



DISCRETIONARY POWERS AND
THE PRACTICE OF POLICE STOPS

INÈS SAUDELLI
DR. SOFIE DE KIMPE
DR. JENNEKE CHRISTIAENS

DISCRETION

WHAT'S IN A NAME?

"(...) freedom, power, authority, decision or leeway of an official, organisation or individual to decide, discern or determine to make a judgment, choice or decision, about alternative courses of action or inaction" (Gelsthorpe & Padfield, 2003, p. 3)

Holmberg (2000):

- Power of definition/suspicion: 'I can choose who and what is/isn't suspicious'
- Power of procedure/prosecution: 'I can choose (not) to enforce the law'

POLICE STOPS

DIFFICULT TO DEFINE

What consists of a police stop is different in each country

- In UK and US: no ID card needed
- In Belgium, France, Germany: ID card required

Very difficult to produce 1 definition that fits for this police practice worldwide

COST group on police stops:

"Police stops are a worldwide practice carried out by the police which enables police officers to stop a person, prevent him or her from pursuing his or her passage and if necessary, proceed with a search of that person, his or her clothes and everything the person is carrying"

One of the **most used and controversial** police practices worldwide



LAWS REGULATING POLICE STOPS

A LOT OF SIMILARITIES ACROSS COUNTRIES?

Focusing on proactive police stops: police officers decide an intervention is necessary

Belgium:

Police can proceed to a police stop: *"indien zij op grond van diens gedragingen, materiële aanwijzingen of omstandigheden van tijd of plaats redelijke gronden hebben om te denken dat hij/zij wordt opgespoord, dat hij/zij heeft gepoogd of zich voorbereidt om een misdrijf te plegen of dat hij/zij de openbare orde zou kunnen verstoren of heeft verstoord"* (art. 34 WPA)

UK & US: 'reasonable grounds/suspicion'

France: 'raisons plausibles'

The Netherlands: 'redelijkerwijs noodzakelijk'

No clear operationalisations of these concepts

Places the police *"in the position of having to determine the forms of conduct which are to be subject to the criminal process"*, argues Finckenauer (1976, p. 30) -> discretion????

THE FREEDOM OF THE FIELD

POLICE OFFICERS AS STREET-LEVEL BUREAUCRATS

Police stops mostly occur in public space, on the streets

Lack of supervision/control on the street decisions

Street officers represent the police institution to citizens

Street officers = street-level bureaucrats:

public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work” (Lipsky, 2010, p. 3)

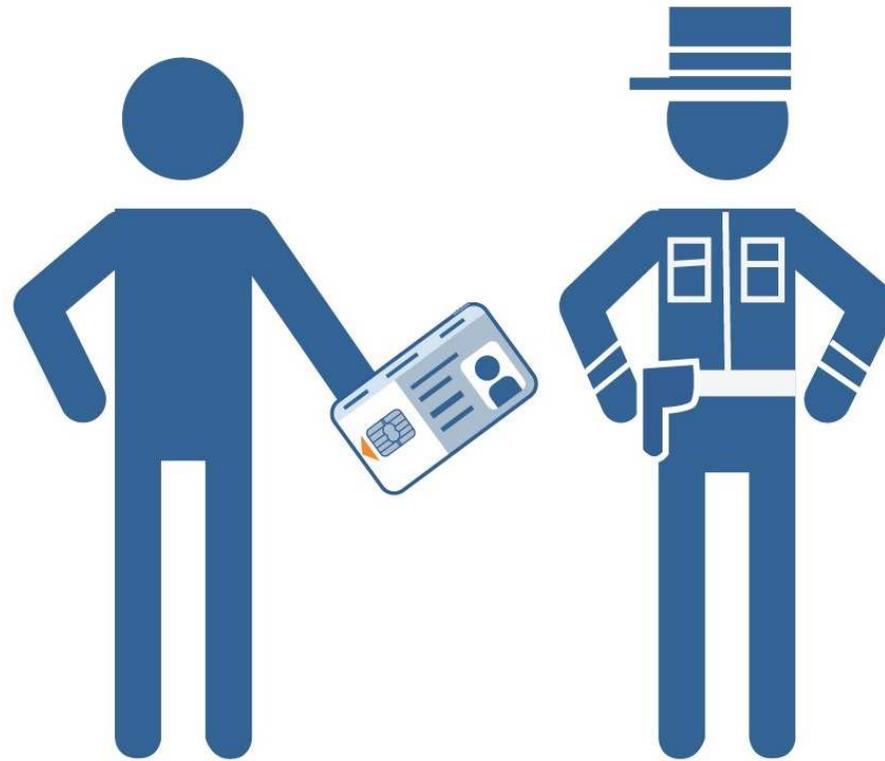
Police stops:

- Have a huge impact on the perception and legitimacy of the policy
- Are the gateway to justice: criminal record, known by the judicial system and all the consequences this may have

