The Importance of "Working Rules" in the Determination of Traffic Stop Outcomes

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Abstract

Systematic observation of police initiated traffic stops reveal a set of common working rules that guide the decisions made by officers that determine the outcome of the interaction. We uncover a typology that shows that these rules either aggravate or mediate the likelihood of a citizen receiving a ticket. Of the one hundred fifty seven working rules that were described by officers in applying discretion, the citizen's demeanor and the seriousness of the offense accounted for half of the rules offered. Police reported that polite and/or remorseful citizens were more likely to get warnings and in many instances, the citizen's behavior was not serious enough to warrant a ticket. Police who offered these rules were likely to act on them by issuing tickets or warnings accordingly. Other important "rules" included the sentiment that ticketing would not produce a useful result or that the citizen's lack of a prior record was a good reason to not ticket. Theoretical and policy implications of these findings are discussed.

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Introduction

For better or worse, it is clear that police enjoy considerable discretion in the course of their work (Kelling & Coles, 1997). Because most of their interaction with citizens takes place away from the watchful eyes of the public and police supervisors (Lundman, 1979), this discretion is unlikely to be questioned. While those who have experienced a positive result from this condition (i.e. a warning for a traffic violation rather than a citation) appreciate officers' ability to exercise choice outside of legal guidelines, this situation has the potential for abuse.

A large body of research has attempted to explain the array of factors that determine how and whether discretion is applied in police-citizen interactions (i.e. the Police Services Study, 1977; the Project on Policing Neighborhoods, 1997) and systematic observations of police show that police rely on an array of informal policies when making discretionary decisions (Stroshine, Alpert, & Dunham, 2008). These "working rules" do not come from official policies, but instead from the officer's personal experience and through informal socialization by other officers (Kappeler, Sluder, & Alpert, 1998). These include operational strategies that focus on targeting particular places or types of vehicles or people with the belief that suspicion of involvement in criminal activity is based partly on appearance. Officers also report differential treatment (e.g. making the decision to stop or ticket) based on what types of behavior they believe are likely to help them uncover additional, more serious criminal activity. Because these informal rules have such an important impact on the initiation and outcome of police-citizen interactions, testing for the presence and impact of these types of informal rules is integral to any study that attempts to analyze the outcomes of police-citizen encounters.

The content of these rules and their subsequent effect on the outcomes of police-citizen interactions is less clear. Only one prior study used observational methods to systematically examine the content of "working rules" (Stroshine, Alpert, & Dunham, 2008). While it is an important contribution to the literature on police discretionary decisions, this study leaves some important gaps in our knowledge about working rules. First, the purpose of their study was to simply identify whether working rules exist, so they did not identify whether these rules contribute to the actual outcomes of police-citizen interactions. Our data revealed that working rules fall into rather distinct categories - those that are likely to lead to a favorable outcome for the citizen and those that are more likely to lead to a ticket. We used this finding to then link some of the more important rules to actual outcomes of traffic stops (i.e. those that led to tickets or warnings). In doing so, we are able to show that some "types" of working rules clearly lead to positive outcomes for citizens, and some clearly lead to negative outcomes. Furthermore,

we are able to investigate whether some rules have the potential to go either way depending on the particular officer's application of the rule. For example, in the Stroshine study, nine officers reported that they used a rule related to "Pissing off the Police" to guide decisions, so that "the heavy hand of the law is extended to persons who are disrespectful, ill mannered, or rude." (p.329). However, the authors did not report rules that specified whether polite demeanor might lead to a more lenient outcome, nor did they cite whether these officers acted on their rules in the field by ticketing or warning motorists. Given that suspect demeanor is an important determinant of the outcomes of police-citizen interactions (Lundman, 1996), considering not just whether but *how* demeanor leads to particular outcomes for motorists is essential to a study of working rules.

Second, perhaps because one of the main goals of our data collection was to identify working rules, we are able to analyze a sample nearly twice as large as the Stroshine, Alpert and Dunham (2008) study.[2] Finally, the prior study included a useful overview of theories of police behavior, but they did not link their findings to any particular theory. While this last point is admittedly difficult given that no single developed theory of policing exists, we offer some possible explanations for our findings based on the extant literature on police discretion.

Decision-making by police officers and how they apply discretion are complex processes that are challenging to study. In order to be able to identify each critical decision-making point where discretion can be applied by police officers and to examine how that discretion is applied, we collected data through direct observations of police activity and debriefing (interviewing) of police officers immediately following traffic stops. These data were collected through trained researcher ride-alongs with police officers. This form of systematic observation of police behavior has been used in prior research to study police decision-making processes and is considered to be one of the best ways to examine these processes (see, for example, Klinger, 1996; Lundman, 1996; Novak, Frank, Smith, & Engel, 2002; Sykes & Clark, 1975). Because we are interested in discretionary police behavior, we focus on traffic stops. These police-citizen interactions rank relatively low in seriousness, so that police are able to use a great deal of discretion compared to more serious criminal incidents in which police decisions may be constrained by department policy.

Theories of extralegal police behavior focus disproportionately on deviant, usually violent police-citizen interactions. These explanations, however, may be

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[2] We identified n=157 working rules compared to 89 collected over 132 8-hour shifts in the prior study.

applied to routine non-violent police-initiated interactions with citizens as well. Explanations of deviant police behavior are particularly relevant because both deviant and routine police-initiated interactions with citizens are potentially discriminatory. Furthermore, unlike violent behavior, citizens are less likely to complain about or challenge discriminatory treatment during traffic or person stops, especially if the outcome is favorable towards them, thus perpetuating the use of informal "working rules." A study of informal standards used to guide non-violent police behavior is therefore important because it allows for theory generalization beyond what we normally think of as police deviance. The following theoretical discussion links these perspectives to traffic and person stops.

