrieved from: <https://tinyurl.com/policestress>

Other Resources

To locate additional library resources related to Police Culture and Behavior, please enter your search terms (keywords) into the search tool located at www.lib.usm.edu. You will find several books on the 3rd Floor of the Cook Library in the call number range HV 7921-8247.

Section 6 Police Discretion and Ethics

Introduction

The purpose of this section is to develop a better understanding of the manner in which police officers make functional decisions and the range of ethical issues that accompany the use of their power and authority. Because the police exercise broad discretion in determining who to stop, warn, cite or arrest, they are often referred to as the “gatekeepers” of the criminal justice system. Oftentimes the discretionary power of the police comes under scrutiny, particularly when it is identified as contributing to an abuse of authority. Such instances pose strong potential to adversely affect public confidence in and support for the police not only for the short term but well into the future. Because of this, police departments and individual officers alike must give considered thought to methods for exercising and controlling the appropriate use of this power. To date, no simple or singular solution has been identified to ensure that officers always make the “right decisions.” And, while it may be easy to blame errors in judgment that constitute ethical violations as attributable to the fact that “police officers are people too,” such rationalizations only serve to provide other officers with an easy excuse for their own misdeeds. Still, the need to better understand the types of decisions officers must routinely make and the factors that guide their thought processes can lend valuable insight into the issue.

Practical Realities that Necessitate the use of Discretion by Officers

In an ideal world, the day-to-day practical decisions of police officers would be strictly determined by a pre-established set of universal guidelines that removes all ambiguity and results in consistent outcomes each and every time. Unfortunately, however, such a set of universal guidelines does not exist. This reality is attributable to the fact that virtually every [situation](#) that a police officer encounters is somehow unique and therefore defies resolution through strict adherence to pre-established rules which prescribe that “If ‘A’ exists, then ‘B’ must occur”. In fact, one might argue it is actually desirable that such strict universal rules do not exist, because situations that might otherwise be amenable to informal resolution may result in official action or sanction that is counterproductive to the individual, the criminal justice system, or society. Thus, the use of [discretion](#) by police officers can be viewed from both a positive and negative perspective. On the one hand discretion may actually prevent further harm to the individual, the criminal justice system or society by allowing for informal resolution of situations that do not necessitate invoking the criminal sanction. On the other hand, the essence of discretion clearly lends itself to inequities or outright abuse in the resolution of situations requiring police intervention.

Factors Affecting the use of Police Discretion

The decisions police officers make are complex and contingent upon a number and variety of factors. One would be naïve to ignore the role that an individual’s disposition and demeanor has upon the outcome of an officer’s [decision-making process](#). In fact, many would likely agree that disposition and demeanor are the primary factors that influence the outcome of a police-citizen encounter. Beyond this obvious influence which most would also likely agree should not be a factor (but most certainly is), other considerations that guide police behavior can be generally classified as: legal, situational, extra-legal, departmental, environmental, and political. Legal factors, for example, refer to the nature and quality of evidence that is available or the severity of the offense. Situational factors refer to whether or not the

police were summoned to the scene or if bystanders are present. Extra-legal factors refer to the individual's [race, gender](#) or social class. Departmental factors refer to the nature of the workload, level of supervision, or agency culture / norms. Environmental factors can literally refer to the atmospheric condition itself or, less literally, to the prevailing social climate. Finally, political factors refer to larger social context in which the police operate and the "fallout" that may well occur. Each of these factors will be discussed more fully in class with the objective of illustrating exactly how complex the decision-making process can be in reality.

Why Ethics is an Important Issue in Policing

Clearly, the appropriate use of discretion comes with the expectation that officers "do what is right". In order to meet this expectation, officers must have a strong "[ethical compass](#)." While debate exists regarding how to best teach ethics to new police recruits and how reinforce such principles over the course of one's career, what is more certain is the fact that ethics, character and integrity are of vital importance in law enforcement for both the individual officer and the profession in general. When even a single officer acts in a [less-than-ethical](#) manner, it undermines the hard work of countless honest officers while also damaging the long-term reputation of the agency as well as the larger profession. For this reason and others, further attention will be given to the topic through class lectures and discussions. For immediate purposes, however, two specific [ethical issues](#) bear mention, namely, gratuities and corruptive behavior.

