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The Police Role and Police Discretion

After studying this chapter, the student should be able to:

- LO1** Define the police role and the ambiguity of the police role
- LO2** Discuss the goals and objectives of policing
- LO3** Explain police operational styles
- LO4** Discuss police discretion
- LO5** Discuss police discretion and police shootings and the use of deadly force

LO1 Define the Police Role and the Ambiguity of the Police Role

The role of the police and the exercise of police discretion are among the most important issues in policing.

What is the **police role**? Who are the police in the United States? What do they do? How do they do what they do? What should they do? These are very difficult questions to answer. The scholar Herman Goldstein warns, "Anyone attempting to construct a workable definition of the police role will typically come away with old images shattered and a newfound appreciation for the intricacies of police work." (Goldstein, *Policing a Free Society* p. 21)

Two major views of the role of the police exist:

- The police are crime-fighters concerned with law enforcement (crime-fighting).
- The police are order maintainers concerned with keeping the peace and providing social services to the community (**order maintenance**).

police role

The concept of "what do the police do."

order maintenance

Major view of the role of the police that emphasizes keeping the peace and providing social services.



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crime-fighting role

A major view of the role of the police that emphasizes crime-fighting or law enforcement.

ambiguous

Not clearly defined; having several possible interpretations.



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Crime-Fighting Role

Movies and television shows about the police emphasize the police **crime-fighting role**. If we believe these stories, the police engage daily in numerous gunfights, car chases, and acts of violence, and they arrest numerous

people every day. Fictional books about police work also emphasize the crime-fighting role. Even the news media emphasize this role; television news shows and newspaper headlines dramatize exciting arrests and actions by the police.

The police themselves also emphasize their role as crime-fighters and deemphasize their jobs as peacekeepers and social service providers. As George L. Kirkham, a former professor turned police officer, states,

The police have historically overemphasized their role as crime fighters and played down their more common work as keepers of the peace and providers of social services, simply because our society proffers rewards for the former (crime fighting) but cares little for the latter (peace-keeping and providing services). The public accords considerable recognition and esteem to the patrol officer who becomes involved in a shoot-out with an armed robber or who chases and apprehends a rapist, and therefore so do the officer's peers and superiors. (Kirkham and Wollan 336)

At first glance, there appears to be some truth to the belief that police are primarily crime-fighters. Statistics for the latest reporting year reveal that the U.S. police made more than 13.7 million arrests for all criminal

infractions, excluding traffic violations. (FBI, *Uniform Crime Reports*, 2010)

An analysis of the arrests, however, shows a different perspective. About 2.31 million of the arrests were for the FBI's Index or Part I crimes. Of these arrests, about 582,000 were for violent crimes (murder, forcible rape, robbery, and aggravated assault), and about 1.73 million of the arrests were for property crimes (burglary, larceny, theft, motor vehicle theft, and arson). The following accounted for the other 11.38 million arrests:

- Driving under the influence (DUI) or driving while intoxicated (DWI)—about 1.4 million arrests.
- Drug abuse violations—about 1.7 million arrests.
- Misdemeanor assaults—about 1.3 million arrests.
- Liquor law violations, drunkenness, disorderly conduct, vagrancy, and loitering—about 1.97 million arrests.
- A large variety of lesser offenses, excluding traffic offenses (see Table 5.1).

From the analyses of the arrests made by police, we can see that the vast majority of the arrests are not serious Index crimes but, rather, what we might call crimes of order or actions that annoy citizens and negatively affect their quality of life (for example, offenses involving disorderly conduct and alcohol). Even the vast majority of the crime-fighting the police do is related to order maintenance rather than serious crime.

Furthermore, the 2007 report *Contacts between Police and the Public, 2005*, revealed that approximately 43.5 million citizens had contacts with the police during the previous reporting year. Most of the contacts involved motor vehicle or traffic-related issues. Only 1.6 percent of all contacts involved the use of or threat of force by the police. (Durose, Smith, and Langan 2007)

Order Maintenance Role

If police are not primarily crime-fighters, then what are they? In an effort to determine the proper role of police, researchers have conducted numerous studies to determine what it is that police do and why people call on their services. Researchers have reported that the ordinary work routines of police officers include a great deal of little law enforcement and comprise a large percentage of other activities that have come to be known as order maintenance and order maintenance.

