

THE BAILIFF AND THE DEBTOR:
ELEMENTS IN DECISION-MAKING
AND DEBT COLLECTION

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All writings, I suppose, are ultimately personal statements. I am grateful to the above persons for making this thesis more public in nature. I alone of course must bear the responsibility for the errors and omissions contained therein.

ABSTRACT

This thesis focuses on bailiff - debtor encounters in the collection and enforcement of credit debts. A social control framework is developed from which the activities of bailiffs are described and categorized. Particular attention is paid to (1) factors that contribute to the bailiff's social role and culture; (2) to the ways in which bailiffs, as encultured agents of social control, carry out their mandate in the areas of services, seizures and sale; and (3) the elements that contribute to types of knowledge that a bailiff makes relevant in decision-making. Issues such as the parameters of bailiff discretion, the basis of decision-making and debtor discrimination are explored within the context of a bailiff as a formal enforcer forced to enact his mandate in a variety of interactive situations.

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INTRODUCTION

A number of questions are often asked about things that bailiffs do which cannot be answered by referring to any formal description of bailiff duties. Questions such as Who are bailiffs? What do they do? Why do they seize people? What is their mandate? How do they make decisions about what to do? For what social purpose do bailiffs exist? can only be partially answered by examining their official duties.

The aim of this thesis is to answer such questions in a more complete way by developing a few simple principles which shed light on all of these problems. Instead of providing an ad hoc answer to all these questions, I would like to suggest that bailiff behaviors are often responses to the influences and tensions inherent in the role of a formal social control agent involved in interactive situations.

In order to study bailiffs as agents of social control and to assess their mechanisms of decision-making I utilized several sources of data. I observed, participated with and interviewed actors at all levels in the debt collection process, with particular emphasis on the interaction between bailiffs and debtors. The problems and limitations I encountered during the course of my

research are discussed in my chapter on Research and Methods.

I used other studies, particularly on the nature of credit and in the area of the sociology of occupations, as a framework from which comparative data could be gleaned. Studies on the police cited herein were an invaluable source of data in that they led me to develop a social control framework.

My experiences "riding" with a bailiff sensitized me to his social role. The consistent comments of one close bailiff associate contributed immeasurably to the quality of this manuscript. Many of his suggestions and improvements must go uncited.

I have developed several unscholarly conventions in this thesis to protect my informants. First, I have not cited any laws by their section numbers, because to do so would close the circle on the whereabouts and perhaps the who of this study. Consequently I have refrained from making esoteric legal points and have avoided making reference to codes by their specific name and number. Second, I have disguised the identity of all organizations, settings and social actors who have provided me with information. Most often this was done at their request and only occasionally at my discretion. Their co-operation

could cost them their job or considerable embarrassment, so the least I can do is to insure their anonymity and thank them for their time and assistance. The necessity of these conventions will, I believe, become apparent as one reads the thesis.

CHAPTER I

A THEORY OF SOCIAL CONTROL

A View Point

The relationship between theory and methods is an unsolved and complex problem. Blumer notes that methods are of great theoretical relevance - that moreover every method may have a different relevance for theory, and that significant advances in sociological theory will happen only after the interplay between theory and methods is more succinctly analyzed and understood.¹ Thus the research enterprise needs an intermeshing of these elements: theory, methodology, research skills and activity, and a sociological imagination.

I have chosen symbolic interactionism as my perspective in this thesis because in my judgement it was the best instrument available to tap the empirical nature of the social world I was studying. It would have been possible to use another theoretical stance - to apply, say, structural-functional theory to the issues treated in this thesis - but I am convinced that any other approach would have lead to a different emphasis and would have required data not obtainable.

One of the greatest difficulties involved in

fieldwork is to ascertain what level of any social system you wish to analyze. Often this choice is affected by considerations of time, data, accessibility, the nature of the topic under analysis, and sociological interest. Moreover, the researcher must be sufficiently theoretically sensitive so that he can conceptualize and formulate a theory as it emerges from the data. The interplay between data and theory is of course a complex and ongoing process. In the course of this project the types of data accessible and obtained, and considerations of time, forced a certain direction to the research. Questions such as what groups should one choose and to what degree should data be collected were overruled by consideration of what could be obtained. Generally speaking, in my research two "slices of data" were gathered; one on debtors and one on bailiffs. The categories and theoretical relationships that emerged out of this data focused on questions of decision-making, discretion and debtor discrimination within the bailiff-debtor interactional form. My developing theoretical formulation in turn "acted back" on what I chose to look for. For example, more macroscopic considerations such as linkings of other social interactions between bailiff and lawyer and between lawyer, magistrates and creditors were not adequately researched.² Moreover, data of a more

relational or contextual nature based on structural considerations such as on the basis of position in the socio-legal structure could not be obtained. Information drawn along lines of social class, age, occupational and educational status, social background and so on would have taken considerably more time and energy to be obtained for these more structural-organizational features to emerge.

The depth of my theoretical sampling was most intense at the encounter level between bailiff and debtor, and at the level of the bailiff social group.³ Periodically throughout my research activity I attempted to assess my data, my methods, my theory, and my personal preferences. I attempted to encourage what C.W. Mills termed the sociological imagination.

The sociological imagination, I remind you, in considerable part consists of the capacity to shift from one perspective to another, and in the process to build up an adequate view of a total society and its components. It is this imagination, of course, that sets off the social scientist from the mere technician.... There is a playfulness of mind back of such combining as well as a truly fierce drive to make sense of the world.⁴

In short, I attempted to treat the research process as an open minded affair. What Blumer termed the "hand and handness" of theory and method became quite clear to me

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after my first attempt to write up my findings.⁵

I decided that the interactional perspective offered me the best framework from which to analyze the data I had. The interactionalist conception of human behavior assumes that behavior is self-directed and observable at two distinct levels - the symbolic and the interactional. The interactionist assumes that humans are able to act because they have agreed on the meanings they will attach to the relevant objects in their environment. Additionally, man learns his basic symbols, his self conceptions, his definitions of situations through interaction with others. Bailiff-debtor encounters seemed to provide the raw environment for just such a sociological enterprise. From this perspective the bailiff seemed more and more an enforcer, someone in charge of exerting social control. The debtor appeared sometimes, though not always, as a victim. From these rather simple principles I drew parallels between police-offender encounters. Familiarizing myself with studies on the police provided me with a conception of bailiffs as formal social control agents forced to operate in social situations where their authority is not always obvious or accepted. This, in turn, led me to a careful consideration of theories of social control as a possible theoretical framework from which I could

categorize my observations.

Origins of Social Control

Social control originates in interactive human relationships. Both formal social control and informal social control implicit in socialization are derived from the habituations and institutionalizations which emerge from continual interaction.⁶ When two people interact with one another over a period of time, a set of taken for granted expectations and patterns of behavior occur. A common definition of the situation comes to be shared by the individuals or in more contemporary sociological terms, behavior becomes typified.⁷ This behavior which is taken for granted then need not be a matter of much concern to the participants because they consider it "typical" behavior of the other, an expected component of their relationship, and they can give this attention to more problematic facets of their social environment. Behavior which has reached this state of habituation is said to be reciprocally typified between the two participants. Now in order for the emergence of this process of reciprocal typification to occur a condition of regular contact in social space, over time, with essentially the same stock of knowledge must exist.⁸ These conditions exist primarily

in the social areas of labor, sex, and territory.⁹

We not only make such typifications of individuals, but also of types of social actors, assuming that lawyers will act like lawyers, policemen will act like policemen and bailiffs will act like bailiffs. We create our own individual typification of others and are socialized to typifications which have been established by others before us.

A child, for example, is born and nurtured within an existing structure of institutions, and for him they are objective facts acting down on him, independent of his own existence. He is socialized into the reality of everyday life by his contacts and relationships with his already encultured parents. As he grows up, he contacts a wider circle of possibilities. His social peers, his teachers, his own direct observations and experiences may extend or modify the cultural assumptions passed on from his parents. He creates new institutions based on his own relationships. Yet much of his social world still remains independent of him, open for discovery. The institutional world then, is often experienced as an objective reality. It confronts the individual as external historical and objective fact. There is a persistence to the institutions of society that cannot be

wished away. "The institutional world is objectivated human activity, and so is every single institution." ¹⁰

Thus when an individual enters a new situation, he will tend to sensitize himself to the customs of that situation. The existence of an institution, or custom, which implies reciprocal typification of behavior, constitutes a coercive control over the individual both in itself because it regulates behavior patterns by the sheer force of its facticity and through the formal control mechanisms that may be attached to or utilized by such an institution.

Institutions also need rationales for existing. An institution which is society-wide, which everyone, or at least everyone for whom it is defined as appropriate, requires a comprehensive legitimation to explain its raison d'etre. Legitimations can be classified generally as first direct experimental legitimations which implies that the institution is a creation of the activity of the individual, is explained by him personally, and is such that he reflects back on it as a product of his activity whenever he wonders what and why he is acting in a certain way. The second type of legitimation is more a learned enculturated rationale. The individual may encounter an institution which is not so clearly typified by his own experience. These indirect legitimations are learned.

through the socialization process. Yet it is not always enough to depend on proper socialization, or on self-conscious justifications to insure compliance with important institutions, or customs which affect many other people. The socialization of some individuals may be defective, individuals may be socialized into discord, or the legitimations of some institutions may appear unconvincing or unimportant to some members of society. Compliance is not assured a priori, but often must be manipulated. This being the case, customs that are held to be valid and important often become enacted in laws and equipped with a formal enforcing agency or organization whose purpose is to insure conformity to or punish deviation from that law. Formal social control agencies generally do not interfere with the taken for granted structure of typifications individuals may have, unless they directly affect some widely established and accepted standard of conduct. For example, a bailiff is generally unconcerned with how people feel about their wives, husbands or employers. However, should a person try to "do out" another person or "cop out" on a loan or a debt for goods then an important institutionalized expectation is breached, and the social control agent(s) charged with supporting this institution may be expected to act.

George Simmel taking into account these processes of reciprocal typification, socialization and the establishment of formal social control organizations identified three kinds of dimensions of social control which are heuristic in attempting to understand bailiff behavior. These he termed morality, custom and law.¹¹

Dimensions of Social Control

The most important dimension of social control is interactive control or custom which arises in the habituated face-to-face encounters established around a person's job, family, social peers, and community. Implied here is a certain amount of predictability of one's behavior which allows others to coordinate their behavior with ours. Thus if one "steps out of line", the other usually responds by attempting to get him to follow the patterns of conduct they have come to expect are typical of him or of people of proper demeanor like him which fit into their institutionalized conception and relationship without disturbing the routine of the relationship.

It is important that what is conveyed here not merely be the structure of behavior, but also the meaning, the sets of legitimations attached to behavior patterns.

Thus the others to whom one is related in carrying out an institution will attempt to control behavior either through approval or disapproval. For example, having a job exerts considerable control over the dress and demeanor of individuals, often extending itself right into the leisure facets of one's life.¹² Institutions then tend to mutually reinforce one another with regard to important forms of behavior causing most people to conform. The fear of losing one's job might be seen in light of potential marital conflict and status deprivation. These interpersonal customs act to structure behavior in such a way as to assure compliance with the social rules of conduct. Of course these interactive controls are not always necessarily sufficient to assure compliance and, as we shall see later, other mechanisms are employed.

A second dimension of social control is self control or morality. Self control is best understood as an internalized anticipation of interactive controls. In the process of socialization, an individual is introduced to institutions and these particular institutions act back and structure one's actions and speech, one's thinking and feeling. Individuals are born into them, define their social self within them, and eventually die out of them.¹³ Self control implies that moment in the dialectical

construction of reality where the internalization of the social world occurs. One important consequence of this is that rules which come from people and institutions (e.g. formal social control agencies) that the individual learns to respect as legitimate rule makers or enforcers in themselves are respected and made part of the individual's conscience or morality. Thus, for some people, policemen and bailiffs are seen as moral enforcers, guardians of not only the collective conscience of society but also protectors of private morality.¹⁴

Formal social control or law is enforced by formal control agencies such as the police, bailiffs, social workers, the courts, churches, and mental hospitals. Formal control is designed to cover any slip ups that may occur in the informal control processes of custom and morality. Formal social control may be of two types: actual control over the behavior or disposition of a concrete individual, and symbolic control understood more as the growth of an objective principle which exerts control through its mere existence. These social control agencies stand as objectifications of the importance of the enforced institutions. In advanced capitalist societies with complex forms of social organization the actual and symbolic are often incongruous. The concrete manifestations of legal

institutions, for example, are enacted in roles that are seen by only a very few people. In other words, you do not actually have to be "processed through" the court system to be affected by it. The symbolic content of the legal reality is able to stand separate and subject to manipulation and image construction. Bailiffs often present themselves as the moral agents of society but debtors who have had any routinized contact with them know that bailiffs are anything but moral because they have had actual contact with the enacted roles on a personal level.

Each dimension of social control has a source, an agent-enforcer, and a series of sanctions which it imposes on the individual. The root source of social control lies in the interactive institutions erected around coordinated activity. What is taken as right or moral is related to what is considered customary and what is moral and customary within a social system may be enacted in legal imperatives. Institutions generally "hang together" as a result of interactive and self control processes, and in most areas of human conduct the relationship between custom, morality, and law are isomorphic, that is to say, there is a common definition of what is proper. It is only when the interactive and

self controls are blunted or redefined in such a way as to lead people to alternative forms of behavior that problems of reality maintenance arise. These disparities lead to difficulties for agents who enforce the rules because there may develop a disjuncture between agents at one level, and another which may result in conflict of agents. An example of this is to be found in the conflict between policemen and judges in the prosecution of cannabis users.

At both the interactive and self levels of social control there are a variety of positive and negative sanctions which can be and are employed to insure the conformity of the individual to an important institution which he is part of and to assure his own internalized understanding of them. At the interactive level it is the other whom an individual is involved with or for whom his behavior is important that acts as an informal enforcer of rules. The positive sanctions that are foremost at this level are: acceptance, reward, friendship and emotional support. At the level of self control, the enforcer is one's intra-active self which reflects and examines the causes and consequences of thoughts, decisions, and actions. The positive sanctions operative at this level are: pride, satisfaction, and a sense of achievement and

harmony with ones self and others. The negative sanctions are: guilt, shame, doubt, and uncertainty. When laws are enacted, the basic and minimal elements of the institutions which are important are embodied in legal imperatives for all to follow. Laws are effected by authorized agents, through formal control agencies against those who do not follow the legitimated rules of conduct. The sanctions of formal control are largely punitive. In the case of credit institutions seizure of property, garnishment of wages, or arrest and imprisonment would be the negative sanctions resulting from formal social control.

The following table should make the relations between the levels of social control and the source, agent, and sanctions involved at each level more clear.

The agents charged with the exercise of formal control often face the dilemma of inhibiting certain forms of behavior and encouraging others without any legitimate means of doing so. Should a debtor-client refuse to pay a debt, a bailiff can invoke his legal power and sanction the debtor-client, but this may not always be to his advantage. The customs of the credit institution for whom he is working dictates getting paid in full and they may advise the bailiff through their legal representatives to threaten rather than to seize. This is sometimes done

SOCIAL CONTROL SUMMARY TABLE

LEVEL	SOURCE	AGENT	SANCTIONS
Primary	interactive institutions which come from reciprocal typifications and expectations around common activities and other coordinated behavior	others involved with self or for whom self's behavior is important	<p>Negative: ostracism, hatred, exclusion from participation and/or activities, emotional withdrawal.</p> <p>Positive: acceptance, survival, love, friendship, emotional support.</p>
Secondary	socialization of self by self and other so that self fits in with inter-active institutions in which self is involved	intra-active self which evaluates prospective consequences of decisions and acts	<p>Negative: guilt, shame, doubt.</p> <p>Positive: pride, satisfaction, confirmation, feeling good.</p>
Tertiary	group processes which lead to the enactment of laws and other written, abstract principles and regulations	legally empowered agents: police, mental institutions, social workers, bailiffs	<p>Negative: fines, imprisonment, death, "treatment", "consultation", seizure, eviction, sale of personal effects</p> <p>Positive: "awards", citations of merit, community well-being</p>

by having the bailiff enumerate and price the goods he is going to seize without actually having them seized. This of course is to both the economic and sociological advantage of the bailiff. Thus a formal control agent, for both exterior and interior motives may find it to his advantage to disregard his legal formal mandate and attempt to use secondary sanctions which are available to assure conformity to formal legal rules. For example, a bailiff may praise, curse, sympathize with, threaten, support, denigrate and ostracize his client. If this fails, as it sometimes does because of the fleeting relationship a bailiff has with most of his clients, he may point out that if the debtor insists in refusing to pay up, his neighbors will find out about it or he may even invoke the moral argument attacking the client's self conception. Thus the environment that a formal social control agent must take into account consists of an awareness context of the informal controls he feels affect the behavior of the people he is charged with controlling. As we shall see in the case of the bailiffs, their formal legitimations and descriptions of what they are supposed to do is not at all in fact what they actually do. Furthermore, the formal legitimations attached to their behavior in many instances runs counter to the

environment they are forced to enact in and in order to get their job done they take their environment into consideration and work with it to achieve some of their institutional goals. But in so doing, they are forced to blatantly disregard many of their formal rules of procedures and their legitimacy and self image becomes seriously affected.

The social controls of interactive institutions and of law as well as self controls are generally congruent. However, when custom or morality conflicts with the formal rule of law, a problem is created for the bailiff. Banton's statement about how policemen prefer to work within the popular morality and persuade rather than prosecute is valid, as well, for bailiffs.¹⁵ In other words, tension arises for the bailiff when he is presented with contradictory conceptions of his job by the law and by the people with whom he must deal. The highly competitive nature of his work places added demands on his behavior. He is forced to act quickly, efficiently, and almost always in a hostile context.

Flaws in Social Control and the Problems of Enforcement

Generally, the first two dimensions of social control are sufficient in structuring behavior. The rewards and punishments for the actor are efficient means

to assuring specific ends. Although the sanctions are less severe, they are more certain. If a person violates his own moral precepts, he often knows it immediately and a feeling of guilt is usually sufficient to keep him conforming. If he violates the reciprocal set of expectations of an interactive situation, the others with whom he interacts often discover and sanction him for breach of conduct. If a person breaks a law however, he often is not caught, and when he is, punishment may take a long time before being administered. There is thus a certain immediacy in the informal process of self and interactive control that is not always present in the formal control process.¹⁶ Sanctions administered by law enforcers thus appear to be more severe, yet are administered less frequently. Although the State reserves to itself the legitimate use of force and violence, the officers who routinely must carry out the "will" of the State often find it to their advantage to use informal controls to accomplish their ends.

Each level of social control however has the potentiality of only being partially effective or of breaking down entirely. Self control may be abridged by drugs, alcohol, passion, or insanity. Interactive controls may be absent or rejected as is the case with skid-row winos

and drug-taking street people. Formal controls may be absent or in disorder at a given time and place.¹⁷

The most frequent way in which self controls are abridged, so far as the bailiff is concerned, is through passion and anger. Opposition, both verbal and physical, make up a large portion of the work load of most bailiffs. In order for a bailiff to deal with hostile and sometimes violent debtors it is often necessary to call in the police to establish a context of relative calm. This happens more frequently in low-income neighborhoods, among welfare and unemployment-insurance recipients and to people of high geographical mobility.

The dimension of interactive control is equally important from the bailiff's point of view. Interactive control is abridged through inadequate or weak institutionalized relationships with work, family, and community. For example, in low-income neighborhoods, the control exercised by the work situation is minimal. The occupations generally are low status, the nature of the job is often unskilled, the pay is low, and the lay offs are frequent. The families are often one-parent families and are conflict-ridden. The work situation and the familial group provide little control over behavior. The neighbors are accustomed to family fights and they have internalized conflict in

their typification of the other. "Oh, the Joneses at it again." They do not intervene. In the case where interactive control has broken down, the bailiff must tread carefully. He will not only have to watch out for physical violence but also for being duped. Typically, a bailiff may come to conduct a seizure. The husband who owes the debt is not living there anymore. He has moved. The woman complains, she is not to blame for his debts. She does not know where he is. After some discussion the bailiff has to decide whether she is "pulling a shot" on him or whether she is "on the level". He decides whether to conduct his seizure regardless of the situation or he sends the writ back to his office for further tracing, or he attempts to contact his creditor for further instructions and negotiates a deal between his employer and the debtor. Thus the bailiff as an agent of formal control acts as the interactive level for a family which could not exercise its own control.

For people who have somehow become immune from interactive controls, the bailiffs are enforcers. They act as social janitors, credit cops, who sweep in and coerce the uncooperative debtor. The status of the unattached individual is analyzed by Arthur Stinchcombe. He contends that access to "private places" is evidence.

of attachment to the social structure, and that in the absence of such access, occupation is often considered an important variable in exerting control over behavior.¹⁸

Indeed a closer analysis reveals that having access to private places is often a function of occupation and involvement in interactive institutions. However, when those two partial supporting variables are removed or break down, the interactive pressures and controls tend to dissolve thus opening the way for reality flaws.¹⁹

So far I have been dealing with the various levels of social control as if they were are striving for the same goal. Ideally, subjective realities reflect social realities because they are derived from them in socialization. But given the complexity of potential activities and coordinations, given the constrictions of reality inherent in any abstraction from it, and given the variations in transmission of reality caused by the different social locations of the various actors and the multiplicity and ambiguities of meaning systems in an urban environment, there will be necessarily a number of people who experience a discrepancy or flaw between themselves and their social reality.²⁰ It is possible then for people who are faced with different life situations to reciprocally typify behavior which is illegal, or for them to feel no shame

or guilt about behavior which is disapproved of by those who interact with them.

In a complex society, people faced with different life situations may come to reciprocally typify behavior which is illegal. Berger and Luckmann provide the following example:

"An upper class child may learn the "facts of life" at an age when a lower class child has mastered the rudiments of abortive technique. Or an upper class child may experience his first stirrings of patriotic emotion about the time that his lower class contemporary first experiences hatred of the police and everything they stand for."²¹

When morality and customs of a group are not congruent with law, a great many of the mechanisms for controlling behavior are chaotic. Both bailiffs and debtors are often aware of the illegality of their acts but both groups have developed specific justifications which neutralize the criticisms of the other and the public. They intersubjectively objectify these justifications which are then available to consciousness should they be faced with the necessity of explaining their behavior to representatives of some other formal control agency or to the public. It would appear that this exists in the interactional ritual between some bailiffs and debtors and is likened to what may be termed a sub-cultural institutionalization of deviance.²²

The institutionalization of deviant reciprocal

typifications depends upon having a society complex enough so that deviations are not immediately obvious to all those who are involved in conventional institutions.

Moreover, as Stinchcombe succinctly points out

"... the size and anonymity of the city decrease the chance of small social systems to control the behavior of their members in public. ... in large cities there are much stronger norms about "deliberately not noticing" the behavior of other people. This means that in cities, much more behavior is only inquired into...." ²³

This affects not only the way social control agents "look into" matters but also the way these various tertiary control agencies themselves are "looked into".

CHAPTER II

RESEARCH AND METHODS

This thesis reports an intensive study of bailiff discretion in his everyday encounters with credit offenders. The setting is an industrial city of about two million inhabitants. The focus of the thesis actually delimits considerably the totality of the bailiff activities. I have not been too concerned with the bailiff's way of life outside his work situation. Moreover, I have not dealt with situations where commercial or industrial establishments are the debtors. I have focused entirely on personal individual debts. Nor for that matter have I paid particular attention to legal matters that fall outside the debt collection process. Because a bailiff, in his routine work, deals with a multiplicity of employers, he may have to serve legal documents relating to divorce court, etc. The way in which these demands get processed may very well be different from the way in which bailiffs deal with debtors. Since identification may prove harmful to the bailiffs, lawyers, citizens, and organizations who assisted me, the location, titles and names will be changed to protect both the innocent and the guilty.

Purpose

This is a study of professional-client relationship between bailiff and debtor. The focus of the dissertation is on influences and tensions inherent in the role of a formal social control agent involved in the enforcement of credit law.

Despite the increasing magnitude and social importance of credit in modern industrial societies, little investigation has been carried out on the processes of debt collection. The paucity of data in this area may perhaps be attributed to (1) the great difficulty in "getting at" and analyzing behavior that is defined as personal; (2) the clandestine and sometimes illegal nature of some credit institutions and their debt collection practices; and (3) until recently, the unwillingness of many social actors in the credit and debt collection industry to cooperate with social research.

The existing literature on consumer credit deals mainly with the variations of credit and the duality of application.¹ The sociological literature on the debt collection process itself is virtually non-existent. For example, in the case of the bailiff a number of relevant questions could be posed which cannot be answered by examining any formal description of his duties.

Questions such as Why do bailiffs conduct seizures? What is their mandate? Why do bailiffs always overseize the client's goods? Why do they sometimes find it necessary to remove and store a client's goods? Why do bailiffs often underforce their legal sanctions in middle-income neighborhoods? Why do they often intimidate and utilize "tough tactics" in poor neighborhoods? Why do they generally disregard many of their legal rules of procedure? cannot be answered if one thinks of the bailiff as a ministerial officer of the law obeying only legal imperatives.

Instead of responding to these questions in the usual manner which involves at best an ad hoc answer to each, I would like to suggest that all of these behaviors are responses to the influences and tensions inherent in the role of a formal control agent involved in fleeting interaction situations with his debtor-client.

The Natural History of the Research Project

Background

This study arose out of a larger project which represented an exploratory phase and which was designed to throw some light on the inter-personal workings of debt collection and credit enforcement in low-income neighborhoods of Montreal. Bailiffs were seen as one group to study because in low-income areas they seemed to have

rather frequent contacts with members of the public, because the debt collection situation is one in which the number of persons participating is severely limited, and finally because a concerned citizenry were in need of detailed information and analysis upon which to base their actions.

