

SOC 3395: Criminal Justice & Corrections
Overheads Class 10: Issues in Canadian
Policing

Today we will continue our look at issues surrounding the police, particularly controversies arising in recent years:

(1) Police Discretion:

* Police don't have to arrest, may use judgement to intervene/ ignore

* Use of police discretion is subject to legal challenges under Charter:

- R. v. Beare (1988) discretion cannot be improper/arbitrary
- Discretion cannot violate s.15(1) equality rights
- Such abuses of process can lead to stay of prosecution
- Clear evidence of discrimination needed

* Research on police discretion. 3 factors typically influential (i.e. arrest vs. warning):

- (1) Type of crime
- (2) Suspect's attitude
- (3) Departmental policies

* Elements of police discretion:

- (1) Getting involved (or not)
- (2) Deciding how to behave

(3) Selecting between alternatives

* Goldstein: invocation vs. non-invocation discretion significant

* Factors influencing arrest:

Situational:

Seriousness of crime	Suspect's demeanour
Strength of evidence	Neighborhood
characteristics	
Preference of victim	Victim-suspect
relationship	

Community:

- Racial/class composition
- Officers' perceptions of danger
- Citizens' attitude to police
- Community legal culture

Extralegal:

Race, class and gender of suspect

* The race issue: over-representation of Aboriginals in arrests

* Sexual assault: many charges not laid/ discontinued: mandatory arrest?

* Characteristics of the victim significant?

* Other studies dispute these patterns as appearances: legal variables = main determinant in arrest decisions (methodological differences explain discrepancies)

(2) The Police Subculture:

* A tight bond exists between officers due to nature of job

* 6 basic values in police subculture:

- (1) Police = only real crime fighters
- (2) No one else understands police work
- (3) Loyalty to colleagues is paramount
- (4) To beat crime rules must be bent
- (5) The public is unsupportive/unreasonable
- (6) Detective work is preferable to patrol duty

* Positive aspects: sense of collectiveness, dealing with stress, controlling inappropriate actions, and an informal teaching tool

* Negative aspects: resistance to innovation, support for rights violations, misuse of authority and resistance to accountability

* Insulates from stresses when officers deal with the public and their superiors. Officers cope by: suspiciousness, “maintaining the edge” or “laying low”

* Culture exists due to danger of the job and need to stick together

* Some argue police exhibit unique personality traits (i.e. cynicism, hostility, dogmatism & conservatism).
Dangerous if affects discretion.

(3) The “Police Personality”:

- * Studies of police personality: “environmental” vs. “predispositional” explanations
- * Niederhoffer (1967) and Skolnick (1966) favor former “socialization” explanation
- * Predispositional explanation unsupported by evidence (Bennett & Greenstein, 1975)

(4) Higher Education and Policing:

- * Authoritarian, conservative & rigid attitudes most apparent in least educated officers
- * Officers with a degree are more professional/ cope better/ show greater initiative/ receive fewer complaints/ act more professionally
- * Police forces emphasize higher education in recruitment

(5) Police Use of Deadly Force:

- * Police subculture may be expressed through use of discretion/authority
- * Deadly force= force used with intent to cause bodily injury/death

* Until 1995, police could shoot a “fleeing felon.” R. v. Lines struck down as violating s. 7 of Charter

* Parliament introduced new defense: s. 25(4) of Criminal Code: Deadly force authorized when suspect fleeing. Officer must:

- believe
- on reasonable grounds
- force is necessary
- to protect officer or any other person
- from immanent or future death/ grievous bodily harm

* Questions:

- what is “as much force as necessary?”
- doesn’t state how much force may be used

* Mechanisms to control police use of deadly force:

(1) Reasonableness standard (hard to prosecute/ police stick together)

(2) Legislation to force cooperation in cases of death, injury, or other use of force (e.g. Ontario).

* Most deadly force incidents in Ontario/Quebec (though NWT has highest incidence by population)

* Size of police force not as important as lack of community cohesion, organizational values of force, and

training in this regard

* Question of “confrontation situations” vs. “fleeing felon” incidents

* Race and use of deadly force a hot issue

* Police themselves may be recipients of deadly force (relatively rare)

(6) Police Misconduct:

* Defined as police activity inconsistent with legal authority, organizational authority, and standards of ethical conduct: 3 types:

(1) Occupational deviancy

(2) Abuse of authority

(3) Selective, discriminatory enforcement of laws

* Excessive force not as common/ selective as media suggests

* “Problem officers” younger, less experienced

* Some argue problem officers are reflective of wider problems in a given force

* “Early warning systems” have been implemented by management to deal with problem officers in many forces

* Mechanisms to “police the police”:

- (1) Internal investigations
- (2) Citizen oversight (e.g. police commissions)
- (3) Civil liability (rare)

(7) The Changing Composition of the Police:

- * Over last 25 years more women, visible minority & Aboriginal police
- * Women officers/ senior administrators growing (employment equity/ move away from traditional female police roles)
- * Women officers report gender conflicts on the job
- * Aboriginal/ visible minority officers growing in number (discriminatory job requirements gone/proactive recruitment programs)
- * Glass ceiling vs. benefits of community representation

(8) The Police and Private Security:

- * Private security has been growing, now a larger sector than public police forces
- * Differences with public police:
 - private security employs more women
 - more security guards under 25 or over 54 than police
 - police are better educated

- more visible minorities among private security
- police have better incomes

* Police are accountable to the state, the law, and many forms of oversight, private security is variously regulated through provincial legislation

* Growth of security reflects:

- studies
- structural changes
- police opposition
- differences in conduct
- government support
- public concerns over abilities of police

* Issues of concern:

- security distributed on basis of who can pay
- less respect for those detained
- lower levels of professional competence
- offences not being referred to the CJS/dealt with privately
- avoiding civil rights protections
- dual criminal justice systems: public and private

Summary:

* Many critical issues face Canadian police today. Among the most important are:

- effectiveness vs. discretion

- discrimination vs. situational/community factors
- women and minority representation at all levels
- the use of force vs. citizen review
- public vs. private policing