The Issue of Gratuities as a Slippery Slope

If one were to speak candidly with police officers, some might be willing to admit that one aspect of the job that offsets the low pay and long hours are the "perks," one of which is the "freebies" that often present themselves. Certainly professionals in other occupations receive gratuities – for example a physician's office might receive a free meal from a pharmaceutical sales representative – what makes the issue much more problematic in the present context is the fact that police officers are public employees and the acceptance of even the most minor of "freebies" has strong potential to raise more complicated ethical dilemmas, compromise the principles of equal protection and enforcement, and [jeopardize public trust](#). Although officers often adopt various rationalizations for [accepting gratuities](#), the truth remains that such "transactions" present a "[slippery slope](#)" that has led to more significant forms of graft and corruption in countless instances, all of which tarnish the reputation of policing.

Typologies for Understanding Police Deviance and Corruption

As a result of several high-profile instances of widespread corruption dating to the 1960's and 1970's, many investigative commissions (e.g. Knapp, [Mollen](#), etc.) and scholars have attempted to better understand the causes and consequences of such deviant behavior among police officers. One of the more widely recognized explanations that emerged from this area of inquiry is [Lawrence Sherman's](#) typology of "[Rotten Apples](#), Rotten Pockets." Another distinguishes between corruptive behavior that "pervasively unorganized" and that which is "pervasively organized." While these paradigms are indeed useful, the question remains regarding how officers who presumably entered the profession with the goal to "protect and serve" manage to commit lesser transgressions that do not rise to the level of corruption but nonetheless violate the laws they have sworn to uphold. In attempting to answer this enduring question, the work of Crank and Cladero finds particular intuitive appeal. Specifically, [Crank](#) and Cladero propose the notion of "[Noble Cause Corruption](#)" which suggests that police officers often

commit lesser acts of (non-corruptive) deviance because they are forced to resolve situations that defy simple solution and they often respond by acting in a manner they believe is consistent with what the larger society would have them do. Thus, as the phrase suggests, they endeavor to “do the right thing,” but sometimes what they believe to be the “right thing” somehow conflicts with policy, consensus or the law. Worth noting from this particular perspective is the assumption that not all police officers are inherently bad but, rather, are mostly good and generally want to do what is right but are unable to do so because of social and legal limitations. The issue that emerges from this explanation, and those posed by the works of other writers, is how to ameliorate such dilemmas and better prepare officers to make sound, ethical decisions in all aspects of their duties.

Conclusion

The topics of police discretion, ethics, and corruption represent significant enduring issues in law enforcement that defy simple resolution or the brief treatment given here. Because the causes are so complex and the consequences so significant, further attention is warranted and must focus on proactive efforts rather than after-the-fact reactions when damage to the profession and public trust has already occurred. Comprehensive preventive measures such as pre-employment screening, proper inculcation of values, adequate training and supervision, internal monitoring and reporting mechanisms, community oversight, aggressive investigation and prosecution, and professional decertification are all obvious methods for controlling police deviance but must occur in combination with one another to be effective. Still, instances in which discretion is inappropriately applied and abuses of police power and authority occur are certain to continue such that exploring new and progressive ideas for dealing with the problems must be a priority among the thinking public.

Discussion Questions

1. Are principles of ethical behavior innate? What practical measures can law enforcement agencies implement to enhance pre-employment screening of applicants who may have questionable ethical orientations?
2. What historical, legal and cultural factors play causative roles in police deviance?
3. What can the public and other social institutions do to reinforce their expectations regarding ethical behavior among law enforcement personnel?

Suggested Readings

Practical Realities that Necessitate the use of Discretion by Officers

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<http://lynx.lib.usm.edu/login?url=http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=9709240773&site=ehost-live>

The Issue of Gratuities as a Slippery Slope

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Typologies for Understanding Police Deviance and Corruption

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Other Resources

To locate additional library resources related to Police Discretion and Ethics, please enter your search terms (keywords) into the search tool located at www.lib.usm.edu. You will find several books on the 3rd Floor of Cook Library in call number range HV 7419-8196 and on the 4th Floor in the call number range KF 5300-5400.

Section 7 Police Use of Force

Introduction

To be sure, the use of force by police is among the most controversial topics of public debate today. Contrary to common belief, however, this debate has existed for [decades](#) if not longer. In fact, questions regarding how much force the police should be allowed to use in order to accomplish lawful objectives emerged not long after the nation's first law enforcement agencies were formally organized. In the 150 plus years that have since elapsed, both law enforcement and the public have struggled to negotiate an acceptable balance to maintaining public order / safety while at the same time exercising necessary restraint over the broad power to detain, arrest and even kill individual citizens.