Theoretical Background

Worden (1989) argues that officers decide what actions to take based on situational factors, but also by "rules of thumb that are consistently applied, which is to say that they practice individual styles of policing" (p. 672). But where do police learn these rules of thumb? Certainly, as Bittner (1972) notes, much of policing is learned through direct experience during officers' first few year on the street, however, if there are rules of thumb, or working rules that are consistent across officers, it is likely that they are learned through interaction with other officers.

Sociologists have adopted the perspective that police behavior is largely shaped by group socialization that takes place once officers are on the street, learning their profession (March & Simon, 1958; Simon, 1976). Through their shared experiences with other officers, police learn extralegal means of law enforcement and also the thought processes that justify these actions. This allows police to consider extralegal factors when making discretionary decisions about how to handle lawbreakers in a way that justifies their actions to themselves and the public.

Some police scholars argue that the customary police behaviors and justifications for these behaviors learned through this socialization process are evidence of a distinct police subculture. That is, by using extralegal factors to make decisions about how to handle citizen behavior, they adhere a police subculture that values a set of normative guidelines that shape officers' responses to particular situations. Over time, these customary practices become so normative to their occupation that officers' actions are unquestioned and even accepted by other police.

Kappeler, Sluder, and Alpert (1998) suggested that one of the beliefs inherent in the police subculture is that police "are the 'thin blue line' that stands between anarchy and order. 'Brave police officers patrol mean streets' and are on the front

lines of a war for social order and justice" (p.95). Other research on the police subculture (Sherman, 1982; Westley, 1956) suggested that, not unlike the military, police share a similar ideology and uniformed appearance that reinforce their role as different from citizens. This "we/they" ideology that emerges as a result of these two beliefs not only emphasizes the importance of the authority of the police within police-citizen interactions but also allows police to justify protecting other officers who use extralegal factors to make decisions about how to deal with citizens. Citizens who question police authority are likely to receive harsher treatment from officers and officers who use citizen demeanor as a factor in making discretionary decisions are unlikely to be questioned by other officers. Day and Ross' (2010) survey of speeders supports this contention. Participants who were remorseful received lower fines, even after accounting for the severity of the violation.

Workplace socialization and the police subculture are particularly useful in explaining the role of working rules during traffic stops. Police likely learn informal, customary ways to act in police-citizen interactions (working rules) from other officers. As the subcultural literature would suggest, the police subculture's emphasis on in-group solidarity then allows these working rules to perpetuate without complaint from within the organization. When we consider that citizens themselves are unlikely to question officers' informal decisions, especially when the outcome is favorable to them, then it is not surprising that working rules exist and are strong determinants in police discretionary decision-making. The following section reviews the prior literature that examined how extralegal factors affect police-citizen interactions. We expect that the content of officers' working rules may include consideration of these factors.

Prior Literature

While some literature has examined whether the characteristics of the officer or the officer's attitude affect the unfolding of interactions with citizens, results suggest that in general, neither officer characteristics (Brown & Frank, 2005; Poaline, Myers, & Worden, 2000) nor officers' attitudes (Worden & Brandl, 1990) significantly predict their behavior towards citizens. Others suggest that police discretionary behavior is shaped by the organizational culture of the department, with police in "watch-style" departments focusing most on suspect demeanor in their discretionary decisions (Skolnick, 1975; Wilson, 1968).

Given the vast literature on police discretion, we limit our review largely to studies that use our methodology. Most relevant to the present study is the research that focused on extralegal factors, in particular the characteristics and

behavior of the suspect, which may determine the outcome of police-citizen interactions (e.g. traffic tickets, arrests, police use of force). While the literature on the role of suspect characteristics is vast, and focuses on a range of factors, steps in the police-citizen interaction process, and outcomes, results are mixed. Some find that racial minorities are more likely to receive harsher treatment by police (Barlow & Barlow, 2000; Brown & Frank, 2005; Kochel, Wilson, & Mastrofski, 2011; Leinfelt, 2006; Lundman, 1998) as well as male (Novak et al., 2002; Worden & Shepard, 1996), younger (Black, 1976; Mastrofski et al., 1995) and intoxicated (Mastrofski et al., 1995) citizens.

Of particular interest is the demeanor of the suspect. Klinger (1994) has noted the relationship between demeanor and outcomes such as arrest has become "part of the criminological canon" (p.477). For example, Novak, Frank, Smith, and Engel's (2002) observational study of police in Cincinnati revealed that suspect demeanor predicted likelihood of arrest. Engel, Sobol and Worden's (2000) analysis of observational data revealed that the odds of being ticketed increase for disrespectful traffic violators while Worden and Shepard (1996) reported that disrespectful or hostile citizens were more likely to be arrested. Lundman (1979) reported that verbal resistance by drivers significantly determined whether or not they received a traffic ticket. Lundman's (1996) analysis of observational data found that, controlling for the seriousness of the offense, drunk drivers who were impolite were more likely to be arrested. On the other hand, Brown and Frank (2005) reported that citizen demeanor was not significantly related to their likelihood of receiving a citation. Overall, this body of research suggests that demeanor is key to understanding police-citizen interactions. An analysis of working rules should help determine whether citizen demeanor plays a role in the decision making process, and how it might affect the outcome.

