

This is the authors' final, peer reviewed manuscript published in
Policing and Society: An International Journal of Research and Policy (DOI:
10.1080/10439463.2014.989157) (2014) 1043-9463 print, 1477-2728 online with the title:
The hole in the doughnut: a study of police discretion in a nightlife setting
<http://www.tandfonline.com/doi/abs/10.1080/10439463.2014.989157?journalCode=gpas20#.VJBupMny7j3>

The hole in the doughnut: a study of police discretion in a nightlife setting

Kristin Buvik

Correspondence to: Kristin Buvik, Norwegian Institute for Alcohol and Drug Research, Pb 0565 Sentrum, Oslo 0105, Norway. E-mail: kb@sirus.no

**THE HOLE IN THE DOUGHNUT: A STUDY OF POLICE DISCRETION
IN A NIGHTLIFE SETTING**

Kristin Buvik

Phd-student

Norwegian Institute for Alcohol and Drug Research (SIRUS)

Postbox 565, Sentrum

0105 Oslo

Norway

Tel: +47 934 27270

E-mail: kb@sirus.no

Corresponding author:

Kristin Buvik

kb@sirus.no

Funding:

This work was supported by The Norwegian Institute for Alcohol and drug Research and The
Norwegian Directorate for Health

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Abstract

Policing is permeated by situations in which discretion is most important. A substantial part of police work in the nightlife setting involves management of drunk and disorderly patrons, and police officers operate with considerable discretion. The aim of this paper is to explore patterns of decision-making and to identify factors that influence an officer's use of discretion in nightlife settings. The data were collected during fieldwork with patrolling police on weekend nights in Oslo and from interviews with police officers.

This study provides insight into the everyday work of police officers in Oslo. The officers mostly manage a number of minor incidents, such as disorderly behaviour and alcohol-related trivialities. Police officers generally ignore many minor incidents and seek to resolve cases in the easiest way possible, which implies under-enforcement of the law. Discretionary assessments depend on situational variables, system variables, and offender variables. This paper reveals the importance of these variables and argues that we need to include officer variables as well to get a fuller picture of street-level police officers' decision-making. Lipsky's theory of street-level bureaucrats describes how discretionary assessments are based on human judgement, personal decisions and normative choices. Similarly, police officer characteristics involving individual norms and moral beliefs are an important part of discretionary decision-making.

Keywords: police discretion; street-level bureaucracy; law enforcement; nightlife

Introduction

It is Saturday night, and I am in the back seat of a police car. After driving around for hours without anything happening, the situation at street level suddenly seems chaotic. Drunk people stagger around. A man is peeing on a wall, and someone is throwing up at a corner. A girl is sitting on the sidewalk alone. She is crying. A group of patrons stumbles out from a club and into the street. Taxis are driving by at full speed. Some guys are quarrelling, and one of them is knocked down. The police officer parks the car while he says: ‘When people are so drunk, we have to make an assessment: what should we do with them? We cannot let them walk around like this; it’s dangerous for them. And then we may either arrest them if it is severe, we can bring them in to sober up, or we can just drop them off and tell them to go home.’

The story illustrates my fieldwork experiences with the police in a nightlife setting in Oslo, Norway. A large part of police work in nightlife settings involves handling drunk and disorderly patrons. Police officers encounter situations that demand their personal decisions, and they enjoy tremendous independence in choosing from various courses of action in the performance of their duties. The fact that police officers operate with considerable discretion is a staple of criminological literature (Rowe 2007). Discretion is exercised when the effective limits on a public official’s power leave him free to make a choice among possible courses of action (Davis 1975). Philosophers have referred to police discretion as *the hole in the doughnut*, in which discretion is the empty area in the middle of a ring of policies and procedures (Dworkin 1977). In Norway, as in other Scandinavian countries (Holmberg 2000), there is widespread trust in the police, and the police enjoy wide discretionary freedom.

For the most part, researchers who have examined the exercise of police discretion have explained officers’ behaviour situationally (Berk and Loseke 1980-81, Worden 1989,

Riksheim and Chermak 1993, Mastrofski *et al.* 1995, Novak *et al.* 2008). Gaines and Kappeler (2011) used this approach, and they break down the vast amount of research on the topic into three categories of discretion. *Situational variables* are the context in which officers perform police activities. The most important factor here is the seriousness of the offence (Ericson 1982b, Riksheim and Chermak 1993, Carter 2006). *System variables* are the characteristics of the criminal justice system that may influence an officer's use of discretion. This includes the system's capacity to process legal violations, the officer's perception of the law, community expectations and the departmental culture (Mastrofski *et al.* 1987, Goldsmith 1990, Kappeler *et al.* 1998, Paoline 2004, Brown 2014). *Offender variables* are attributes of the offender that influence officers to take action. Examples include the offender's age (Sherman 1980, Dunham and Alpert 1989, Carter 2006), race (Brooks 2001, D'Alessio and Stolzenberg 2003), socio-economic status (Black 1971, Worden 1989) and demeanour (Brown 1988, Worden 1989, Engel *et al.* 2000, Finstad 2003, Carter 2006).