Ambiguity of the Police Role

The police role is extremely diverse, **ambiguous**, and **multifaceted**. Egon Bittner has stated that from its earliest days, police work has been a "tainted" occupation:



Deputy sheriffs making an arrest.

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TABLE 5.1 Arrests in the United States, by Crime Committed, 2009

Total*	13,687,241
Part 1 Crimes	
Murder and non-negligent manslaughter	12,481
Forcible rape	21,407
Robbery	126,725
Aggravated assault	421,215
Burglary	299,351
Larceny-theft	1,334,933
Motor vehicle theft	81,797
Arson	12,204
Violent crime arrests**	581,765
Property crime arrests***	1,728,285
Other assaults	1,319,458
Forgery and counterfeiting	85,844
Fraud	210,255
Embezzlement	17,920
Stolen property: buying, receiving, possessing	105,303
Vandalism	270,439
Weapons: carrying, possessing, etc.	166,334
Prostitution and commercialized vice	71,355
Sex offenses (except forcible rape and prostitution)	77,326
Drug abuse violations	1,663,582
Gambling	10,360
Offenses against the family and children	114,564
Driving under the influence	1,440,409
Liquor laws	570,333
Drunkenness	594,300
Disorderly conduct	655,322
Vagrancy	33,388
All other offenses	3,764,672
Suspicion	1,975
Curfew and loitering law violations	112,593
Runaways	93,434

* Does not include suspicion. Because of rounding, the figures may not add to total.

** Murder, forcible rape, robbery, and aggravated assault.

*** Burglary, larceny-theft, motor vehicle theft, and arson.

SOURCE: Federal Bureau of Investigation. *Uniform Crime Reports, 2009* March 8, 2010, p. 8. <http://www.fbi.com>.



Police officer administering first aid to a fallen man.

that attaches to police work refers to the fact that policemen are viewed as the fire it takes to fight fire, that in the natural course of their duties they inflict harm, albeit deserved, and that their very existence attests that the nobler aspirations of mankind do not contain the means necessary to insure survival.” (Bittner 8)

Carl B. Klockars, in *Idea of Police*, broadly defines the basic function of the police as dealing with all those problems that may require the use of coercive force. He emphasizes that democratic societies give the police the right to use morally dangerous, dirty, and illegal means to achieve good ends because in most cases, noble institutions do not contain the means to ensure their own survival. (Klockars)

We must remember that England’s Sir Robert Peel, who arranged for the organization of the first paid, full-time, uniformed police department, conceived of the police role as a conspicuous community-oriented patrol designed more for prevention and deterrence than for enforcement. Peel designed the police to be an alternative to the repression of crime and disorder that could have been achieved through military might and severe legal sanctions.

One way of defining the police role may be to say that it is whatever the community expects the police to be. However, we must remember that most communities consist of many diverse groups with different goals and interests. One group in the community may expect the police to do something entirely different from what another group expects them to do. For example, older people in a community or store owners may want the police to hassle teenagers hanging out on the street, yet the teenagers, for their part, may feel that if the police do hassle them, the officers are being abusive. Parents in a community may want the police to search and arrest drug dealers and drug users, yet not want the police to search their own children.

In these and many other ways, the police are often in a no-win situation.