As a part-time researcher, I was to do field work on the project, initially concerned with interviewing seized debtors. Throughout this time period I established close contact with the citizens' groups and only incidentally with bailiffs. Later I reformulated and broadened my concerns.

The primary sources of observational data are thus debtors who have been part of the debt collection process and who have had face-to-face encounter with bailiffs, lawyers, and collection agents, and bailiffs who are members of the Bailiff Association and who operated in Montreal. Moreover, a great deal of data was gathered from two bailiff firms. The amount of cooperation varied considerably: some bailiffs steadfastly resisted any attempts at research, some exhibited a moderate amount of cooperation, others cooperated fully while still others were not approached because of their previous hostile reputation or because contacts could not be established. Although I gathered a great deal of data

from bailiffs in these two firms, my thesis is not an "organizational" or "occupational" study. Rather, it is a study of the structural and cultural action-environments surrounding the bailiff with these two firms taken as more or less typical. It is possible to argue with my assertion of typicality, and I have no defense. This sample of bailiff firms is based on convenience, and willingness to grant permission to an outside observer. I might add here that in most cases bailiffs in cooperating with me took considerable risks of their own. Bailiffs have recently received much negative attention in the press and they are on the whole quite suspicious and reluctant to talk. Each firm is somewhat different from each other firm in the laws and rules it considers important, and in the means it deems necessary to enforce the law. Were my intentions to be descriptive of the parameters of bailiff action in all of Canada, a sample such as this would clearly be inadequate. Since my intention is to examine certain basic theoretical relationships, these individual variations of procedure and form are probably not too crucial.

The one area in which the small sample of bailiff firms is probably important is that many forms of informal action which have reportedly been widespread such as credit

corruption, gross illegalities in the conducting of seizures, deceit, and physical violence are less frequent in these two firms. I have attempted to fill this gap by quoting other bailiff sources where possible and by obtaining detailed interviews with debtors who have experienced such injustices. But the "moderateness" of the firms investigated must stand as a limitation on my observations. If in spite of this limitation a great many illegalities remain, and they do, it is perhaps an indication of how far the bailiffs have had to come.

Method of Research

My interest in this particular social phenomenon led to the adoption of the following methods of investigation. First, because my services were invited by a representative from a local citizens' group, I was provided with some valuable contacts, especially among debtors who have been "victimized" by bailiffs. Lawyers, bailiffs, debtors, citizen activists, and creditors were observed and interviewed. I participated in certain bailiff activities, attended bailiff sales and recorded the goings on. I socialized informally with bailiffs and bailiff drivers. Furthermore, I was granted permission to work first hand with a bailiff. This involved my presence in the routine face-to-face encounters between bailiffs and their

prospective debtor-clients.

It should be stated that relative to the total number of bailiffs, only a select number of informants were taken into the researcher's confidence. Some bailiff firms whose practice is best described as "criminal" refused all efforts at researching. Information on them was gained through employees who, for one reason or another, had left the employ of that particular firm. However, most of the information on bailiffs and debtors was obtained overtly.

The field research aspect of the methodology was complemented by a content analysis of various qualitative materials. Considerable preliminary information was obtained by scanning the bailiff sales listings in the daily newspapers and by reviewing the public court records. It was found that this approach confirmed many original assumptions and hypotheses and generated new ones. It also provided me with a macroscopic perspective on the magnitude and nuances of the credit system.

The first step was to gain information on the characteristics of the bailiff-client relationship. Utilizing the daily newspapers, the court records, and the files of the local citizens' group², I obtained a sample of thirty-five names who had had contact with a

bailiff over the collection of a debt. Originally, I had hoped to utilize random sampling techniques, but this sampling method proved totally unworkable - many people could not be contacted, they had no listed telephone number, did not exist, had moved, or simply were incognito. Others steadfastly refused to discuss matters as personal as their own debt.

To locate membership in the bailiff-client interactional form, I utilized primarily subjective and reputational methods.³ A small number of influential community leaders were contacted and they provided me with a list of twenty names. The other names in my sample were obtained through public records (i.e. the daily newspaper and public court records).

The initial contact and interviewing of bailiffs was also done through reputational methods. A prominent member of a social welfare agency and a debt collection lawyer established my first contacts with bailiffs. From there I obtained a snowball sample of twelve.

The second method used in the collection of data was participant observation. Participant observation, for our purposes, is a process in which the field worker observed and participated in the groups in the sense that he had durable social relations with members of the groups under

study.⁴ It was, therefore, important that I make and sustain good contacts with the community and the indigenous organizations. Such relations were easily established and I was readily trusted and considered a "good guy". I was also given membership into their organization and invited to various informal gatherings.

I attended numerous meetings and "actively" participated in their organization acting essentially as a resource person. Through my participant-as-observer role, I was provided with "ins" by which I could gain a foothold in the credit process. Through participant observation, I was also able to grasp the common-sense constructs of everyday life by which the actors interpreted their environment. This aided me immeasurably in the construction of questionnaires, and in my interviewing techniques. Much of the research on this aspect of the paper was conducted during the initial four-month period in the summer of 1971.

Participant observation was also utilized as a method of data collection on bailiffs. Through contacts and references, I was able, after much difficulty, to establish relatively durable social relations with some members of the various bailiff firms. The researcher spent an average of six hours a week in the public settings

where bailiffs informally socialized. The duration of this end of the study lasted two months. A minimum of two visits per week was maintained, usually on a Thursday or a Friday evening. My role was largely observational, although a few informal interviews with bailiffs and bailiff personnel were conducted. The duration of each conversation was approximately one hour. This phase of the research project was carried out in the winter of 1972.

In the autumn of 1972 the researcher decided to reestablish his contacts in the field. Throughout the summer I had fleeting contacts with a bailiff acquaintance and his driver. I decided to approach this bailiff for permission to observe how seizures were conducted. After a few months of deliberation permission was finally granted. The researcher spent an average of one day a week "on the road" with the bailiff. Altogether I made seven trips with the bailiff on his daily rounds. In the process of obtaining access to the "private space" of bailiffs, I made the acquaintance and interacted with a larger number of his consociates. This aspect of the research corresponds to the third phase of the research study and covered a six month period. Formal and informal interviewing and observations were carried out and a wealth of data was gathered from these techniques.

Participant observation was also utilized as a method in obtaining information on bailiff sales. The researcher attended approximately twenty sales and witnessed first-hand the goings on that constitutes an auction. Here I became aware of the existence of a complicity network where creditors, bailiffs and drivers, and buyers interact in such a way as to further defraud the debtor. I learned of illegal activities such as price fixing and "selling cheap" to keep certain debtors further in debt. I discovered that some bailiffs and their drivers were running a fairly lucrative "kickback business". I learned that the law is sufficiently ambiguous to allow such activities to go on unhindered. In short, participant observation has allowed me to uncover what very well may be the tip of a much larger iceberg.

The third method of data collection was interviewing.⁵ This method was used in obtaining more structured information on people who had been seized, the mechanisms of the seizure process itself, and the role and definition of the bailiff in seizure situations. The two sources of the interviews with debtors were a local citizens' group and names taken from the Official Court House Daily Digest* and

*The Court House Daily Digest is an official court publication that lists all the names and addresses of all those people who are in the process of being served seizure papers and whom a creditor has officially and legally taken action against.

a local newspaper. In total, thirty-five interviews with debtors were conducted. Gaining interviews with debtors proved very difficult and time-consuming. Of the twenty names provided by the citizens' group, sixteen eventually became interviews. Of the one-hundred and fifty-six names taken from the court records, only fifty-one could be reached. Of the fifty-one, only nineteen were willing to be interviewed. The duration of each interview however was approximately two hours.

Interviewing was also a useful method for obtaining information on bailiffs. Although interviewing tended to operate jointly with participant observation, an attempt was made to formally interview actors involved in the credit collection process. The focus of this interviewing was on: (1) preceding occupational history: actualities and aspirations; (2) reasons for becoming a bailiff; (3) colleague relationships with other bailiffs (a) in the firm, (b) in the profession; (4) solidarity and reasons for its existence; (5) use of violence; (6) conception of a good bailiff; (7) conception of a good working firm; (8) how they think the public pictures them; (9) most disliked aspects of the job; (10) most rewarding experiences; (11) definitions of the offender; (12) attitudes on credit; (13) attitudes toward low-income debtors as a problem; (14) experiences

in and attitudes towards lawyers; (15) graft and illegal practices; (16) conception of a bailiff's job. Ten formal interviews were finally completed. Each interview lasted approximately one hour. Informal interviews were also conducted with bailiff drivers. Four interviews were also completed with collection lawyers. Interviewing in these cases was conducted with the aid of an interview guide and was carried out in their business office or in the confines of a private domicile. It is important to stress that not all bailiffs agreed to be interviewed. One controversial bailiff firm employing about twelve bailiffs has purposely kept its distance from the research project. Others simply could not, within the time period of the study, be contacted.

Calibrating the Instrument - Personal History and Values

Since the primary data gathering instrument in participant observation is the observer himself, his own history, personal style, values and blindneses enter into all that he sees and reports. In order that the reader be better able to know these biases which I brought to this study and take them into account in evaluating what I report, some relevant aspects of my personal history will be mentioned.

I come from a working class, white, Irish Catholic family with traditional and in some instances conservative habits. Politically, I am left wing and was, at the initial stages of the research project, actively involved in community politics.

Before entering university, I had done a variety of jobs from floor sweeping in a Greek delicatessen, to cleaning furnaces for an oil company, to white collar clerical office work. I picked up a certain amount of profanity from my work experiences which came in handy in this current study. In fact having a "job history" proved valuable because it was a common point I was able to share with most bailiffs. I believe I was able to overcome the stereotype of a "college kid" who cannot figure anything out unless it is written in a book.

I am neither personally aggressive nor a competent fighter. Moreover, I commenced this study with a generally negative view of bailiffs. I considered them hoodlums of the worst sort and cheered whenever I heard about one of them "getting his shit". I saw them as "things" and not as people. In working and socializing with bailiffs, I had to undergo somewhat of a "attitude change" in that area. I felt myself becoming more sympathetic of their position in the debt collection process. The possibility

of this happening is one of the greatest advantages and one of the greatest drawbacks of the method of participant observation. Perhaps a measure of my "attitude shift" was that I soon found myself becoming a "sounding board" for their work as well as their personal problems.

Prior to becoming involved in this study I had had no contact whatsoever with bailiffs. I had no debts outstanding though I have contracted a few recently and am now being personally chased by a collection agency. I had no other contact with bailiffs not even by hearsay or by reading about them. The first time I met a bailiff he got me thoroughly drunk and we spent more time talking about left wing politics, and in his view, the demise of his younger sister.

I also had had very little contact with Unemployment Insurance benefactors, though I had been one myself for six months, or welfare recipients before beginning this study. The contacts made as a researcher working in the community provided a thoroughly negative view of bailiffs, emphasizing as they do, those areas where illegal activities and physical violence most routinely occur. It took considerable time, effort, and energy for me to overcome these immediate "gut level" reactions and to attempt to establish sustained meaningful rapport

with bailiffs.

Each of these elements of my personal history may have influenced the observations which I made, though I do not think that they produced major limitations, but perhaps there are other aspects of my person or history which have in some way influenced my observations that I have not considered.

Honesty

I was not always completely honest regarding my status. In my dealings with debtors and citizens' groups I was completely honest. I do not believe that I falsely misled or exploited any of them during my research contact with them. Moreover, I believe that I did not create false hopes or illusions about rectifying the social ills which they faced. I have since become aware that many researchers and community workers operate under the guise of social priests who are about to absolve the sins of the ruthless credit system. I do not believe I inculcated false hopes for the sake of information. I told every citizen I interviewed exactly what I was doing. I indicated that I was a student involved in writing a report on bailiff seizures. I had no negative feedback of any sort from debtors.

In my dealings with persons from the citizens' groups I had no personal disagreements. I was invited

to their social activities and did my best to stay aloof from the personality politics that seemed to predominate in their organizations. I only gave advice when asked and I handled many of their routine cases. (Such as assisting immigrant or elderly people in the explanation of their case before a lawyer. This often involved travelling to their home and taking them to the lawyer's office and back again.) When personal and illegal favors were demanded, I usually responded by assisting. For example, I and a friend spent two days loading, transporting and unloading eggs which were to be distributed to poor families.

The sole feedback of a negative sort which I felt existed, at least initially, was that my status as a student led many citizens to be suspicious of my attitude and commitment. (Apparently the areas in which I worked were politically organized and had had previous negative experiences with students doing research.) I believe that my behavior and actions alleviated most of their suspicions. I made all interviews and documents available to those who wanted to see them. I was seldom asked. Then copies of a descriptive report on the interviews conducted were sent to various citizens' groups and legal aid clinics.

My interviews with collection lawyers were carried out overtly. I told them as clearly as possible exactly

what I was doing. Most lawyers cooperated fully, though they were clearly suspicious of my motives.

In my relationships with bailiffs, I could not be nearly so open. I was only partially honest and while I informed most bailiffs and drivers that I was interested in doing a study on them, I elected not to inform the Bailiff Association or the owners of concerned firms. The reasons for this are as follows: (1) in the case of a previous attempt to research bailiffs where official accreditation was given, the researcher was unable to "work with" a variety of bailiffs. He was assigned an experienced bailiff who appeared to be quite honest. He complained to me that he was not getting much information and that he felt he was being "tried"; (2) I had previously worked closely with a citizens' group that clearly opposed bailiffs. It was an organization that bailiffs evaluated critically. Moreover, I had written an article in a local newspaper which was somewhat critical of bailiffs and the process of debt collection. More than likely the Bailiff Association was familiar with that article and I could not afford to jeopardise the research by having them censor me; (3) my previous informal contacts with bailiffs and drivers informed me that because of the bad publicity bailiffs were receiving, my chances of "getting in" with

the Bailiff Association was limited. Moreover specific bailiff owners made it known that they did not want anyone, as they put it, "snooping around"; (4) because of the illegal entanglements and possible graft involvements and the importance of secrecy among bailiffs, I felt that permission of a firm owner would be reluctant at best and that interviewing would be over-formalized. I felt this approach would not be a trust relationship where men who would be willing to tell secrets would in fact tell them.

I decided to proceed with my research on bailiffs in two stages. The first stage consisted in observing bailiffs and making contact with them in relaxed settings, such as bars, taverns, and restaurants that they frequented. Intensive but unstructured interviewing set the stage for "making an acquaintance" with bailiffs. Access to these initial interviews was in large measure obtained through the mediation of an "animator social" at a local citizens' consumer organization. They included interviews with bailiffs and drivers from basically four firms. Contacts with individual men ranged in time from one hour to twenty-five hours, the latter naturally involving several sittings. The data from these interviews were valuable in that they assisted in identifying those elements in

bailiff work which could be considered generic to the occupation.

Stage two consisted of the observation of operations "on the road" by the bailiff selected for study. The researcher spent time with the bailiff in his everyday routines paying particular attention to his dealings with creditors, particularly in the areas of service, seizure, and sale. This stage provided the opportunity to observe the bailiff at work, to interrogate many other bailiffs on their job routine and problems, and to obtain explanations of how and why they did particular things. Further invaluable contacts were established in this manner.

Whenever a bailiff asked what I was writing about, I told him at length about non-controversial areas. Few asked more than once. Of course, the actual content of interviews, the way in which they were introduced, and the extent to which they were processed depended on these factors. Thus, (1) a particular subject was dropped within an interview when and if it became clear that no information was being obtained; (2) if dilemma questions, posed in areas of high sensitivity revealed a strong negative reaction they were either reformulated or dropped. Usually this involved matters of graft dealings with the ways in which seizure and sale were conducted; (3) the degree of

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rapport obtained had much to do with whether or not a question was pressed. One difficult problem encountered was to appear as innocuous as possible so as to avoid becoming defined as a threat. Bailiffs are exceedingly suspicious and occasionally I felt that pressing matters made some of them quite suspicious of my motives. I never felt that most bailiffs perceived my presence as spying, though one firm of bailiffs did accuse me of "snooping" and threatened to "break both my legs". The research however required a continuous campaign of personal propaganda in order to meet waves of suspicion. Doing field work in an area where secrecy and suspicion are natural often involves considerable psyching up of oneself. Whenever I saw a bailiff on the road that I recognized making a service or seizure, I rushed over to talk to him. Four times during my research I casually encountered bailiffs in the downtown area and I was usually invited into their car where a short but friendly conversation ensued. I drew the line however when a bailiff's driver started propositioning the girl I was living with.

Outside of the threat from that one particular bailiff firm, and the institutionalized suspicions of

the profession, I received no negative feedback whatsoever. If anyone was doubtful of my presence it was certainly not overtly brought to my attention. Nor for that matter was information about graft dealings denied me, although the wider implications such as whether the graft network was criminally organized or not was seldom discussed. It was, I should mention, a topic which I decided not to pursue and which I was only too glad not to be informed about.

Benefits and Limitations of
Participant Observation
of the Bailiffs

There are, it seems to me, two major benefits of participant observation which seem to me to outweigh all of its limitations, when it is used for exploratory research.

First by being a participant observer one sees many things which are absolutely inaccessible to outsiders.

Second, the observer can describe the subjective world quite like a complete participant would. The observer actually experiences the emotions, the situations, and facts which are being experienced and are shaping the understandings of the participants. By personally

experiencing these things, the observer has these elements of subjective consciousness available to him as data. There is no other way he can get this nearly so directly. To the extent that emotional factors are important in structuring the activities of the participants, participant observation gains understanding which cannot be had from any other source.

There are, however, a number of limitations which must be taken into account in evaluating this or any other participant observation based report.

First, the data is unstructured or only partly structured. When I suggest that I denote a regularity in behavior, it is difficult or impossible to say what percentage of bailiffs engage in it. For an exploratory or theoretical study this is not a major limitation in the early phases.

Second, becoming a participant and going along with what is said and done, as I feel is somewhat necessary to really experience the role of a bailiff, will provide the observer with a massive, and an extremely difficult to counter, value confrontation. It is very difficult to hold to some abstract principle in the face of a first-hand, disconfirming reality. The observer's personal values and the values of the group he is observing

thus are in constant tension. Unless an observer is prepared to accept value relativism at an emotional level and to treat his own values as just another set of values "valid in some instances", long term association in a group whose values diverge from his own will be at best an uncomfortable experience. Even leaving the field periodically does not provide a cure, in fact it may be a hinderance to accepting a position of value relativism.

Third, the participant observer is inevitably "caught" by the role that he plays. He is generally limited to holding a single position within any organization he is engaged in studying. While it would be convenient to be a bailiff, then a driver, then a runner, then a bailiff owner, then a collection lawyer, then a buyer, then a creditor, etc., from which a great deal of useful data could be arranged, it is practically impossible to arrange.

The bailiff is limited to observing the world from the viewpoint of a bailiff. He finds it somewhat different from the owner who spends all day handling phone calls and organizing the workings of the firm. The bailiff's world involves a number of "beefs" orders which come from "up there" sometimes without explanation, and a lot of hours playing postman. The participant observer who attempts to show the bailiff's role sees similar situations. He

does not see the high level wheeling and dealing carried out by lawyers and firm owners, or he may be unaware of the strategy considerations which prompted some change in policy. Additionally, the bailiff in a given firm may be unable to distinguish between legal perogatives and the interactive institutions established with particular lawyers or creditors offices. When the creditor lets it be known that he wants a certain kind of pressure put on a debtor, or he wants a seizure conducted for a small debt, or he wants an emergency service, his considerations may be opaque to the bailiff who must obey them. Each position thus has a possibility of knowledge about other positions through the interactive institutions established with these other institutions. The more remote from the participant observer's location, the less likely he is, or anyone else in his position for that matter, to be able to really comprehend the dynamics of that distant other position. So a bailiff driver may understand the activities of his buddy quite well, he interacts with him daily, but the lawyer less well because the lawyer is involved in many interactive situations which exclude the bailiff. Similarly knowledge of the bailiff's activities is restricted, the higher one moves up the status ladder, and all the realities of the road become reduced to

scores of written documents, code numbers and records, and occasionally considerations of the legality of various actions by appellate standards. Often a firm owner, lawyer and creditor suffer from a dose of "executivitis" because they are involved in broader command considerations than is the ordinary bailiff and thus tend to understand less and less about the bailiff's world and problems. A participant observer at any level would suffer from these limitations on knowledge inherent in that status level. In my observations in Montreal I only talked to one bailiff owner. Obviously there are going to be a great many limitations if this paper is considered as an "organizational analysis".

Similarly the experiences of lawyers, collection agents, buyers, creditors and runners are only given glancing attention. The social control discussed in this thesis is the social control provided by bailiffs in their face-to-face encounters with debtors.

A fourth limitation comes from the fact that I was not a bailiff, though one bailiff was prepared to assist me in becoming one. I was thus not subjected to the totality of bailiff "action". I did not actually experience the emergency calls, the physical violence or the family fights. I had an intense but short glimpse

into their social world. There are some activities which are only carried out among friends who trust each other completely. If any illegitimate violence is to occur, it will be done by partners who are sure of each other. If a bailiff is going to take an afternoon off, or sleep on the job, or if he is going to overtly "arrange things" not legitimated by bailiff culture, he will want to be certain that the people who see him are not going to turn him in. It would seem that a safeguard is to initiate a newcomer into the illegal practice, thus "getting the goods on him" so that he too is partly a conspirator. I would have to say that it might be possible to obtain this confidence from bailiffs, but I did not develop it over the period of my contact with them. Since I was not involved in the work as a job I was not fully confided in. Nor for that matter did I pay much attention to pension plans, promotional chances and intra-firm politics. To the extent that these factors may influence the behavior of the bailiff on the road, they will introduce uncontrolled error into the observations.

In spite of these limitations, the role of participant observer offers incredible advantages over the position of an outsider or survey researcher trying to study bailiffs. A survey research or even an unstructured interviewing

approach would not expose one to the experiences of a bailiff so as to allow one to "understand" what is behind the various behaviors and responses one observes and records.⁶ And in the case of bailiff-debtor interaction the subjective feelings of the actors were deemed important. For example, had I used only interviewing techniques I am confident that I would not have uncovered the more questionable of bailiff practices. On the other hand, the outsider or survey researcher can move rather freely around the status hierarchy in ways impossible for the participant observer. In my research project I clearly focused on the bailiff-debtor interactional form, but I did attempt to gain wider contextual data by interviewing and observing other actors in the status hierarchy.

Checks

The validity of the data received was checked, as much as possible under the circumstances. Because the focus is on the interactive aspects of a social control agent at work, the equally relevant issues of cause and consequence of debt collection was left out. Nor, for that matter, was any attempt made to account for the structure and process of the credit system. The writer felt himself limited in both time and capabilities to deal adequately with these problems in depth. Furthermore,

the time allotted relative to the complexity of the topic under investigation placed certain restrictions on the quantity and quality of the data obtained. Moreover, repeated criticisms and bad publicity received from the public press, increased suspicion and distrust and jeopardized in some instances the already tenuous field relations. Nonetheless, it is felt that the exploratory-like nature of this study is heuristic in describing, and to a lesser extent, in explaining the nature and dilemmas of an urban enforcer in the service of his mandate.

In order to check on the observations I made, I attempted to utilize previous studies carried out by sociologists. A cursory examination of sociological materials revealed that virtually nothing had been written on the subject of bailiffs. My only recourse, or so it seems to me, was to inquire into comparable social control occupations. Here the police offered an interesting role model. I read the major studies on the police and used these as sources ~~as~~ data, rather than as sources of theory. I attempted generally to translate their terminology into the terms developed for dealing with primary, secondary, and tertiary social control. Within the broad limitations established by the variability of bailiff work from one

locale to another, all of these works seemed to indicate general similarities on the basis of actually enforcing a legal mandate, though they have different conceptual frameworks for explaining their observations.

In order to broaden my experience, I attempted to "ride" with a bailiff in another firm, who utilizes a widely different approach to bailiff work. He tends to handle an enormous amount of cases and often removes when he seizes. He was a former member of what bailiffs refer to as a "renegade firm". Such an arrangement however could not be set up. I cannot clearly specify to what degree there are exceptions to what I have reported, although my observations and interviews with bailiffs associated with the firm indicate similar patterns of problems and "dealing out". I have the impression that there was a great deal more employer control and that bailiffs were more involved in illegal dealings. But Bailiffs from all firms recounted similar stories, expressed much the same emotions and frustrations, and appeared to settle many problems using informal action.

As mentioned before, one firm in particular expressed overt hostility to the research project. I was unable to obtain any interviews with personnel presently in the employ of that firm though I did gain

information from other bailiffs who either previously worked there or who had had some kind of an association with the firm. My other source of data on this firm was through observing them at bailiff sales. It is my opinion that the propensity to handle low-income accounts, to seize, remove and sell, and their quite obvious illegal dealings does set them off from other bailiff firms. However these distinctions coincide with other activities that are quite similar to other bailiff firms.

As stated above, I have had interviews and conversations with persons at all levels of the debt collection process. Aside from providing more data, there was no information which could challenge any of my major conclusions.

Throughout the last stage of this research I kept close personal contact with a bailiff who acted as a sounding board for many of my ideas. I would throw out suggestions to him and he would either affirm, deny or qualify much of what I said. Often the discussions became heated, though many interesting points were made and answered because we often approached particular topics from different directions. Needless to say these conversations facilitated my appreciating the role of the other.