Given that this complex issue has defied successful resolution to date and will no doubt likely persist into the indefinite future, the objective of this section is to provide an [overview](#) of the topic to include the fundamentals of force, deadly encounters between the public and police, and legal limitations on the use of force.

The Use of Force Continuum

As noted above, as well as in the section on the history of policing, the use of force has long been an essential element of maintaining law and order, particularly in the United States. In earlier historic eras, police officers had very few options at their disposal to resolve certain types of perceived or real volatile and threatening situations. Thus, if verbal commands or limited "hands-on" methods did not work, the application of lethal force was relatively quick to follow. Today, however, the police have many more options at their disposal for resolving certain types of volatile and threatening situations thereby making the use of lethal force far less likely and reflexive than in years past. Intermediate weapons such as [oleoresin capsicum spray](#) (also referred to as OC or pepper spray) and conducted energy devices such as the Taser have served to fill a very critical gap in what is known as the "[use of force continuum](#)" which provides guidance on how much force the police should reasonably use in response to the resistance that is offered by a non-compliant individual.

The Element of "Time"

A central element of understanding the use of force by police is "[time](#)." In particular, the encounters that police officers have with individuals who truly intend to harm themselves, the officer or a third person can happen, quite literally, within fractions of a second or two. Given that officers do not have the magical ability to slow or stop time, they must react quickly and, in some instances, actually kill a suspect or themselves be killed. In order to convey exactly how fast ill-intentioned criminal suspects can take certain threatening actions, links are also provided to authoritative external sources such as the Force Science Institute that provide visual illustration through scientific time and motion studies.

The Contentious Issue of Deadly Force

On a seemingly regular basis the national media reports feature stories giving the distinct impression that the use of excessive or deadly force by the police is a common and widespread practice when such is not the case. In fact, the use of force by police is actually [relatively rare](#) when considered in light of the tens-of-millions of face-to-face contacts that occur between the police and the public on an annual basis. This more balanced perspective regarding how often the police use force may be found in government reports, which are provided as suggested readings.

A practical reality of crime control and modern society is that the police will inevitably kill criminals and vice-versa. While the extreme statistical rarity of such events is of little to no comfort for the affected families and communities, it nonetheless warrants attention as a counterbalance to the media depiction that the police are “out of control” or that criminals are killing police officers on an unprecedented scale. Neither of these statements withstands historical scrutiny, especially when compared to the events of the 1960’s and 1970’s.

Sources of Information on Deadly Encounters Between the Public and the Police

For many years no reliable nationwide estimates regarding the number of individuals killed by law enforcement officers existed. Recognizing this critical gap in knowledge, the Bureau of Justice Statistics implemented the “[Arrest-Related Deaths in Custody](#)” reporting program after Congress passed the Deaths in Custody Reporting Act (DICRA). While not without criticism or need for methodological improvement, the program has nonetheless helped to illuminate the nature and extent of such occurrences by empirical means. Overall, the number of individuals who die during the process of arrest or in police custody is relatively low when, balanced against factors such as the total number of face-to-face contacts between the public and police, the violent crime rate in some jurisdictions and the overall size of the total U.S. population.

The patterns and trends gleaned from this official reporting program will provide the basis for further classroom discussion.

Conversely, the felonious killing of police officers is also a practical reality that deserves focused attention. Data regarding the number of officers who die or are killed on duty is much more readily available and has been for quite some time, thereby allowing for a more historical perspective. The Federal Bureau of Investigation issues an annual report entitled “Law Enforcement Officers Killed and Assaulted” ([LEOKA](#)) as a supplement to the annual Uniform Crime Report (UCR). That LEOKA report provides summary statistical information on the circumstances surrounding all types of duty-related deaths to also include events such as falls, training accidents, aircraft accidents, and the like. A second, less-official but useful source of information is the “[Officer Down Memorial Page](#)” which encompasses a much broader definition of the term “officer” to include correctional officers and K-9’s. Both sources are informative, with the latter of the two providing more up-to-date facts and figures by comparison to the FBI report which is only released annually.