Only one prior study systematically analyzed the content of officers' explanations for their discretionary decisions in the field. Stroshine, Alpert and Dunham (2008) studied the decision making process that led officers to form suspicion of a citizen. They isolated twelve common working rules from their observation of 132 eight-hour shifts in Savannah, Georgia. The most common rule they reported was "Threshold", that is, that officers decided to stop a vehicle because the driver passed some pre-determined threshold of behavior by driving a certain speed beyond the speed limit. In other words, a "cutoff" point was used to determine whether to initiate interaction. The second most common working rule was "Fairness", in which police decided NOT to take a course of action because doing so would conflict with their personal beliefs. Other officers reported that they stopped citizens to just keep busy, because the person was out of place based

on the location and time of day, and finally, based on the suspect's demeanor. Based on their findings, we expect to observe working rules among officers in this study. We also expect that working rules will partly determine the outcomes of police-citizen interactions.

Methodology

Klinger (1994) concluded that observational projects are necessary to our understanding of the role of demeanor in shaping police responses.[3] Based on this suggestion, and following prior studies of police discretionary decisions (e.g. Lundman 1979; Worden & Shepard, 1996), we used overt field observation to collect our data in four municipalities in Cuyahoga County, Ohio, and urban county along Lake Erie.[4] We collected data in the city of Cleveland, the central city of the SMSA, and three suburban police departments. We chose the Cleveland Police Department because it contributes a large proportion of cases to the Cuyahoga County criminal justice system. In order to obtain as representative a sample of suburban departments within the County as possible, we drew a stratified sample of police departments. To ensure a sufficient number of data collection points, we limited our sampling frame to suburbs with a minimum population of 1,000 residents or more which excluded 8 cities. As Cuyahoga County borders Lake Erie on the northern side, Cleveland is surrounded by suburban cities on the west, east, and south sides. Thirty-five cities surround Cleveland's borders and are referred to as the inner ring suburbs. The remaining 21 suburban cities, which are largely racially homogeneous, constitute the outer ring suburbs. We stratified the cities into three groups: (1) inner ring suburbs on the eastern side of the County, (2) inner ring suburbs on the western side of the County, (3) all outer ring suburbs. One city was selected from within each group with our final sample including the cities of Brook Park, Shaker Heights, and Westlake.

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[3] The reactivity of officers to being observed is often raised as an issue in systematic observation studies of police. However, as noted by Mastrofski et al. (1998) through their extensive experience in conducting systematic observation research on police, officers typically adjust swiftly to having a trained observer ride with them in their vehicle. They note that in their own systematic observation studies of police, officers were often very frank in their comments and engaged in misconduct even with an observer riding along. Also, unlike with survey data or analyses of secondary data, observers can note evidence that the officer is reacting to the presence of the observer.

[4] Data collection funded by the Cuyahoga County Prosecutor's office for the report: "Examining the application of discretion in police decision-making in Cuyahoga County."

Alpert et al.'s (2004) study of police officer discretion in Savannah, Georgia observed officers on 132, 8-hour shifts, during which time the officers formed suspicion 174 times. These suspicions resulted in 103 motor vehicle stops. We implemented a similar strategy to ensure sufficient statistical power for quantitative analyses. We originally proposed observing a total of 180 8-hour shifts, with 72 in the City of Cleveland, and 108 in the 3 additional municipalities. With the City of Cleveland moving to 10-hour shifts shortly before the study began, we revised our plan to observe 58 shifts in Cleveland.. However, shifts were only completed in the first of the city's five districts due to a lack of support for the project from the Cleveland Police Patrolmen's Association (CPPA)

Our team of 13 trained researcher assistants rode along a total of 140 times (observations) with officers over an eleven month period.[5] Observations (shifts) ranged from 4 to 10 hours in length. These 140 observations included 65 weekend observations (Friday through Sunday) and 75 weekday observations (Monday through Thursday). We oversampled second shifts since this part of the day is usually the most active for police and thus they were expected to yield more interactions. Of the 140 observations there were nearly twice as many second shifts as first or third (though one city only uses two shifts). This yielded a total of 312 motor vehicle stops. The most common outcome was a warning (53% of all stops) followed by a citation/ticket (34%).

Observers were instructed to only record interactions in which police initiated contact with the citizen. Information from each police initiated interaction with citizens was recorded on a standardized paper data collection form during the course of the shift and this information was transcribed into a Microsoft Word document immediately following the shift which allowed observers to add details in a timely manner.[6] The forms included information about the citizen, a description of the chronology of events during the interaction, the outcome of the interaction, and debriefing questions immediately following the interaction in order to identify

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[5] Participating officers provided informed consent. No names or identifying information pertaining to the officers were collected or coded as part of the observation process. Researcher observers scheduled shifts with department administrators according to convenience within the quotas noted (allowing for a sufficient number of night and weekend shifts), so officers were chosen based on who was working that shift and agreed to participate. In two instances, officers preferred not to participate in a scheduled shift, however, we have no reason to believe that these instances systematically biased the overall sample of officers observed.