All of these factors can affect the use of discretion, albeit in different ways. Another approach is to posit that the use of discretion is also based on individual and attitudinal factors, as decisions are based on officers' moral judgements and individual choices (see White 1972, Muir 1977, Brown 1988, Jackson and Wade 2005). Finstad (2003) considers the police profession to be a form of handicraft art, and according to Brown (1988), this handicraft is largely based on experience and intuition. It is reasonable to assume that attributes of each officer will affect the use of discretion and that the choices that officers make are a matter of attitudes, experience and cultural/individual norms. Officers use their own values and policing style to make decisions about what behaviours are acceptable and who is to be arrested (Goldstein 1977, Mastrofski *et al.* 1995). As argued by Paoline (2004), officer attitudes towards citizens, policing styles and enforcement of the law differ substantially from one officer to another. Changes in the police profession and in the

composition of police forces over the last two decades may have led to greater variation in officers' attitudes. Therefore, it is important to include officers' variables in order to get a fuller picture of police discretion.

The nightlife setting

The Nordic countries have a reputation for heavy and boisterous drinking behaviour (Nordlund and Østhus 2013). The drinking culture is liberal in the sense that visible intoxication is accepted and, in some cases, even expected. This is reflected in a nightlife culture in which many patrons do not behave properly. A large proportion of police work on night-time weekends in Oslo concerns the handling of disorderly bar patrons (Finstad 2003, Furøy 2012). The same tendencies are also seen across the UK, for example, where antisocial behaviour in city centre nightlife demands large police resources (Hughes and Anderson 2008). Drunk patrons can be argumentative and demanding in interactions with police officers, which can impede an officer's use of discretion.

The use of discretion to negotiate order is more challenging in areas with a heavy concentration of drinking establishments and drunk patrons (Berkley and Thayer 2000). As argued by Terrill and Mastrofski (2002), people who appear intoxicated are more deserving of police-applied control and punishment. Drinking environments, including bars, nightclubs and their surrounds, are associated with a high level of alcohol-related incidents, such as drunkenness, antisocial behaviour, injury, and violence. These areas attract young adults, and the convergence of large numbers of drinkers creates conditions that are conducive to dangerous behaviour, especially when patrons are intoxicated (Hughes *et al.* 2012). The relationship between alcohol and violence is well documented in international research (Graham and Homel 2008, Babor *et al.* 2010), and alcohol consumption also leads to minor types of criminal behaviour, such as public urination and disorderly conduct (Berkley and

Thayer 2000). Calling the police to deal with disorderly behaviour, violence and crime is the most common strategy that managers of licensed drinking establishments use to handle problems in and around their premises (Homel 1994, More 1995, Graham and Homel 2008).

Street-level bureaucracy

Street-level bureaucracy refers to the subset of individuals who carry out and enforce the actions required by laws and public policies (Lipsky 2010). The policy enforced by street-level bureaucrats is most often immediate and personal, and they usually make decisions on the spot. The term street-level bureaucrat is most often used in analyses of welfare state service occupations, but Lipsky also includes police officers and workers from other agencies who interact with the public and have wide discretion over the use of public sanctions.

Lipsky's analysis is supported by a great number of studies of policing (Maynard-Moody and Musheno 2003, Rowe 2007, Hill and Hupe 2009).

Street-level bureaucrats make decisions about other people. Their work calls for human judgement that cannot be programmed and for which machines cannot substitute (Lipsky 2010). Lipsky's approach is characterized by a bottom up perspective. He tries to understand how and why street-level bureaucrats act the way they do. Hill and Hupe (2009) say that he makes heroes of street-level bureaucrats, 'because they are caught in situations that are fundamentally tragic – in the original sense – they still try to make the best of it'.

Maynard-Moody and Musheno (2000, 2003, 2012) studied police officers as street-level bureaucrats and demonstrated how police officers operate at the interface between the law and the citizen. As street-level workers, they have power, they can use sanctions, and they determine who will be approached or arrested and who will be protected or threatened. At the same time, the street-level bureaucrats are far from the centres of power; they are closer to the citizens they police. Maynard-Moody and Musheno (2003) showed how street-level

bureaucrats see themselves as decision-makers whose decisions are based on normative choices rather than as functionaries responding to rules, procedures or policies. Street-level actors balance between formal rules and regulations on the one hand and their own value systems on the other. Rules specify their duties and obligations, but discretion allows them freedom of action. Lipsky (2010) argues that the important decisions are not really made at the legislative level. On the contrary, the everyday decisions made at street level are the important ones. These everyday decisions are influenced by the way that street-level bureaucrats adapt to their working context and to the individuals with whom they interact.

Research question

Inspired by Lipsky's studies of street-level bureaucrats, this article explores discretionary decision-making among police officers with ethnographic data from the Oslo nightlife setting. Police officers generally ignore many minor incidents and seek to resolve cases in the easiest way possible, which implies under-enforcement of the law. I identify how discretionary assessments depend upon situational variables, system variables, and offender variables. In addition, I argue that it is important to include individual and attitudinal explanations to get a fuller picture of decision-making among street-level police officers.

Data and methods

This study is part of a larger project on the night-time drinking culture in Oslo (Buvik and Baklien 2012a, Buvik and Baklien 2012b, Buvik 2013, Buvik and Baklien 2014). The data for this particular article were collected during fieldwork with patrolling police officers on weekend nights in Oslo and from qualitative interviews and field conversations with police officers. The purpose of the fieldwork was initially to study the way officers dealt with drunken disorder, and early findings revealed that police discretion was of great importance.