It is my intention to provide a simplified, and shortened version of this thesis to a local citizens' group concerned with bailiff activities. This will provide me with some basis toward assuring you, the reader, that the observations are not wholly idiosyncratic. In Street Corner Society,⁷ William F. Whyte has "Doc" read the entire manuscript and comment on it. It seems to me that the assistance of "natives" may be equivalent to a test of significance for qualitative data.

CHAPTER III

THE BAILIFF: HIS ROLE AND CULTURE

This chapter is intended to present a background for the analysis of bailiff norms, and the study of their relationship to law and morality which follows. Moreover, it is intended to summarize the factual and descriptive data about the bailiff as an occupational sub-culture. Elements of bailiff culture will be outlined and explained. Factors relating to the nature and exercise of the profession, to its socio-legal context, and to the type of bailiff organization and operations will be presented and analyzed. What should emerge - albeit in descriptive terms - is a sketch of the bailiff's social role.

The area I have not reported on is that which was for me literally "too hot to handle", and on which I gathered only scattered data. This is the area of the bailiff's way of life: his home life, family relations, personal background, and habits. The information lost by not adequately researching what might be called the bailiff's "way of life" was not essential to the focus of this thesis, which has reference in large measure,

not to the occupation per se, but the interactional ritual between bailiff and client.

The materials which are presented in this chapter are drawn from available documents, factual data collected during the interviews and personal observations of the writer. They are not intended to prove or disprove any particular point or hypothesis. Rather, the chapter's aim is to provide a description of the bailiff sub-culture, its organizational complexities and operations, and the nature and exercise of the profession through which the reader can better understand the social role of the bailiff.

Having outlined in a general way the elements of the bailiff sub-culture let us turn to more specific documentation.

Factors Related to the Nature of the Profession

A recurrent theme of the sociology of occupations is the effect of a person's work on their outlook on the world.¹ Doctors, Judges, janitors, lawyers develop distinctive ways of perceiving and responding to their social environment. Here I shall concentrate on analyzing the factors in the

nature and exercise of the bailiff profession that combine to generate distinctive cognitive and behavioral responses in bailiffs. Such a descriptive analysis does not mean to suggest that all bailiffs are alike, but that there are distinctive factors related to the nature and exercise of the particular occupational group.

Now, who exactly are bailiffs, and what is their function, their duties, and their responsibilities? The exact function of bailiffs within Montreal is difficult to delineate, ranging as they do from the formal assignments of duties and responsibilities with respect to law enforcement and the maintenance of order and respect, to frequent informal acquaintances with illegal and "shady" lawyers and creditors. This of course varies from bailiff to bailiff, firm to firm, and employer to employer. In general, bailiffs see their function as one of supporting and enforcing the interests of their legal and economic superiors. Often the enforcement of law becomes incidental or is circumvented.

From a consideration, even of the formal duties of the bailiff, one can obtain considerable understanding

of that position and function in society. These formal duties are an intrinsic part of their everyday routine, and without them the legal sector would be seriously incapacitated.

He has three main tasks in the administration of civil justice. First, the service of documents. It is his job to deliver to the parties in a court action the writs, motions, and other documents necessary to give the other side (in the case of debt collection this would be the debtor) notice of proceedings. Here he may be likened to a postman who simply attempts to obtain the offenders signature for delivering a registered letter.

The easiest but most boring part of the job is just going around servicing. I just get my chauffeur (his driver) and go from door to door. There is hardly any problems and if you work fast you can cut out early.

Second, he is an officer of the court entrusted with the execution of judgements. Execution, as lawyers use the term, means mainly the enforcement or carrying out of the orders of a judgement; a person loses a court action; he is obliged to pay a sum to the winning party; if he refuses, it is the bailiff who is deemed responsible with the job of forcing him to meet his obligations, generally by (1) seizing his personal property to cover the debt; (2) having his salary garnished. Depending on the nature

of the court action, bailiffs may also have to take charge of evictions. Here his social role may be likened to that of a police officer. Indeed in the course of interviewing many bailiffs at one time in their life expressed aspirations to become a police officer.²

No, I don't like making seizures. They're a pain right up the ass. You usually have trouble.... They're just never reasonable. I try and stay away from doing seizures. I give the guy a call and advise him to pay up. It works a lot you know. You'd be surprised.... One thing I always wanted to be ever since I was a kid was to be a policeman. Funny, eh. They have respect; that's for sure. People are scared of them. I know a lot around the courts.

The third major task a bailiff must perform is to conduct bailiff auctions. Here he is responsible for arranging and conducting the sale of the debtor's goods. This is often a time consuming and harrowing experience. And as we shall see in a later chapter, it is often a setting where many illegal activities are transacted.

In addition to these three main responsibilities of service, seizure and sale, a bailiff often has to testify in court cases for which he must carefully record information. He must in the case of "sale of a moveable" where a debtor's effects are stored, arrange for the transportation and storage of the goods. This is not always an easy task. One bailiff recounted the incident

where he seized one of the more reputable hotels in town.

"Counting up forks and knives for two fucking days is pretty fucking boring." Bailiffs are also responsible for evaluating the what and worth of a debtor's goods.

If a television set is seized to cover a debt, it is the bailiff who decides that the television set is to be seized and that it is worth only \$50.00. The personal arbitrariness of decision-making in this area is embodied

in the following comments.

I decide what will be seized and what they are worth because I know what they are worth.

You can't let them (debtor) decide what to keep. Christ, they're in a state of shock.... You have to chose for them otherwise you'll be there all day.

I really think that it doesn't make a difference. We chose the same things they'd chose. Probably we do a better job. Some of these people would give up their fucking kid before they'd let their television be seized.

Bailiffs also have to act as diplomats, of sorts, negotiating ardently with hostile debtors, insistent lawyers, and demanding employers. Their tactics vary from sweet talking - "It would be to your advantage" - to high pitch selling and verbal threats - "You'd better pay up if you know what is good for you".

Moreover, even this listing is incomplete for it

says nothing of the amount of time the bailiff spends acting as a referee in family disputes, a courier between conflicting parties, a detective tracing down leads or a policeman detaining or arresting an uncooperative offender.

It can be seen from these accounts of the duties of the bailiffs that service functions constitute an important part of their responsibility and a fair part of their time. Bailiffs must act as high-pitch salesmen, couriers, postmen, auctioneers, social janitors, and policemen. In short, much of their work is "dirty work", necessary perhaps in any modern community, but exceedingly unpleasant, and in some instances downright degrading. It consists in having to deal with drunken irresponsible debtors, irate and corrupt lawyers, demanding employers. Often the job itself demands intrusion into the private world of people's personal financial accounts or into their work situation. The environment that a bailiff works in is often a criminalized environment with many unscrupulous bill collectors, peddlars, lawyers, and fellow bailiffs operating. It is an occupational environment where one's personal integrity must be fought for on all fronts. As one bailiff put it in a moment of contemplation, "Sometimes we are really just glorified garbagemen".

A bailiff works a five and one-half day week. His day begins somewhere around 7:30 A.M. or 8:00 A.M. and often continues up until 7:00 P.M. or 8:00 P.M. He can be expected to make up to fifty or sixty services and five or six seizures per day. Often he also must find time to attend a bailiff sale or two a day. He is under constant pressure, for if he does not deliver a unit or conduct a seizure or negotiate a payment settlement, the firm will not collect a fee. As most bailiffs operate on a commission basis, an unwritten motto of the profession seems to be "no service, no fee".

A bailiff then operates as a private entrepreneur. He is organized and works out of a competitive bailiff firm. His de facto employer is a lawyer who issues him services and seizures to be carried out. The lawyer in turn is under the pay of a particular client. The bailiff occupation is a competitive, high pressure, well payed, but low status occupation.

If a bailiff is to run a lucrative business he must order his day carefully. For this reason he, like a postman, works a route that covers set territorial areas. This becomes his "beat". He also usually hires a driver or assistant to facilitate servicing and seizure. Bailiff firms also employ "runners" who function as

couriers or "delivery boys" between the various legal courts. They amass all the legal documents and signatures that a bailiff would need in the course of a service, seizure or garnishment. The competitive character of bailiff work leads to the creation of bailiff organizations that stress order, similarity, routine, efficiency, and to a lesser degree, predictability. Moreover, most bailiff firms, unlike police departments, do not have advanced divisions of labor in the sense of having specific divisions like a patrol division, a traffic division, or a detective division. Rather, they tend to be small, compact, competitively oriented units. It should not however be assumed that the "working personality" of bailiffs do not vary. Indeed "operational credit law enforcement" can best be understood by looking at inter-firm practices as well as intra-firm behavior. The professional behavior of bailiffs varies with the "style" and "attitude" of a particular firm in the same way that the professional behavior of a policeman or military officer varies depending on whether they participate in the work of a detective bureau or command an infantry battalion.³

Although bailiff work is far from being the most dangerous occupation in society, the danger is often

unpredictable and interpersonal. The bailiff is constantly on the lookout for trickery and/or violence. He becomes suspicious of ordinary everyday situations. He must think "trouble" whenever anyone makes a gesture which might be a prelude to an assault. He must choose his words carefully or face the consequences. The only people he can trust are his fellow driver assistant and officer, and he must trust them completely. Banton's discussion of trust among police officers where one backs the other holds true for bailiffs.⁴ As one bailiff assistant informant put it:

If we have to make a seizure and the guy pulls a gun, we both try to talk him out of it. If that doesn't work, I try to keep close to the door so as to go for the cops.... We never try to disarm him. In most cases we just quietly leave and come back with the cops.

Thus the possibility of danger reinforces internal solidarity and suspicion among bailiff partners, separating the world into a supportive "us" and a potentially dangerous "them".

Secrecy is often deemed necessary in bailiff work to conceal their own operations and strategies from debtors and this is its primary legitimation. However, secrecy often comes to be employed for many other ends. It often stands as a protective skill against the attacks of the

outside world, against bad media publicity, against public criticism of which they think they suffer too much, and against the law which they too frequently abrogate. Moreover, secrecy also conceals the exercise of discretion, for example, the non-enforcement of certain legal prerogatives or the over-seizure of a debtor's goods. The functional utility of secrecy makes it a major element of the bailiff sub-culture.

The bailiff officer both exercises authority in his everyday work world and submits to it from his superiors in the bailiff firm and the legal court system. In his own exercise of authority he often feels that he is representing law, morality, and justice. Challenges to his personal authority are viewed as challenges to the social order as a whole. Thus the bailiff occupational sub-culture tends to become authoritarian because of the identification of personal with social authority. Within the social organization of the civil court system, the authority structure tends toward encouraging formalistic compliance with rules and regulations, often at the expense of both efficiency and justice. Bailiff culture, transmitted from veteran to recruit provides specific maxims for dealing with the bureaucratic authority of both the civil court and the bailiff firm. One such

maxim seems to be to never process a seizure case as fast as is legally possible. "When in doubt, delay." This is particularly evident when it comes to conducting a sale. Almost all bailiffs indicated that they further delayed five days or so before holding the auction. The reason being that it provided the debtor with more time to settle the debt. This frees the bailiff from having to take time to conduct a sale and further ensures him of his full fee. Another maxim is "never inform a debtor of his rights. It is too time consuming and it only confuses them more". Bailiffs also have specific strategies for dealing with "rush cases". The most common one is "always tell the boss you're on the case". In general, the social organization of the civil court encourages communication "down" of judgements, rules and regulations, but tends to block communications "up" of information acquired by officers on the road. It also tends to strengthen the solidarity and secrecy of the officers on the road against their own employers and immediate superiors.

Factors Relating to the Exercise
of the Profession

An analysis of the bailiff's cognitive propensities requires an understanding of the practical dilemmas and the outstanding elements of the bailiff's milieu. The nature

and particularly the exercise of his profession, is intrinsically linked to his occupational environment.

For the bailiff, as for the policeman, danger, authority, and efficiency combine to shape a distinctive social role.

Some of these elements may be found in other occupations sharing similar problems. So far as exposure to danger is concerned, the bailiff may be likened to a policeman. His problems as an authority bear a certain similarity to those of the school teacher, and the pressures he feels to prove himself and to produce are not unlike those felt by an insurance salesman or an assembly line worker. The combination of these elements, however, is somewhat unique to the bailiff self-conception. As Hughes has noted "a man's work is one of the more important parts of his social identity - his self".⁵ Bailiffs then, as a result of combined features of their social situation, tend to develop distinctive ways of looking at the world. The strength of these cognitive lenses though they define situations, may vary in accordance with certain conditions, but they are ground on a similar axis.

The process by which a bailiff's social role may be analyzed may be stated as follows: the bailiff's role contains two principal variables - danger and authority which could be interpreted in the light of a constant pressure to be efficient.

The bailiff's social rôle is most highly developed in his everyday activities as a "man on the route".⁶ This rôle of an enforcer is the sine qua non for the bailiff profession. It is the primary rôle to which every bailiff officer must be socialized. One cannot join a local bailiff firm without serving at least one year's apprenticeship. "Route experience" is the common background for the carrying out of all other special assignments. Thus a bailiff who sets up his own firm is familiar with what is involved in enforcing legal demands.

The element of danger is integral to "route experience". He is forced to serve documents on "unwilling clients", errant debtors who do not or cannot pay up a debt. Or worse still, he must conduct a judgement, either seizure or garnishment against a debtor. In this instance he has to enter a person's private domicile, evaluate his personal belongings, inform the debtor of their worth; set a date for their auction sale, possibly have them transported and stored, give the debtor his bill for services rendered, and finally, get the debtor to sign a legal document justifying the whole process. His daily work requires him to be occupied continually with potential violence. He quickly develops a perceptual shorthand to identify certain kinds of people as symbolic assailants,

that is, as persons who use gesture, language, and attire, who reside in certain neighborhoods that the bailiff has come to recognize as a prelude to danger and violence.

There are some cases when you just know. Don't ask me how, but you just know some thing's going to happen. Something in the person's manners, the eyes usually, may be the way they react.... Once I almost got clobbered by a baseball bat, but there was something in the woman's eyes that saved me. I didn't go past the door and I bluffed her out.... Well, I told her I knew she was behind the door and that the game was all over. You know, she stayed there for ten minutes.

Some places are sure trouble spots. You don't even have to go to the door to know. You can tell just by the way the house looks.

This does not mean that the violence by the potential assailant is totally predictable. On the contrary, the bailiff responds to a vague indication of danger by typifying it as such, even though it is often founded more on appearance than on fact. The threat of danger is compelling enough to make him act.

On the whole the job's o.k. - you know. It has its good points and its bad points. Seizures are the most dangerous. You never know what the fuck is going to happen. Sometimes nothing, sometimes a fight.... It's pretty unpredictable and that's the worst thing about it. I usually tell my driver to go for the cops at the first sign of trouble.

Nor, to qualify for the status of potential assailant, need an individual ever have used violence. A man threatening to use a gun or even verbally threatening a bailiff would qualify even if the debtor had no gun to use. To the bailiff in the situation "you don't take chances". There is only one relevant sign: a gun suggesting danger. Similarly a debtor may suggest the threat of violence through non-verbal behavior. He may "look" angry, slam the door, clench his fist, walk threateningly, smile insolently. These demeanors are continually registered by the bailiff as possible preambles to later "trouble".⁷

Bailiffs themselves tend to stress the peril associated with their work. Many recognize danger as inherent in their work and some even ask to be assigned cases where they do not have to conduct seizures. Thus one bailiff reported that he hated doing seizures. They were the worst part of the job. He was going to insist to his boss that he be taken off all seizure cases. Another bailiff assistant stated that he would consider being a bailiff only if he could be guaranteed no seizures.

Most bailiffs, however, "talk tough". They do not hesitate to tell you "thrilling" stories of violent encounters. Fist fights, scuffles, and violent verbal

battles seem a common occurrence. The following list of common injuries gives you some idea of the occupational hazards associated with the job: broken noses as a result of fist fights, broken or fractured arms and legs, head injuries such as consussions as a result of being clubbed or beaten with a weapon, minor ailments such as scrapes and bruises, nervous conditions of various sorts. One bailiff team recounted the following experience:

We had to do this seizure on this street up in the North end. Seizures always scare me but you can't be scared. Anyway we went in, showed our badge and explained. The guy was totally unreasonable. He called us all kinds of names and got his borther-in-law, a guy of about two hundred and fifty pounds to start threatening us. Telling us to get out before he kicked the shit out of us and all that. Anyway we didn't back down. After fifteen minutes he saw we were staying so he cooled down. Fuck, when we got back in the car we were scared shitless. It's cases like that that makes you think you better quit before you get killed.

Other bailiffs seem to enjoy the excitement and the "possibility of danger". They have no fear of doing seizures. Indeed, they often work for firms that purposively structure in such a way as to "thrive" on the processing of "seizing, storing and sale".⁸

Thus the bailiff may well, as a personality, enjoy the potentiality of danger, especially its associated

excitement, even though he may at the same time be fearful of it. But for those bailiffs who do not enjoy the danger and the excitement but who must nonetheless live it, their situation is more difficult to manage. Often they must "psyche themselves" up for the act of enforcement.

Whenever we do a seizure, especially if we suspect trouble and that's just about always, we check things out. Go over things. Get our positions right. Someone near the door. Or I'll keep the guy talking while Keith will evaluate or something. We always have somebody watching for trouble. If there is a problem and we can't handle it we'll go for the police.

Some bailiffs feel so uncomfortable in the role of policeman that they will generally have police there to formally back them up when they have to conduct a seizure.

I get so fucking nervous when I have to do a seizure or an eviction that I make sure the cops are aware that I'm doing it. I call the station and ask them to have a patrol car check the area just in case there is any trouble. I guess I'm just a chicken shit when it comes to these sorts of things. But I've had a guy drop dead one time when I did a seizure once and ever since then, well, you know.

However complex the motives aroused by the element of danger, its consequences for sustaining bailiff culture are much clearer. This element requires him to live in a world straining toward duality. There exist the "us"

and the "them". Consequently, it is in the nature of the bailiff's social situation that his conception of the world emphasizes order, regularity and predictability. Persistent suspicion, as we have seen, operates to shape his conception of his social environment. Bailiffs are indeed specifically trained to be suspicious, to perceive events or changes in attitudes that might mean the occurrence of probability of violence. A bailiff who has worked a particular route for three years describes this aspect of the bailiff's job as follows:

You spend a lot of time cruising one route. You get to know the neighborhood, some of the people, their habits, how rich they are, whether they're intelligent or not. A few you even get to know personally.... You find out pretty fast what the area is like and it affects you. A guy from (a low-income area) is not like somebody from (a rich suburb). You have to approach them differently.

The individual bailiff's suspiciousness need not hang on whether he has personally undergone an experience that could objectively be labelled hazardous. Often his suspicions are developed and reinforced indirectly through communication with fellow bailiffs. In any case, direct working experience and indirect reinforcement tend to create an identity-configuration where bailiffs tend to sympathize with a fellow bailiff who has been beaten

up, perhaps seriously, in the course of his job.⁹

The element of danger seems to make bailiffs especially attentive to signs indicating a potential for trouble and violence. As a result the bailiff is generally a suspicious person.

Moreover, the element of danger also isolates the bailiff considerably from that segment of the citizenry he regards as potentially dangerous and from the public in general. The element of authority reinforces the element of danger in accounting for the bailiff's social isolation. Bailiffs are themselves acutely aware of their isolation from the community, and are apt to weigh authority heavily as a contributing factor. When considering how authority influences rejection, the bailiff typically singles out his responsibility for enforcement of seizures and garnishments.

Look, we don't just deal with the public like a policeman does, you know. We deal with something really personal - his money, his credit, his fucking property. We are not arresting him, we are taking something that belongs to him, you know, belongs to him, and that's a big difference.... All these legal aid groups and that... citizens' groups in the (low-income area) bullshitting about the illegal acts.... The real thing they don't like is the fact that we arrest their fucking house and that's worse for them. Them bitching about doing things legally, that's a fucking laugh.

Open hostility is generated by those subject to seizures and garnishment, in part because such contact is often the only one citizens have with the bailiff, and in part because of the personal nature of seizure and garnishment. Of the thirty-five debtors interviewed, all were unanimous in their condemnation of the legal system that allowed the bailiff to violate their privacy.

Fifty year old housewife:

These guys are nothing short of thieves who come and steal what is your person. You might say it's only a television set but it has sentimental value and you can't measure that in dollars and cents. You'd better believe it.

Forty-two year old welfare recipient:

The law isn't just if it allows these guys (referring to collectors and bailiffs) to phone you all hours of the day and to just come into your house like they own it and take away your property. I mean, is this justice.... You can't even be safe in your home anymore.

Thirty-three year old housewife:

I feel obliged to pay my debts and I always pay... ask anybody around here... But there is one thing that's just a shame and that's to have these brutes come in here and disrupt the household.... You know they've taken the little kids' toys can you get over that, the little kids' toys that we got them for Christmas. That's just not fair. These kinds, they didn't do anything. It's the devil's work... These guys are gangsters.

Fifty-five year old factory worker:

Garnishments should be disallowed. These bastards went to my boss and told him I

had a bad credit rating and that they were going to have to seize part of my wages. Well, I lost my job. Now what the hell am I going to do. I can't speak French and at fifty-five how are you going to get a job. They disrupted my whole fucking life for what - for a couple of hundred bucks. If I ever see a bailiff, I'm going to line up and (pointing to a rifle) shoot him.

Moreover, creditors and thus legal representatives have been known to utilize bailiff authority, primarily to meet their own economic demands rather than those of law enforcement. They often circumvent legal procedures. Thus, when a bailiff conducts a seizure, he is sometimes unaware of whether due legal letters have been sent previously; he does not always know whether creditors or lawyers have acted in good faith. He merely follows instruction and in many cases bears the brunt of public resentment and criticism.¹⁰

When meeting seizure demands, even when they are legally processed, the bailiff often gives an unfavorable impression of enforcement to the average citizen. He tends to play an official role. He acts quickly. He does not talk much or inform the debtor of his or her rights. He ignores queries and comments. He speedily enters, observes, evaluates, seizes, possibly stores, and departs. Seldom does he explain his behavior unless he is openly and

consistently forced to. The debtors often believe they have been "conned" or unjustly treated. They define the bailiff's behavior as overtly hostile and rude. They claim that the bailiff has displayed a particular vindictive capacity towards them. Many have thoughts apt to generate hostility toward the bailiff: "I have been set up", or "These guys aren't human, they have no right taking my furniture". The answer of course lies in the contradictory nature of the civil code, which specifies concrete legalistic modes of procedure and the de facto realities of conducting a seizure in hostile territory, which dictates another mode of proceeding. One bailiff described his way of seizing as "get in, get out, no fucking about".

When you're making a seizure it's not a fuckin' social call. You can't afford the time or for that matter the energy to sit down and explain the law to the person. You move fast. You know they are going to protest.... So would I. But fuck you haven't got all day to explain things. Let them go see a social worker or something.... Of course I don't let them start making decisions about things. Most of them can't and the others shouldn't. Christ, I'd be there all bloody day. No sir, I got jobs to do, I'm not a judge, can't sit around.... If they can't pay then it's their tough luck. It's only fair, eh!

Often a bailiff expects opposition and violence when he conducts a seizure. He structures his role authoritatively,

goes in and gets out as fast as he can, thus in his view minimizing the possibility of trouble or danger. And of course from the point of view of the seized, his behavior appears and is rude.

Moreover, the bailiff's authority is a non-visible authority. He does not wear a uniform like a policeman.¹¹ He carries a small detective-like badge which he usually flashes upon first contact with a debtor. He may have a gun underneath his waistcoat, although the practice of carrying a gun varies from firm to firm. The appearance of a bailiff dressed in suit, tie and shirt often leads to ambiguities. The situation is not initially clearly definable. In most cases the bailiff's identity is not initially clearly distinguishable to the offender. Often the reaction is overt surprise, suspicion and hostility. "Who the fuck do you think you're kidding Jack. Bailiff, my ass". One of the debtors whose house was, as she termed it, subsequently "broken into" by a bailiff, comments on the non-visibility of bailiff authority.

I didn't even know they were bailiffs. These two guys drive up in this dark car. They sit there for a while talking and they come up the stairs. Well, I didn't like the looks of 'em so I didn't answer the door. After a few minutes they left. Three days later I went out for the day, and I come back and the house had been broken into and some of

my furniture stolen. That's what is was - stolen. All I found was this (showing it to me) piece of paper from the superior court.

Another debtor who had to be hospitalized after her harrowing experience with a bailiff recounted the following similar episode.

No way I was going to let these guys into my house, law or no law. How did I know who they were. With all the trouble these days, you can never tell..... So they went and get a locksmith and the cops and broke in. I tell you I'll never be the same again. They are nothing but common criminals.

Thus the bailiff's very self-presentation, his lack of uniform dress, creates what may be termed a context of ambiguity. Authority is not clearly perceived by the debtor though it is often self-evident for the bailiff. Offenders react with suspicion, surprise, disbelief, and hostility. The bailiff, in turn, often perceives this initial reaction as a "bad attitude". He sees not only his individual authority being questioned but social authority in general. His reactions are often (1) trying to clarify his role and task by emphasizing his legal status, or (2) ignoring the discrepant situational definitions and "taking vengeance".

When "executing judgements" plays a major role in separating the bailiff from the community, other tasks

of his also have the same effect. The servicing of documents, the simple delivery of court writs, injunctions, and other legal papers is another example of the bailiff's general responsibility for maintaining due legal process. This activity can involve negotiation, listening to litigants "sound off", or even providing basic legal advice and direction. The common feature of servicing appears to be that the bailiff is called upon to direct citizens, and therefore to restrain their freedom of action. The appearance of the bailiff is a painful reminder that often causes resentment. He is the available symbolic target for the enraged citizen. He is often confronted with lines like "Don't bother me now", or "Maudit groupe de voleurs", or "Haven't you guy got anything better to do", or "Who? Mr. Jones? No, he doesn't live here anymore". Thus the citizen often disbelieves, derides or deceives the bailiff's authority.