[6] Given that officers sat next to observers in a close atmosphere (the police cruiser) and so could possibly see what observers wrote in the course of their data collection thus increasing the possibility of reactivity, this strategy allowed researcher observers to add detail to their notes outside the presence of the officer.

whether or how working rules were used. Researcher observers conceptualized "working rules" for officers as "rules of thumb not a part of official policy that guide their decisions on a regular basis." Following each interaction, officers were asked to explain the reasons behind their decision regarding the disposition of the interaction and whether any particular "working rule" guided their decision during that particular stop. This methodology is similar to Dunham et al.'s (2005), in which they used protocol analysis to qualitatively study the thought processes that led to officers' decisions by asking them to verbalize their cognitive decision making process immediately following an interaction with a citizen.

The observations yielded an average of four police-citizen interactions per shift, however, the number of interactions ranged anywhere from zero to ten per shift. From the data collection forms we created a file using the descriptions of the working rules that were provided by the officers to the observers.

We employed a multi-stage qualitative content analysis. In the first stage we identified themes and translated these themes into content categories resulting in 13 categories or types of working rules. For the second stage of the content analysis, we used the typical outcomes of the interaction where a rule was identified to further group the 13 types into three general categories: rules that could both increase or decrease the likelihood of receiving a ticket, rules that only increase the likelihood of receiving a ticket, and rules that only reduce the likelihood of receiving a ticket. We recorded information on whether the person was warned or cited, so we were able to link the working rule to actual outcomes of the interaction.

Results

Approximately 55 officers were observed during our data collection from the four jurisdictions, with the fewest number of distinct officers observed in the first district of Cleveland and Shaker Heights. A greater number of distinct officers were observed in Westlake and Brook Park. As described in the methods section, because we restricted observation to those officers who were available and willing to participate, we were not able to guarantee that we observed a particular sample of officers from each department.

During 58 of the 140 observations (59%) at least one working rule was mentioned, with several officers mentioned more than one working rule that guided a particular encounter. Working rules were mentioned in 49.6% of all stops made during these observations. The majority (43) of the approximately 55 officers observed described at least one rule, with some mentioning more than one. In all,

157 unique working rules were described. The breakdown of rule by category is listed in Table 1.

Table 1. Types of Officer Working Rules

Type of Working Rule	Frequency	Percent
Rules That Reduce the Likelihood of Receiving a Ticket		
Valid License	6	3.8%
Financial Ramifications	9	5.7%
Action Not Likely to Produce Useful Result	14	8.9%
Professional Courtesy	3	1.9%
Rules That Increase the Likelihood of Receiving a Ticket		
Seriousness of Offense	30	19.1%
Safety	7	4.5%
Possible Serious Consequences of Inaction	4	2.6%
Use of a Cutoff Point to Determine Ticket	9	5.7%
Rules That Can Increase or Decrease the Likelihood of a Ticket		
Citizen's Demeanor	48	30.6%
Prior record	18	11.5%
Driver's Age	3	1.9%
Officer's Mood	1	0.6%
Other	5	3.2%
TOTAL	157	100%

Further categorizing these 13 types of rules, we defined three categories linked to the outcome of the police-citizen interaction. The results of each are described below.

Rules That Can Increase or Decrease the Likelihood of Receiving a Ticket

The overall most commonly referenced working rule by officers was the *Citizen's Demeanor*, which was mentioned in nearly one third of the working rules. The majority of time, the demeanor of the citizen was described as a factor that resulted in officers deciding not to issue a ticket. All else being equal, citizens who were remorseful, polite, and respectful were more likely to receive a warning. Specifically, *officers who mentioned a rule that noted the importance of positive demeanor warned citizens 89% of the time.*

A positive attitude could also lead the officer to write a ticket for a lesser offense (for example, an offense that carries no points) or to write a ticket for only one offense in a situation where multiple violations have occurred. Below are some examples of working rules featuring the importance of positive citizen demeanor:

> *"The citizen was kind, considered my safety (by pulling far off the road), she was remorseful, which is important. If she would have been rude, and argumentative then she probably would have gotten a ticket. We (the police) are not trying to make enemies with the public, just trying to correct behavior. Showing remorse shows you may have already learned your lesson so no ticket is necessary."*

> *"I could have had the citizen arrested and had his car towed but he was honest and upfront with everything so I let him call someone to drive his car and gave him a ticket instead."*

> *"My general rule is not to tow unlicensed drivers if they seem sincere."*

> *"I typically issue warnings when drivers are polite and apologetic."*

A bad attitude on the part of the citizen, conversely, made it more likely they would receive a ticket instead of a warning. Here, *officers who mentioned a rule that*

noted the importance of negative demeanor ticketed citizens 86% of the time. This pattern is evident in the following working rules examples:

> *"I will typically give an individual one citation if there are multiple offenses and then warnings for the rest. However, if they are a "dick" I will cite them for all of them."*

> *"I issued a ticket because in my opinion the citizen didn't feel bad for what he did and played it off like it didn't matter."*

> *"I will stop drivers for having headlights off at night but will not ticket them unless the person has a really bad attitude."*

Overall, most citizens (83%) were respectful, courteous, or helpful when interacting with officers, while less than 15% were irritated, impersonal, or rude. Table 2 illustrates how the demeanor of the citizen affected the outcome of the stop. Sixty-seven percent of the citizens who displayed positive demeanor during their interaction with the officer received a warning, while 61% of citizens with negative attitudes received a ticket. However, it appears that neutral demeanors also matter. Those with neutral demeanors received a ticket 67% of the time. The results indicate that officers are less likely to ticket citizens with positive demeanors compared to those with neutral or negative attitudes.