The study of police discretion is the study of *invisible decisions*, and it is necessary not only to observe police work in practice but also to be able to discuss with the officers the reasons for their (inter)actions (Holmberg 2000). This triangulation has a long history in qualitative studies of social settings (Fontana and Frey 1994). Bryman *et al.* (1997) argues that unstructured interviews are effective to use in combination with observation because then it is possible to obtain a deeper understanding of a phenomenon.

As described by Rowe (2007), the approach was ‘naive’. I asked simple questions about aspects of police work to allow the officers to give their explanations and interpretations of particular situations and police work in general. My objective was to see the nightlife through the officers’ eyes. I used an empathic approach to develop trusting relationships (Whyte 1993, Herbert 2001, Finstad 2003, Carter 2006).

The fieldwork included 70 hours spent with police officers on Friday and Saturday nights in the period 2012–2014. I met the officers at the police station before their shift started, normally around 9 p.m. I attended preparation meetings and had informal conversations with the officers while they packed their equipment into the police cars. The informal interviews that I conducted with officers gave me insight into their experiences and normative assessments. I witnessed early what Reiner (2010) refers to as the difference between what the police say *to* the public and what they say *about* them when they are in the patrol car.

Maynard-Moody and Musheno (2012) also describe how officers exchange narratives with one another about correct courses of action. These moments “backstage” (Holdaway 1980, van Hulst 2013) was important to gain insight into officers values and beliefs, and how they made sense of different situations. I made field notes during the shift and wrote more complete notes the next morning.

Some nights were long and quiet (once I fell asleep in the back seat), and some nights included upsetting events (once I cried in the back seat), but most evenings consisted of driving around to handle drunk and disorderly bar patrons as the officers waited for the big events. From the police car, I gained insight into Oslo by night, the way the police saw it. Høigård (2005) denotes this as “back-seat research”, an approach used in several studies of the police in the Nordic countries (Ekman 1999, Holmberg 1999, Finstad 2003) and elsewhere.

I wanted to limit my influence as much as possible. Nevertheless, my presence may have affected how the police behaved. A back-seat researcher may increase the chances of observing ‘correct police behaviour’ (Waddington 1999, Rowe 2007, Sollund 2007), and there is no way of knowing whether the officers would have behaved differently had I not been present. Nevertheless, the observed difference between how officers talked about the public and to the public can be considered as an indication that the officers did not significantly adjust their behaviour because of the researcher’s presence. In his fieldwork with the police, Herbert (2001) emphasized the importance of treating informants’ reactions to the fieldworker as part of the data to be analysed. The officers were quite happy to share narratives and their perceptions of reality with me. Høigård (2005) made the same point in her review of Nordic police research.

Because the aim of this research was to study the background for decisions made on the spot (Holmberg 2000), field conversations and discussions were an important part of the observations. In addition, I conducted 10 in-depth, qualitative interviews with eight male and two female police officers in between fieldwork sessions. I met three of the interviewed officers again during fieldwork. The interviews lasted between 60 and 90 minutes, and were recorded and transcribed. The interviews followed a semi-structured guide, with the main

topics being their work on the weekends, drinking culture, intoxicated patrons, the situation on the street, drunk and disorderly conduct, and police resources.

The interviews were intended to elicit specific stories about actual events as well as attitudes, norms and values. As emphasized by Dean and Whyte (1958), informants' statements represent feelings and perceptions, and the researcher should ask what inferences can be drawn from them about the actual environment of the events informants experienced. van Hulst (2013) argues that it is less important whether the stories are true or complete; through their narrative practice, police officers shape their identity, and give meaning to their experiences. It was an advantage to alternate between interviewing and observing, because it gave me an opportunity to discuss my impressions from my observations in the interviews, as well as having the interviewees' experiences with me during fieldwork.

It should be stressed that this is an exploratory study of police discretion in a nightlife setting; the empirical results are limited and the insights are offered with modesty.

Working with blinders (situational variables)

System variables derive from the context in which officers perform police activities. A large proportion of the police work on weekend nights involves managing drunk and disorderly behaviour. During the hours that I spent with the police, many shifts could be quite busy, but few serious incidents occurred. Most of the time, the officers handled minor incidents. One officer elaborated on this.

We have much to do; inquiries from intoxicated people, people arguing, people fighting, people crying, people who have tumbled, stumbled, people who cannot take care of themselves.... And we are helping them; they lost their wallet, lost their phone, their jacket is stolen, somebody has left her bag or jacket on a bench and does not remember the bench. Where is my boyfriend? Where can I buy a hamburger? It's like that, we must

help those people. That's our life. We must help people to taxis, make sure they get home, put them in a cab or get them to the emergency room.

The police officers often encountered situations that demanded human judgement. Discretionary decisions were particularly significant in terms of which issues should be prioritized; in other words, how they assessed the seriousness of different offences. One officer talked about this.

When I work night-time on weekends, I feel like I'm driving with blinders on. You're missing a lot that you should react to. There is a lot of drinking and urinating in public. And I feel that I cannot use my time to deal with it, because it's not as serious as if someone is knocked down a minute afterwards.

The officers ignored several minor incidents, and they under-enforced the law or even ignored some laws altogether. The story below, from a Saturday night about one hour before closing time, illustrates this.