Robert Sheehan and Gary W. Cordner, using the work of previous scholars, offer the following synopsis of the police role:

1. The core of the police role involves law enforcement and the use of coercive force.
2. The primary skill of policing involves effectively handling problem situations while avoiding the use of force.
3. Skillful police officers avoid the use of force primarily through effective, creative communication. (Sheehan and Cordner 62)

In summing up the police role, we might agree with Joseph J. Senna and Larry J. Siegel, who say that

the police role has become that of a social handywoman or handyman called to handle social problems that citizens wish would simply go away. (Siegel and Senna, 2005)

The Police Role in the Aftermath of 9/11

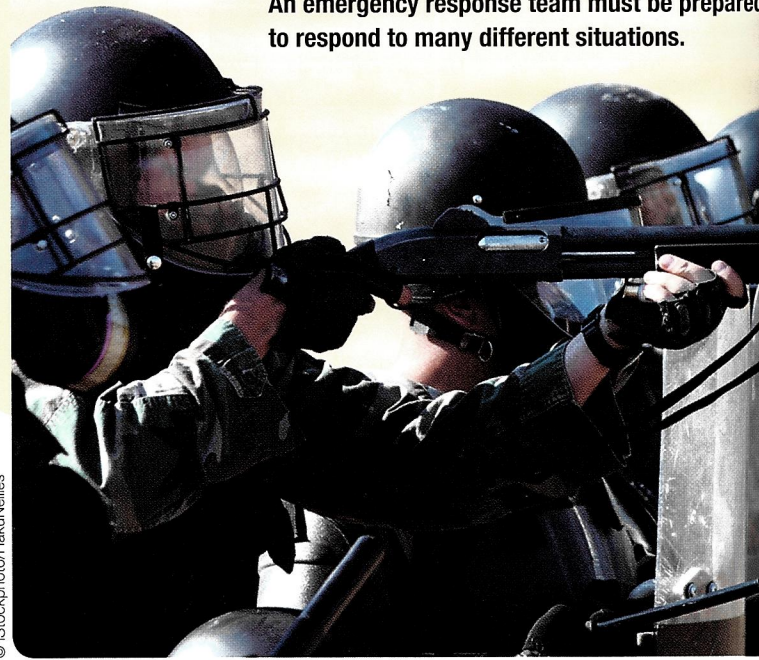
The ambiguous role of the police has been further complicated by the September 11, 2001, terrorist attacks against the United States. Since

9/11, many have seen the police as the frontline of homeland defense against further terrorist attacks, and many police departments and officers

are viewing themselves similarly.

Police departments have responded by forming specialized, military-like antiterrorist units that appear in public as a strong deterrent force against would-be

An emergency response team must be prepared to respond to many different situations.



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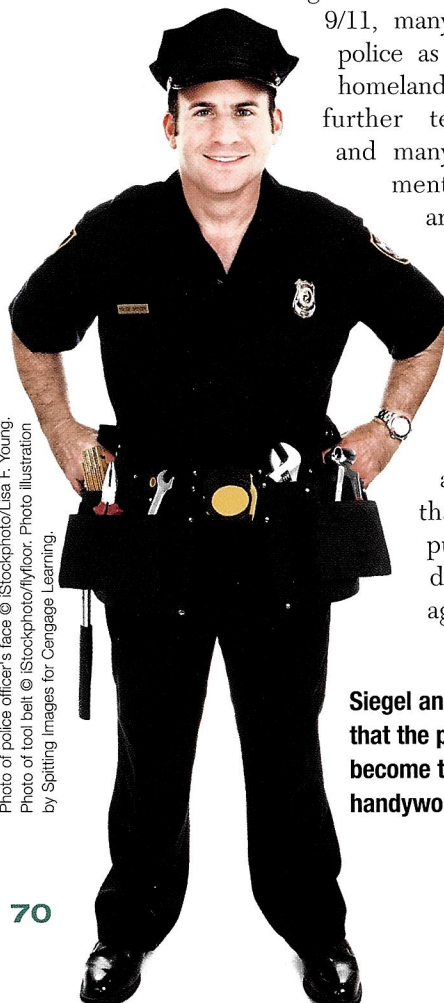


Photo of police officer's body © iStockphoto/Sean Locke.
Photo of police officer's face © iStockphoto/Lisa F. Young.
Photo of tool belt © iStockphoto/flyfloor. Photo illustration by Spitting Images for Cengage Learning.

Siegel and Senna say that the police role has become that of a social handywoman or handyman.

terrorists. This has concentrated attention on the enforcement role of the police.