Table 2. Citizen's Demeanor by Outcome of Stop

Outcome of Stop	Citizen's Demeanor		
	Positive	**Neutral**	**Negative**
Warning	137 (66.5%)	6 (33.3%)	11 (39.3%)
Ticket	69 (33.5%)	12 (66.7%)	17 (60.7%)
Total	206 (100%)	18 (100%)	28 (100%)

Chi-Square = 13.978 (df=2; p <.01)

A second working rule that was often mentioned in tandem with rules about demeanor referred to the *Citizen's Prior Record*. And similar to demeanor, an individual's prior record could increase or decrease the likelihood of receiving a ticket, depending on the nature of that record. *Officers who said that they had a working rule regarding prior records ticketed motorists who had prior driving infractions 100% of the time and warned those with no driving infractions 93% of the time*. Working rules that illustrated this included:

> *"I don't like to tow unlicensed drivers who seem sincere and have minimal offenses on their record."*

> *"I ticketed because a license check revealed the driver had a previous record of running red lights and stop signs."*

> *"If someone hasn't had any tickets before and they seem sincere my general rule is to let them off with a warning."*

> *"I let the driver dictate how the conversation will go. The driver hadn't had a ticket in over 10 years so I decided only to warn him."*

Three officers described working rules that related to the *Citizen's Age*. In the case of the first two, the application of the working rule reduced the likelihood of a ticket, while in the last one it increased it. That the same factor can produce justifications for opposing outcomes highlights the importance of exploring and understanding why officers operate using differing working rules and the implications of this diversity.

> *"I try to avoid giving tickets to teens because if they get two they can lose their license."*

> *"Elderly drivers should be given warnings when possible so as not to affect their driving records."*

> *"I feel bad for the kid, but young kids who have not been on the road for very long need to learn from their mistakes (by receiving tickets)."*

A final working rule mentioned by one officer that could go either way in terms of raising or lowering the likelihood of a ticket was the *Officer's Mood*:

> *"When pulling someone over it depends on my mood. Some days I won't pull anyone over. The next day I'll pull you over for one headlight."*

Rules That Increase the Likelihood of Receiving a Ticket

Of those working rules described by officers that increase the likelihood they would issue a ticket, the most frequently mentioned was the *Seriousness of the Offense*. Determinations of seriousness drew on a number of factors. For example, for citizens driving with expired licenses or expired plates, seriousness reflected how long they had let the expiration continue. How much a citizen exceeds the speed limit is another measure of seriousness. Any behavior that suggests the individual may be driving under the influence was also viewed as serious.

> *"If a person's license had been expired for over 30 days, I would have the individual's car towed and impounded. This is more than enough time to get a valid license and that if the individual has let it go this long, they clearly do not care."*

> *"I pull over any car that's swerving or going over double yellow line because this suggests a possible DUI (driving under the influence)."*

> *"Driving under suspension is a serious offense and must always be dealt with accordingly."*

Related to seriousness were working rules described by officers that emphasized the importance of *Safety* in their decision-making. Safety was a dominant factor for some officers in the outcomes of their discretionary interactions with citizens, with one officer emphasizing to the observer that he will stop or detain any citizen that may potentially cause harm to themselves or others. Several officers use working rules that centered around issues of safety:

> *"All officers have their own "thing" that really pisses them off so they tend to focus on that more often than not. Mine is people who speed in school zones. I will always pull someone over (for that offense) given the danger it poses."*

> *"The speeding threshold decreases according to bad weather, bad road conditions, and other hazards that influence safety."*

Interestingly, two working rules emphasized *Safety* as a factor not to make a stop. These working rules were described by officers as follows:

> *"I don't like to pull people over on the highway when there is a lot of snow that has piled up on the shoulder. It's not safe because there is no room to stop."*

> *"When the weather is very bad and the roads are in bad condition I don't pull anyone over unless it is an extremely dangerous or serious situation. By pulling someone over in poor driving conditions, I would just be making the situation on the road more dangerous."*

Four of the working rules mentioned referred to the *Possible Serious Consequences of Inaction* when considering the use of their discretion. This factor is most apparent in the following description from one officer:

> "I tow everyone driving under suspension, especially when there is doubt or no proof of insurance." When asked why be the observer: "What should I say to a person whose family member has been killed or injured by a person who I just allowed to drive when they should have been stopped from driving?"

The final type of working rule that in our view raised the likelihood of a ticket was the *Use of a Cutoff Point for Issuing a Ticket*. Nine officers referred to the existence of a pre-set maximum over which any driver would automatically get a ticket. Although the cutoff point varied somewhat, it was most commonly set at 15 miles per hour. Specifically, *officers who reported using a cut-off as a working rule ticketed drivers who exceeded their threshold 83% of the time*, showing that officers do in fact act on their own informal guidelines. The following are descriptions from the officers of how these cutoff points are among their working rules.

"When shooting radar I will only pull an individual over if they are exceeding the speed limit by at least 15 mph."

"During the day the I won't stop someone unless they are going at least 15 mph over the speed limit (in a 35 zone) because during the day most people on the road are just going to work, but at night I stop someone if they are going at least 12-13 mph over the speed limit because at night it's more likely they (drivers) have been drinking."

"Drivers going 20 mph over limit will automatically get a ticket."