Lots of teenagers stagger in the street outside a club. Several boys are urinating, they are not trying to hide – they just stand straight up and pee into the air. There is still a long queue outside the venue, and I can see many people drinking from bottles of liquor. A young girl empties the rest of a bottle of Vodka. Before she enters the club, she throws the bottle away, and it rolls down the sidewalk. The police officer in the front seat shakes her head and laughs.

The story illustrates the vast amount of drunk and disorderly behaviour that characterizes nightlife. Both public drinking and public urination are forbidden, and throwing a bottle could also be seen as a public nuisance. It was a dangerous situation because many intoxicated adolescents ran out into the busy street. The officers did not do anything, although

they clearly showed (by laughing) that they were aware of the situation. It seems that they were overwhelmed by the situation. In an interview, another officer said, ‘To clean up the over-serving, drinking in public, and urinating, I could do that all the time. But you have look the other way to be ready if a big fight comes up.’ Another police officer said, ‘We need to focus on what we should do. We cannot chase down on everything we see that is wrong. Then we wouldn’t get past the first traffic light, and there goes the night.’

One evening, I was walking on a foot patrol with an officer, and we met some boys who were drinking beer on the street. The officer asked the boys to pour out the beer. He told me that it is always difficult to strike a balance between which cases to react to and which cases to ignore: ‘You cannot overlook everything; you have to set some examples. It can be quite time-consuming if people start to argue.’

I observed several similar episodes, but the officer only asked the offenders to empty the beer on a few occasions; he apparently overlooked the rest of the episodes. In an interview, another officer talked about the same offence: ‘If I roll down the window and say, “Hey, can you pour out the beer?” I hope and cross my fingers that they actually do it, because if they don’t, I must respond.’

Police officers told me that when a situation reaches a certain point, they have to react, because otherwise they could lose respect. One policeman said, ‘People have lost some of their respect for the police, and I think that’s because we don’t react to everything, all the small cases all the time.’ Berkley and Thayer (2000) demonstrated how minor crimes such as noise and littering create an atmosphere of *anything goes*, which can escalate into fighting, disorder and public intoxication later at night. This illustrates the broken window principle (Kelling 1999).

Officers told me that they could not overlook all trifles; they had to set some examples. In particular, if they give someone an order, they have to follow up; otherwise they

could lose respect. They said that it was important to show the public that the police respond to crime, and they wanted to set a certain standard for acceptable behaviour. Wood *et al.* (2013) illustrates this with a story in which an officer arrested a man who drank beer on the street because he wanted to show that the police did not tolerate even the smallest of crimes.

Situational variables include the seriousness of the offence, whether officers were summoned by somebody else, and the visibility of their actions. Gaines and Kappeler (2011) showed how almost every study ultimately reaches the conclusion that the most important factor in an officer's decision-making is the seriousness of the offence. This is consistent with my findings, as the officers ignored minor crimes. The visibility of the event and the presence of others are additional considerations. Officers may be subjected to criticism either for arresting or for not arresting someone. Their decision to arrest or release people may be influenced by their belief about which particular course of action is less likely to lead to citizen complaints. Examples from my fieldwork are situations in which people used smartphones to videotape situations in which officers interacted with citizens. The officers stated that they felt stressed if their actions were videotaped, because everything that they said or did was visible. In the presence of larger crowds, police officers may feel that it is necessary to arrest the offender to prevent any further problems. Officers tend to make more official, bureaucratic responses when witnesses are present (Gaines and Kappeler 2011). When people see public drinking and urinating, and they see the police fail to respond, it can create a less desirable culture and feelings of insecurity. Police officers frequently feared that cutting corners could send improper messages to citizens about how problems should be solved (see also Kelling 1999).

An hour late and a dollar short (system variables)

System variables are the characteristics of the criminal justice system that may influence officers to exercise discretion. Police resources are central here. The staffing levels were an important factor for how the fieldwork evenings developed. As the initial quote below shows, quiet evenings often ended as busy nights. Around closing time, the Operation Centre was always asking for more police at different places in the city. I witnessed several occasions when we were heading out on a call only to be diverted to another call on the way. When we arrived at a site where there were problems, the police could get caught up in other incidents occurring nearby. This was more likely to happen around closing time. One officer elaborated on this phenomenon.

Around closing time, there is a lot more to do. We come across things, it's like, 'Whoops! There's a fight there, and another one over there.' And there are plenty of calls from the Operation Centre too: we need cars here, there's a fight there, we must have cars there, we have problems over there.

The fieldwork also consisted of many quiet evenings. We could drive around for hours without anything happening. The same was evident in both Finstad's (2003) studies of the Norwegian police and Holmberg (2000) fieldwork with the Danish police. It could be quiet all night before it exploded around closing time (3 a.m.). This was experienced as frustrating. One police officer said the following.

And the police are constantly too late because we drive from one case to the other. We are not intended to stay in the places where the problems occur. If we had enough police officers out there, we could be at the places where we knew there would be trouble before the trouble occurred. But we have to run and extinguish fires all the time. So, you then

have to run from place to place, and you are always too late. So it's like an unending reactive spiral we are in, and it's incredibly frustrating for the police.

The officers tried to be as efficient as possible. They wanted to resolve the cases as quickly as they could so that they would not have to arrest people and drive them in to the station. Several times, this led to under-enforcement of the law. Taking someone to the station to arrest him or her could take up to several hours. There could be queues in jail, and they would have to write a report. It was better to dismiss the troublemakers or to give them a warning. One officer talking about a fight between two men said, 'So, when we have to step in and separate them and dismiss them from the site, we have to try to resolve it, because we cannot drive them in to arrest them; we don't have the capacity to do that.'