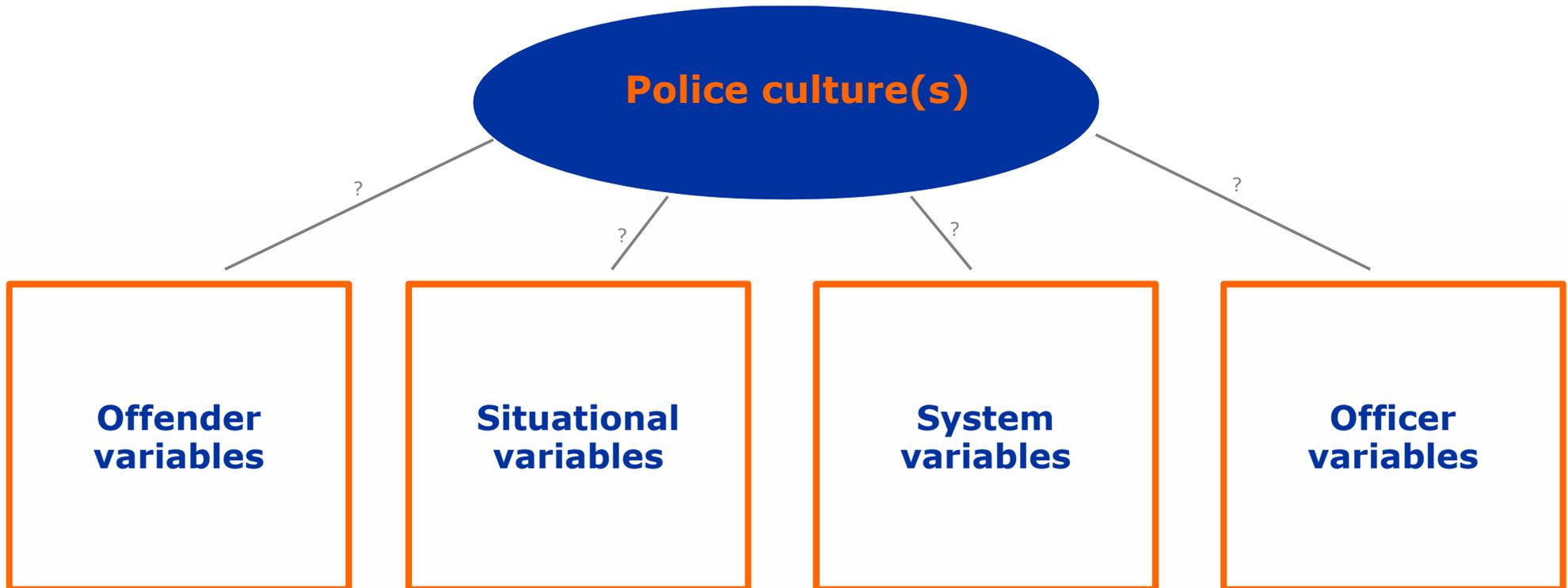
Street officers = powerful actors

THE UNRAVELLING OF DISCRETIONARY DECISIONS

WHEN DO POLICE OFFICERS PROCEED OR NOT TO A POLICE STOP?



4 TYPES OF VARIABLES AND THE ROLE OF POLICE CULTURE(S)



SUSPECT VARIABLES

LOOKING FOR THE OTHER

Police officers look for “*mythical 'other' who is not at all like 'them'*” (Garcia, 2005, p. 65)

Skolnick (1966): Police focuses on ‘symbolic assailants’ = people who on the basis of physical characteristics and material possessions are associated with criminality

Gender, ethnic origin, age, sexual orientation, socio-economic status, clothing, type of car, ...

“We know from our experience that some type of cars are often used by drugdealers, so it’s normal that we focus more on those cars”

“99% of the criminals are men, so stopping women is often useless”



“We can see in our statistics that car thefts are mostly executed by the same ethnic groups so I think it’s not wrong to focus on those groups when you have a call of car theft”

SITUATIONAL VARIABLES

DETECTING CRIME

Behaviour, time, place, seriousness of the crime,

Hot spot – and hot time policing

Often linked with other types of variables

“We know the places where drug addicts hang around and take drugs, so if we have nothing to do, they are an easy target”

“Hanging around in this neighbourhood at 3 pm isn't suspicious, but at 3 am it is, especially when you see someone wearing a hoodie or hiding something”



“When I see someone tinkering with a bike, I'll definitely stop them. If this person is a 10-year old girl, of course the situation would be different”

SYSTEM VARIABLES

GETTING THE BIGGER PICTURE

"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" (Buvik, 2016, p. 772)

"When many colleagues are absent and you are short-staffed, you have less freedom to detect crime proactively, because you need to remain available for emergency calls"

"I understand that some police officers focus on traffic violations but our core business is catching 'heavy' offenders"



"I'm not motivated anymore to focus on illegal immigrants, because they are rarely sent back to their countries of origin. So why put all the effort in catching them?"

OFFICER VARIABLES

OFTEN NEGLECTED

Different researchers call for more attention to this type of variables in the study of police discretion

Officer variables consist of the (moral) personality and the individual characteristics (age, gender, ethnic origin, experience, ...) of officers

"Being a black police woman is not easy. I not only get the sexist jokes, but also the racist jokes. You need to be really strong to not let you get influenced by that"

"We all have some things we do not accept morally speaking. For me for example it's drugs. When I have the opportunity to react on drugdealing or - using, I'll definitely do this"



"I see a lot of older and more experienced colleagues getting less motivated to catch offenders. They just do their hours and then go home. I really like to search proactively for potential offenders. I don't mind working overtime for this".

CONCLUSION

&

DISCUSSION

Police officers possess discretionary powers in the execution of police stops

Discretion is formed by 4 groups of variables

In literature there is a discussion about which variables are more important -> too simplistic

It is often a combination of variables causing police officers to proceed with a police stop:

- Typical example is out of place phenomenon where a person is considered suspicious because he/she doesn't seem to fit in the neighbourhood

Precise impact of police culture/cultures on police decisions remains unclear

Need for a holistic approach, away from the one-dimensional way of thinking!!

THANK YOU

