

Police Discretion

By: Ben Concagh, Victoria Scileppi, Sydney Whelan, Angelina Santos and Olivia Richards

Key Terms

Legal Consciousness

Definition: How people experience, understand, and act in relation to the law. It refers to how people think about the law and how they behave in relation to it. It is important to note that legal consciousness is not static.

ex) A person gets mistreated by a police officer or someone they know does, they will probably have a more negative view of the law than someone who has had nothing but positive interactions with the law.

Reification

Definition: A social process of making something abstract, like the law, into something “real”.

ex) The economy is not a real physical thing, it is rather an idea that we as a society make real.

Interviewee #1

In this interview the interviewee discusses a crime he committed while attending college, he had snuck into the football stadium at his school and stole the starting quarterbacks helmet along with liquor and memorabilia whilst intoxicated. Shortly after stealing the helmet members of his fraternity forced him to bring it back. Officers showed up to his frat house a few days later with a warrant to search his room as well as video evidence of him committing said crime. However, he was back in his hometown. His lawyer helped bring down the charges and he was forced to go down to the police station when he returned to college and get booked as well as having a court hearing.

Reification and Legal Consciousness

After this experience the interviewee had truly experienced the law for a first time, and due to this experience he saw the law as real thing. The law did it's job and he experienced that first had. An example that shows his view of the law is reified is when he told me "I feel like we kind of understand each other more now even though the law does not know me, and I barely know them." He refers to the law as we and them, he is essentially referring to the law as a person or a real thing which indicated to me that the law had been reified in his eyes

The interviewee also gave me a very good idea of his legal consciousness and explained to me that he feels more comfortable with the law and that he better understands it after his experience, as well as telling me that he trusts the process. This is due to his interactions with the police officers as well as how his court hearing went. In our interview he told me "after my experience I feel much much less afraid of the law." this reaffirmed what he had told me about feeling comfortable with the law.

Interviewee #2

- Traffic stop
- Officer gave her a citation
- Courts brought it down to a parking ticket
- Legal consciousness
- “It was in his right to give the citation, but i think the discretion is warranted, because it’s then checked by a jury and judge”



<https://www.ubspectrum.com/article/2024/04/university-at-buffalo-police-weekly-incident-reports-ending>

Police Discretion and Police Training Policy

- Police discretion is the power that police officers have to make decisions based on the judgement of a particular situation. In each of our interviews we saw how police used discretion in different ways, the two interviews we chose to use for our presentation showcased the use of discretion the best.
- We ultimately realized that what affects police discretion the most is the training policies utilized to train officers as often times it effects how they interact with the public and determines the type of discretion they use.

How Police Training/Discretion Impact Everyday People

The quality of police training can highly impact all citizens in their daily lives. If police are improperly trained for their job, they can run the risk of harming the people they are trying to protect. A decision made by a police officer can either benefit a citizen or be very detrimental to their physical and/or mental well being.

Police Trainings Effect on Interviewees

- In all of our interviews each interviewee had to deal with police discretion in some way. However, discretion was not our policy as we have stated, our policy is police training which is something that heavily affects police discretion.
- For example in interview #1 the interviewee had to be handcuffed by police officers before being placed in a holding cell, however, the officers used their own discretion and realized he was not a threat so they put his hands in front of him rather than behind him. When handcuffs are put behind you there much less movement and due to the officers training they were able to use discretion and not escalate the situation by making the interviewee feel scared or anxious.

Policy Source

Can you build a better cop? written by Emily Owens explores an experimental evaluation of a procedural justice training program designed to slow down police officers' thought process during citizen encounters.

Experiment: identified an encounter with a citizen that led to an arrest, sergeant would ask the officer step by step open ended questions about the encounter, in order to encourage the officer to reflect on what happened.

Findings:

- Citizens that perceive procedurally unjust treatment are more likely to harbor attitudes leading to deviant behavior.
- Many police officers will act the same way towards citizens as their supervisors act towards them, this can lead to unjust practices in the field if that is the way they are being treated. When police officers are treated fairly by their supervisors, they are more likely to be successful at their job, use proper discretion, and not use excessive force or treat people unfairly.
- This article concluded that cognitive and procedurally justice based meetings/trainings with their supervisors are a necessary strategy for improving police discretion and community relations.

Why should we care?

While our data conveys the effects of fair usage of police discretion it's important to examine the broader implications. Society should be able to ensure that fair police discretion is available to all communities around America.

Bibliography

Owens, Emily. "Can You Build a Better Cop? Experimental Evidence on Supervision, Training, and Policing in the Community." *Shibboleth Authentication Request*, 31 Jan. 2018, onlinelibrary-wiley-com.gate.lib.buffalo.edu/doi/full/10.1111/1745-9133.12337.