The officers constantly evaluated whether they had time to drive someone in to arrest them. They did not like the idea that they were occupied with arrests when they should be out on the streets, especially late at night. One officer said, 'When we're really needed, everyone is busy at the jail, writing. And we must write, because a police lawyer is waiting for our report.' Street-level bureaucrats develop coping mechanisms to meet the pressure of their responsibilities. They must exercise discretion in processing large amounts of work with inadequate resources, and they develop shortcuts and simplifications. Lipsky (2010) identifies several problems with street-level bureaucracy, including the problem of limited resources. Chatterton (2002) describes how many police forces have been unprepared for the scale of growth in nightlife, and street nightlife policing receives few resources.

The lack of system capacity to arrest every individual who commits a crime (Gaines and Kappeler 2011) was often mentioned as a justification for discretion. Several of the officers spoke about the lack of personnel. They said that if there were more police cars on patrol, it would be easier to enforce the law. Research suggests that police typically operate in

a reactive manner, are often delayed in responding to incidents and frequently fail to make arrests (Hadfield *et al.* 2005, Room 2005). One reason for delays is the large number of calls late on weekend nights and the relatively small numbers of police available to respond.

Lipsky (2010) argued that the street-level bureaucrats believe that they are doing the best that they can under adverse circumstances, and they develop techniques for salvaging service and decision-making values within the limits imposed upon them by the structure of the work.

The same is pointed out by Brown (2014), the police have limited resources, and decisions must be made about which crime are most deserving of those resources.

According to Gaines and Kappeler (2011), system variables also include community expectations, community support agencies, and the department's philosophy. The community's expectations influence an officer's application of the law. The public expects the police to deal with quarrels and disorderly conduct, and it is difficult for the police to avoid all inquiries from the public about small matters. Alternatives to arrest also affect an officer's discretionary decisions. Officers often tried to use night-time social workers, ambulances or taxis to take people home or to the hospital if they could not take care of themselves. If these options were not available, the officers had to 'work' as ambulance or taxi drivers.

Police departments have unique cultures with informal norms that guide an officer's decision-making (Paoline *et al.* 2000). An officer's peers convey informal norms, and they can subtly influence or directly pressure an officer to behave in a certain way (Ericson 1982a, Gaines and Kappeler 2011). Because I only observed one police station, my data cannot reveal cultural differences between police departments. Nevertheless, the officers continually talked about how their work differs from the policing at other stations. During the preparation meetings before each shift, it was quite clear that they shared an understanding of how to prioritize their activities.

Talking yourself into jail (offender variables)

Offender variables are attributes of the offender that influence officers to take action, and public demeanour is important. Officers told me repeatedly that drunk people do not know what is best for them and that they are often unable to take care of themselves. Thus, public drunkenness makes policing harder. The expression that patrons *talk themselves into jail* was common. The episode below from a Saturday night is illustrative.

The police car is sent to a venue where some troublemakers have been fighting. We arrive at the site and see a group of young men running away. The police car drives after them, and two officers run after the boys to stop them. Two of the boys obey a verbal order to leave the site. The last boy is more argumentative and will not show his ID. He screams several names at the police, such as 'pig', 'asshole' and 'fuck you'. One policeman suddenly loses his patience and says, 'This is not good for my blood pressure, let's drive him to the station and arrest him.'

In order for the offender to avoid arrest, he should have shown more deference to the police. I observed several instances in which drunk people did not obey officers' orders. Some offenders tried to talk themselves out of the situation but instead talked themselves into jail. Offenders who failed to comply with officers' directives were more likely to be arrested. The officers demanded immediate acceptance and a humble, respectful attitude (Forsyth and Marckese 1993, Riksheim and Chermak 1993, Finstad 2003), and they expected citizens to co-operate and show appropriate contrition. The officers tended towards strict enforcement of the law when offenders failed the 'attitude test' (Brown 1988, Engel *et al.* 2000).

Lipsky (2010) describes how police officers tend to be lenient with offenders whose attitude and demeanour denote penitence, but they tend to be harsh and punitive with those who show signs of disrespect. During my fieldwork, it was quite clear that the officers wanted

to resolve the cases in the easiest way possible. They would start by giving an order, hoping that the case could be resolved very simply. They wanted to spend as little time as possible with each case, but they often ended up in time-consuming negotiations with drunk patrons. They said that they wanted to give people a second chance, but that was sometimes impossible because of all the, ‘drunk idiots out there’. A common saying was: ‘If they were sober, they would have listened to us.’ On many occasions, the officers’ seemed to avoid conflict.

In the passage below, a police officer tells about an incident that happened the previous weekend. He drove past a pub and was stopped by a bouncer who told him about some problems with two women who would not leave the venue.

I know that there is no point in trying to talk to such women. I just want them gone so that we avoid further nuisance. My plan was to talk to them so that it didn’t escalate into a major issue. One of them was much more intoxicated than the other. Her walk was unsteady, and she couldn’t stand still. It was impossible to have a normal conversation. And I realized right away that the more sober one was much more co-operative. I asked for IDs, but the drunk woman refused to give her name and tried to run away. I took hold of her and told her that she couldn’t walk away. She still refused to give her name, and we ended up having to search her to find her ID. She yelled and insulted us all the time. She started to shout, ‘fuck you, fuck you’, and poked her finger at my face. Then my patience ended, and I used handcuffs to get her into the car. I drove her to the station and arrested her. Her friend had to walk home alone.