The order maintenance role and social service of the police have also been reemphasized because police are the first responders to all emergencies and unusual occurrences in the nation. They are faced with the many duties this entails, including crowd control, emergency medical response and treatment, and maintenance of public order in often catastrophic conditions.

LO2 Discuss the Goals and Objectives of Policing

Much research has gone into determining the primary goals and objectives of a police department. This topic will be discussed more easily by thinking in terms of primary and secondary goals and objectives.

Primary Goals and Objectives

The two primary goals and objectives of police departments, according to Sheehan and Cordner, are maintaining order and protecting life and property. (Sheehan and Cordner 16–21) These are among the most basic responsibilities of government, and government hires the police to perform these services. To achieve these goals, the police perform a myriad of duties.

PRIMARY GOALS

1. Maintaining order
2. Protecting life and property

Secondary Goals and Objectives

Sheehan and Cordner also list six secondary goals and objectives (Sheehan and Cordner 16–21) toward which police resources and activities are used to meet the two primary objectives:

SECONDARY GOALS

1. Preventing crime
2. Arresting and prosecuting offenders
3. Recovering stolen and missing property
4. Assisting the sick and injured
5. Enforcing noncriminal regulations
6. Delivering services not available elsewhere in the community

The police attempt to prevent crime by trying to create a sense of **omnipresence** (the police are always there) through routine patrol, responding to calls by citizens to deal with problems that may cause crime, and establishing and participating in police–citizen partnerships designed to prevent crime. Arresting offenders and assisting prosecutors in bringing charges against defendants is one of the primary methods used by the police to maintain order and protect life and property.

When people find property on the street, they often bring it to a police officer or to a police station. The police then attempt to find the owner. If that is not possible, they store the property in case the rightful owner comes in to

PRIMARY GOALS
✓ Maintaining order
✓ Protecting life and property

claim it. When people lose property, they generally go to the nearest police station in the hopes that someone has turned it in. Besides all of their other duties, then, the police serve as society's foremost lost and found department.

Because they are available 24/7 and because they are highly mobile, the police generally are the closest government agency for any problem. In many jurisdictions, the police are called to emergency cases of sickness and injury to assess the situation before an ambulance is dispatched, or they are called to assist ambulance, paramedical, or other emergency response personnel.

In the absence of other regulatory personnel or during the times these personnel are not available, the police enforce numerous noncriminal regulations, including traffic and parking regulations, liquor law regulations, and many others. The police are generally the only government officials available every day, around the clock. When government offices close, the police become roving representatives of the government who assist people with problems no one else is available to handle. When the lights go off in an apartment building, people call the police. When a water main breaks, people call the police. When your neighbor's dog barks all night and keeps you awake, who do you generally call? The police, because let's face it, who else can you call at 3:00 in the morning? The police respond and take whatever action they can to ameliorate problems and to deal with emergencies. They direct traffic, evacuate residents, and decide who to call for assistance.

omnipresence

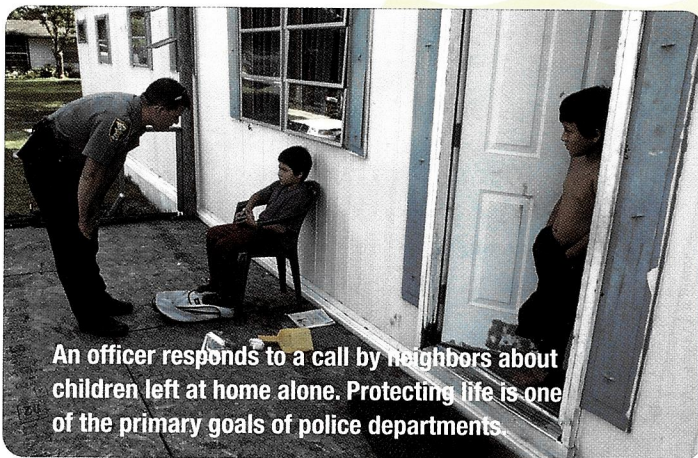
A concept that suggests that the police are always present or always seem to be present.

police operational styles

Styles adopted by police officers as a way of thinking about the role of the police and law in society.