Closely related to the bailiff's authority-based problems as director or enforcer are difficulties associated with the carrying out of his mandate. These one might label as issues of public moral regulation. For example, a bailiff is often obliged to enter citizens' residences to enforce his mandate. His responsibility allows him to make procedural decisions. He may in the course of his

interaction with a debtor decide to comment on his moral turpitude. He may reprimand him for being morally suspect. Rather than enforce a seizure he may give the debtor a stern warning and three days to "think it over". He may rebuke a debtor's wife for being married to such an irresponsible person or he may even go so far as to question the moral responsibility of the whole family. Comments such as "Why did you ever marry such a lazy good for nothing like this", or "If you can afford to buy, you can afford to pay" are everyday occurrences. Such admonitions are often in the interest of maintaining the proprieties of enforcement and order maintenance. Yet, at the same time, they almost inevitably invite the hostility of the citizen in two respects: he is likely to encourage an antagonistic reformulation of the bailiff's role, and the bailiff is apt to cause resentment because of the prevailing suspicion that anyone who can work at seizing people's private goods is not exactly a moral person. Indeed, they are often depicted as men without a moral conscience - "un groupe de voleurs". Thus the bailiff is easily subject to the charge of hypocrisy. His predicament in this respect is shared by all authorities responsible for maintenance of disciplined activity.¹² The bailiff, however, because of the combination of elements

of danger and authority, experiences a predicament similar to a police officer. He finds it difficult to develop qualities enabling him to stand up to danger, and to conform to moral codes. The competitive nature of his work, the demands, and pressures often make it more heuristic for a bailiff to violate or ignore the legal prescriptions and norms he is supposed to espouse and uphold.¹³

On the basis of observations, bailiffs do not subscribe to moralistic standards of conduct. A certain amount of extra marital sex exploits take place. Hustling and heavy drinking is also well in evidence. Deals and fee fixing are everyday realities.

More than that, a portion of the social isolation of the bailiff can be attributed to the discrepancy between legal and moral regulation and the norms and behavior of the bailiff in these areas. Enough data has not been collected to indicate whether bailiffs engage in a comparatively active occupational social life. One trend appears to be that firm organizational allegiances tend to forge a network of extra work relationships which serve as a focus for "sounding off" and "letting oneself go". Much boisterous gusto of story-telling, argument, and melancholy accompany such occasions.

The element of authority, like the element of danger found in the tasks of bailiffs seems to contribute to the development of the bailiff's social role. Danger typically induces self-defensive conduct, conduct that strains to be impulsive because danger arouses suspicion, fear, and anxiety so readily. Authority under such conditions becomes a weapon to reduce perceived threats rather than a process of reflective judgements arrived at calmly. The ability to be discreet is also affected. As a result, formal legal procedural requirements often take on a "fuzzy" character, or at least, tend to be reduced to a level of secondary importance.

Factors Related to the Socio-legal System

Some elements of bailiff culture are undoubtedly affected by the nature and constraints of the socio-legal organization of bailiffs. The one hundred or so bailiffs operating in the city are organized in a series of competitive firms.

Bailiff firms, unlike police departments, are not closely related to the community in which they are located and in which they operate. The personnel of a firm is often drawn from outside the community. Most bailiff firms operate with a balance of city and corporation.

bailiffs and "outside" bailiffs.¹⁴ The average firm size numbers about ten bailiffs, ten assistants or drivers and a clerical staff of about three or four. Bailiffs do not seem to have any personal stake in the life and values of the clients with whom they are dealing. Their role appears primarily ministerial in nature.

The socio-legal structure, however, often has an important influence over the actions of the firms and the type of law enforcement which it emphasizes. Therefore it is important that a description of the entrance of the bailiff into the legal process and the subsequent legal and organizational constraints should preface that of a description of the bailiff firm itself.

Before a bailiff can evaluate a situation to determine whether or not to act, he must become aware of the fact that a violation has occurred or is in the process of occurring, and that his services are needed. There are basically two ways in which a tertiary control agency, such as the bailiff, may become involved in a concrete interactive situation.

The first way which may be termed the direct legal way is for a creditor in the situation to request the bailiff to become involved. This is usually enacted through the legal court system. The second way which may

be termed the indirect paralegal way is for a bailiff to act on his own without depending on the legal rules of conduct. In order to do this, he develops a set of close informal relationships with either a shady legal outfit, or credit establishment who themselves do not adhere to the rules of the legal system. Routinely enacting his mandate in this fashion gives the bailiff a jaundiced view of reality which often affects his interpersonal and colleague relationships.

Unlike other social control agents such as the police, the bailiff does not develop many of his cases from his own observations or perceptions.¹⁵ He is forced to a great degree to rely on his employer and the civil court. On the surface, the process seems simple: a creditor or establishment becomes aware of a negligent debt, notifies a lawyer, who if he gets no satisfactory results over time, in turn instructs a bailiff to serve seizure notice and/or conduct a seizure.¹⁶ In practice, however, there are usually things about the creditor, the lawyer, the situation, the nature of the debt, and the debtor which make this simple model unworkable. The legal and customary boundaries of action which the bailiff feels constrained to observe often lead the bailiff away from following the simple offense - complaint-corrective

action model. Because lawyers acting on behalf of their clients are the major source of employment for bailiffs, they are in many cases in a position to determine how and when the debt will be collected. The tactics and strategies involved in debt collection vary in accordance with the credit agency, the type of debt, the law firm, the bailiff, and the social location of the debtor involved. Thus in many cases the lawyer is in a position to define and structure the activities of the bailiff. Because getting paid off is a paramount concern of the creditor, the main function of lawyers is to negotiate and mediate between the creditor and the debtor. In a sense he is called in to return confidence to the debt collection process.

In many instances the employment of the bailiff in this process is synonymous to the employment of an added agent-mediator whose task is to help the accused redefine his position and restructure his perception concomitant with paying up the debt.¹⁷ Both the roles of the lawyer and the bailiff are structured by the court. The institutional setting of the court defines a role for the bailiff and the lawyer which is grounded in the pragmatic values, bureaucratic priorities, and administrative instruments of the court organization itself. These exalt maximum production and efficiency, and often in the case

of lawyers, particularistic career designs, whose occupational and career commitments tend to generate a set of priorities. These priorities exert a higher claim than the stated ideological goals of "due process" and are often inconsistent with them.¹⁸ Often organizational goals and discipline impose a set of demands and conditions of practice on the respective professions in the civil court to which they respond by abandoning their legal and professional commitments to both the accuser and the accused.

Interviews with varied actors in the debt collection process indicate that there is a kind of "informal network" operating where close and continuing relationship between the creditor, his lawyer, and bailiffs are maintained. Interwoven within the formal court organization are discreet informal lines of communication, influence, contacts and controls. Abraham S. Blumberg's observations about the criminal court system are valid as well for the civil court:

"Accused persons come and go in the system schema, but the structure and its occupational incumbents remain to carry on their respective career, occupational and organizational enterprises. The individual tensions and conflicts a given accused person's case may present to all the participants are overcome because the formal and

informal relations of all groups in the court setting require it."19

This is particularly true for "collection lawyers", i.e. those lawyers who tend to specialize in or handle cases involved in the process of collecting debts. Some of these "collection lawyers" are highly visible in the debt collection process. Their offices line the back streets of the courthouses, and there is continual rapport between them and various bailiff firms. They make no effort to conceal their dependence upon police files, bailiff firms and tracing companies.²⁰ Nor do they conceal the necessity for maintaining intimate relations with all levels of personnel in the legal setting as a means of obtaining, maintaining, and building their practice. These informal relations are the sine qua non not only of building and retaining a practice, but also in the negotiation of how and when documents should be served and property seizures conducted, and how payment for services rendered should be divided.

There are two major reasons why this informal "buddy system" is operative to the degree that it is: First, it is an economically lucrative method of collecting debt; and second, it is more efficient and less time-consuming than are formal procedures. From the economic viewpoint, the informal process allows the actors to work

out beforehand a rate or scale of payments.²¹ Because of the monopoly power that the creditor is able to wield, lawyers and bailiffs provide reduced fees for continued services and privileges from the creditor. The creditor benefits from this arrangement. He pays reduced rates.²² The lawyer is also in a position to make a "secret dollar". Because he has a large pool of bailiffs from which to draw on, he is able to get the bailiff's services at a reduced rate. The lawyer is under no obligation to pay unless the bailiff produces results. Although the bailiff charges the lawyer costs, fixed by the civil court for the services rendered, the lawyer is under no obligation to pay any of these costs.

What and when payment is made is determined by how well the services are performed and the nature of the relationship between creditor, lawyer, and bailiff. As a result of these informal arrangements, creditors and lawyers are able to reduce their costs. The bailiff, because he operates as an independent entrepreneur, sells his services below the legally defined rates. He does this in order to protect his favored position vis-a-vis the lawyer and to insure future business. There is thus an imperative for the bailiff to charge the debtor high cost for his services.

A second major reason for utilizing the informal network is efficiency. According to both lawyers and bailiffs, the "buddy system" promotes quick servicing. Results are obtained immediately. Services and seizures do not get bogged down in the legal bureaucracies. Indeed in many instances lawyers and bailiffs act extra-legally on the assumption that debtors are not aware of their rights. For example, legal proceedings are sometimes ignored or obtained post-facto, no warning of seizure is given, the bailiff just walks in one day and appropriates the debtor's household effects. The resolutions to the problems of debt collection have emerged in the shape of a large variety of bureaucratically ordained and controlled "work crimes", short cuts, deviations, and outright rule violations. These solutions are adapted as common practice in order to fulfill production norms: to meet efficiency requirements and to head off "slippery" offenders. All the significant participants in the civil court's social organization are bound into an organized system of complicity. This consists of a work arrangement in which the patterned, covert, informal breaches, and evasions of "due process" are institutionalized; but are nevertheless, denied to exist.

The nature, scope and complexity of these

institutional evasions are largely determined by the character of the actors involved in the debt collecting process, e.g. who the creditor is, what lawyer he employs, and what bailiff firm actually enforces. However, in most instances, a variety of strategies are employed - some subtle, some crude, some where the bailiff has discretionary power, some where he does not, but is, subject to the varying constraints of the legal system. Bailiffs, then, find themselves as low man on the legal totem pole and they must organize themselves and operate within the parameters of the organization of the civil court system.

Factors Related to the Type of Bailiff Organization

Most bailiff firms in the City may be considered as bureaucratically organized, consisting of a hierarchy of authority and responsibility, and a relatively impartial selection of men on the basis of competitive examinations. The firm is organized around the office of an owner, or in some cases a partnership, who possesses great power over the jobs and lives of men under him. Moreover, the owner often determines the type of bailiff organization. He is responsible for the organization of the firm, the coordination of all activities, the selection

and training of personnel. In addition he has to placate indignant citizens, fix up errant court writs, provide favors for influential people such as special services, or assigning particular bailiffs to special cases, and handle employee complaints, etc.

There do exist, however, a number of bailiffs (thirty) who are not impartially commissioned but who do operate in the City. They receive their appointment outside the Superior Court of the District of Montreal. These bailiffs often gain their commission through political and legal patronage. They are not required to pass stringent examinations and often they are unfamiliar with the law which they must apply. Often these "outside" bailiffs are swallowed up by legally incorporated bailiff firms or as in one particular case, they amalgamate into a firm of their own.

There are a bunch of bailiffs who work in Montreal and they give us a bad name. They are renegades. Most of them come from outside the city.... Sure our firm hires one or two, but they are always getting in trouble.... Well, I don't know for sure what kind, but take it from me, they are nothing but trouble-makers.... I don't know, I guess well, I guess most bailiff firms have one or two bailiffs who didn't pass their exams (refers to the Bailiff Association Exams). I really don't know why we hire them. It gives the profession a bad name.

Sure, I know who's creating all the

problems - it's (names firm). They have only one legally recognized bailiff, the rest of them are not licensed in the City. They come from outside the City. About half of them work for one firm. Those guys have no morals. All they think of is seize, seize, seize. When I worked there I never did so many seizures.... Now that we've started our own firm we'd like to see those guys kicked out. They're bastards, that's all there is to it. They don't even make their own decisions. They are owned.... Okay, I admit we hire outside bailiffs, but we are choosey, not just anybody works here.... The problem isn't just the outside bailiffs, you know. It's the profession, we can't do anything to stop it.

The responsibilities and authority of bailiff owners vary. There is no set structure of bailiff behavior. The practices of individual firms differ considerably from outright graft and patronage to a more professionalized ministerial type; from rampant disregard to legal rational procedures to relative compliance with legal rational codes of behavior, from informal "shady" working relationships to formal authoritarian work relationships.²³ In any case, in his capacity as an owner of a bailiff organization, a firm's head will often maintain a group of favorites within the firm on whom he can depend to handle delicate or special assignments. He rewards these favorites by distributing them small favors and patronage. They, in turn, keep him informed of the "goings on" of the other men. He appears

constantly on the alert to discern friend from foe. On one occasion during the course of the study, a citizens' reform group was leveling violently critical charges against the bailiff profession. During this period one particular bailiff owner was on the alert to see who among his men would give information to this citizens' group. On another occasion the writer had to go through a rather elaborate series of contacts to obtain an interview with a bailiff because the "boss of his firm" did not want his employees talking.

The result of the orientation of the bailiff owner or co-owners and their consequent need for special friends among the men is to (1) recruit a certain type of bailiff and attempt to establish as homogenous a social group as possible, and (2) set up an informal organization and informal lines of authority. To realize these "ends" it is often necessary for the firm owner to draw on informal as well as formal sources of authority. This formal authority to enforce disciplinary rules of the firm, to hire and to fire, and to recommend suspension or fine for an infraction of professional rules of conduct, provides the firm owner with considerable influence over his men. His formal authority is adequate for the control of the bailiff who knows little of his

activities. For others he is forced to set up an informal network constructed in terms of a series of informal reciprocal claims and obligations, the bailiff owner putting the men under obligations to him by giving them small favors, such as "safe" routes, good creditor clients, and by granting them special privileges. The establishment of this informal organization within firms usually takes time to stabilize. One can perceive that in some of the newer firms, conflict between formal and informal obligations, jockeying between members for favorite positions, and inconsistent and unstable recruitment is temporarily obstructing the implementation of an informal firm organization. Older, more established firms tend to have strong informal organizations and in many cases it effectively by-passes the formal organization. This can and does provide an effective unofficial channel by which extra legal demands can be serviced.

In addition to being organized into economic units, bailiffs are also entitled to be members of a professional association. The corporation of Bailiffs has three stated primary functions: (1) the regulations of membership, (2) the regulation of the profession to insure professional conduct, and (3) the presentation of a good professional image to the public.

Although there does exist a Bailiff's Act in the statutes, the conditions of its application in the District of Montreal are different from the rest of the Province.

Before any individual who resides in the District of Montreal can become a bailiff, he must satisfy the requirements set out by the Corporation of Bailiffs of the District of Montreal. As a result of an Act to Consolidate the Act Incorporating the Bailiff of the District of Montreal", the Bailiffs Corporation which was established in 1902 was given the power to make by-laws:

"to determine the qualifications, mode of admission or readmission, conduct, suspension, and expulsion of Members of the Corporation".

This act made it mandatory for any individual domiciled in Montreal who wished to practice as a bailiff in this area to become a Member of the Corporation and to satisfy the standards and the by-laws required.

The Corporation's by-laws, as of 1971, demand that the following requirements be fulfilled in order to become a bailiff. Those candidates without a university degree must (1) successfully write and pass a series of examinations which test the candidate's basic knowledge of mathematics, geography, history (British, French,

Canadian) and French and English. (A candidate must speak and write French and English with sufficient grammatical correctness.); (2) apprentice for a one year period with a duly certified bailiff member of the Bailiff Corporation; and (3) upon completion of the year of apprenticeship, the candidate must then pass another set of examinations testing his knowledge in those areas of the law with which he must as a bailiff be familiar. This includes portions of the Civil Code, the Code of Civil Procedures, the Criminal Code, the Bankruptcy Act and Admiralty Law. To pass, a candidate must score ten answers correct out of a total of fifteen. A candidate who possesses a university degree is absolved from writing the first set of exams. He does however have to apprenticeship for one year and he must be tested on his legal knowledge as well.

"If the candidate be declared qualified, the Council (... of the Bailiff's Corporation) shall deliver a certificate to him, which shall be of no effect without being confirmed by a judge of the Superior Court."

Such confirmation is virtually automatic since it is only a minor formality once an individual has been accepted as a Member of the Bailiff's Corporation.

However, an amendment to the Code of Civil

Procedures in 1965 to the effect that "unless specifically otherwise provided, any bailiff may make a service anywhere in the Province..." has created an influx of reserve labor and has essentially broken the power of the Montreal Bailiff Corporation.²⁴ Thus, bailiffs domiciled outside Montreal can practice in Montreal. The qualification restrictions, the standards of professional conduct, the power of suspension and expulsion, etc. as enacted by the Montreal Bailiff Corporation do not affect these "outside" bailiffs.²⁵ This places the bailiff profession in a contradictory position. On the one hand they define themselves and organize themselves along professional lines and, on the other hand, they lack the means to insure their professional status. Their monopoly has been broken. Their watchdog role has been severely curtailed and their public image is more than ever on the wane: they are a social control agency in desperate need of self-regulation.

Factors Relating to the Operations
of a Bailiff Firm

The bailiff firm in its day-to-day operations not only completes a scheduled routine of duties, but is constantly responding to the demands emerging from the debt collection process. Complaints, legal nuances,

tracing problems, service and seizure delays, missing debtors, flow into the office continually every day and the firm must be ready to respond to these demands.

The routine activities of a bailiff office primarily consist of arranging route assignments, handling messages to and from bailiffs on the road, tracing missing debtors, relaying information from creditor to bailiff or vice versa, typing legal and court statements, and a host of other clerical services.

Requests for action flow into the firm's office from a number of channels. The most important of these are the calls of the men on the road. In addition, requests come directly from creditors or through the firm owner(s). In turn, action can originate from the firm boss or through a lawyer. The men on the road tend to handle problems which they face by themselves with little reference to the office, but frequently they are limited in what they can do and must call in to obtain advice, further instructions, get a tracing job done, or just put someone else on the job.

Basically most requests for action coming from the road are for tracing jobs. Thus, should a particular debtor be difficult to contact, a bailiff will phone in and ask for a trace. Depending on who the creditor is,

an office employee whose functions best resemble that of a dispatcher, or desk sargeant, will immediately "get on it" utilizing the past record of the debtor, his present address, his place of work, and possible police records. This tracing aspect of the firm is by far the most important and time-consuming. It is treated as an overhead expense.

It is reported that up to 40% of all proceedings are incorrect (misspelt name or wrong address, etc....). Bailiffs will also periodically check in during the course of the day to see whether there are any "breaks" in old cases or if any special new ones have come up. Often a bailiff will circumvent the formal channels and contact a lawyer directly on a particular matter, say whether to seize and store a debtor's goods, or to negotiate a repayment settlement. After receiving his instructions he will act and later notify the office as to his action.

Lawyers, and even in some instances the creditor himself, have direct contacts with bailiffs. They may utilize the formal channel of contacting the office and having their instructions relayed as is the pattern, or they may informally communicate with the bailiff by having the bailiff keep them in close touch with every development. In some cases, the informal channels of communication are so well synchronized that both credit

agency, legal firm, and bailiff all converge simultaneously on the debtor thus mounting considerable social and legal pressure.

The preceding description of the flow of action within a firm is not meant to be definitive or even perfectly accurate. It has been given to illustrate the ways in which a firm operates.

The general picture is one of requests flowing into the firm from numerous sources which are sent in to the office and/or out, or back to the road, and are immediately acted upon. Frequently, action is efficient. Information retrieval and dispatching is fast and competent. Tracing is well organized. The competitiveness of the work insures quick, efficient action; it does not however guarantee that legal procedures will be followed or that the outcome of such proceedings are just. Indeed the operations of the firm often suggest the opposite.

The most common injustices are servicing and seizure of the wrong person. Often a bailiff receives a writ of service or execution where the name is misspelt, or the address incorrect. Bailiffs clearly admit that this difficulty exists.

Well, you know, you have so many things to do that you just can't check all things. So you make mistakes. In this business

mistakes happen all the time. If you're not careful you get hurt. I've made my share. The little ones are okay, you can deal with them, but if you seize somebody wrongly and he gets a lawyer then it could be your shit. You know what I mean.

I've had some bad experiences, the worst and most common is seizing the wrong person. It can cost you plenty.... Some people just accept the apology and of course you're polite to them. Some though, you'd better really go out of your way for.

The widespread legal and extra-legal exploitation of informal networks both within the court and within the bailiff firm, the relatively weak decentralized professional bailiff association, and the highly competitive and dangerous nature of bailiff work tend to produce a culture which is subjected to unscrupulous political and economic demands, credit corruption, promotional patronage, and which inhibits cooperative efforts and emphasizes secrecy, suspicion and deceit. Moreover, because bailiff firms are not community institutions in the sense that they are rooted in a particular community, a boundary between bailiff culture and local community is reenforced. They tend to be motorized policemen or postmen. They have a "beat to pound" and all the modern technological conveniences with which to do it. They are quick to respond to official requests but their knowledge of and appreciation of standing local patterns of interpersonal

relations is minimum. Their aloofness from the daily life of the local communities is further reenforced by the use of car radios and "bell boy" units. A bailiff with such communication technology consistently hears about other credit "crimes" and similar situations, thus solidifying his identification with other bailiffs. This routine work emphasizes interaction only with citizens who are victims or perpetrators of "crimes". When a bailiff traces down an identification on a debtor the only information he receives is indications of previous criminality and not counter-balancing information about a debtor's other activities. Indeed modern techniques of tracing, servicing and seizing are entirely categorized by bailiff concerns, thus minimizing the nature of interaction between bailiff and public and making it a one-sided affair. Thus technological advances as well tend to maintain the defensive boundaries between bailiff culture and the community.

Elements of Bailiff Sub-Culture

In the description of bailiff culture so far we have seen that it largely conforms to the culture of most social control agents. The elements of secrecy, solidarity, suspicion, deceit, and conservatism are

quite in evidence.²⁶ In the many studies on the police, sociologists have identified these characteristics as being part of the occupational sub-culture. William Westley has noted that secrecy about almost everything is characteristic of police officers.

"Secrecy is loyalty, for it represents sticking with the group and its maintenance carries with it a profound sense of participation. Secrecy is solidarity, for it represents a common front against the outside world and consensus on at least one end."²⁷

Similarly among bailiffs a rather closed-mouth attitude prevails. (Yet the cohesiveness of this occupational group is not as appears within police culture.) Bailiff partners talk regularly about each other in front of other bailiffs. But usually this is restricted to peers within a particular firm. Thus the goings on within a bailiff firm are almost always known by the bailiffs in that firm. It would appear that within bailiff culture the strongest loyalties are between working partners. (I.e. a bailiff and his driver.) Considerable loyalty also exists among bailiffs in particular firms. The competitive nature of the bailiff's social organization, however, tends to lead to inter-firm rivalries which discourage the development of loyalties at the level of the occupation itself. Bailiffs are keenly

aware of their occupation's lowly reputation' in the community. Yet as individuals they develop self-conceptions of the sort that ordinarily would be found in members of established middle-class occupations. How, then, does the bailiff reconcile his self-conception with corresponding social conceptions of bailiffs? He uses a number of devices. One response is to agree that the community is right in its evaluation of them, but that he, the individual bailiff, is "different". He agrees that other bailiffs are unprincipled and irresponsible; however, he belongs to a firm which hires a category of practitioners who are morally sound, capable and responsible. He and his colleagues in Firm X are the sort of professional people that other bailiffs should be.

You know a lot of bailiffs are no good. They're hired hands under somebody's thumb. That is no good. They don't make their own decisions. We have to be responsible to the public and that means training and having some compassion.... A lot of people suffer too much and a lot of bailiffs just don't care. What we need is reforms.

In various ways the individual bailiff justifies his belief that he and his firm are different and better than other bailiffs. For example, he indicates that some react to work problems by drinking heavily; others support the community's stereotype of bailiffs by failing to become attentive to legal details and moral ways of

procedure; and still others even turn to crime and get caught in the act. Thus the bailiff finds scapegoats among his nominal colleagues who, he claims, are ruining the profession.

The second response and this is a recent development, is to attempt reform at the professional level. The attempt here is to foster an occupational group feeling. Bailiffs who press for a "province-wide" association tend not only to express loyalty to their firms, but also to bailiffs as a profession. They stress the commonality of bailiff work and tend to want to form professional ties that will supersede the individualistic and competitive firm organizational tendencies generally found in members of the occupation.

We have to get together on things. We are too divided. I say we have to kick the animal bailiffs out; keep them out of the city and get law to protect ourselves. . . . the bailiff association is a joke. It doesn't do a fucking thing. It has to be strengthened. We have to be more responsible for our actions and we have to be tougher.

While bailiffs exhibit considerable secrecy about their activities, they have not developed a strong loyalty pattern beyond the firm level. Competitive cutthroating and the virtual monopoly control the lawyers have over a bailiff's labor place severe restrictions upon the

breaking down of social distance. The line of least resistance is to trust your buddy and your work clique (i.e. firm). Develop good employee relations with your boss by giving him discounts and no one will "cut in" on you.

Generally speaking then, bailiffs feel that in dealing with outsiders "silence is golden", while "talk often leads to trouble". Obviously the rule of silence is not uniform throughout. Indeed in a "larger administrative sense" bailiff firms, legal firms, courts, and creditors are involved in complicated network of secret sharing, combined with systematic information denial.