The same problem was discussed in the interviews. One officer stated, ‘When they are drunk, they do not understand what is good for them. I stand there and say, “If you go home now, everything is OK and we can forget the whole case.” And then they start to argue, and I have to do something. And then it’s on to the arrest.’

The officers normally checked offenders for criminal records, and it seemed that they were more likely to be strict with offenders who had a prior record. The officers were not equally lenient towards all types of citizens; they more readily fined previously registered offenders (Forsyth and Marckese 1993, Holmberg 2000, Carter 2006). This is a known characteristic of the street-level bureaucrats, as they try to make their jobs more manageable by 'filtering' clients whenever possible (Lipsky 2010).

The officers said that they often sensed quite quickly whether people were cooperative or not. Some of them said that they could spot a troublemaker from a long distance: 'Some people have an attitude problem.' One of the interviewed policemen talked about a 'gut feeling', saying, 'When I arrive at a scene where two people are fighting, I very quickly get a feeling that one of them is the idiot and the other one is OK. The idiot doesn't listen to me, but the other one does as he is told.' The officers said that they consistently tried to be 'good with the good guys and bad with the bad guys'. Intoxication affected, or even reinforced, how officers worked to negotiate order. One officer stated, 'It is not particularly clever to yell at a police officer. She probably wouldn't have done it if she was sober.'

As with the situational variables and the system variables, offender variables also led to under-enforcement of the law, especially with respect to well-mannered offenders. Officers often used their discretion to enforce the law less strictly than they are allowed, routinely showing leniency by engaging in non-enforcement and under-enforcement of the law (Brown 1988, Meyers *et al.* 1989). The moral is that the police are fair with the 'good guys' and strict with the quarrellers. Showing respect to the police is a prerequisite for lenient treatment. Polite and respectful offenders could be sent away with a smile and a pat on the back. Offenders who were treated this way were very grateful, and they often wanted to hug the officer. An example of this occurred when a police officer spotted a man who was urinating on the street. The officer asked him to give it up and go home, and the man responded with a

number of excuses and apparently much regret. The officer gave him a pat on the back and said that it was OK. The man wanted to shake the officer's hand to thank him, but the officer told the man to wash his hands because he had been urinating, and the situation ended with everyone laughing.

Several studies (Worden 1996, Black 2010, Gaines and Kappeler 2011) have indicated that the offenders social status (gender, age, race etc.) may influence an officer's discretion. The data for this article cannot reveal if these factors affected the officer's decisions.

Fifty shades of blue (officer variables)

As argued in the introduction, it is important to include individual and attitudinal factors to get a fuller picture of police discretion. Individual factors are described in two categories, individual characteristics (age and work experience) as well as value orientation and attitudes. The former probably influences the latter.

Street-level workers are a diverse group. One officer said, 'Most people, including young police officers, think that there is just one way to be a cop, but that's not true. It is always about evaluating the situation and making judgements based on experience and discretion.' This quote shows that the officer points to experience as an important factor in his judgements. The officers in this study noted that both age and work experience affected their assessments. On weekend nights, officers who work at the street level are often young. A senior officer stated, 'Young people have the motivation, they may not have the experience, but they have the motivation ... when you get older, you cannot bear all the drunkenness anymore.'

Younger officers said that they found quiet nights tiresome. They stated that they were waiting for something serious to happen, as they wanted more action. Senior officers appreciated quiet shifts to a greater extent. Senior officers said that they did not have any

more patience left, and they joked about the unlucky troublemakers who met them (the senior officers) instead of some younger officer with more patience. One of the senior officers said, 'I remember myself when I was new on the job. I had a great deal of patience and tried and tried to negotiate with drunk patrons. Now I don't bother any more.'

Another senior officer spoke in a similar vein, saying, 'I'm sick of working with drunk people ... having the same discussion every weekend, time and time again, drunk people who don't realize what's good for them. It's exhausting.'

Overall, studies on the individual characteristics of officers (gender, social class, age and experience) have not produced consistent findings. Along with officers' characteristics, officers' decisions are thought to be correlated with officers' values, beliefs and attitudes (Tasdoven and Kapucu 2013). Scholars have reported that years of experience reduce the likelihood of an arrest (Muir 1977), and that there is a negative relationship between years of experience and level of force used (Terrill and Mastrofski 2002).

Goldstein (1977) stresses that choices made by officers are largely a matter of individual style and vary greatly from one officer to another. The result is not only unequal treatment of individuals in similar situations but also an atmosphere in which a decision of vital importance to a citizen may be based on irrelevant considerations, such as which alternative is most convenient to the officer. I discovered that there was a difference in how patient officers were in different situations. Some officers were calm and steady in almost every provocative situation, whereas others were more temperamental.

It is Friday night, and we pass two men who are about to start fighting. They are screaming to each other, and one of them throws a hamburger in the other one's face. The police officers separate them and lead them to different sides of the street. I follow the senior officer. The troublemaker is really drunk. The officer asks for his name and

address in an unpleasant tone. The man has difficulty standing on his feet, and he asks the officer if he can sit down on the pavement. The officer suddenly screams, 'NO! GIVE ME YOUR NAME AND ADDRESS' while he takes hold of the man's jacket and sternly stares him in the eye.