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An officer responds to a call by neighbors about children left at home alone. Protecting life is one of the primary goals of police departments.

LO3 Explain Police Operational Styles

People who research the police write about **police operational styles**—styles adopted by police officers as a way of thinking about the role of the police and law in society and how they should perform their jobs.

The concept of operational styles is useful in analyzing the police role and police behavior. However, no officer conforms solely to one of these styles to the exclusion of the others. Many officers show characteristics of several of these styles. Siegel and Senna tell us that several studies have attempted to define and

classify police operational styles into behavioral clusters. These classifications or typologies attempt to categorize officers by groups, each of which has a unique approach to police work. They report that the purpose of these classifications is to demonstrate that the police are not a cohesive, homogeneous group, but rather individuals with differing approaches to their work. (Siegel and Senna 211) Siegel and Senna present four basic styles of policing or typologies.

Siegel and Senna's Styles

Crime fighters. Investigate serious crimes and apprehend criminals.

Social agents. Perform a wide range of activities without regard for their connection to law enforcement.

Law enforcers. Enforce the law "by the book."

Watchmen. Maintain public order.

John J. Broderick, in his *Police in a Time of Change*, also presents four distinct police operational styles: (Broderick)

Broderick's Styles

Enforcers. Their major role is maintaining order on their beat, keeping society safe, and protecting society by arresting criminals.

Idealists. Similar to enforcers, yet they place a higher value on individual rights and the adherence to due process as required by the U.S. Constitution.

Realists. Relatively low emphasis on both social

order and individual rights; they concentrate the efforts on the concept of police loyalty and the moral support of their fellow officers.

Optimists. Place a relatively high value on individual rights and see their job as people oriented, rather than crime oriented.

In his seminal work *Varieties of Police Behavior: Management of Law and Order in Eight Communities*, Wilson describes three distinct styles of policing a police department can deploy in maintaining order: the watchman style, the legalistic style, and the service style. (Within each style, the police treat serious felonies differently.) (Wilson) He found that the political culture of the city, which reflects the socioeconomic characteristics of the city and its organization of government, is a major influence on the style of policing exercised by the police.

Wilson's Styles

Watchman style. Primarily concerned with order and maintenance—maintaining order and controlling disorderly and disruptive behavior. Officers in a watchman style department exercise a great deal of discretion and ignore many minor violations, especially those involving juveniles and traffic. Officers use persuasion and threats, or even "hassle" or "rough up" disruptive people, instead of making formal arrests. (Wilson) This style, Wilson says, is generally found in working-class communities with partisan mayor-city council government.

Legalistic style. Enforce the letter of the law strictly by issuing many citations and making misdemeanor arrests. Officers proceed vigorously against illegal enterprises. This style of enforcement, Wilson says, occurs in reform administration government styles. Furthermore, this style often emerges in the aftermath of a scandal in a watchman style department that results in the hiring of a "reform" police chief.

Service style. Emphasis on serving the needs of the community. The officers see themselves as helpers rather than as soldiers in a war against crime. (Wilson) This style, Wilson says, is generally found in affluent suburban areas.



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Jim Brackett of Nashua, New Hampshire, a United States police officer who patrols in the town of Kosovsk Mitrovica, gives a lollipop to a young child.