Rules That Reduce the Likelihood of Receiving a Ticket

The most common working rule mentioned by officers that reduced the likelihood of receiving a ticket is when the *Action is not Likely to Produce a Useful Result*. This type of working rule often operated in tandem with rules regarding the seriousness of the offense. For example, if the offense was minor, taking action (in the form of writing a ticket or making an arrest) could produce more work (for the officer, the citizen, or both), than it was worth. Examples of this working rule include the following:

"The citizen was wanted in (other city) on a minor offense. I decided not to arrest her because it is doubtful that (other city's police department) would come for her and her offense was minor.

"The citizen discussed in depth her mental health issues. Giving the citizen a ticket or citing her would only add to her issues and would not help the citizen in any way."

"The citizen was coming to a red light and was slowing his speed. I couldn't get a fix on the driver's speed with the radar so I didn't feel comfortable stopping or writing the citizen a ticket without the confirmation of excess speed from the radar."

Nine officers described working rules that emphasized *Financial Implications* as an important decision-making factor. The financial consequences of writing tickets

were not lost on these officers, who took into account factors like the economy, the necessity of driving for those in particular occupations, and the need to pay child support, in developing rules on when to ticket. Officers who used this rule warned the driver 78% of the time rather than issuing a ticket. A few examples of these working rules are as follows:

> *"I only stop vehicles with serious equipment violations and to give warnings instead of tickets. In the current economy no one has the money to spend on tickets and fixing their vehicles."*

> *"I try not to ticket drivers with a CDL license or pizza delivery guys since they can lose their job if they receive too many tickets."*

There were six officers who mentioned using working rules that centered on the importance of having a *Valid License*. A valid license seems to function as a signal to officers that the driver is responsible. Particularly when it occurs in combination with a relatively clean driving record, the general rule appears to be to give a warning instead of a ticket in these cases. Finally, *Professional Courtesy* was a working rule mentioned by three officers. This rule referred to the breaks that were extended to others working in the criminal justice system (such as judges or retired police officers), to those in the military, or to those carrying a courtesy card.

Discussion

Using various methodologies, prior research suggests that officers rely on informal guidelines when deciding whom to stop, ticket, and arrest (Stroshine, Alpert, & Dunham, 2008), and the attitude or demeanor of the citizen partly determines the outcome of these interactions (Bayley, 1991; Lundman, 1979; Skolnick & Fyfe, 1993; Worden, 1989).[7] Our analysis supports this contention. Working rules played a large role in explaining why police initiated contact with citizens and how they used their discretion to affect the outcome of the interaction, with the demeanor of the citizen carrying the most importance, reflecting the content of nearly one third (30.6%) of working rules. As a general rule, of those stopped by police who stated that they allow demeanor to guide their decisions, polite and/or remorseful citizens were more likely to get warnings (89%) while impolite citizens were more likely to receive tickets (86%). This finding thus adds to the longstanding body of research

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[7] We acknowledge that some research has suggested that demeanor does not have a significant impact on officers' decisions to ticket (e.g., Brown & Frank 2005).

that dates back to the 1950's (e.g. Westley, 1951), in which criminologists noted that disrespectful or unapologetic citizens are more likely to face punitive responses from the police.

Nearly all prior research, however, focused on the impact of the suspect with a *negative* demeanor. We are aware of only one study that specifically studied the potential effect of positive demeanor and this study was based on surveys of citizens rather than observation and interviews of the police. Day and Ross (2010) found that showing remorse to officers (e.g. "I'm sorry") more often leads to lower fines for speeding. The findings from our qualitative accounts show that positive demeanor was a more important factor in officers' decisions whether to ticket or warn than negative demeanor. While we found that in some instances police are sensitive to challenges to their authority posed by those who "fail the attitude test," officers were *more likely* to reward citizens who are polite and make their jobs easier. This finding supports contentions that demeanor is a multi-faceted concept (Batton & Kadleck, 2004), though we acknowledge that measuring demeanor is difficult and that disentangling hostile demeanor from actual criminal behavior can be difficult (Klinger, 1994).

The second most commonly cited working rule was based on the seriousness of the offense. In about one-fifth of cases, the officer stated that the citizen's behavior was either not serious enough to warrant a ticket or arrest, or alternatively, it was serious enough that inaction would be unsafe/improper. Other important working rules included the sentiment that ticketing would not produce a useful result or that the citizen's lack of a prior record was a good reason to not ticket. This group of rules is consistent with prior research that indicates that officers' behavior depends partly on the seriousness of the offense (Black, 1970). Research on traffic stops indicates that the seriousness of the violation predicts the outcome (Fyfe, 1988; Lundman, 1979). Withrow (2004) reported that police were more likely to stop vehicles for serious moving violations rather than less-serious equipment violations.

Some of these findings reiterate those found by Stroshine, Alpert, and Dunham (2008). Fairness was mentioned in both as a relatively common working rule. In our study, rules like "financial ramifications" and "action not likely to produce a useful result" were common and a few officers allowed the drivers' age to guide their decision. That is, officers were more lenient towards truck drivers or delivery personnel whose livelihoods are contingent on driving and towards those they deemed undeserving of formal action such as minors, the elderly, or the mentally ill.

While only one officer stated that younger drivers should be treated more leniently (because they are at a higher risk of losing their license as a result of tickets), this finding is interesting because it contradicts Black's theory of law which argues that status differentials between those who apply the law and those on the receiving end result in differential application of the law. His theory would predict that younger drivers would thus be treated less leniently. One officer did in fact report that younger drivers should be ticketed so that they "learn a lesson", but two out of three of the officers who mentioned age as part of their working rule in our study supported Black's theory. That the same factor can produce justifications for opposing outcomes highlights the importance of exploring and understanding why officers operate using differing working rules and the implications of this diversity.