Regulating the Use of Force by Police through the Rule of Law

While there exist various methods for controlling the use of force by police that will be discussed through class lecture, two U.S. Supreme Court decisions also bear on the issue given that such instances are quite likely to result in some form of litigation. Those two cases are [*Tennessee v. Garner*](#) (1985) and [*Graham v. Connor*](#) (1989). One of the first things that should be noted is the decade in which these two cases were decided: the mid-to-late 1980's. In particular, the Supreme Court historically took a "hands off" approach to dealing with cases involving the use of force by police. The facts in *Garner*, however, prompted the Court to strike down the common law "Fleeing Felon Doctrine," thereby limiting the use of deadly force by police to apprehend suspects attempting to escape arrest. Just four years later, in *Graham v. Connor*, the Court ruled that questions regarding the "reasonableness" of force by the police were to be properly evaluated from the perspective of an officer on the scene rather than with 20/20 hindsight. Taken in combination with one another, these two cases are significant, but for different reasons. *Garner* forbids the police from simply shooting someone who is fleeing apprehension. *Connor*, on the other hand, likely accounts for much of the adverse public reaction when cases involving the use of force by the police go wholly unprosecuted or result in an acquittal.

Conclusion

Without question, both the use of force and occurrence of deadly encounters between the public and police defy simple resolution. In fact, adequate treatment of each issue could easily (and often does) constitute lengthy chapters or entire volumes of published research and commentary. While it is not possible to cover the two topics at such depth within the context of this section, the objective has been to provide a basic introduction to the fundamentals of force including an overview of the practical, probabilistic and legal issues that are involved. Despite the abundance of research and public debate that has contributed to and surrounded our appreciation for these topics over many decades, continued empirical examination and open dialogue are obviously necessary to help keep matters "in perspective" while maintaining a mutual respect for all sides and parties involved. This can only be accomplished by reliance upon and familiarity with reliable information grounded in empirical reality such as that which has been provided through some of the external resources supporting this section.

Discussion Questions

1. How does the use of force, particularly deadly force, affect relations between the public and police?
2. What "do we know" and what "do we not know" about the use of force by the police? What can be done to improve our empirical / scientific understanding of situations that give rise to the use of force by police?
3. What practical measures can be taken to ensure that individual police officers are exercising sound judgment in the application of force to accomplish lawful objectives?

Suggested Resources

Introduction

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The Use of Force Continuum

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To locate additional library resources related to Police use of Force, please enter your search terms (keywords) into the search tool located at www.lib.usm.edu. You will find several books on the 3rd Floor of the Cook Library in the call number range HV 7921-8148.

Section 8 Police and the Rule of Law

Introduction

The purpose of this section is to clarify the scope of authority that has been conferred upon police officers to accomplish their lawful objectives. Clearly, the nature of the [social contract](#) is premised upon an understanding that individuals sacrifice a portion of their liberty in return for a reasonable measure of safety and security provided by the government. In order to provide such safety and security, the government, through its police force, must sometimes impose upon individual liberties. The question that inevitably arises, particularly in a country that prides itself on certain well-defined individual freedoms and rights, is: “What are the limits on police authority under the Constitution and attending Bill of Rights?” Specifically, this section will explore “what the police can and cannot do” with regard to conducting searches, seizing evidence and conducting interrogations. Finally, it will also outline certain [remedies](#) for instances where police exceed the scope of their lawful authority.

Constitutional Amendments Guiding Police Authority

At least three specific sections of the Bill of Rights bear upon and specifically limit police authority – they are the [Fourth](#), Fifth and Sixth Amendments. Police officers must be intimately familiar with each as well as the significant body of case law that has developed over the years to more specifically define their current-day application. For purposes of this section, specific attention will be given to the Fourth Amendment’s prohibition against unreasonable searches and seizures, the Fifth Amendment’s protection against [self-incrimination](#), and the Sixth Amendment right to [counsel](#).

The Fourth Amendment Prohibition Against Unreasonable Searches and Seizures

While the Fourth Amendment specifically prohibits unreasonable [searches and seizures](#), it does not prohibit *all* searches and seizures, only those that are unreasonable in constitutional terms. In order to better understand how the Fourth Amendment guides police authority, consider the following relevant language: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” In closely examining the foregoing “Search and Seizure Clause,” three central concepts emerge. These are: 1) Reasonableness, 2) Particularity, and 3) Probable Cause, each of which has significant bearing upon determining whether or not a given search and resulting seizure is legal in constitutional terms.