The troublemaker received a verbal order to leave the city centre. This is an example of a situation in which the officer handled the situation aggressively. It was obvious that officers had different perceptions about their professional role, and some situations were handled by officers with quite explosive tempers. Officers develop distinctive 'styles' of performing their duties that are shaped by their attitudes and values (Jackson and Wade 2005). Officers might cope differently with similar occupational strains and may thus develop different styles (Loyens and Maesschalck 2010). As Lipsky (2010) argues, street-level bureaucrats, like everyone else, have personal standards. Despite these apparent differences, I did not observe any officers having major disagreements or debates about cases.

The officers that I observed could be placed on a scale with *reactive* at one end and *proactive* at the other, with most of them somewhere in between. Suspicious circumstances may be ignored by officers who are essentially reactive, whereas they may be inspected closely by those who are proactive. Several studies have focused on attitudinal explanations for police behaviour (White 1972, Muir 1977, Brown 1988). Muir (1977) defined different types of officers and described the characteristic patterns of behaviour that they exhibited. In their studies of Swedish police officers, Holgersson and Knutsson (2008) found that a small group of high-producing officers carried out a large percentage of the total number of interventions. Officers with less time on the job carried out more interventions than did the senior officers. It is important to emphasize that the observed police behaviour cannot be divided into categories such as "good" versus "bad"; the scale is of course much more nuanced. Brown (1988) and Muir (1977) formulated typologies of police officers based on

their views and moral outlook. More recently, Paoline (2004) studied the similarities and differences in police officer attitudes, and identified seven different clusters of officers – from “Dirty Harry Enforcers” to “Peacekeepers”.

Similar examples were evident regarding the equipment that individual officers chose to wear. Some took only the most necessary items, whereas others hung handcuffs, batons, MagLites, Leathermans, and lots of other devices on their belts. With the equipment that they wore, they could give different impressions of their professional role. Role orientation refers to officers’ conceptions of the proper and legitimate scope of police business. Some officers believe that the police role is defined wholly by the mandate to fight crime, but others are more orientated towards service and maintaining order (Worden 1989). The reactive officers said that they did not care about minor offences, and they wanted to handle drunk and disorderly behaviour in a humane way. The proactive officers stressed that ignoring small offences could undermine the legitimacy of the police. One officer said the following.

When I see somebody drinking right next to the police car, and everyone standing around is watching it, without me doing anything, it creates a bad attitude. And then the ball starts rolling ... and see what we have now. There’s much more drinking in public now than there was 10 years ago.

Lipsky (2010) stressed another point: a police officer who fails to make an arrest upon observing an unlawful act may strike an observer as negligent. However, if the officer privately understands his or her job as maintaining order, this behaviour may be acceptable according to his or her personal definition. If officers’ perceptions are shaped by a more general and deeply rooted view of human nature, or what Muir (1977) calls perspective, officers with a cynical outlook may be disinclined to believe that citizens are respectful and co-operative.

Discussion

Gaines and Kappeler (2011) summarizes three important factors that can contribute to our understanding of police discretion. As emphasized by another body of research (Muir 1977, Brown 1988, Mastrofski *et al.* 1995, Paoline 2004, Tasdoven and Kapucu 2013), it is also important to focus on individual officer factors.

Whether the night is busy or not, and whether the offender is co-operative or not, at the end the day, an officer's individual attributes and attitudes/norms are important for their assessments. An officer's norms and attitudes are the *basis* for decisions regarding situational variables, system variables and offender variables. An officer's norms and attitudes will affect how he or she judges a situation or an offender, and an officers' approach to the job might predispose him or her towards one style of policing rather than another.

Maynard-Moody and Musheno (2000) emphasized that officers' individual characteristics were important for understanding street-level work. Street-level bureaucrats *first* make moral judgements about a citizen, and *then* they use rules, laws and procedures to handle their cases. In their later works, Maynard-Moody and Musheno (2012) discuss the concept of *agency* as freedom of action. The officers in their study defined discretion as pragmatic improvisation rather than ignoring rules, and they regarded their decision-making as an exercise in moral reasoning rather than rule breaking. In this study, the officers similarly portrayed their own judgements as correct and tempered by experience. They were proud of their pragmatism or 'street smarts'. Their use of discretion is grounded in their understanding of reality based on their experiences and norms. Walker (1993), for example, described how street-level decisions and actions are guided less by rules, training, or procedures than by beliefs and norms, especially beliefs and norms about what is fair. Bayley (2005) describes this practical knowledge consisting of intuitive, experienced-based and implicit knowledge.

However, there is no consensus regarding the importance of individual factors. Most quantitative research on police behaviour has found only weak relationships between officers' attitudes and their behaviour (Terrill and Mastrofski 2002, Engel and Worden 2003). These studies are consistent with a large body of social-psychological research that has shown that people's attitudes are weakly related to their behaviour (Worden 1989, Paoline et al. 2000, Engel and Worden 2003). One of the most compelling and theoretically significant explanations for this inconsistency is the impact of situational pressures, such as social norms, the norms of reference groups and the behaviour of others on an individual's behaviour. In his study of the police, Worden (1989) found that attitude variables failed to account for more than a very small part of the variation in police behaviour. He argued that officers choose courses of action based on a small set of situational cues and based on rules of thumb that are consistently applied, which is to say that they practise individual styles of policing. In other research, Johnson (2011) studied traffic situations, and concluded that officer attitudes do not have a significant influence on officers' behaviour.