Solidarity in the bailiff sub-culture is also in strong evidence. As in police culture, it means more than taking a common stand in the face of physical danger, such as when a prospective client points a gun at you. It also means deceit, covering up and providing support. Bailiffs have strong "fraternal" ties with the police. They consistently act as a team. The police, even when called in by a debtor, will act to protect and support the bailiff. The bailiff, in turn, is only too glad to have a policeman around. It is an unwritten law among these social control agents that one will not act against the other.

If and when I have the least bit of trouble in getting a client to receive a service or when I'm doing a seizure I call in the police. They usually quiet things down and from then on there is no trouble.

I have a lot of respect for the police. As a matter of fact I tried to get into the police force. But I was too small... The police always help me. A couple of times debtors have threatened to call the cops. I always say go ahead. I'm glad to hear that they'll be here because I know they are going to support us. After all, we are the law and so are they.

Solidarity can also be seen in the development of various work norms which protect individual bailiffs in the firm from the criticisms of their superiors. Yet solidarity within the bailiff sub-culture is not nearly as strong as within police culture. In some cases, bailiffs will testify against fellow bailiffs not only privately but publicly.²⁸ This again is partially attributable to the competition between firms for clients, and to the lack of a strong occupational loyalty. Yet even the intense competition does not prevent a certain de facto, if not de jure, consensus on a code of behavior to emerge. For example, almost all bailiffs interviewed were of the opinion that consistently reseizing the same person time and time again for the same debt was illegal and immoral. They severely chastized those among them who

"milked" the consumer. They agreed that tough sanctions had to be imposed to deal with these "animal" or "renegade" bailiffs. Most bailiffs I interviewed were unanimous in their condemnation of these practices. They felt that the image and the status of the profession suffered considerably. Moreover, the internal firm conflict is tempered considerably by the external pressures placed upon them. Demands of employers, lawyers, owners, demands for efficiency, the demands of the law, moral demands and even in some instances, illegal and counter-institutional demands, make it likely that bailiffs develop some sense of occupational solidarity. For example, the critical public attacks that were launched against them by various citizens' groups have led bailiffs to form a province-wide professional organization. Though there is obvious internal conflict, most bailiffs seem convinced that they must have some sort of organization to defend themselves and through which they can speak as a united body.

I think the organization is a good idea. Sure we have lots of conflict, but at least we are one on some things. Our biggest problem is dealing with all the bailiffs who are more rural. You know, the ones up in St. Jean or places like that. They just want to keep things the way they are, but for us in City X, well things have to change.

Bailiff groups then are engaged in continued struggle and tend to lay claim on the total personality involvement of their members. Hence they are unlikely to adopt attitudes toward conflict. Indeed the tendency is to suppress internal conflict; where it occurs, it leads the group to factionalize either through splits or through forced isolation or withdrawal of dissenters. To date the bailiff occupation has not been able to institutionalize conflict to a satisfactory degree. Consensus and solidarity are strongest at the partner and firm level but weakest at the professional level itself. Antagonistic claims, discontent, and open hostilities are clearly in evidence.

Suspicion is the working tool of the bailiff. Like a police officer, he must attend to ordinary events with an eye to assessing their meaning and intent. This suspicion of the commonplace becomes part of the bailiff's mentality as it is constantly practiced and reenforced by the bailiff sub-culture. Once the commonplace is suspect, no aspect of interaction is safe. One bailiff talked about what he termed his different "state of mind".

You get so you trust no one. You suspect everyone. Some guys you know will try anything... They lie, right to your face. You can't trust people... Well, most of them. You

learn to pick up cues, identify whether a guy is "pulling a shot" and you do it back to him... You're in a different position when you're a bailiff.

This generalized suspiciousness fostered by the bailiff sub-culture takes as problematic the trust and assumption of honesty upon which much of everyday social relations are built.

Deceit, or purposeful lying, is used by the bailiff as a mechanism of situation control when they have no legal authority to act. Strategies of deceit, to uncover the whereabouts of debtors, to obtain information, to justify certain forms of field interrogation, to carry out credit investigations, to control distressing but legal behavior, to gain the right to search a house, to justify a seizure and to force a payment of debt are learned by a bailiff in training through practice and through-the interaction networks of the bailiff sub-culture. The art of lying in many different situations becomes absolutely normal and necessary for bailiffs to carry out their work. One bailiff put the matter as follows:

Look when you have to deal with the characters I have to, you have no choice but to deceive. They aren't square with you and if you give them a break, they just take advantage of it. If you want to work successfully you have to play games. There is no other way. Anyway a lot of times if

you tell the truth people don't believe you.

Sure everybody that I know who works here tells lies of one sort. Everybody I know tells lies. Not just by what you say, but by what you don't say. Besides, if you were me and doing a seizure and told everybody they had all these decisions to make, you know they couldn't make them! So you decide not to tell them. It is easier that way.

Deceit then is seen as an everyday strategy which facilitates the quick processing of cases. It is largely used as a weapon of social control. It is used in obtaining information from an offender perhaps about another offender. It is used to justify credit interrogation. It is used to control distressing behavior such as when a debtor becomes abusive. It is used to gain entrance into a debtor's domicile. It is used to justify a service or a seizure should the debtor be suspected of fleeing. It is used to pressure a settlement or repayment of debt.

Bailiffs use badges, codes and rules to maintain secrecy regarding their operations. Secrecy shields the bailiff from public evaluation and conceals their exercise of discretion. It becomes habitual for individual bailiffs to become close-mouthed. Deceit

helps to control situations. It often extends the bailiff officer's power in situations he must deal with but has no legal power over. The power of deceit comes from the expectations of truthfulness and morality attributed to officers, plus their skill in concealing the fact that they are engaged in deceitful actions. Deceit is a major bailiff tactic, and it arises from the structural relationships between the broad interactive demands to which the bailiff must respond and the narrow legal resources which they are formally granted to do so.

Conservatism, understood more as an authoritarian attitude, is the last element of the bailiff sub-culture. Social and cultural climates create conditions which affect individuals in patterned ways. Mead has noted that given a certain social milieu, persons playing various culturally defined roles will take on a certain personality.²⁹ The combination of the degree of hostile interaction, social ostracism inherent in the nature of bailiff work, the physical and mental demands of the job, the unstructured and unpredictable work climate, the climate of competition, job insecurity, the particularistic demands, and attitudes of employers, and his limited yet emotionally felt colleague relationships directly shape his social identity, his self; indeed his

fate in the one life he lives so dramatically. The deceit, suspicion, secrecy, and cynicism so integral to the debt enforcement process often translates challenge or abuse of personal authority into a challenge to the social order as a whole. The pressures generated by the job in terms of employers, clients, and colleagues have a marked effect on the way in which the bailiff will cope with the stresses of his work situations.³⁰

Unlike the semi-skilled or unskilled service worker, the waitress, the cashier, or the saleslady who in effect have few reserves upon which to call when there is tension generated by their relationship to the public, the bailiff can call upon his legal mandate. This acts as a resource which meets and repels threats to his personality. Thus the bailiff develops subjective meanings about his job to cope with the objective conditions of his job. He defines the other actors and in turn is affected by their definitions of him. The bailiff's conservative and authoritarian attitude is his way of coping ideologically with the role he has to play. The primacy of property relations is to be upheld.

Private property is what makes the society what it is. People have a right to own

things - a house, a car, and they have a right to keep it, but they have to work and pay for it. And if they don't pay their debts up then they have to be forced to. If they can't afford to buy, they shouldn't. You can't have a society where no one works or pays for things. That is total chaos. You have to have order and discipline.

Bailiffs often interpret any defiance as both a personal and a societal affront. They have no time for excuses. Often they present themselves as guardians of society. Many of them had or still retain aspirations of pursuing a career in the police force. Some are in it for a "quick buck", while still others are there for "kicks" - for the thrill and the excitement. But whatever the motive, the attitude on the job is pretty much common. "You have to have respect for law, order, and authority". Translated into more personal terms that almost always means "You'd better have respect for me".

Taken together these five elements - secrecy, solidarity, suspicion, deceit, and conservatism - characterize a sub-culture very much different from the surrounding culture. What is there about the nature of bailiff work, the nature of the bailiff's social organization, which causes a culture with these elements to be created,

maintained, and transmitted? The most evident common denominator of these elements is that they are all defense characteristics, strategies or mechanisms of maintaining the boundary between the bailiff action-system and the larger surrounding society. Why then is there such a need for boundary maintenance and defense? The answer, it seems to me, lies in the location and institutional relationships the bailiffs have with other social institutions, through a modality of antagonistic symbiosis where both cooperation and constant conflict are endemic and where every act must be weighed for its consequences. Almost all socio-legal institutions need bailiffs to carry out their dirty work. They are postmen, chauffeurs and cops all rolled into one. They are rarely valued. The bailiffs need the support of many social institutions, but they can rarely satisfy all of the conflicting legal and normative demands placed upon them. Furthermore, bailiffs need to catch "credit criminals" to justify their existence while these "credit criminals" spend a considerable amount of time and energy trying not to be caught. Thus bailiffs are surrounded on all sides by institutions which make open-ended demands upon them, grudgingly support them, or actively seek to counter them. It is for this reason

that the bailiffs tend to seal off their organization with secrecy, suspicion, solidarity, deceit, and conservatism in order to maintain a delicate balance between opposing social forces.

Figure I illustrates schematically the various institutional and non-institutional categories of demands made upon and functional activities required of a bailiff. As an institution, bailiffs are involved in conflicts from all sides: they are in contact with the most and least respectable elements of society. They must be responsive to legal and moral demands; they must enforce the law; they must sometimes gain support by compromising enforcement or through over-enforcement; they must gain support by working within public morality. While not violating legal regulations, they must be technically efficient while legally conscious, and so on.

Obviously the homeostasis of an institution subjected to all of these conflicting demands can only be maintained by a constant process of negotiation and trading of one activity for another. The bailiff carries out these transactions by keeping control over information about his activities, by sticking together, by being suspicious, by impression management, and by upholding

FIGURE 1

ILLEGAL AND COUNTER INSTITUTIONAL DEMANDS

LEGAL AND LEGITIMATE INSTITUTIONAL DEMANDS

Demands for Special Favors and Services

Demands of Employers;

Credit Corruption

Demands of Various Public Media, Citizens' groups, etc.

Demands for Bailiff to aid Criminal Activities

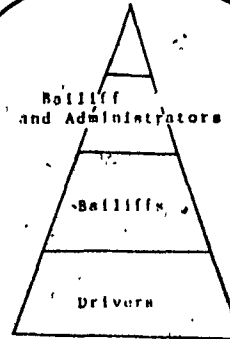
Demands of Law Codes

Small Graft Transactions

Demands of Legal Actor (i.e., lawyers, judges.)

Trading of Information for Protection and further Considerations

MORAL DEMANDS



Demands of Victim

Demands of Doctor

Demands of Public Morality

Demands of Civil Rights

LAW ENFORCEMENT

ORDER ENFORCEMENT

Organized Crime

Family Problems, Peace Disturbances

Professional Crimes (loan sharking)

Violence and Violent Offenses

Non-victim Crimes - Deviant Behavior

Routine Crimes

Debtors Control

traditional values.

The nature of his work, the environment in which he must ply his trade, the contradictions of enforcing morals through law, the type of bailiff organization and the allegiances forged therein combined with a constant pressure to compete and produce, result in tendencies general enough and similar enough to indentify a distinctive social role among bailiffs. The question now becomes one of asking and understanding what the bailiff does with it. Given this description of bailiff culture and this conception of the bailiff's social role as background, the chapters that follow will attempt to analyze bailiff conduct as observed in the setting of specific interactive situations.

CHAPTER IV

THE BAILLIFF IN ACTION: SERVICE, SEIZURE AND SALE

The central task in the administration of civil law is to balance the conflicting principles of order and of legality. This dilemma is epitomized in the question of bailiff discretion. Whether one sees legal processes as being sacrificed for the sake of order and productive efficiency or vice-versa, the issue is reduced to whether there ought to be a loosening or tightening of restraints on the decisional latitude of bailiffs. Often this issue is discussed in terms of making the bailiff a "true" civil servant of the State.¹ Undermine his competitive "fee for service" economic base and make him a salaried employee of the civil court, the argument runs, and you will have a more "just" system of credit collection and legal servicing. This very issue has recently been given increasing attention by the Department of Justice which is concerned with how much discretion bailiffs ought to exercise and how this discretion should be controlled.² Unlike criminal law where it is concluded that enforcement may be substantially

improved by introducing arrangements to heighten the visibility of police discretion to permit its control by higher authority, credit law enforcement is left "loose" and decentralized.³ Attempts to control and to coordinate bailiff practices have been turned down at both the professional associational level and by government.⁴ Two reports to date have made these general points advocating a "tightening up" of bailiff practices through the creation of appraisal boards, better credit and legal information networks, and more just and efficient means of credit repayment.⁵

The sociologist, however, is initially more interested in understanding the sociological significance of discretion, as well as its causes and effects, than in suggesting and rationalizing specific reform measures. Such concern invites several analytical distinctions. The most significant contrast, already hinted at, is between delegated and unauthorized discretion, between discretion clearly accorded the bailiff and discretion which he exercises but for which he has no authority. Many of the problems in the administration of civil law revolve around unclarity of authorization, but it is equally instructive to consider the problems of discretion even when authorization is clear. The latter will be the

focus of the first part of this chapter.

To understand the problems associated with delegated discretion it is important to keep in mind both the principle or principles of the institution and the criteria for justifying decisions made on the basis of the principle. A Federal Foundation such as the Canada Council, for example, might select fellowship winners on the basis of a simple principle, such as, that students shall be evaluated according to scholarly promise. Given the principle of scholarly potential, the official must base his decision on relevant criteria including grades, research aims, school where scholarship is applicable, and personal and university recommendations. One can perhaps see from the above enumeration that weighing these criteria may provide great difficulties under the principle applied.

It is not my intent to analyze the awarding practices of particular government foundations, but to suggest some complexities associated with decisions made in the exercise of clearly delegated discretion. Depending upon the principles and criteria utilized, the official will achieve more or less "justice", based on the precept that like cases shall be treated alike. "Justice" depends primarily upon the commitment which the official is

attempting to fulfill and the fairness with which he uses the criteria.

If such problems abound in the existence of authoritative discretion, they are intensified under conditions of unauthorized discretion where an official invents, claims or usurps discretionary authority without it having been specifically delegated. In matters of tertiary social control, one must therefore analytically distinguish between problems associated with delegated discretion and those arising out of the creation and manipulation of discretionary opportunity for the purpose of satisfying personal or institutional motives. Of course in bailiff practices, these two forms of authority are often exercised jointly. The present chapter is an introduction to bailiff discretion, and concentrates upon the simpler, yet still complex, area of delegated discretion. The chapter begins with a description of the enforcement of simple servicing violations, the most cut-and-dried of bailiff assignments. Next follows a description of the process of enforcing a seizure judgment. The seizure process, however, leads to the removal and storage of a citizen's household effects. The decision to remove moveables, transport and store is often, though not always delegated to the discretion of the bailiff.

His decision, as we have seen, depends upon his perception of the principles controlling his work, his evaluation of the operative realms of knowledge and the interplay of a number of criteria, the most significant of which is the debtor's social class. Since this chapter deals with the relatively simple issue of delegated discretion, and since social class is typically such an important feature of the interaction between bailiff and citizen, the relation between class and operational law enforcement is introduced and emphasized.

Instant Justice:
Simple Servicing

The servicing of court writs and documents against an accused is the best illustration of automatic justice in the administration of civil law. This is so, of course, because in the enforcement of services, the bailiff's opportunities for the exercise of choice are narrowly circumscribed. His task is simply to hand a copy of the writ or legal document to the party in question or to a reasonable person who resides there and to obtain a written certification of the impeachability of the act.⁶ Even under these simple criteria, however, it sometimes happens that the bailiff must introduce discretionary judgements. This underscores, it seems to me, an extremely

important jurisprudential fact; it is impossible to eliminate discretion entirely from the administration of civil law, even for such a simple and routine operation as the servicing of legal documents. For instance, the party being served may refuse to sign a copy of the proceeding, thus questioning its legality. Legally the bailiff need only record the refusal and the service is automatically deemed to be valid at the time of the refusal. But in many cases the bailiff will try to explain why and how it is that an offender is being served and that his signature on the document is to his advantage in the long run should a court case become necessary. Often especially when dealing with emotional cases and when dealing with uninformed parties, he will advise them to get a lawyer, pay up a debt, work out a settlement, etc. The bailiff's action here is based upon (1) a consideration of the most efficient and lucrative way of dealing with a party. Thus the bailiff has not acted arbitrarily. The criteria he employs are compatible with the standards of the bailiff firm; (2) a private moral conception compatible with institutional goals - a person is entitled to "know" why the legal authorities are after him or her and what type of consequences might evolve from the situation; and (3) an institutional

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principle - the general goals of the bailiff firm (this varies from firm to firm) are best served if the law is not enforced so strictly and bluntly as to generate resentment among the public in general.

Unlike a parking violator or a traffic violator, with which police must deal, the party subject to a legal servicing cannot "talk his way out of it". The bailiff's discretionary powers, unlike the policeman's, are more cumbersome because the formal legal process is initiated for him. This differs from other social control agencies where an agent routinely transforms, acts from a common sense everyday construction of reality to a legal reality.⁷ What is important to keep in mind in connection with bailiff action is that the process of evaluation and interpretation for bailiffs almost always takes place within boundaries of the formal legal process. A policeman can ignore complaints, listen to complaints, even start to bring legal procedures against them, change his mind, forget about, or if necessary, rationalize it to his superiors in the form of written or verbal explanation. A bailiff does not have this latitude. The existence of legal reality underpins most of his typification of acts. Moreover, like a judge, he is immediately responsible to the machinery of the State,

since each court writ is numbered and must be accounted for and recorded. The absence or loss of court documents reflects discredit upon his competence and financial loss for the firm. The losing party, on the other hand, cannot "con his way out" of being serviced by the court. He may be able to influence the bailiff's evaluation of him but he cannot dissuade the bailiff from servicing him. A traffic violator, however, can often get away "scot free". It would appear that consecutively numbered and recorded legal papers constitute an important means of control over the discretionary activities of bailiffs. As a result, the bailiff must follow through and cannot "give the party a break". He cannot simply tear up a court writ; depending on the attitude of the offender, however, a bailiff can provide strategies to parties that may facilitate their dealing with the law.

Typically, the officer will simply introduce himself, explain his function, get a signature, and depart. The whole process usually takes no more than two or three minutes. This type of action introduces the most rational and efficient process in the administration of civil law, almost eliminating the offender's rights.

A bailiff has carried out, not made, a judgement of guilt,

and it rarely happens that this judgement is reversed. Servicing is the best single example of speedy massive administration in cases of civil law. Moreover, because no immediate penal sanctions, as in property seizures, for example, are forthcoming, the servicing process tends to run smoothly, with minimal constraint on bailiff authority.

The signed or, in some cases unsigned, court documents are sent through the bailiff office to the respective civil courts for further processing. In the meantime, of course, the respective offenders are supposed to follow the instructions on their copy containing information as to when and where to file an appearance or a defence.⁸ The data gathered to date on the issuance of writs dealing with credit enforcement indicates that a majority of defendants do not understand or ignore instruction to appear in court.

If no appearance is filed, the creditor can then obtain a judgement by default by simply filing an affidavit: no notice is given to the defendant of this. Ten days after the judgement the creditor can then issue a "Writ of Execution" and a seizure can then be made. The debtor who ignores the writ does not understand it, or does not know what to do about it if he cannot pay, receives no notice from the time of the original writ until the seizure. The bailiff will come, once with the writ of summons, and can return

twenty days later to seize....⁹

Unanswered citations, especially in the case of debt collection, seem to be a visible and acknowledged trend. The plaintiff and his legal representatives alone have the practical legal information at their disposal to process these unanswered citations. They alone know that a writ of execution can often automatically follow an unheeded writ of summons. Simple servicing of court writs and documents are the best example of mechanical justice precisely because the automated process in a citation is carried out impersonally under the auspices of the civil courts. Very little administrative discretion is delegated to the bailiff. The first stage of the servicing process deals only peripherally with people. After the initial court summons, the credit law enforcement process does not deal with people but with court record numbers and is often completely without discretion. For the most part, the work of the servicing bailiff is impersonal. On June the first he is handed a writ of summons to serve. On June the tenth, if the citation is unanswered, a plaintiff may file an affidavit and obtain judgement by default. The defendant of course is in the dark about this. On June the twentieth the bailiff can receive a writ of execution from the creditor

to be served on the same defendant. Legally a seizure can be made. Up to this stage the need and latitude for discretionary judgment is minimal. The creditor and his legal representatives typically do not interact with a human being but with a court file.

The Next Stage:
Property Seizures.

A notice of summons tells the violator who the plaintiff is, the nature of the claim, the court it is being processed through, and where and when he is to appear. The person who makes the service must inscribe a certificate of service on the back of the original of the document stating his name, address and occupation, the day, hour, and place of service, the person with whom a copy of the proceeding was left, the distance from his residence to the place of service, and the costs of service. The violator is expected to certify the document, or if the person concerned refuses, then the servicing officer must record the refusal. The court writ also lists the name and address of the offender.

Even though notices are personally delivered, a number of results may occur. One is settling the debt. This closes the case and can be done through contacting the creditor or his legal representative. It most often

takes the form of redistributing payments at smaller or similar amounts over a longer time period at a higher interest rate. A second possibility is entering a "file of appearance" which satisfies the demand of the court summons. It does not mean that the debtor has to actually appear in the courthouse. It is merely a plea of acknowledgement of receiving the summons. He must however give notice to the plaintiff/creditor of his address for further services. This response is often a stop gap measure designed to gain more time for respective debtors to either "raise the money" or to later (within ten days) file a new plea. A third possibility is to file a defense. In this event, the defendant files a plea indicating his position on the issue. In the case of debt collection this often takes the form of counter-seizures where a debtor claims that he has been illegally charged. A final result that may occur and it is precisely this action, or non-action to be more correct, which interests us most - is for the offender to do nothing. He either ignores, loses, claims not to receive, or does not understand the content of the writ.

The last possible result leads to the further issuance of a writ of execution, followed by a writ of seizure. If no settlement of the debt or plea is forthcoming,

the creditor can automatically obtain a judgement by default. With the granting of this judgement by default the creditor can then issue a writ of execution which entitles him to obtain a writ of seizure from the court, thus clearing the way for a seizure to take place. The offender has virtually no way of knowing that these last two writs have been issued. He finds out about the invisible automatic-like nature of the law when he is visibly encountered by a bailiff telling him that his personal effects are under seizure. This is done mechanically under the authority of the civil courts. The process is relatively automatic.¹⁰ All that is required of the creditor is that on the issuance of the writ of seizure, he appear before a judge to fill in a form. Efficiency is clearly a governing principle in the administration of civil law.

Property Seizures: The Confrontation
of the Debtor

On the average a bailiff officer usually conducts about one hundred and twenty seizures per month, averaging two inquiries or visits per seizure conducted.¹¹ The bailiff moves throughout a community's class and ethnic structure. They deal with the prosperous businessman who ignores a citation because, he claims, the pressure

of his daily activities prevented timely settlement, and with the welfare recipient who ignored her court summons because she could not afford the cost of a lawyer or because she did not even know she was summoned to court. Justice as meted out by the bailiff is based heavily on efficiency, but also on a principle that attempts to combine the idea of rough justice with good public relations. When a bailiff tracks down an offender, the person may not have the funds to pay up. The bailiff has the authority to conduct a seizure, and a seizure is often the most efficient means of clearing unanswered citations. Indeed a bailiff is legally required to do so. Depending on their judgement however, they can informally bypass administrative authority, postpone the seizure, or merely warn or threaten the offender into paying up as soon as possible. Many bailiff firms regard automatic seizure as unduly harsh - such an inflexible policy would be both unjust and result in poor community relations.¹² The able bailiff then, is one who clears seizure writs, but judiciously.

The bailiff as we have noted often deals with what may appear trivial - a citation to appear in court. By the time it comes back to him in the form of a writ of execution or seizure, it no longer seems trivial, although

it may still be minor. The offender has, by this time, ignored the initial summons, failed to make the necessary court appearance or repayments, and quite possibly moved or "gone into hiding". Therefore, even though he is not yet known to have done anything dangerous to the community, the bailiff tends to interpret his disregard for the legal process as potentially harmful. By this process of reasoning, the non-settlement of a credit debt comes to be regarded by the bailiff as a fairly serious indication of unlawful character. Moreover, the bailiff is legally empowered to conduct a seizure. He is both a bill collector and a law enforcement officer. That he has official authority to carry out his job enhances its importance; in turn, this importance is dramatically projected on the defendant's character.

It often happens that citizens on whom writs of seizure are to be served do not wish to receive them, and live in neighborhoods where occupants are overtly hostile to bailiffs. Many of the (French, English and immigrant) working class communities in the City are considered "tough" to work because citizens cooperation with bailiffs is apt to be minimal. In these districts, the bailiff is sometimes unable to locate the debtor/offender for several weeks or even months, in spite of tracing procedures

and frequent personal visits. It is not uncommon, for example, for a person to use one place - the home of a family member or a friend - as an official residence and another as the place he lives in. It is equally not uncommon for a person to "skip out", by moving frequently from one tenement to another. Such arrangements facilitate the avoidance of bill collectors, bailiffs, and police. This pattern of living also disposes the bailiff to refer to such persons as "cons", "wise guys", or "bums". As one bailiff explained when I asked him what these words meant:

Well, that's all they're good for - drinking and lazing around. They don't work, they don't care about anything. They think the world owes them something because they're poor. I know 'cause I lived with them. If they can find a way not to do anything, they'll try it.