Exceptions to the Fourth Amendment’s Warrant Requirement

While the specific language of the Fourth Amendment requires a-priori issuance of a warrant based upon probable cause in order to conduct a search, the practical realities of police work do not always lend themselves to following such ideal procedures. That is, the police are not always able to first secure a warrant before conducting a search because time and circumstance may preclude doing so. Because of this, the Supreme Court has created a number and variety of [exceptions](#) to the Fourth Amendment’s warrant requirement. These include: 1) vehicle searches ([Carroll v. U.S.](#)), 2) Incident to a lawful arrest ([Chimel v. CA](#)), 3) field contacts ([Terry v. Ohio](#)), 4) exigent circumstances ([Rochin v. CA](#)), 5) plain view (TX v [Brown](#)), and 6) consent (Schneckloth v [Bustamonte](#)). Each of these well-established exceptions will be

addressed in greater detail through class lecture and discussion with reference to multiple Supreme Court cases. In doing so, it will be important to note that the judiciary gives broad deference to police authority in conducting warrantless searches on at least three grounds: 1) officer safety (or the safety of a third person), 2) prevention of escape, and 3) preventing the destruction of evidence. When these interests are combined with the well-established exceptions noted above, the police are granted broad authority to conduct warrantless searches that sometimes conflicts with popular public conception regarding what the police “can and cannot do.” This too will be a topic of further class discussion and clarification.

The Fifth and Sixth Amendments

Many, if not most, residents of the U.S. are at least generally familiar with the protections afforded by the Fifth and Sixth Amendments. Namely that individuals are protected from self-incrimination and that they have the right to legal counsel. Beyond this general awareness, however, there exists a certain measure of misunderstanding and confusion regarding the specific applicability of such protections. For this reason, it is important to briefly review the history of these two separate but related amendments and their application to contemporary police operations.

Perhaps the most well-known case involving both the Fifth Amendment right to remain silent and the Sixth Amendment right to counsel is [Miranda v. Arizona](#) (1966), which has become so engrained in popular culture through its recitation in television shows, both reality-based and dramatized. Despite the fact that this case was decided over 50 years ago, legal questions still arise regarding its practical application. In fact, the Miranda decision has created a lengthy list of subsequent cases that, at times, can become confusing for even the most experienced legal practitioners. Where this holds true, it stands to reason that mastery of the decision’s subsequent [legal intricacies](#) may certainly defy the typical patrol officer or criminal investigator whose initial interaction with a suspect may literally “make or break” a significant criminal case. And, where errors in application of the rule occur, serious offenders may escape successful prosecution thereby compromising public confidence in the police to apprehend and successfully prosecute criminals. For this reason and others, detailed attention will be given to this line of cases and their application to patrol and investigative operations through more focused class lecture and discussion.

The Exclusionary Rule

One issue that inevitably arises when considering the scope of police authority to conduct searches, seize evidence and conduct interrogations is how to provide a “remedy” should officers “go too far.” The solution to this issue is found in what is referred to as the [Exclusionary Rule](#), which stands for the principle of law that evidence obtained in violation of the Constitution and attending Bill of Rights should not be admissible in criminal proceedings. Interestingly, the Exclusionary Rule is nowhere to be found in either the Constitution or Bill of Rights. Rather, it is purely a “judge-made” principle of law that was established and applied to federal cases in 1914 by [Weeks v US](#), and then extended to state prosecutions in 1961 by [Mapp v Ohio](#). As a result of these two cases, and since that time, a number and variety of arguments have been made regarding the relative advantages and [disadvantages](#) of such a rule. Additionally, it is important to note that instances will inevitably arise where errors occur in the form of “good faith” actions on the part of officers. In order to accommodate these situations, the Supreme Court created a “good faith exception” to the Exclusionary Rule in 1984 by *United States v*

[Leon](#). Each of the cases that established these three principles of law, as well as those that illustrate their application will provide a basis for in-depth class lecture and discussion.

Conclusion

The purpose of this section has been to provide a general overview of police authority under the rule of law in American society as defined by the Constitution and illustrated through various Supreme Court decisions. To be sure, there is considerable difference between public perception regarding what the police “can and cannot do” and the true extent of their lawful authority. Plainly stated, the police have far more power and authority to conduct searches and seize evidence than is understood by the typical citizen who takes their information about the law from television or other mass media sources. Because the legal landscape is constantly evolving and the stakes should errors occur are so high, it is imperative that police officers remain well-informed about issues involving the application of constitutional law to the performance of their daily duties.

Discussion Questions

1. Identify and describe conceivable circumstances / scenarios where differences are likely to arise between public perceptions of police authority and the true reality of their powers to arrest, search and seize.
2. How has the Exclusionary Rule affected the evolution of law enforcement as a profession? Has its impact been positive or negative?
3. Given the constantly evolving legal landscape, what practical measures can law enforcement agencies implement to ensure that officers are not only adhering to the prevailing rule of law, but also integrating legal principles from more recently decided cases?

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Other Resources

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