A couple of important distinctions between the current results and those of Stroshine, Alpert, and Dunham (2008) are apparent. First, we found the threshold (cutoff) working rule to be less common suggesting that, while some of the officers observed here did note that they usually only stop drivers after they have exceeded a particular speed limit, other working rules were more important. Second, and more important from a theoretical standpoint, demeanor played a larger role in officer decision making in our study.

Theoretical Implications

The strong impact of working rules on the outcomes of police decisions is consistent with theories of police socialization and police subculture. While officers did not necessarily report that they learned their working rules from other officers (and this was not the focus of our study), explanations for their decisions support the idea that police develop customary ways to deal with lawbreakers with particular characteristics or in specific circumstances. Terms and phrases like "usually", "typically", or "my policy is" were common in officers' explanations for their decisions to ticket or issue warnings. We did find a wide range of rules (13 categories), which is not surprising since one would expect some variation in behavior based on the situational factors in each police-citizen interaction (Worden 1989), however, the finding that officers reported similar working rules suggests the existence of a common occupational attitude.

The finding that demeanor was such a strong determinant of the outcome (to ticket or warn) supports the idea that police are sensitive to challenges to their authority, something that is a common element of the police subculture. As Kappeler, Sluder, and Alpert (1998) write "The war for social order is seen by the police as so important that it requires sweeping authority and unlimited discretion to invoke the power of law" (p. 95). While most research on the police subculture attempts to explain police violence, our findings show that it may be generalized to

everyday police-citizen traffic stops. Those that threaten this authority are likely to receive a less favorable disposition. However, more importantly, we found that demeanor has a stronger effect when it is positive. Polite drivers received warnings 89% of the time. Through the use of qualitative accounts we were able to show that police may be more responsive to positive demeanor.

Policy Implications

Similar to the study by Dunham et al. (2005), we uncovered a number of working rules used by patrol officers that guide the application of their discretion. The existence of such rules is not necessarily problematic, so long as they do not violate the department's policies. Police administrators should be informed about the rules used by their officers to ensure they are consistent with policy.

We discovered that many working rules cited the importance of citizen demeanor. Consistent with Alpert et al. (2004), we found that officers tended to respond negatively towards citizens who began the encounter by displaying a poor attitude. Given that negative attitudes feed off of one another, the unfolding of a police-citizen interaction has the potential to become worse when the citizen responds negatively from the outset. Those who train and supervise officers should be aware of this interaction process and remind officers to be prepared to encounter citizens with disrespectful attitudes and respond to them in a way that does not reinforce negativity. On the other hand, officers are more likely to reward polite behavior than punish negative attitudes. If the public is advised of this trend they may be more likely to set a positive tone during traffic stops.

We also discovered that officers use prior driving records to guide their decisions. Notably, 100% of those with prior driving infractions were ticketed while 93% of those without a "record" were warned. Using prior record as a working rule thus has the potential to result in a cycle of ticketing in which, once ticketed, one is essentially punished again each time they are stopped instead of receiving the benefit of a warning. Other analyses of these data revealed that African-Americans were more likely to be caught in this cycle of tickets, eventually leading to license suspensions (blinded citation). Police administrators should be aware of the potential discriminatory impact of this working rule.

Broader Contributions to the Research on Police Behavior

While there are many studies on extralegal factors that affect police decisions, little attention has been paid to the cognitive processes of police officers so what we

know about how and why police make discretionary decisions is limited (Leinfelt 2006). This study is the latest in a long tradition of observational research on police behavior, but a main impetus of our study was to investigate the process by which officers make decisions to ticket or warn drivers. Through this investigation we uncovered a number of working rules, many that were similar to those reported in Dunham et al.'s (2004) research in Savannah, Georgia.

We were able to go beyond simply identifying common rules by categorizing according to their likely outcome and then linking some of them to the actual outcomes they produced (citation or warning). The results illustrate the centrality of working rules as a determinant of outcomes of police-citizen interactions. Our finding that negative or hostile demeanor is a major factor that leads officers to issue citations while positive demeanor garners warnings is particularly important. From a policy standpoint, it suggests that police treatment of citizens can be more consistent across suspects if officers are more aware of the potential discriminatory outcomes produced by using suspect demeanor as part of a "working rule." We also found that even among officers who adhere to working rules, situations arise in which other factors override the application of the rule, as was evident in our finding that officers who cited rules did not follow them 100% of the time. Finally, from a research standpoint, corroborating what past research has noted (Leinfelt 2006), this study suggests that it is complicated to anticipate the many factors that contribute to police decision-making even among a few cities in one county and that environmental context likely affects these decisions (Klinger 1997). Additional research is necessary to further refine the content of working rules and explore their relative importance to police discretionary decisions.

References

Alpert, G. P., Dunham, R. G., Stroshine, M., Bennett, K., & MacDonald, J. (2004). *Police officers'decision making and discretion: Forming suspicion and making the stop*. Washington, DC: U.S. Department of Justice.

Barlow, D.,& Barlow, M. (2000). *Police in a multicultural society: An American story*. Prospect Heights, IL: Waveland Press.

Bayley 1991. *Forces of order: Policing modern Japan*. Berkeley: University of California Press

Bittner, E. (1970). *The functions of the police in modern society*. Rockville, MD: National Institute of Mental Health.

Black, D. (1971). The social organization of arrest. *Stanford Law Review, 23*, 1087-1111.