Another bailiff recounted an episode where he finally, after three weeks, traced down one elderly offender to a slum tenement where he was living with two younger women. He insulted the intelligence of the two women (who incidentally were the debtor's sisters) asking them why they would want to hang around with "an old goat like him for anyway". Other bailiffs frequently commented unfavorably on the immorality of the common-law relationship and the sexual practices of many of the debtors in

these working class communities. "They're lazy and they fuck around all day, making kids they can't take care of".

The bailiff has his own ploys to deal with situations presenting obstacles to straightforward answers. Often he will check the mail to see whether the offender is using the place as some kind of residence. Since identifying information on the writ itself is meager, the bailiff may resort to deception. If the writ of seizure is for Harry Smith, the bailiff may ring the doorbell and ask for Jack Smart.

"Jack Smart doesn't live here", will be the answer.

"Well, who does?" counters the bailiff.

"I do", says the resident.

"And who are you", demands the bailiff.

"Harry Smith".

"Well, I happen to have a writ of seizure to serve on you".

At this point the bailiff may conduct his seizure or he may intimidate the debtor into paying the debt outstanding, or if the man does not have it, he may negotiate an arrangement for him to pay in installments.

Another ploy utilized by lawyers as well as bailiffs is to impersonate people in the medical profession

or in the post office bureau.

A case illustrates the extent to which some bailiffs will go. Mrs. L was awakened early one morning by the ringing of her telephone.

"I am phoning in connection with your husband, Mrs. L" announced the caller who stated he was Dr. B. "We have just brought him into our emergency room..."

"No" cried Mrs. L interrupting the caller. "Is he hurt? What happened?"

"Don't worry too much Mrs. L" the doctor said sympathetically. "We are doing everything possible, but before anything else we must complete the admission papers, otherwise we will not be able to give him the necessary treatments. Would you be able immediately to answer some questions?"

"Yes, yes, of course" responded the woman.

"Fine. Tell me, Mrs. L, where does your husband work?"

"He is a worker at the International Mills Company."

"Does he own a car?"

"Yes."

The doctor continued: "Was this car bought on credit?"

"Yes, but we are finished the payments."

"Ah, good."

The questions that followed proved irritating to Mrs. L.

They hit at the financial situation of the L family. The "doctor" wanted to know the name of their bank, the amount in their account, he wanted to know if Mr. L owned his own house, if he owned other property, or other objects of value, etc. Finally, the doctor finished his interrogation.

"Can I see my husband?" demanded Mrs. L.

"Yes, certainly. You may come down to the hospital if you wish."

"I'll be right there in a few minutes."

"I'll be waiting for you Mrs. L.
Good-bye."

The doctor reached for his phone book, looked up the phone number of International Mills Company. He dialed and asked for Mr. L.

"L speaking."

"Mr. L, my name is John Henry P. I am a collection lawyer. My services have been obtained in connection with a debt you owe for the amount of \$350.00...."

"What???"

"That's right, Mr. L. We have just this minute finished a detailed inquiry into your financial situation and know all that needs to be known. We know that you are the owner of a car, the house that you live in, and how much money you have in the bank. I am calling you today to give you your last chance to liquidate the debt. Otherwise we will be forced to obtain a judgement against you and seize your goods. Be smart, L. If

we are forced to bring this case to the courts, your debt will be much larger. You will have to pay lawyers fees and court costs."

The victim was defeated and downtrodden.

"I will make out a series of post-dated cheques..." he suggested weakly.

"I'm sorry, but the writ states that you have three days to pay off. We have to have the full amount by 5:00 P.M. tomorrow."

"All right," Mr. L gives in. "Where should I send the money to fix up this affair?"

"I will give you our address. You have until 5:00 P.M. tomorrow."

Another ploy successfully used to track down and seize debtors is to pose as a post office employee with an important package to deliver. One bailiff team recounted how after four unsuccessful attempts to contact a Mr. A, they decided that the person answering the door was indeed Mr. A. The bailiff traced the phone number of Mr. A and asked for Mr. A.

"Who is speaking" was the reply.

"This is the City X Post Office."

"Yes, well what is it?"

"We have a registered mail package here for a Mr. A. We've tried to deliver it before but no one answered", replied the bailiff.

"Well, I'll be in now, you can deliver the package right away", replies Mr. A.

"Okay, we'll have a man deliver it within the hour."

Within twenty minutes the bailiff served a seizure notice on a startled Mr. A.

The Modification of Seizure Routine:
Bailiff Involvements

In order to illustrate how bailiff involvement alters the processing of a case it is useful to raise the issue of how interactional conditions between the bailiff and the debtor may modify the usual "dealing out" procedure. The typical issuance of writs of summons does not allow the bailiff much in the way of interaction with the debtor: the brief confrontation involves the issuance of a writ, a possible explanation by the servicing officer and allows the offender to continue on his routine everyday activities. The serving and conducting of a seizure however creates circumstances whereby the bailiff can easily become personally involved, and this may happen in three sets of circumstances. First, in situations where the debtor abuses bailiff authority; second, in situations where a bailiff and debtor have had sustained interaction so as to form reciprocal typifications of each other. These "regulars", as bailiffs sometimes refer to them, vary from the friendly type to the violent type.

The third situation is sustained contact with what bailiffs term "cons" or "wise guys".

In the previous chapter I have indicated how the "attitude" of the debtor can affect the "dealing out" procedure. First, there are instances where the person charged with a writ of seizure abuses the bailiff in some way. A citizen who, for example, calls a bailiff a "bastard" or "un maudit voleur" may earn himself a severe reprimand, an overseizure of his household effects, underevaluation of their worth, an overcharging of legal costs, and possibly, a visit from the local police department.

Bailiff abuse is often associated with "misunderstanding". The most common misunderstandings are ones caused by incorrect information given on the court writ. (~~Misspelt names or wrong addresses~~) Here the error lies with the legal processing of these credit accounts and it is not surprising that John Doe should vent considerable hostility when he is being seized for a debt he did not even contract. A second source of misunderstanding is embedded in the manner in which some writs get served. Often a bailiff will leave a proceeding in a person's mailbox or under his door or with a young child when he cannot personally deliver it. Legally he is entitled,

after several unsuccessful attempts to personally serve the debtor, to obtain a motion allowing him to leave the writ in the mailbox. This however is a mere legal formality and bailiffs often leave the writ in the mailbox before the motion has been allowed. The net result of this mode of procedure is that quite often the debtor (1) receives no explanation of how and why he is being served and what he is to do about it, and (2) the writ often gets lost or destroyed. Moreover, in cases of writs of execution a bailiff may, when he deems it necessary, (supposedly after two or three unsuccessful attempts to conduct a seizure on the premises or because the debtor refuses to allow the bailiff entrance to the domicile) obtain a motion to forcefully open a debtor's door and enter his home to conduct a seizure. Armed with such a motion, the bailiff calls upon a locksmith to open the doors for him. Usually the police are called in to prevent any further trouble from occurring. The utilization of this article in the Code of Civil Procedures is however often abused. Quite often a bailiff, after only one unsuccessful attempt to contact the debtor, will "break into" a domicile and conduct a seizure. The automatic-like nature by which these motions are granted fit the convenience of the bailiff. They do however prejudice

the position of the debtor. Any possibility of settlement is negated. Moreover, the debtor is subjected to extra-legal costs and considerable personal humiliation. The ends of service and/or seizure are often overshadowed by the surreptitious means by which bailiffs ply their trade. Other types of misunderstanding revolve around refusal to sign required legal documents, disagreements in the evaluation of personal goods under seizure and disagreements over the appointment of a solvent guardian.

The second situation which facilitates the personal involvement of bailiffs in the seizure routine is sustained interaction with debtors who are exceptionally prone to being seized - people who have several credit accounts outstanding and are victims of what might be termed a "seizure cycle".¹³ When under such circumstances, a debtor has been issued several court summonses and writs of execution, he usually develops an informal relationship with a bailiff which can often undercut the formal enforcement procedure. The nature of these informal relations however need not be friendly. Indeed it would seem that in the collection of low-income consumer debts, the pattern is more of a "milking process" where threats, intimidation, and violence are the rules of the game. Interviews with collection lawyers, bailiffs,

citizens' groups, and debtors indicate that the informal business network and personal relationships are utilized and in the cases of low-income credit practices dominated by a few collection agencies, accounts buying firms and small retail and consumer service outlets. Their tactics are tough; physical and verbal intimidation, personal threats, consistent harrassment, deceit, garnishment, seizure, and sale. They tend to operate through two or three established collection lawyers and utilize the services of one, or two bailiff firms in particular. It is not surprising then to find that one bailiff firm is run "lock, stock, and barrel" by one creditor. This creditor is able to control both legal representation and bailiff firm.

From the low-income consumer's perspective there exist two kinds of credit: traditional credit and bureaucratic credit.¹⁴ The more traditional type of creditor often depends upon personal rather than legal controls over his customer. Although he sells credit, he does not use installment contracts. He makes periodic visits to his customers both to collect payments and to sell more merchandise. His credit is flexible. He will tolerate missed payments occasionally. Often he has customers of many years standing who knew his father and have come to

regard him almost as a friend of the family. One customer interviewed provides what may aptly be described as "traditional credit".

It's funny how these jobbers get to you. The whole street buys off Mr. B. He's a very personable sort of guy. He comes by about once a month to get his ten dollars or to sell us something else... He sits and talks with us at the table for hours sometimes. I knew his father.... He's retired so his son has taken over the business. I've been buying off B for over fifteen years. I never had any trouble until now. The other day he comes barging in the door while I had some friends over for supper, yelling about how I was two months back on my payments.... which I was. I admit it. My husband was sick and out of work. B knew this and said it was okay if we delayed for a month or two. Anyway he comes in and starts making this scene in front of my guests and saying how we are trying to shortchange him.... Well, I really got mad, told him off and finally had to push him out the door. I told him I knew his father from a long time back. We were good friends and he had no right insulting me in front of my friends. I didn't hear from him for three months. I must have hurt his pride.

In contrast to the traditional credit is the company peddler who specializes in selling high-cost items, such as pots and pans, watches, and a variety of household appliances and effects. Experts in high-pressure selling, these men use installment contracts, promissory notes, and depend upon legal controls to insure payments. Once the

customer signs the contract or note, he is expected to pay monthly payments, sometimes to a finance company which has underwritten the contract. This is what we intend by the term "bureaucratic credit". The following account by one unfortunate credit victim describes the nuances of this form of credit.

It all started when our frigadaire broke down so we decided to buy a new one on credit. We had no choice. Peddlers periodically come around the neighborhood so on an impulse we asked the next peddler if he sold fridges... He asked us a lot of personal questions about our employment and financial state, previous credit, etc.... We hid a bit and didn't tell him about a loan we had from a finance company. He agreed to sell us a fridge and gave us a card instructing us to go to his store. When we got there we saw that most of the materials in the store were over expensive. One of the managers, I think, advised us to take a loan from this reputable finance company, have the finance company buy the furniture, and then we could pay off the finance company. He said it was the only way he would sell us the fridge.... Well, by the time everything was worked out we decided we needed more household appliances and so we negotiated a loan for a thousand dollars, payable over a three year period. The interest rates were quite high. I managed to meet payments for almost two years. I missed two months, talked to the guy at the finance company and renegotiated the last year's payments on the phone with him. I thought everything was okay.... I come back from my holiday to find this. The bastard had taken

court orders against me which I never damn well saw, and repossessed all the furniture even though I had paid for most of it. We have hardly any food in the house, my wife's taking the kids and leaving me. What the fuck is the use. I called the Legal Aid and they can't even get my furniture back.

These door-to-door credit merchants develop business as well as personal relationships. They operate within the social networks of their clients on a type of referral system. Through these networks of social ties the peddlers exercise a measure of control over their customers: when trying to collect from a recalcitrant customer, they can apply pressure to friends, neighbors, and relatives. They can attempt to shame the delinquent customer into paying by "gossiping" to his friends or relatives, or they can threaten to provide "special deals" or withhold services from the friends if they persuade the delinquent customer to make good his debt. The unusually close personal and business relationship between peddler and client is illustrated by the case of Mrs. M as summarized by the interviewer.

Mrs. M's sister-in-law introduced Mrs. M to Mr. D, the local peddler, seven years ago. He came to show Mrs. M some rugs which her sister-in-law had told Mr. D about. She bought the rugs and became a regular client of Mr. D. Whenever she needed anything she would ask him on his periodic visits and he would fill

out a slip allowing her to go to the store and purchase up to the amount marked. Her bill would then be adjusted accordingly. She, in turn, referred Mr. D to her sister and a neighbor friend of hers... It is not uncommon for Mr. D to stop by and have supper with the M's.

Although some families have achieved relatively satisfying relationships with peddlers, others have not. Accounts of credit exploitation are numerous and fall under several general headings. Some reveal the high pressure sales techniques such as bait advertising and price switching. Others relate to the misrepresentation of the price of goods. And still others refer to the substitution of inferior goods for those ordered. The repetitiveness of the incidents among low-income family consumers is quite striking. The techniques are illustrated by the following case accounts.

Illustration No. 1

I saw a mail ad for a \$69.00 television set, so I called up the company and they sent down a salesman who demonstrated it for me. He pointed out a lot of the problems with it. I kept feeling it was okay. But he insisted on going out and getting another model costing \$179.00... I actually ended up paying close to \$250.00... I guess I was conned by the guy. But the last thing I expected was to get seized by the company. I mean just because my account fell behind two months is no reason to get your property seized.

Illustration No. 2

I saw this advertisement in the newspaper for a record player for \$49.00.

I phoned and inquired about the set and they sent down the guy to provide a "free demonstration". The salesman came about two days later but with a different set. I told him I wanted the set advertised, but he kept saying this was a better deal for my money. He kept high pressuring me saying he had a good deal for me. Finally he brought it up and played it. I asked him to leave it so my husband could hear it, but he said no. I asked him to come back later, but he said he had too many customers to attend to, and that I was crazy to pass up such a deal. I gambled and signed the papers. (Later when he mailed the bill the set came to \$189.00.) He asked for a down payment, so I traded my old record player and got \$20.00 off. My husband came home and blew up. He tried to return it; they said no. Three months later the set stopped working. My husband got hurt on the job and the payments lapsed. Next thing I know I'm getting phone calls, letters, threats, and court summons. Before I know it the bailiff comes in and takes my record player, television set, radio, and my husband's electric saw....

Illustration No. 3

In March of this year a peddler knocked at my door and insisted so much that I said I'd take a lamp for \$30.00. I gave him a \$5.00 deposit, and when he came back with the account book the next week, the price had gone up to \$45.00. I said I was only paying him \$30.00. I handed him two post-dated cheques for \$12.50 each. I didn't hear nothing for months. Around October I get this letter from a lawyer saying I owe \$15.00 to this collection agency. I just laughed and ignored it. I started getting threatening phone calls and a few visits from these tough-looking characters. I didn't let them in the house. Next thing I know they're threatening to seize me. About two

weeks later a bailiff and two assistants came in and took my television set worth over \$200.00. When I asked how come they were taking the television set to cover a small debt, they replied that it was their job and that they were told to. They told me I had ten days to pay up otherwise they'd sell the set. Well, to settle, it cost me the \$15.00 plus \$92.00 in various costs.

These incidents illustrate the various ways in which merchants take advantage of low-income consumers. They show the high pressure tactics, the substitution of goods, the exorbitant price mark-ups and the shoddy merchandise that is common place in the low-income market.

What becomes clear from the research to date is that many consumers have almost no idea of the complex set of legal conditions embodied in the contracts they sign. They are unaware for example of the consequences of missed or refusing payments. They are not versed in the nuances of the role of the collection agencies, nor are they familiar with the court actions taken against them. As a result they are (1) easily put off by creditors who clearly evade their side of the contract, (2) easily exploited by unscrupulous collection agencies, (3) easily intimidated by their tactics and too uninformed to know and exercise their legal rights.

From the perspective of the bailiff, conducting seizures, many of his "regulars" come from this exploited sector of the low-income consumer class.

Sure, there is a group of people we continually have to deal with. Most of them are real hard cases. They never learn to pay up their debts. They don't work, but they still buy, so they get seized. I know, I've done a couple of seizures on the same people about three times.... but they never learn.... you feel like saying - why don't you stop buying if you can't pay up. They are just not responsible, that's all.

When I worked for (that) bailiff firm we would always seize a lot of the people over and over again. It was like squeezing a lemon. We'd squeeze them, let them go, pull in the reins, and squeeze again. It was harrassment. I couldn't take it anymore, you had no power to decide. The boss and the lawyer and the accounts buying company were in it together. They told you what to do. I just left and joined another firm. I'm not the only one either. About four guys working here with me used to work for ().... we're not garbagemen.

Listen, I've been in the debt collection business for a long time. Those people on welfare and unemployment are lazy. They don't want to pay the bills. I have never met an honest customer yet. Maybe 2% of the people really want to pay their bills... But we get them in the end. We know how to find a person.

Most bailiffs express contempt toward the "regulars" they seize. Their tactics are tough.

We know these people aren't going to pay up. They didn't before, why should they now. It's no use reasoning with them.... You just come in and get the seizure over with. You don't usually hang around.

Generally I don't like doing seizures. There's too much risk of danger.... But seizures on people who I have seized before are even worse. You never know what they might do. Once this guy waited behind the door with a baseball bat. Luckily I saw him and disarmed him.... Anyway they are usually so angry or pitiful that it just scares or sickens me.

There's a lot of money in doing seizures... Quite honestly I don't mind. These people have no respect for the law. They have no morality, they just want something for free, and a lot of them keep trying. There are blocks of them in the (low-income are). I know because I see them frequently. The same faces... It's not my fault if they don't know how to spend their money. If you buy, you have to pay, that's all. I don't have any sympathy for them.

Some regulars you really can't trust. They try and give you the slip. They change names and addresses... It gets you so when you get them you do the same. One case took me two weeks to chase down. When I finally tracked him down, I remembered the guy from a month before.... There are a lot like that.

Bailiffs tend then to have set typifications of low-income consumer behavior. Their tactics and strategies are based on their habituated contact with the debtors.

Bailiffs invoke this realm of knowledge as a background against which they decide whether to operate legally or non-legally. Often a bailiff will add a moral condemnation as well.

I knew the I's. They were forever going over their heads in debt. It's discouraging. They buy all these luxury items they don't even need. The first time we seized a television set from them. Two months later we go back and we seize another television set and a stove. I ask them why they buy these things they can't afford... You try and tell them to spend more carefully. It goes in one ear and out the other, you know. And the kids are in rags, the house is a mess. It's really terrible how some parents treat their family. Mr. I drinks a lot. He's always in the tavern... His wife, well, she takes a lot and she always gets mad and cries when we take the goods. But we have to, you know. You can't forget to seize them and you know damn well they can't pay up. So you have no choice. You get to know what to expect. You feel sorry for her, but then why doesn't he get a job. He just doesn't give a damn... We just go in and evaluate her stuff till we figure the debt's covered and then we remove it because you can't trust that they'll not try and hide some of it at a neighbor's or try and move in the meantime.

Whenever I make a seizure for Accounts Buying Company, I store. That's the way they want it and they give the orders. It doesn't matter how many times I re seize the same person. If

they are not paying their debts, then it's legal. I'm not a judge. I just act on the facts I get and if the lawyer says seize and remove then I remove. Most of these people.... you give them a break and they take advantage of you. You have to be hard with them. They are not reasonable... You never let them decide what to keep... they can't decide anyway. You just go in and take the stuff and if they get in the way, you tell them to get out... Sure sometimes you have to push a screaming lady off a sofa or something. Even call the police. It sounds bad but you have a job to do and they're in the wrong... They don't respect the law so why should you tell it to them. They're just basically dishonest and liars and you tell others that.

I really don't understand these people. You would think that after one seizure they would learn to be responsible about their money. Some do but a lot don't. There are these two sisters that I always seize. It's a regular routine. We have a fight at the door. They won't let us in. We get the cops. The neighbors come out. There's a lot of shouting and swearing. We take the stuff and leave. They say they're on welfare and can't afford to pay up. They call us crooks 'cause we do what the law says. I can't worry about everybody's personal problems. They could get jobs like everybody else.

Regulars then pose particular problems for bailiffs.

Often they are consumers of low-income credit and more than likely they have developed a hostile attitude toward

the bailiff. Often they have been harrassed previously by collection agents, and lawyers, and the bailiff so to speak is the "straw that ends up breaking the camel's back". Bailiffs tend to ignore a lot of legal prescriptions when dealing with regulars. They know whether the consequences will be harmful or not.

Sure there is a big difference who and where you are seizing. There is a sense in which we have to be much more careful when you seizesomebody in (a rich suburb) and somebody in City X East. They usually are more educated and more aware of their legal rights. In the East End though, if you slip up it doesn't really matter that much because most of them haven't got a clue about the law anyway.

Another example of the way in which bailiffs typify their contact with low-income consumers is illustrated by the following case as summarized by the writer.

Mr. S, a bailiff from one of the large firms, who despises making seizures, recounted that when he went into some homes he could "feel" when things weren't right. He called it a sixth sense and stated that you just had to let the situation unfold and then decide what to do. If the guy was reasonable it wasn't too bad, but if he was a "wise guy" as a lot of them are, you sometimes have to argue and push.... Me, I don't take any shit from these guys. He calls me a name, he gets it right back. You can't back away from these guys. That's what they want you to do. You have to show them you're not

afraid, even though sometimes you really are. Mr. S said that often these guys were easy to spot so you just let them "blow" for a while, then you slap them with the seizure... A lot of them are alike, they just like to let off steam.

It would appear that habituation and reciprocal typification of actions among regular debtors and bailiffs lend to an institutionalized way of "dealing out". Many "regulars" are seen a priori as potentially hostile and dangerous. Some, however, as in the case of Joe¹⁵, are seen more as negligent but easy-going.

Some people.... I don't know what it is but they seem to have the money but they just delay so long. I guess they're lazy or too busy or something.... But unless you seize them they would never pay up. Seizures are a good thing, it keeps people honest.

We had a writ to serve on Joe again. We went first thing in the morning. We know Joe on a first name basis.... We sat down and had a quick cup of coffee and discussed the hockey game.... This happens all the time with him. He's just lazy, I guess. Anyways he always pays up and there are no bad feelings. He's pretty reasonable.

For bailiffs there is, however, sustained personal interaction with one other type of credit violator, the "con". Usually these people are low wage earners, seasonal workers, welfare recipients, or unemployment insurance recipients, and they are a source of irritation to collection agencies as well as bailiffs since they are apt to roam from community to community as well as

from city to city. Unlike their interaction with "regulars" which was patterned and predictable, the bailiffs contact with "cons" or "wise guys" as they are sometimes called, is much more vague and potentially explosive. In part they annoy bailiffs because they take up a lot of time and energy to track down. And as one bailiff put it "In this business time is money". In addition to disrupting the smooth running of things, these credit violators engage in specific practices which not only irritate, but infuriate, the bailiff. For example, "cons" are alleged to always be "pulling shots" on bailiffs by either (1) using false names, (2) giving false addresses, (3) "hiding out" at a neighbor's domicile, (4) absconding with the household effects after a writ of seizure has been served but the goods have not been removed, (5) outright lying to the bailiff when he comes to the door, and (6) "house hopping" by being continually "on the move".

Illustration No. 1

The worst kind of people you have to deal with is the "wise guy", the people who try and "pull shots" on you... you know, they skip out on paying, give false names or change addresses every month or pretend to be someone else when you come to the door.... The only way to deal with those guys is to outsmart them. You have to lie like them. I remember I tracked one guy down, must have taken me weeks. He kept

saying that Mr. M wasn't in. He was Mr. M. That guy kept lying right up until the end. But he paid for being a wise guy. I have not got the patience or the time to fool around with these types. We really seized a lot of stuff and charged him high transportation, mileage and storage costs.

Illustration No. 2

We've had cases where it has taken us months to track down a debtor. He kept moving all the time. When we would get there he'd be gone. There are a lot of people like that - on the move. Sometimes the only way you can get to these people is through their friends or relatives or employers.

Illustration No. 3

I remember one case really well. We'd gone to this place; it was in (). We'd been there a couple of times and everytime the guy we were looking for wasn't in. Finally the guy who was answering the door said that Mr. O had moved. We got suspicious, checked it out and found that this guy was pulling a shot on us.... Yeah, he was Mr. O all along. We got him in the end though. A lot of people will do this to you.

Illustration No. 4

One time we had to seize this guy for a debt. It was about two hundred dollars. We just couldn't track this guy down. Then another guy working here remembers his name and says he might be at his brother-in-law's. Sure enough the guy was spending a lot of his time hiding out there. Christ, was the guy surprised. But you have to be careful - sometimes the guy says he's not the person you're chasing and you don't believe him and you seize, and he gets a lawyer and then you're in shit. It's hard to really know whether you are

being taken for a ride.... Once I made a mistake and it cost me about \$60.00 to fix it up. I took the guy and his wife to a good restaurant. You have to do these things. It's part of the job.

Illustration No. 5

The only time I will remove anything and store it is if I think the defendant is going to try and "get away" with his effects or hide them in a friend's house. But it's hard to tell. I'm usually right in my judgement though!

Illustration No. 6

Never trust a debtor, that's my philosophy. Most of them will run out on you, especially the ones I deal with. Most of them are out to take advantage of you. I always take something to show them who is boss, and to cover my costs, just in case. I've got burnt a few times but if you take some of their stuff they think twice and they don't have that much to leave with, and you're not left holding the bag. You know what I mean.