LO4 Discuss Police Discretion

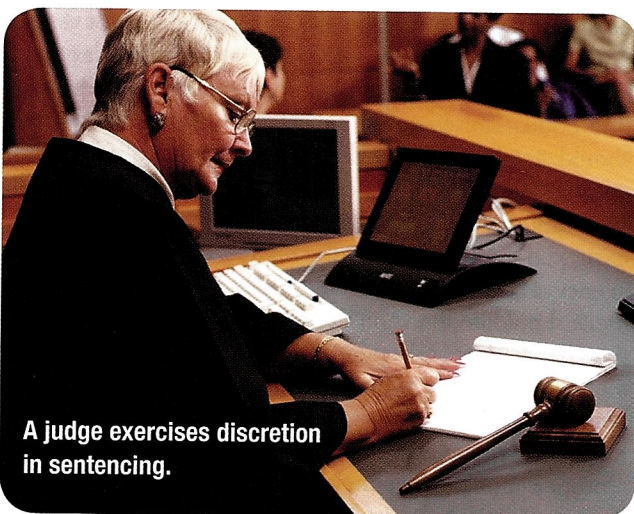
The use of discretion is one of the major challenges facing U.S. police today. The following sections will discuss the meaning of police discretion, how and why it is exercised, what factors influence discretion, and how it can be controlled.

What Is Discretion?

Discretion means the availability of a choice of options or actions one can take in a situation. We all exercise discretion many times every day in our lives. At a restaurant, we have discretion in selecting a steak dinner or a fish dinner. At the video store, we have discretion in picking a mystery or a comedy to view. Discretion involves making a judgment and a decision. It involves selecting one option from a group of options.

The criminal justice system involves a tremendous amount of discretion. A judge exercises discretion in sentencing. He or she can sentence a defendant to a prison term or to probation. A judge can release a defendant on bail or order the defendant incarcerated until trial. Prosecutors exercise discretion: they can reduce charges against a defendant or drop the charges entirely. Parole boards exercise discretion: they can parole a person from prison or order him or her to serve the complete sentence. The entire criminal justice system is based on the concept of discretion.

Why is there so much discretion in the U.S. system of criminal justice? In our system, we tend to treat people as individuals. One person who commits a robbery is not the same as another person who commits a robbery. Our system also takes into account why the person committed the crime and how he or she committed it. Were there any



A judge exercises discretion in sentencing.

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mitigating or aggravating circumstances? The U.S. system is thus interested in the spirit of the law, in addition to the letter of the law.

When a judge, a prosecutor, or a parole board member exercises discretion, each generally has sufficient time and data necessary to make a careful, reasoned decision. The judge can read the presentence report prepared by the probation department or consult with the probation department staff member preparing the report. The judge can also consult with the district attorney or the defense attorney. The prosecutor and the parole board member also have sufficient data and time in which to decide what action to take in a case.

However, most crucial decisions made in the criminal justice system do not take place as described in the previous paragraph. The most important decisions do not take place within an ornately decorated courtroom or a wood-paneled conference room. Rather, they take place on the streets. They take place at any time of the day or night, and generally without the opportunity for the decision makers to consult with others or to carefully consider all the facts. Indeed, these split-second decisions are often based on little information. Rather, they take place at the very lowest level in the criminal justice system, on the streets. Nevertheless, the police officer, generally the first decision maker in the U.S. criminal justice system, is often the most important.

How Is Discretion Exercised?

The police exercise discretion to perform the following crucial actions:

- To arrest
- To stop, question, or frisk
- To use physical force
- To use deadly force
- To write traffic summonses
- To use certain enforcement tactics (harassment, moving loiterers, warnings, and so on)
- To take a report on a crime
- To investigate a crime

Why Is Discretion Exercised?

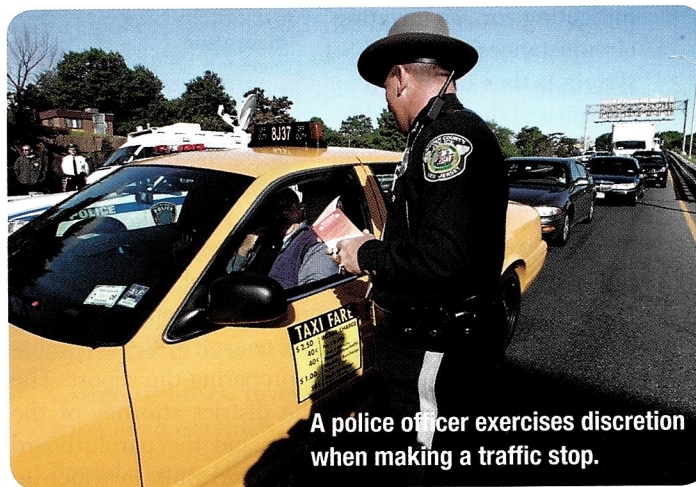
Discretion is an extremely necessary part of police work. Sheehan and Cordner tell us that the police exercise discretion for seven reasons:

discretion

Freedom to act or decide a matter on one's own.