Black, D. (1976). *The behavior of law*. New York: Academic Press.

Black, D. (1980). *The manners and customs of the police*. New York: Academic Press.

Brown, R. A., & Frank, J. (2005). Police-citizen encounters and field citations: Do encounter characteristics influence ticketing? *Policing: An International Journal, 28*, 435-454.

Dunham, R. G., Alpert, G. P., Stroshine, M. S., & Bennett, K. (2005). Transforming citizens into suspects: Factors that influence the formation of police suspicion. *Police Quarterly, 8*(3), 366-393.

Engel, R. S., Sobol J. J., & Worden, R. E. (2000). Further exploration of the demeanor hypothesis: The interaction effects of suspects' characteristics and demeanor on police behavior. *Justice Quarterly, 17*, 235-258.

Fyfe, J. J. (1988). Police use of deadly force: Research and reform. *Justice Quarterly, 5*, 165-206.

Kappeler, V. E., Sluder, R. D., & Alpert, G. P. (1998). *Forces of deviance: Understanding the dark side of policing.* Waveland.

Kelling, G. L. & Coles, C. M. (1997) *Fixing broken windows*. New York, NY: Touchstone.

Klinger, D.A. (1994). Demeanor or crime?: An inquiry into why 'Hostile' citizens are more likely to be arrested. *Criminology, 32*, 475-93.

Klinger, D. A. (1996). More on demeanor and arrest in Dade County. *Criminology, 34*, 61-82.

Klinger, D. A. (1997). Negotiating order in patrol work: An ecological theory of police response to deviance. *Criminology, 35*(2), 277-306.

Kochel, T. R., Wilson, D. B., & Mastrofski, S. D. (2011). The effect of suspect race on police officers' arrest decisions. *Criminology, 49,* 473-512.

Leinfelt, F.H. (2006). Police officer discretion and race in an American Midwestern city: Predicting arrests, citations, and warnings: A multivariate examination. *The Police Journal, 79,* 3-27.

Lundman, R.J. (1979). Organizational norms and police discretion. *Criminology, 17*, 159-171.

Lundman, R.J. (1994). Demeanor or crime?: The Midwester City police-citizen encounters study. *Criminology, 32*, 631-56.

Lundman, R.J. (1996). Demeanor and arrest: Additional evidence from previously unpublished data." *Journal of Research in Crime and Delinquency, 33,* 306-23.

Lundman, R. J. (1998). City police and drunk driving: Baseline data. *Justice Quarterly, 15,* 527-546.

Lundman, R. J., & Kaufman, R. L. (2003). Driving while black: Effects of race, ethnicity, and gender on citizen self-reports of traffic stops and police actions. *Criminology, 41,* 195-220.

March, J. G. & Simon, H.A. (1958). *Organizations*. New York: Wiley

Mastrofski, S. D., Worden, R. E., & Snipes, J. B. (1995). Law enforcement in a time of community policing. *Criminology, 33,* 539-563.

Mastrofski, S., Parks, R., Reiss, A.,Worden, R., DeJong, C., Snipes, J., et al. (1998). *Systematic observation of public police: Applying field research methods to policy issues.* Washington, DC: National Institute of Justice.

Novak, K. J., Frank, J., Smith, B. W., & Engel, R. S. (2002). Revisiting the decision to arrest: Comparing beat and community officers. *Crime & Delinquency 48*:70-98.

Paoline, E., Myers, S., & Worden, R. (2000). Police, culture, individualism, and community policing: Evidence from two police departments. *Justice Quarterly, 17*, 575-605.

Sherman, L.W. (1980). Causes of police behavior: The current state of quantitative research. *Journal of Research in Crime and Delinquency, 17*, 69-100.

Sherman, L. W. (1985) Causes of police behavior: The current state of quantitative research. In A. S. Blumberg and E. Niederhoffer (eds), *The ambivalent force, 3rd edn*. New York: Holt, Rinehart and Wilson, 183-95.

Simon, H.A. (1976). *Administrative behavior (3rd ed.).* New York: The Free Press.

Skolnick, J. (1975). *Justice without trial*. New York: John Wiley.

Stroshine, M., Alpert, G., & Dunham, R. (2008). The influence of "working rules"   on police suspicion and discretionary decision making. *Police Quarterly, 11*, 315-337.

Sykes, R. E., & Clark, J. P. (1975). A theory of deference exchange in police-civilian encounters. *American Journal of Sociology, 81,* 584-600.

Westley, W. (1951). The police: A sociological study of law, custom, and morality. Ph.D. dissertation, Department of Sociology, University of Chicago.

Westley, W. (1970). Violence and the police. Cambridge, MA: MIT Press.

Wilson, J.Q. (1968). *Varieties of police behavior*. Cambridge, MA: Harvard University Press.

Withrow, B. L. (2004). Race-based policing: A descriptive analysis of the Wichita stop study. *Police Practice and Research, 5*(3), 223-240.

Worden, R.E. (1989). Situational and attitudinal explanations of police behavior: A theoretical reappraisal and empirical assessment. *Law and Society Review, 23*, 667-711.

Worden, R.E., & Brandl, S. (1990). Protocol analysis of police decision-making: Toward a theory of police behavior. *American Journal of Criminal Justice, 14*, 297-318.

Worden, R.E. & Shepard, R.L. (1996). Demeanor, crime, and police behavior: A re-examination of police services study data. *Criminology, 34,* 83-105.

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