In addition, these credit violators abuse the canons of individual justice of which they are well aware to frustrate debt enforcement. They ignore the court summons, or make it impossible for them to be served. They are difficult to track down and often they dupe the bailiff, leaving him with wasted time, and energy, and no fee for his efforts. Furthermore, even if they are caught up with and seized, they often abscond with what is left of their household effects leaving the bailiff holding

the bag if he has not seized enough to cover the debt plus his costs. They may also change address or name and go right back into buying on credit and avoiding payment. If they have covered themselves well, they may purchase in their parents' or relatives' names so that seizures cannot legally be carried out against them.¹⁶ This is illustrated by the following case study as summarized by the writer.

Mr. L is a qualified mechanic. He works irregularly at odd jobs and admits to being \$17,000 in debt. He has been seized three times. Mr. L shows an acute awareness and understanding of the law. He takes obvious delight in outsmarting the agents of the law. His attitude to the debt collection process can best be summed up by one of his more spicy quotes, "I don't give a fuck about them". His philosophy of life reflects a dog eat dog policy. "I was brought up in the (low-income area) and I know if you don't throw your weight around, people step all over you. Mr. L throws his weight around considerably. His tactics have varied from moving frequently, using false names, physical violence in self-defense, and signing over his property to his father's name. Mr. L now claims none of his creditors can touch him. Having signed over his property to his father, if a bailiff seizes "he is seizing a third party's effects and it won't hold up in a court of law", Mr. L stated that it was important for debtors to know the law because as he put it, "Information is a valuable weapon. Most people just don't know their rights and how to act...". "I've stopped running now," he stated, "now they can do all the running around by themselves". Mr. L recounted what he obviously considered his greatest triumph. He was being harrassed

by this Furniture Company for a defaulted bill. Finally after three months a writ of seizure was served. The bailiff, a noted "tough guy" of whom Mr. L was quite aware, conducted the seizure. He attempted to seize Mr. L's panel truck whereupon Mr. L informed him that it was a necessary vehicle by which he made his living and that he couldn't seize it. The bailiff illegally ignored this information and was set on seizing Mr. L's truck. Mr. L slashed the tires to his truck. Much verbal and minor scuffling ensued and the bailiff persisted in seizing Mr. L's tools which is again an illegal act. (A bailiff cannot seize anything by which a debtor earns a living.) This time Mr. L hauled the bailiff out of his truck whereupon a fight ensued with the bailiff threatening Mr. L with a pair of garden shears, and Mr. L defending himself with a tire iron. The final result was that the bailiff was clubbed and hospitalized and subsequently lost all his court charges on the grounds that he was seizing illegal effects and that he assaulted Mr. L. As Mr. L put it "I gave them a taste of their own medicine". Mr. L was at last word, putting his skills to use by working for a local citizens' group.

Another tactic used quite frequently by some of the debtors interviewed involved the removal of most of the valuable effects before the occurrence of a seizure. Both Mrs. M and Mrs. B in anticipation of seizure took this action.

Listen, both of us are "old hands" at this sort of thing. I've been seized twice before and Beth has been seized three times. Don't get me wrong, I don't object to paying but sometimes the bills just pile up and these companies just don't care. I know that if they take my valuable stuff I ain't going to get much money for it.... You have to outsmart them. Get the

stuff out of the house for a few weeks or so.... Well, now the neighbor across the street has most of it and my sister had the television set.... They will keep it for a couple of weeks because sometimes these guys come back to check. This is the second time this month.... The guy from the collection agency was going to cancel my debt if I told him where my sister lived. I told him to stop bothering me and find her himself. Bastards

Another debtor who has been dealing with creditors and bailiffs for some time recounted the following story.

I owe somewhere around \$600.00 to a university for fees. After a year or so they sent my account to a collection agency. I got a few letters and a couple of threatening phone calls.... You know, you better pay up or else and that kind of shit. Anyway, they have been chasing me for five years.... But I'm always on the move. I never get a phone in my name and I never stay in a place for more than a year. The only close call I had was with this chick I was living with who had these collection agency "heavies" catch up with her for a government loan. But she started paying up so there was no hassle. It sure would be a fucker to get caught because somebody else didn't pay up. It works pretty good.... I don't think they'll ever catch me.

One can therefore imagine that when seizure is eventually conducted, the bailiff is in a hostile mood. He usually does not "mince words". His actions are

severe and dramatized. One bailiff referred to this as "putting on a show". Another described it as "teaching them a lesson". The gist of the social drama is that the bailiff gets his revenge. His self-presentation is formal. He dramatically over-seizes. He underevaluates the debtor's property. He overcharges for service. He usually verbally berates or intimidates the "con". In all likelihood he will not accept a settlement. He will overseize, store, transport and if necessary, auction off the debtor's household effects. He is past cooperating and only too eager to have the "troublemaker" pay up. Often the pent-up frustration and anger manifests itself in the social interaction between bailiff and "con". He may curse the troublemaker, morally deride him, seize illegal objects, and psychologically and physically punish him.

Well there was this one guy. When we finally caught up to him he became quite hostile... calling us bastards and thieves, you know, ordering us out and threatening us. Well we were pretty fucking pissed off anyways so we were not about to start taking this shit. Actually we tried to ignore the guy but he started getting pushy. So we got mad. We warned him a few times and finally I had to "punch him out". But I was still mad so I seized as much as I could get in my car. I charged him for five trips from the office. I told him if he wanted his stuff back he would

have to come and ask for it at my office. Then I told him that I was going to press legal charges against him for assaulting an officer of the law. I think I scared the guy a bit because he said he would have to contact the other party. I had a job to do and that was to conduct a seizure. I said he would be lucky to get his stuff back. This is the only thing they understand. They have no respect for the law.

The "wise guy", always trying to deceive you, gives me the most trouble. They are always trying to "pull shots" on you. You can't reason with guys like this. The only thing they understand is if you yell at them or threaten them.... Sure I get mad. Christ, you spend days, weeks, sometimes months trying to locate a case and you lose your temper. Then the guy starts giving you mouth.... What I do is usually play it cool. I chick the guy out. If I think he's going to be violent I go for the cops. Otherwise I just go evaluate, seize, and get the fuck out. I don't say nothing. I don't answer questions. I don't say a word. I just have a job to do, that's all. I leave the legal papers on the table or something, and I leave. I don't care whether the party signs them or not. Let them suffer for awhile. If they don't understand to come to this sale in ten days, then that's too bad. Maybe I'll get myself a cheap television set. Why should I care?

Just the other day I did a seizure for an automobile company. A car dealer, I think. It was forty miles outside the city. When I get there the guy who had been hard to track down shows us this receipt that he had paid up. It looked

legitimate and we found out that he had paid up, but the lawyer didn't inform us of the settlement. Anyway, we didn't go forty miles for nothing. And besides it took us a while to find this guy. So we did the seizure anyway. So he had to pay the costs and mileage, plus storage. (It was stored at a local garage.) Besides if we didn't do the seizure we wouldn't get a fee. Normally we would just phone the lawyer and check it out.

The "regular" and the "con" or "wise guy" or "troublemaker", as they are interchangeably referred to, thus present dramatic illustrations of how the routine processing of seizures may be altered as a result of prior hostile relations between the bailiff and the debtors. The behavior of these social types suggests that the greater the degree to which a debtor or group of debtors irritates the bailiff, the more likely are the bailiffs to act harshly, violently, and illegally. They are more likely to "take matters into their own hands" in the sense that they will often act without the legal authorization. Thus we find bailiffs inventing laws that do not exist, making fictitious claims, manipulating debtors into positions where they can increase punitive legal and/or illegal sanctions, and in some cases usurping the power of judge and jury.

Often the bailiff in such cases as described makes an atypical assertion of his authority. The type of action a bailiff takes, whether for harsher or more lenient treatment, depends upon the historic character of the relations between the bailiff and the debtor. The dynamics of this process are further illustrated by an analysis of bailiff sales.

The Auction: Trial by Bailiff

Seizure does not lead inexorably or inevitably to sale. Seized people are frightened people, and in most cases they somehow manage to pay up or renegotiate their dealings with the creditor. Although there is no "hard data" available on how many seizures actually go to sale, most bailiffs agree that anywhere from 80% to 90% of their cases settle either at the time of seizure or by the date of sale (usually ten days after seizure). In a three week period I attempted to trace sixty seizures - only seven of them were followed by sales. Undoubtedly seizure is a very effective form of debt coercion: in more than 50% of all cases the debtor repaid the debt plus the bailiff's costs as soon as the bailiff demanded payment, and the remaining 40% paid up before or on the actual date of sale.

Although a sale is usually a rare occurrence, it

still remains an important aspect of the debt collection system. According to law the sale must take place where the seizure was conducted (usually the home of the debtor), or if the goods have been removed and stored, at the place of storage. Most sales are held at the debtor's private domicile, although a number are still held at bailiff offices or warehouses.¹⁷

According to the civil code of procedures, bailiffs must carry out the sale on the day and at the hour and place mentioned in the notice he leaves with the seized defendant. He must also advertise a detailed notice of the sale in a local newspaper.¹⁸ Despite the publicizing of the sale, virtually no one from the public attends bailiff auctions. The reasons for this phenomenon are (1) in many cases sales advertised do not "come off" as the defendant usually settles before the actual hour of sale. Hence, if you attempt to go to a sale, you will usually be unsuccessful because it will have been suspended. Four or five such incidents will frustrate most would-be buyers; (2) all bailiff sales are held during work hours, usually at 10:00 A.M. or 11:00 A.M. or at 2:00 P.M. or 3:00 P.M.; (3) bailiff sales are advertised in fine print in the back pages of the newspaper and so are often not read; (4) many

bailiffs do not appear on time to conduct their sales. The writer has waited around for hours to attend auctions only to be frequently frustrated in his quest; and finally (5) bailiffs are quite selective in what they will sell. There is much evidence that bailiffs contact second-hand dealers and work out deals beforehand. They in turn receive "kickbacks" from the buyers.

Bailiff driver

Sure we get deals. The other day I missed a stereo for \$50.00, and the stereo was worth a hell of a lot more. I'd say about \$200.00 at least. But you have to know in advance because you have to pay in cash. I just didn't have the money on me.

Bailiff

Sometimes I buy things from the sales. It depends.... Sure, it's cheap. No one comes to bid. I always offer it to my driver first.

Bailiff

I remember when I worked for that firm. Christ, we used to seize and re-seize the stuff. They had everything worked out. These two buyers were the only guys that bought anything. They were regular buyers.... I don't know where the stuff went. They just hauled it away in their trucks after the sale.... I really don't know and I don't really care.... They were crooks though, that's for sure.

Bailiff

Sure, if you want me to buy a television set for you, let me know. It's no problem. I'll phone you when there is a deal coming up and you can come down and bid. No one

will be there anyway, and if people show up, I can get it put aside for you.

A law student who worked with bailiffs for six weeks

What I found out was that second-hand dealers and bailiffs have good working relationships. Second-hand dealers are always calling the office to find out whether the sale is on or off.... Sometimes if no one calls, the manager of the bailiff's office will call a couple of second-hand buyers and tell them to come down to the sale. He even negotiates with them on the phone over prices and things.

The present research confirms much of the above. In the course of this study I have attended about twenty bailiff sales. In only one case was there anyone there from the public besides myself. Moreover, in virtually all the sales I attended there were two "regular buyers" who bought everything of value. Often the plaintiff/creditor himself involved in a case appeared at a scheduled auction and purchased the seized effects. Furthermore, bailiffs are prone to delay, postpone or reschedule sales to fit the conveniences of regular buyers and creditors. In one auction I attempted to attend, I arrived at 11:00 A.M., the set time for the sale, only to be informed that I, along with two other interested bidders, would have to return in half an hour. When we returned a half hour later, we were told that all the items had been sold.

The bailiff assistant informed us that, because the plaintiff/creditor in the case had expressed an interest in purchasing the goods, the bailiff had decided to give first bid to the plaintiff. In that half hour the plaintiff had purchased everything. The driver added that this procedure was not unusual. One bailiff recounted the following story in connection with auctions.

I usually don't like conducting sales. They're an inconvenience of sorts. You might be out on the road and then you have to come back to do this sale.... Usually no one shows up and then you are screwed. You are supposed to start the whole damn procedure over again, and wait another ten days.... If I like the goods that are sold I might bid on it or ask my driver if he want it.... Sometimes a couple of guys come - they are always buying. One of them I know owns a collection agency.... They usually bid extremely low so I try and get my driver to start the bidding at a reasonable price.

One bailiff driver proudly announced how he had developed his own illegal side business.

Sure I buy as much as I can and whenever I can. I'll get a television set or a radio real cheap and sell it on the side. Lots of people will buy. They get a good deal and I make a lot of money.... I know other people that do it too. It's no sweat. Henri (the bailiff he works with) doesn't care. He always gives me first deal.... Shit this car was bought at an auction.

The writer, in the course of his field work, noted five incidents where bailiffs or their drivers bought seized goods. One bailiff driver even offered to get me a stereo, "real cheap". I politely declined his offer. Another related how sales always undervalue the debtor's goods.

A lot of the times I hold a sale at a person's house. No one shows up to bid. So what happens, I'll tell you. The debtor gets fucked over. He gets nothing for his effects. Look, all I can do is buy it myself or sell it to my driver or phone up somebody that wants it. The other day a television set went for \$25.00. It wasn't junk; it was a good set. I've seen leather couch and their combinations - brand new - go for \$33.00, coffee tables for 25 cents... If you got bidders it's different, but they don't want to pay much. They're here for bargains. I try and get my driver to start at a decent price. But even then it's a joke.

The writer himself in his research witnessed the irregularity of bailiff sale, the poor public attendance at sales, the low level of bidding, the illegal purchasing of goods by bailiffs and drivers, the timely appearances of regular buyers and plaintiffs, price fixing, and the personal informal work relationships upon which bailiff sales exists. In instances of auctions that are held in warehouses or bailiffs' offices this whole process is intensified. The debtor not only must pay the bailiff

costs, he must also pay transportation costs, and storage costs. The total amount of the debt thus increases considerably. A case study will illustrate the dynamics of this process.

Mr. and Mrs. G are residents of a low-income community. Mr. G, a janitor, lost his job several months before the debt was incurred and has been collecting \$173.00 from welfare since that time. The rent on the three room apartment is seventy dollars a month. The Gs are also making twenty-five dollar payments on the living-room furniture which they had previously purchased. This leaves Mr. and Mrs. G with hardly enough for the month's other expenses. Their tenuous financial situation deteriorated two months later when Mrs. G had to visit a doctor in a neighboring district to have minor ailment diagnosed. As is all too often the case, the fee for a single visit was rather steep, thirty-two dollars. The Gs could obviously not afford such a payment in one sum so arrangements were made to settle the debt with five dollar monthly installments. For the next three months the payments were made on time, but in May Mr. G could not afford this further strain on his already tight budget. Several days later, with no notice, a bailiff arrived with four men to execute a seizure of Mr. and Mrs. G's furniture. A stereo worth \$800.00, the G's most valuable article of furniture was removed to a bailiff's office, a good distance away. No mention of legal rights was made by the bailiff and when asked why such a valuable item was seized to cover such a small debt, the bailiff replied that he was only doing his job. Mr. G had until July 10, the date of sale of his stereo, to pay off the seventeen dollars which remained of the debt PLUS ninety-two dollars in various costs. This is

just over five times the amount owed at the time of seizure. For someone on a fixed income with other expenses, this is virtually impossible to pay. Mr. G was finally able to come up with the \$109.00 required to liquidate the debt and the accumulated costs. The money came from his son-in-law who is keeping the stereo until Mr. G pays him back. An extra twenty-four dollar expense was incurred with transportation of the stereo back to Mr. G's son-in-law. This further augmented the already exorbitant costs.

This story is typical of many cases encountered among low-income consumers. The debtor's effects are sold cheap and the debt is almost never cancelled, so the debtor remains susceptible to further seizures, removals and sales, for the writ of execution is actionable upon until the debt plus costs have been fully paid. Moreover, the total debt spirals considerably because everytime a bailiff conducts a seizure, legal costs will rise, and the defendant's original debt will be multiplied considerably. The case of Mrs. Z, as summarized by the writer, illustrates concretely the dynamics of this phenomenon.

Mrs. Z is a widow, forty-five years old. She lives with her three children in the East end. Her only source of income is a welfare cheque amounting to \$273.00 a month. Mrs. Z has been seized three times in the last seven months. Her original debt was thirty-seven dollars for items she had bought from a peddler. Mrs. Z paid five dollars a month for

four months. On the fifth month she missed a payment. She informed the peddler she couldn't pay. Two months later the peddler came back and said she owed the original thirty-seven dollars. Mrs. Z said she owed seventeen dollars and all he was going to get was seventeen dollars. The peddler stomped out of the Z residence in a huff. Two months later Mrs. Z was visited by a local "tough" as she called him, claiming to work for the collection agency. Mrs. A was informed that she owed fifty-seven dollars. Mrs. Z admitted that she owed seventeen dollars. The collection agent warned Mrs. Z that she had better pay up fifty-seven dollars or else. Mrs. Z threw the collection agent out of her house. About three weeks later Mrs. Z was seized. She received no summons. Removed, transported, and put up for sale was Mrs. Z's television set, her couch, radio, and two lamps. Mrs. Z could not pay up. She received fifty dollars for the sale of her household effects. But by now, with legal costs tacked on, Mrs. Z still owed another forty-five dollars. Two months later Mrs. Z was seized again. Her goods, a table and chair set, and her brother's television set were sold. Again the original debt was not cancelled. Legal costs, storage, and transportation costs inflated it up to sixty dollars to be paid. Mrs. Z does not remember what she received for her table set but "it was almost nothing and still had sixty dollars more to pay". Three months later Mrs. Z was again seized. In all three instances the bailiff doing the seizure was the same. This time the seizure was for another debt Mrs. Z had contracted from a furniture store. Needless to say the seized goods did not cover the debt and Mrs. Z has two debts still outstanding. Mrs. Z's comment throughout was "Il n'y a pas de justice dans notre system".

Bailiff sales then, rather than alleviating the debtor's condition, tend to intensify their problems. They have a kind of quicksand effect whereby the deeper one gets involved, the more one gets swallowed up. In the carrying out of his sales, the bailiff does not perceive interactions and transactions against the background of higher legal requirements. He operates according to the normative assumptions of everyday life emphasizing the functional. He knows he is selling illegally, he knows the buyers personally, he knows that prices are fixed, that the debtor loses, and that there is no one to challenge his discretion. Moreover, the experienced bailiff knows that certain debtors are "getting milked", and that if he chooses, a lucrative spin-off business can be exploited. Clearly, the sale for a bailiff is a routine reminder that the principle of legality often stands in opposition to the principle of administrative rationality.

Furthermore, the law itself accords much more discretionary power to bailiffs in matters relating to the sale. The sale is conducted by the bailiff; it is literally his sale. The goings on are supervised by the bailiff and the debtor has virtually no legal recourse to opposition. He is confident that his behavior is not

going to be subject to any public criticism. Moreover, because the debtor is in most instances the only possible incriminating source there is, it is hardly likely that the debtor who will take countering legal action or even lodge a complaint with the bailiff firm or association, partly because the debtor is often unaware of legal procedures and rights, partly because of the belief of the practical ineffectiveness of such remedies, but mainly because the debtor has an expectation of continuing relations with the bailiff. The bailiff's encounter with the debtor is a game with a twist. Each playing is influenced by the anticipation of future games. It is difficult to describe, in any single instance the values held by the competing parties, since these are modified by each party's subjective assessment of what his opponent's strength may be in future encounters. Outcomes of interactions between bailiffs and debtors will vary greatly depending on the conception the "authority" has of his antagonist.

Bailiff

With some people you know what they're going to do. You get to their house and you know they are going to pay up. But they always wait to the last minute. People are really stupid.... It costs this damn about an extra twenty dollars all the time because I end up having to come all the way to her house. I have

to prepare a "process verbal" for the sale, that is three dollars, mileage costs about eight dollars, two dollars for my assistant and even though the sale doesn't actually happen I still charge her the regular seven dollars for conducting the sale. She must have had three or four seizures that I know of... Christ, maybe more. Each time the same thing.

Bailiff

I always give the debtor a chance to pay off rather than auction the goods. Sometimes I give them twenty days rather than ten. I try and encourage them to make a settlement. You know it benefits them and me.... Well, they hardly get anything for their stuff, and I don't like auctions because I don't make much money on them. Most of the time the debt is not paid off in full and I don't get paid in full. You see you have to seize a lot if you want to make any money. It's the only way.... The debtor usually is in a losing position.

(Forty-one year old independant businessman)

I've been seized six times, three times by the same bailiff.... I could tell you about bailiffs.... Some of them are okay, some of them are crooks. Because I do income tax and small accounting jobs, I often can't meet my debts. I've never taken a court action against one of my clients, I usually wait until they pay me off, but sometimes the bills pile up and I can't meet them. I get seized. It's a bit of a routine. Some bailiffs are understanding and they give you time to pay off. They know you are responsible so they wait a while. This one bailiff

even phoned me up and said he'd cancel the sale until the following week and give me time to settle... But the other bailiff just last week came in starting to remove everything, my filing cabinets, my desk, furniture, everything. Now I know he can't do that, but I'm a cripple. What can I do. So I get my lawyer to stop the seizure. It's going to cost me over \$100.00 to get my furniture back. But I've been in touch with lawyers and he is going to be surprised.... Like I said some I have no trouble with at all and some are bastards.

Bailiff

Some bailiffs are crooks. They give all of us a bad name. They don't care about very much except making the buck. A lot of them are controlled by the firm owners or by the collection agency themselves. They have no moral or public consciousness. I used to work for this one firm that was like that. It was sickening. We would seize and re seize the same people over and over again. I quit finally. You don't have any self-respect after a while. They worked on a policy of squeezing the customer as much as possible. You didn't make decisions when you worked, you were like a robot, you just did what you were told. The debtor was always the loser. All seizures were removals and storages and I'll tell you two brothers who own the collection agency also own two trucks. So they get paid a couple of times. They roughed up customers, sometimes they even interfered in the seizure and sale itself. You know, scaring and threatening people. To them all people were the same - lazy and dishonest.

The sale then is a good example of how unauthorized discretion can be wielded by the bailiff. Although the bailiff is delegated certain responsibilities in matters

of sale, there are no ways of supervising or opposing his methods. It would appear that as we move along the debt collection path from service to sale, the bailiff assumes much more unauthorized discretion. His legal prescriptions are hazier and the subsequent controls over his behavior become relaxed. Depending on the bailiff's personal stake in the outcome, he may engage in numerous strategies to insure efficient enforcement or/and private gain. Here we see complications arising. The interest of the bailiff throughout the civil law enforcement process has only partly to do with how he feels personally about the debtor. The debtor may "buy his way out" of the sale situation when it is to the bailiff's advantage to arrange such a settlement. In cases where the debtor himself represents a particularly irksome experience to the bailiff - for instance as a defendant who is both regular and hostile, and for whom the bailiff has expended considerable time and energy - he would require substantial commodities for the exchange. The most sought after commodity from the bailiff's point of view is information. In the most usual case, the bailiff is likely to demand that the debtor serve as an informant in the apprehension of other credit violators. This may take the form of

actually revealing their whereabouts or providing the bailiff with leads.

Forty year old woman

I knew I was going to get seized so I removed most of my valuables before the bailiffs got here. I knew who I was dealing with because I had had experiences with both the Accounts Buying Company and these bailiffs before.... They finally came, not just the bailiff, but the guy, a Mr. J from the Accounts Company and a lawyer.... Oh, they tried to scare me into paying up.... Anyway it didn't work.... On the day of the sale they all came back and they tried to bribe me. They said they would drop all interest charges on my debt if I told them the whereabouts of my sister. I refused. By then I had legal advice from Legal Aid.

Bailiff

Sometimes when I know the person being seized and I know they know other people I might be searching for, I'll try and work a deal. Give them more time to pay up by postponing the sale or by forgetting about the mileage charges or something like that. But that doesn't happen too often.

Co-owner of an Accounts Buying Firm

When you have to deal with these people down there (low-income area) you have to use all sorts of tactics. If I think someone can help me, I'll use them.... Sometimes it works, sometimes it doesn't. Some people will do anything to save their skin and if you pressure them they usually tell you what you want to know. I can afford to make deals if I get a bigger deal.

in the end. Sometimes it's the only way you can work.

Former bailiff

I know a lot of bailiffs who try and get information by making deals. When I was working, almost all the guys in the firm were doing it. Not all that often, but it was a common practice.... I never really liked doing it but sometimes I had to. Sometimes the creditor, especially if it was a collecting firm, wanted you to.

More generally then, the more valuable a product the offender represents to the bailiff, the higher the "price" he or she must offer by way of "cooperation".

To gain this cooperation the bailiff engages in strategies to create the commodities of exchange. In this chapter we saw how he can suspend a sale thus giving the debtor more time "to think things over" and possibly work out a settlement. By suspending a routine procedure regarded as a "break" by the debtor, he in effect creates a set of positive sanctions which by law do not exist. The bailiff may also transform his right of removal and storage into such a commodity. By removing and storing a debtor's good, a bailiff often feels he is conveying a show of strength. "They know now that I mean business". By routinizing an arbitrary legal procedure, regarded as punishment by the debtor, he in effect creates a set of punitive sanctions which

by law are supposed to be utilized only in special cases. These are used both to control the behavior of debtors during seizure, thus making the bailiff's job easier, and to assure (1) an adequate financial remuneration and (2) create the resources for apprehending other credit violators.