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A police officer exercises discretion when making a traffic stop.

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1. If the police attempted to enforce all the laws all the time, they would be in the station house or court all the time and would not be on the street maintaining order and protecting life and property.
2. Because of political realities, legislators pass some laws that they do not intend to have strictly enforced all the time.
3. Lawmakers pass some laws that are vague and ill-defined, making it necessary for the police to interpret these laws and decide when to apply them.
4. Most violations of the law are minor (for example, traffic violations) and do not require full enforcement.
5. The complete enforcement of all the laws all the time would alienate the public from the police and the entire criminal justice system.
6. The full enforcement of all the laws would overwhelm the courts, jails, and prisons.
7. The police have so many duties to perform and such limited resources that good judgment must be exercised in when, where, and how they enforce the law. (Sheehan and Cordner 52–53)

What Factors Influence Discretion?

We know that officers practice discretion, and we know that discretion is necessary. Are there factors that cause the police to exercise discretion in a certain way? Scholars have been studying this issue for quite a while.

Herbert Jacob wrote that four major factors influence police officers in determining the exercise of discretion:

1. *Characteristics of the crime.* A serious crime leaves the police less freedom or ability to ignore it or exercise discretion regarding it.

2. *Relationship between the alleged criminal and the victim.* Generally, the police tend to avoid making arrests when a perpetrator and a victim have close relationship. In recent years, however, many departments have limited discretion in domestic violence or family assault cases and have adopted pro-arrest policies.

3. *Relationship between police and the criminal or victim.* Generally, a respectful, mannerly complainant is taken more seriously and treated better by the police than an antagonistic one. In the same way, a violator who acts respectfully to the police is also less likely to be arrested than an antagonistic one.

4. *Department policies.* The preferences of the police chief and city administration, as expressed in department policy, generally influence the action of the officer. (Jacob 27)

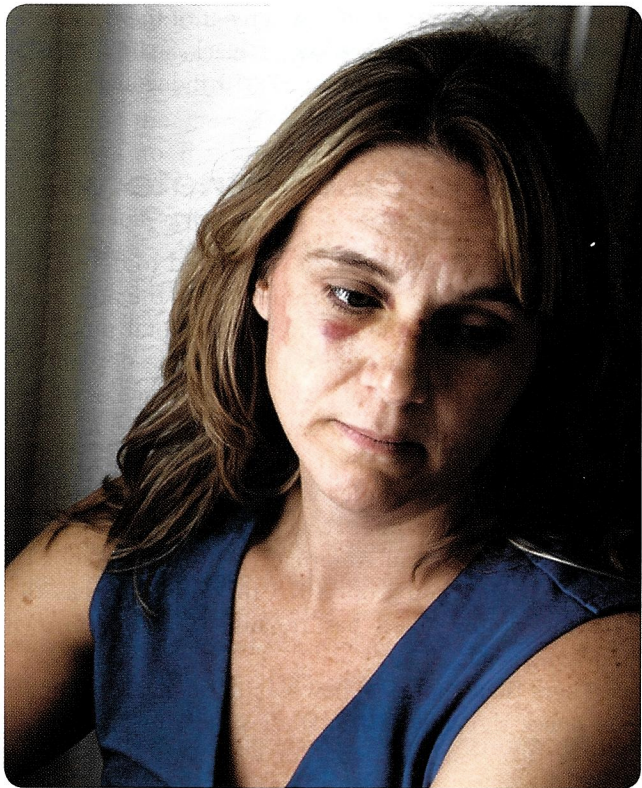
Research has identified other specific factors that possibly influence police discretion to arrest, including the subject's offense, attitude, race, socioeconomic status, gender; the officer's race; and police peer-group pressure.