Maynard-Moody and Musheno (2000) challenged the understanding of street-level bureaucrats as state agents who apply the state's laws, rules and procedures. They proposed an alternative viewpoint, a citizen-agent narrative. Rather than state agents who act in response to rules, procedures, and law, street-level workers can be seen as citizen-agents who act in response to individuals and circumstances. Street-level workers do not describe themselves as policymakers or government workers but as citizen-agents who act in response to individual citizen clients in specific circumstances. They define their discretion not in terms of following, bending, or ignoring rules but as pragmatic improvisation in response to these encounters. Street-level decisions are normative; they are an exercise in moral reasoning

rather than rule following or even rule breaking (Maynard-Moody and Musheno 2003).

Therefore, it is crucial to understand what moral standards police officers enforce.

The police officers in this study wanted to punish the ‘bad guys’ and protect the ‘good guys’. They desired a standard for acceptable behaviour that largely included the expectation that people would behave well and have respect for the police. Each officer’s different experiences, norms and individual characteristics led to different assessments of what was acceptable behaviour and proper demeanour. Street-level bureaucrats are state agents, as their decisions are affected by situational and structural variables, but they are also citizen-agents, as both the offender’s demeanour and the officer’s attitudes influence the use of discretion.

The absolute enforcement of the law is often not an option for an officer; instead, officers must resort to non-enforcement and/or under-enforcement of the law, as well as use of informal sanctions to preserve social order. It is impossible to write a policy statement that covers every issue that officers might confront. Practical circumstances are so complicated that every demand cannot be covered. Among the multitude of violations that occur in a large entertainment-district crowd, officers must choose their battles carefully. Citing every jaywalker, for example, creates more problems (conflicts, debates, time consumed by disagreements) than it solves (Berkley and Thayer 2000). As stated by Bittner (1967) choosing not to make an arrest does not reflect a lack of action, but rather “a decision to act alternatively”.

Thus, police discretion is a necessary tool. Lipsky (2010) emphasized that officers could not possibly make arrests for all the infractions that they observed during their working hours. They are expected to enforce the law selectively. The police face a dilemma in maintaining legitimacy: they must be perceived as effective in fighting crime and disorder, but they must also maintain standards of fairness (Svensson and Saharso 2014). Officers can be distinguished by their attitudes towards selective enforcement (Brown (1988). Selectivity

refers to a predisposition to array criminal offenses along a scale of priorities and to define a point on that scale below which laws are too unimportant to enforce (Worden 1989).

This study revealed that both situational variables and system variables lead to under-enforcement of the law. An overwhelming number of cases of public drinking and urination paired with a lack of personnel meant that officers had to choose their battles carefully. Nevertheless, although officers may choose to under-enforce the law, the fact that they have access to force is pivotal to their authority (Bittner 1970, Wood *et al.* 2013).

A robust policy of prosecuting more minor offences associated with drunkenness could act as a useful crime prevention measure (Rashbaum 2002). On the other hand, more or less systematically ignoring many cases can be seen as flexible law enforcement. The nature of street-level bureaucrats' jobs makes it difficult to limit their discretion, which would also be undesirable, because we want the law to be responsive to the unique circumstances of individual transgressions. Among the advantages of police discretion is the fact that it allows officers to treat people humanely and to give them a second chance. Friendly attempts to gain voluntary compliance are best, at least initially, for lower-grade safety threats (Berkley and Thayer 2000). Ignoring minor crimes can positively influence how the police are evaluated by the public. If the police were to spend all of their time demanding that people pour out beer, many people would probably think less of them.

Conclusion

This study provides insight to the everyday work of patrol officers in Oslo, and provides a bottom-up perspective of police officers on patrol by exploring their working and lived reality. No records are kept of the activities that are necessary to maintain order, to keep the peace and to resolve conflicts. To get a picture of police work in nightlife settings, we cannot simply examine the official criminal statistics. As Wood *et al.* (2013) have argued, it is

important to listen to what line officers have to say about the realities of police work. Although politicians talk about reducing alcohol-related violence, the police officer at street level must handle the drunk boy who has quarrelled with his girlfriend and lost his jacket. Therefore, a bottom-up perspective is essential for understanding street-level bureaucrats and how discretionary decisions are made. Low-level decision-making by police officers based on practical and real-life considerations makes a significant contribution to crime control and the problem-solving capacity of criminal justice agencies (Kelling 1999).

Decisions at street level are influenced by how officers adapt to their working context (situational and system variables), the individuals that they relate to (offender variables), and the characteristics of individual officers. Officers' discretionary assessments are based on moral judgements and individual choices, and their choices are a matter of attitudes, experience, and individual norms. Therefore, it is important to include officers' variables in order to get a fuller picture of police discretion.

Acknowledgements

I would like to thank Sveinung Sandberg and my colleagues in the Alcohol Research Unit at SIRUS for making valuable comments on this paper.

Funding

This work was supported by the Norwegian Institute for Alcohol and Drug Research and by The Norwegian Directorate for Health.

The author has no financial interest or benefits.

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