Studies of police discretion have shown that the most significant factor in the decision to arrest is the seriousness of the offense committed. This factor is supplemented by other information, such as the offender's current mental state, the offender's past criminal record (when known to the arresting officer), whether weapons were involved, the availability of the complainant, and the relative danger to the officer involved. (Siegel, Sullivan, and Green 132–142)

How Can Discretion Be Controlled?

In recent years, much attention has been given to the need to prepare police for the appropriate use of discretion. Most experts believe that discretion itself is not bad and that the real problem is uncontrolled or unregulated discretion. These experts feel that discretion cannot be abolished but believe that police departments should attempt to control or regulate it.

Most researchers believe that discretion should be narrowed to the point where all officers in the same agency deal with similar issues in similar ways. They feel there should be limits on discretion that reflect the objectives, priorities, and operating philosophy of the department, and they further believe that these limits should be sufficiently specific to enable an officer to make judgments in a wide variety of unpredictable circumstances in a proper, unbiased manner that will achieve a reasonable degree of uniformity in handling similar incidents in the community.



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Police officers must be sensitive and tactful when dealing with victims of domestic violence.

One approach to managing police behavior involves requiring obedience to a formal set of policies or guidelines that can ensure the just administration of the law. Many police departments established written policies regarding the use of deadly force as far back as the early 1970s, even before the U.S. Supreme Court decision in *Tennessee v. Garner*, which will be discussed later in this chapter. These policies dramatically reduced the number of shootings of civilians by the police and reduced the number of officers shot by civilians. Since the 1980s, many departments have established formal procedures for dealing with emotionally disturbed persons, police pursuits, and other critical issues discussed in this text.

One way of controlling discretion, particularly improper application of discretion, is the establishment of employee early warning systems. These automated systems detect significant events in an officer's statistics, such as a high number of use of force incidents, vehicle pursuits, sick days, involvement in significant events, or low numbers of arrests or citizen contacts. These systems provide a warning to managers and supervisors, who can then investigate any irregular patterns.

Another method of controlling policing discretion is the use of police internal control mechanisms, such as

continual review of officers' actions by police supervisors, managers, and internal affairs and citizen review investigators. Other external methods of controlling policing discretion include local legislatures, independent citizen review boards, and the courts, through their process of judicial review.

Most importantly, however, Wilson tells us that controlling discretion involves more than just establishing policies and ensuring that they are obeyed. Managing discretion involves an effort by management to instill a proper value system in officers. According to Wilson, controlling discretion "depends only partly on sanctions and inducements; it also requires instilling in them a shared outlook or ethos that provides for them a common definition of the situations they are likely to encounter and that to the outsider gives to the organization its distinctive character or 'feel.'" (Wilson 33)

deadly force

Force that can cause death.



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LO5 Discuss Police Discretion and Police Shootings and the Use of Deadly Force

Police shootings or the use of **deadly force** by the police might be the ultimate use of discretion. Sometimes, officers are forced into making a split-second decision about whether to use deadly force. If they hesitate, they run the risk of being killed or seriously injured themselves, or allowing an innocent citizen to be killed or seriously injured. If their split-second decision is later found to be wrong and it is determined that they misused their discretion, they face public and legal criticism and perhaps arrest itself. They are also criticized by the press and the community. Worse still is that they may have to live with this mistaken decision for the rest of their lives. Clearly, being a police officer and using necessary discretion is not an easy job.

Police Use of Force

In 2007, the Bureau of Justice Statistics, in its *Contacts between Police and the Public, 2005*, which reported on 43.5 million contacts between police and citizens, noted that only about 1.6 percent of all of the contacts involved the police use or threat of force. About 14.8 percent of those who experienced force were injured as a result of the police action. About 86.9 percent of the persons who experienced the threat or use of force felt that the police had acted improperly, and about 16.8 percent of the persons involved in a police force incident reported that they