Furthermore, the sale offers the bailiff the opportunity to create for himself a discretionary structure, previously non-existent, in order to manage relations with a group of repeated offenders who may be obstreperous. It also allows the bailiff to settle "scores" with particularly troublesome "wise guys". It should also be noted that the sale constitutes a dramatic example of the facility by which illegal practices can take place within, or on the periphery of the legal system. There is much evidence to suggest that there exists a personal informal graft network composed of collection agents, lawyers, buyers, jobbers, peddlers, bailiffs, and bailiff assistants or drivers who are in continual interaction with each other and who have developed a lucrative spin-off business.¹⁹ The sale itself is often the social nexus where the nuances of this graft network can be visibly seen. Often the creditor, the buyer, the bailiffs, and his driver and

the debtor are present.²⁰ The buyers are regulars, bidding is low, and often the prices are fixed. The transactions are carried out on a first name basis and despite the supposed "public nature" of the sale, one is conspicuous by merely being there. At some sales there are even trucks available to haul away the auctioned off goods. While the evidence is not all in, there is justification for assuming that this graft network, preying as it does on the fringes of the law, and affecting the most poverty ridden of society is an organized system, with tentacles reaching into the world of organized crime. The extent to which bailiffs are involved is difficult to ascertain but it is clear that at least one firm and conceivably two have organized their practices around handling what at best can be called "shady sales dealing". The demand for bailiff efficiency creates a type of "professional" bailiff practice in which concern for legality is on the whole minimal. Bailiffs are naturally committed to orderly comportement on the part of seized, or even serviced, offenders regardless of the legality of the process. By overenforcing or non-enforcing, by manipulation or invention, the bailiff can introduce a previously non-existent sanction into the situation. He now has

something to bargain with which he otherwise would not have had. Thus the non-enforcement of the sale notice on time and a further suspension of the sale constitutes a dramatic case in point where the bailiff creates for himself unauthorized discretionary power. Likewise his removal of goods creates an incentive for the debtor to renegotiate a settlement. It provides him with a lever to apply pressure.

However, the facility with which a bailiff can arbitrarily create a sanction can lead to different enforcement patterns with considerable discriminatory consequences. My limited observations and interviewing found bailiffs employing special standards in seizing lower income debtors.²¹ First of all, if the defendant has a past history of debts or debts outstanding he will most certainly be seized, with removal and storage, unless he can pay off immediately. If, however, he is from a "good community", has a well-paying job, and promises to pay off, the bailiff may consider him trustworthy and wait for a period of time. He most certainly will not remove and store the debtor's goods thus saving the debtor considerable expenses. Three things differentiate this defendant from a low-income offender. He obviously was working, and consequently satisfied an important

criteria for credit and trust. Secondly, he was from a good community, educated, and probably just enduring some temporary financial difficulty, and three, he has, if needed, access to legal information and assistance. In the case of the low-income consumer, bailiff reasoning would argue that a man with a history of debt has no intention of paying off, and that if not immediately prosecuted, he would simply vanish. Moreover, because seizures have become a "personal pattern", in all likelihood the debtor is either naive or just plain ignorant of what his legal procedural possibilities are. Bailiffs often stress what they term "the stupidity" or "laziness" of many low-income debtors.

I usually don't worry when I make a seizure in the (low-income area). If things aren't all in order it doesn't matter. They never know anyway.

Listen, most of them are too fucking lazy to even read the court summons. Most of them don't even deserve to get one. You know what they do? They throw them in the garbage or give it to their kids to play with. And when they get seized they're all surprised!

Education, that's what is important when you're dealing with a debtor. If they're smart, you have to be careful because they know who to get hold of. They know what to do, or they can sure find out. You know, don't get me wrong - I'm not saying

you exploit the others, but you have to be careful what you do.

Clearly, information differentials are key elements in the assessment a bailiff makes of a debtor. The possibilities of legal reprisals directly contributes to a bailiff's pattern of enforcement. As one bailiff put it:

If the chances are low you go....
Gambling is all part of the game.

In the simple case in which the defendant has one debt outstanding for say seventy-five dollars, the bailiff's primary consideration is the apparent stability of the defendant's residence because the bailiff does not want to lose control over his physical presence. If the defendant owns his own house, or if he owns his own furniture, he likely cannot and will not move in order to avoid paying the debt. Since low-income consumers tend to be less stable residentially, the bailiff is more likely to taken some sort of immediate action. Pay up now or else. Similarly the nature of one's job will have a convincing effect on how tolerant the bailiff will be of waiting for payment and how industrious he will be in attempting to contact the lawyer to negotiate a settlement. Will he be more sympathetic to a middle-class debtor than to a working-class debtor? My observations

say "yes". By contrast, if a debtor is receiving welfare funds and must use this to feed the family, the bailiff is likely to type him or her as a poor risk. The bailiff will in all likelihood execute a seizure and removal. The fact that he can be relatively sure that the low-income debtor is unlikely to legally oppose the seizure further contributes to decision to execute a seizure and removal.

Further confirmation of differential treatment by social class can be gleaned from examining cases of middle-class debtors. One woman living in a more prosperous suburb mentioned that she had no difficulty whatsoever with the bailiff. She defined his attitude as "hospitable and friendly". The Rs, are a newly married couple. The husband's yearly income is between \$10,000 and \$13,000. The following are excerpts from their case story.

Mr. R

Actually I contacted this debt as a result of my previous marriage.... Naturally I did not discuss it too much with my wife. Well, I explained the situation to the bailiff as best I could. I told him that I was willing to pay the debt, but that I was having financial difficulties. I guess I reassured him I wanted to pay.

Mrs. R

He was an understanding sort of guy, wasn't he?

Mr. R

Well, he went and called the lawyer up right here to see if he could settle the matter.

Mrs. R

He was quite good about it really. Even though he didn't get the seizure cancelled, he still didn't take the stereo set (worth \$600.00).... He really took a liking to us; he even played games with the kids on the front lawn while he was waiting for the lawyer.

This type of described interaction between bailiff and debtor rarely happens in low-income cases. As Mrs. R stated "My husband just charmed him". The consequences for the R family are equally important. Because of Mr. R's economically stable position he was able to arrange immediate payments to settle the \$500.00 debt. As a result he got his seized color television set back (the Rs had two sets). None of his goods were removed and no auction was necessary.

Bailiffs themselves openly admitted that they treat middle-class debtors differently.

Middle-class debtors give us the most problems because they often know their rights.

You know the old saying - knowledge is power. We have to respect that.... You'd better respect it. I've had a few problems because I didn't think or I just ignored the people I was dealing with.

Listen, some people deserve respect, others don't. A guy lives in a run down old place near the river. What the hell do you care. Somebody lives in a big mansion in the (rich suburb), you got to respect that.... Of course, you think differently and you act differently.

The ability to "charm" a bailiff is contingent upon your social class. What type of house one lives in, the neighborhood, one's occupation and income, and one's accessibility to information all figure in the way a bailiff defines a case situation

Another case study which adds to what has already been argued is that of the Js. While not providing much data on the concrete details of the debt itself, the interview with the Js did provide data on how bailiff and debtor interacted. The Js, like the Rs, live in a relatively high income neighborhood. Mr. J is a draftsman and claims to be making "just over" \$15,000 a year. Mr. J described his account with the bailiff as follows.

I can honestly say he was okay. He always spoke politely, and he tried to explain the situation as clearly as possible. He was quite polite. He spoke in English even though he was really French.... I had no problems at all. He said that if I didn't pay back the debt in three days he would have to execute a seizure. He encouraged me to contact the lawyer and get the matter settled. And that is what I did.... There was no problem at all.

Bailiffs also tend to employ special standards in seizing women. Bailiffs find it degrading to their masculinity to exert coercion upon a woman, especially in public view. A woman who resists seizure by shouting, screaming or crying is inevitably an embarrassment to a bailiff, and the problem of controlling her through physical force could be awkward. In addition, a woman who is married and who has a stable occupation is likely to receive extra consideration from a bailiff. Likewise, a woman who is the only parent and who is solely responsible for the care and maintenance of her children may be given considerations requiring more time to pay off.

By contrast the bailiff acts entirely different toward the single person. He may sometimes sympathize with a mother's lack of funds, especially if she is on welfare and is supporting a family, but he maintains a fundamental hostility toward the young person. In the bailiff's moral world, if a young man or woman is single and out of work and owes a debt to society, then they should be forced to meet their social obligations.

Thus, the exercise of discretion by the bailiff takes on certain specific patterns, partly as a result of the demands of the employer and the firm itself and partly

as a result of his private moral conceptions, which in turn are influenced by his occupational role. Bailiffs tend to discriminate against low-income debtors because they implement strategies that work against the poor, the unemployed, the welfare recipient, the residentially unstable, and because the possibility of reprisals are minimal. Being a social risk often means you have less time to pay and you often pay much more. Thus it would appear that the facility by which bailiffs can create conditions where they may act arbitrarily can have a number of outcomes the most salient of which is class bias.

In sum, neither philosophical principle nor personal prejudices should be taken as the most significant factors for understanding bailiff conduct on the job. Their actual behavior seems to be influenced more than anything else by a concern to show themselves a competent craftsman. An obstreperous debtor symbolizes an affront to the bailiff's competence. Measures are therefore taken to create instruments for punishing those who interfere with the bailiff's goals and for rewarding those to contribute to their achievement. The relationship of these measures to implanting or undermining the rule of law seems to be a matter of little or no concern.

CHAPTER V

ELEMENTS IN THE DECISIONS OF BAILIFFS:

TOWARD AN UNDERSTANDING OF BAILIFF BEHAVIOR

Bailiffs often argue that no two situations are the same, so that the decisions they have to make must be guided by common sense. They stress that on-the-job experience is a necessary condition for correct decision-making. "Common sense" is a type of knowledge presumed to be self-evident by a group or category of people. It is distinguished from other sorts of knowledge by the mode of acquiring it; one does not read about it - one learns through dealing experimentally with a situation. "Learning common sense" consists of apprehending the customary patterns of social situations when the situations themselves consist of a complex series of contingencies, some of which may have been intersubjectively objectified and others of which are available only to individual consciousness on the basis of an unobjectified past experience. Both types of contingencies are relevant to the adaption of "correct"

patterns of action for dealing with a situation. The common sense of a group, it follows, depends on the experiences of the group, and when a group has recurring experiences which are not common to the society as a whole, they develop and share a common sense divergent from that held by others not belonging to the group. Since many elements of common sense are objectified, people cannot compare divergent objectifications. Bailiffs state that they operate on "hunches" in some situations, they just "feel" a situation in one way or another, which is tantamount to saying that some aspect of the situation to which they are attending is linguistically unobjectifiable. The apprehension of "bailiff common sense" in all its complexities takes time to transmit. A great portion of bailiff common sense is transmitted orally. There are, unlike the police, virtually no written records of bailiff experiences. It is the concrete interactional situation that really is the training ground for bailiffs. It is here that the non-linguistic and subjective experiences will combine with their intersubjectively transmitted knowledge to form the totality of common sense.

In order to deal with a situation, a bailiff must bring the relevant considerations to consciousness.

before he can decide how to proceed.

In any seizure, especially seizures, you have to "size up" the situation. You consider how the guy acts. If he is hostile you calm him down. Maybe you get the cops. You think of things that worked before. You threaten him with the law or you sympathize with him. It really depends on a lot of things.... I don't know, it's really hard to say.... Sometimes you make a choice.

Consciousness then is not a computer printout which lists all of the important considerations in logical order within the categories established by law to deal with situations. The rules of the game are not clear.

Situations tend toward ambiguity. Rather, each attended element of a situation brings to mind the possibilities of action and consequences for action from various realms of "knowledge". The bailiff makes his decisions from this collection of possibilities, putting them together in one way or another to construct complex alternatives. These divergent realms of knowledge exist at analytically different levels and dimensions of abstraction. Some realms are based on expectations and demands of employers, some realms are based on written rules, such as laws, some realms are based on general knowledge, some realms are based on existential and interactive possibility within

the explicit situation, and some realms are based on systematic or common sense morality. The officer does not confront this amazing array of possibilities and considerations as a whole all at once. Rather he calls to mind substrategies which have worked before, and when no course of action is immediately evident, he reattends to the situation and looks for elements which will guide him further. As he repeats this process, he draws conclusions which he evaluates, discusses and confirms with other bailiffs. These experiences and the lessons thereof become part of his working consciousness and he constructs "typical" dispositions to fit "typical" situations.

Possible Relevant Realms of Knowledge
Accessible to the Bailiff

Legal Knowledge

A Bailiff, as an officer of the civil courts, is expected to have a working knowledge of the law, its dimensions, requirements, interpretations, and method of application. The law is his most powerful weapon and the more he knows about it, the better he can control the problems which his interpretation of his mandate lead him to attempt to control. The bailiff learns about law from a number of sources, formal and informal, abstract

and concrete. Since his interest in the law is instrumental, rather than legalistic or scholarly, the focus of his knowledge is on the best ways of proceeding or utilizing laws rather than on the scope, variety, classifications, history or philosophy of laws. The sources of legal knowledge for bailiffs however are uneven. Because, as we have seen, not all bailiffs operating in Montreal are licensed by one single body, there exists uneven accessibility to various types of knowledge. Bearing this in mind, however, it is possible to ascertain four sources of legal knowledge. A bailiff learns about law from the civil code, from training, from guided experience, which is most important, and from his own experiences.

The civil code is a bewildering piece of legalistic jargon. It reveals what the laws are but it does not indicate how you are to proceed. It tells you little of what difficulties you will encounter. The civil code lacks a practical guideline on how to enforce the law. Having read the sections of the civil code relevant to bailiff activities, it became clear that it is possible to come up with a multitude of bizzare possibilities of action, many of which I have found out a bailiff would never contemplate. In a series of conversations and

interviews with legal aid lawyers and law students whose only contact with the civil code was a formal one, I kept having the uneasy suspicion that we were not even talking about the same laws because while they knew the "words", they did not know what they "meant" in actual practice! They would assert that the bailiff "could" do something while I knew he "could not". An example comes readily to mind. In the case of a property seizure the law states that a debtor may withdraw from seizure household furniture, utensils, and other things of general use to a value of \$1,000. The law student argued that the bailiff could and should advise the debtor of his legal right to withdraw certain goods from seizure. He was technically correct, the officers could do so on their own authority, but time, competition, the payment system, and the realities of efficiency, and seizure practice make it highly unlikely that a bailiff is going to spend time advising a debtor that he could keep his bed, his television set, his kitchen appliances, etc. The crux of our dispute was that he was deducing a possibility within a formal system while I was attending to the limitations which are customarily enforced within credit law.¹

Most bailiff officers are exposed to training and

instruction when they begin their career. Formal instruction sharpens and makes relevant the small number of codes which are actually used by the working officer. It provides him with a guide to the laws he will use often. It gives him some sense of the common obstacles which he will encounter as they have been perceived, objectified and intersubjectively communicated, but it still does not give him a "sense" or "feel" for the job. It shows him the actual twists and curves of the law, the quality of the roads, and the best journey to take under normal conditions. Formal instruction is not necessary for all bailiffs operating in Montreal. Like knowledge of the civil code, formal training and instruction is lacking among bailiffs who were certified outside Montreal but who practice here. It is perhaps because of this that they are depicted as "insensitive", "animals" and "renegade" bailiffs.

The third source of knowledge about the law comes from the bailiff's working experience with experienced bailiffs. This is by far the most important source of knowledge of the law because it is in this situation that the hundreds of minor considerations which cannot be generalized are learned. A bailiff may combine his working experience with his formal instruction if he is

"moving up" in the profession from a driver assistant to bailiff, or he may, as in the case of a "degree" candidate, learn it in his one year training period with a bailiff. The most important part of this source of knowledge is that the officer learns here to make the connection between behavior he observes in the "real" world and the customary interpretations of the law which can be applied to such behavior.

This step from the observation of behavior to legal response and selection of an appropriate action may become automatic and complete in itself for those situations which are frequently encountered. That is, the situations arise so frequently that the bailiff can routinely handle and foresee all the legal and social ramifications and can act in such a way as to mediate successfully between his employer and the debtor. In those less usual situations where the precise legal action and unpredictable social response is not known to the bailiff, he learns through his experience with other bailiffs of measures he can use which will allow him negotiating room. The position for most bailiffs seems to be to avoid committing yourself immediately to extreme positions that would close the possibility of bailiff-debtor communication. Face-saving measures

include such practices as private apologies, cash deals/ worked out by the bailiff or firm to compensate the debtor for his inconveniences, or even lavishly entertaining an innocently victimized citizen for an evening.

Within the limits established by formal knowledge of the civil code, and the prescriptions of formal instruction, the experience of actually using the law proceeds by a method of trial and error which is transmitted by an experienced officer. The experienced bailiff attempts to point out those elements of a situation that he is considering when making his decision. Not all these elements are linguistically transmittable, but the bailiff "learning the trade", retains in consciousness not only the visible verbal objectifications of the experienced bailiff but also his own subjective experiences in the situation. This combination of experiences is compared with similar experiences intra-subjectively and "typical" behaviors become associated with "typical" legal procedural decisions in the bailiff's mind.

The fourth source of knowledge of the law comes from the officer's experiences with his employers and the legal process. He learns to examine the consequences of his actions as they are interpreted by various employers and in the light of various legal rules. This provides

him with further experience of the uses and customary limitations of the legal system. For example, a bailiff may handle a "rush" demand for judgement in a variety of ways. He may choose to act immediately, he may use delay strategies saying "They're giving us the slip", or "We're on it now", when in fact the bailiff is just too busy to act. In most cases, the bailiff chooses to say those things which will leave the impression in the mind of the employer that some purposive action is being taken. One bailiff put it as follows:

The worst ones are the ones you have to do at the last minute. - They tell you at five o'clock and they expect it done before seven. You feel like telling them where to go. But you can't.... It all depends who it's for. If it's a regular you usually do it, but if it's a new account or something not serious, we do it the next day and tell the lawyer we couldn't reach him the day before. Some you can con, some just aren't worth it.

Should a bailiff discover some variant way of handling certain accounts and employers which might be relevant to the other bailiffs in his firm he often will objectify his experiences and transmit his experience to other officers who may benefit from this knowledge.

The decision to invoke or not to invoke the rules of the legal realm depends on whether the legal realm seems relevant, taken in the total patterning of realms of knowledge called forth by particular concrete situations.

Non-Legal Knowledge

The bailiff, despite being an officer of the civil court and a member of an occupational grouping, is also an enculturated member of the larger society and he has the general knowledge appropriate to one from his social milieu when he takes up the profession specifically in relation to the solution of interpersonal problems; he has the experience of one who has grown up in a working-class or lower-middle class family, in most instances; and he has the collection of maxims, sayings, notions, and feelings of propriety which are conventional in these reaches of society to apply to situations. Most people in society deal only with the interpersonal problems which arise in their own relationships with their families and neighbors. The notions they have of problems and solutions are thus milieu-bound. Most people in society, and thus most "rookie" bailiffs do not have the broad and relativistic view of interpersonal problems which is developed by social workers, educators and psychiatrists. This wider view developed by professional interpersonal problem consultants includes notions of correct solutions for many different life styles and knowledge of external sources of aid which might be appropriate for a variety

of cases. The "rookie" bailiff often enters the job without any special understanding of the problems of the most degraded or for that matter of the more prestigious members of society. He rarely has to cope with the problems of the wealthy, but he finds himself almost from the first day on the job dealing with the economic and interpersonal problems of the poor. The solutions he has learned as an enculturated member of his social milieu and in milieux where the etiquette is different, the solution that "naturally" appeal to him are inapplicable.

You can't always behave the way you want. If you do a seizure in the (low-income area) you can be tough, ignore questions, con them, but if you're in a richer area you have to be more discrete, more polite.... the poor you don't have to worry too much about. It's the educated who know the law and can get lawyers after you.

In order to adequately deal with various situations that arise, a bailiff often has to broaden his perspective. He needs more knowledge than he originally had, and he acquires it, to an extent, from his formal instruction, from his everyday working experiences with fellow drivers, from his own interactions with experienced officers in concrete situations, and from his own reflections on

his own behavior.

Unlike legal knowledge, non-legal knowledge of the solution of interpersonal problems does not have a code or map of procedures to guide the bailiff. As a result of this lack of an authoritative guide of action, the bailiff must learn from the emergent reality of the group's experiences what appropriate ways of dealing with the problems are:

As with all knowledge in bailiff work one important boundary of non-legal knowledge is its legal status. A bailiff is taught that the giving of certain advice or the taking of certain actions will open him to civil liability. The formal instruction tends to emphasize this aspect as it is the easiest and least complicated portion of the knowledge to transmit. Moreover, it gets reinforced in the course of bailiffs' working experiences.

The lack of a legitimated overall guide of action means that the officer's own cultural heritage and his collective occupational sub-culture play an important part in his developing knowledge of non-legal solutions to interpersonal problems. In his guided experiences, the bailiff learns to categorize actions and to reflect on them in the same way that other officers have come to

think of them. In his contact with the low-income consumer, the seasonal worker, the unemployed and the welfare recipient, he learns that violence is evaluated less seriously and people are less likely to be amenable to verbal solutions than he is used to. While there is a legal warrant for extending equal law enforcement into social milieux which may not welcome it, there is less warrant for extending the bailiffs own cultural meanings into the same milieux. Yet bailiffs, as we have seen, consistently do so. One common response is to criticize or denigrate standing behavior patterns, to extend one's values on the debtor and to offer advice that goes far beyond the parameters of legality and which may often turn out to be highly emotionally charged.

The young bailiff officer watches his more experienced partner cope with the problems which are presented and he gradually begins to gain an idea of what "appropriate" solutions are for him. Whether or not his own "appropriate solution" is of any use to the people he is dealing with is another matter. He will learn about police services in the communities he works, consumer agencies, sometimes he will even consider family services, legal aid, social agencies as possible formal alternatives or as solutions to his own everyday existential problems. Since he often does not follow up on his non-

legal advice, as he does on his legal advice, he has little feedback and thus no way to evaluate his performance. He remains a "non-expert" whose advice is available only to those who do not know how to find an expert. Often his advice is precisely not to contact an expert. He is seldom an impartial party, his advice is to be considered in the context of his background and occupational experiences. It is often "non advice" and of use primarily to himself.

Since most non-legal knowledge is simply factual - how to negotiate a debt, whom to see, when and how much to pay up, where certain social and community services are available, where to contact the police, - the bailiff sets out to learn these consciously, others he simply picks up in the course of driving his route daily. The invocation of this realm of knowledge usually presents considerable problems. Although the interaction may appear straight question and answer, the facetious and vindictive manner in which questions are posed and the way they are answered, or not, combined with the highly private nature of loans and debts often leads to emotionally explosive situations. It is at this level that strategies and tactics are all important.

Moral Knowledge

I have shown in the preceding chapter that morality constitutes a primary social control. This conception of morality may be somewhat more important to the bailiff than it is to the average member of society, it may have influenced him to become a bailiff, yet it is the conventional morality of the mainstream of society, not some bizarre variant of a fringe group.

In his work as a bailiff, he gets to experience first hand more moral dilemmas in a month than most people face in a lifetime. I am not here speaking of his own dilemmas of honesty and prejudice, but the moral dilemmas presented to him by the people he deals with. Seldom are cases cut and dry, yet the decisions he has to make for legal or non-legal disposition or advice almost always uphold the morality of one and degrade the morality of the other.

Many situations which are frequently encountered by bailiffs have possibilities of unknown immoral action built in. Situations where legal action would lead to injustice, as popularly conceived, are the ones which make the realm of moral knowledge relevant to the officer's decision-making process. It seems clearly unjust to seize a woman with small children living on welfare for

a twenty dollar debt, but what does one do in such a dispute where each party has been the victim and the perpetrator of an offense? Any action involves a moral judgement, as does inaction. A bailiff has no "special" sense of morality, just more experience in confronting such problems. This greater experience often makes him less sensitive to small wrongs. It makes him appear unsympathetic in some situations where he has decided in advance the moral approach he will invoke. Bailiffs are moral actors. They tend to uphold conventional morality as they apperceive its consequences filtered through their understanding of law and applied to the instant situation.

However, the extent to which a bailiff is a moral actor is severely affected by the way in which he gets paid. The "no service, no fee" salary basis places an added imperative on the bailiff to "solve" his cases. Because it is the crediting party that pays him and not the debtor the "solution" he arrives at is often supportive of the claims of the creditor and not vice-versa. This does not however mean that moral considerations are not relevant in bailiff action. Clearly they are, especially where popular conceptions of morality and the civil law are

in conflict.² Few people object to a bailiff servicing court documents to accused litigants, but though he is legally justified in conducting massive seizures affecting hundreds of innocent people who are renting apartments simply because the building owner went bankrupt, public morality may strongly condemn him.³ Thus the moral realm becomes relevant to the officer's decision.

Habituated Knowledge

After facing similar situations over time, the bailiff will decide that this situation is "like" that other situation with which he dealt in the past. If his past solution was relatively successful, he will be inclined to try it again. Gradually, by this trial and error process, the bailiff develops a notion of the realms of knowledge and associated sub-strategies which are brought to the forefront by "typical" situations. He will have in mind a number of "typical" situations which produce "typical" problems and are created by "typical" categories of offenders that result in "typical" dispositions. These typifications of situational contingencies are intersubjectively rooted by interaction in the bailiff sub-culture, and may be theoretically

available to an officer who has never actually experienced the particular situation involved. For the "experienced" bailiff the problem faced in a new situation is to abstract the elements and to decide if it is "typical", in which case he can proceed in his habitual manner. So long as his evaluation is correct, his action is expedited because it all becomes automatic. Should he decide a situation is "typical" of some class of situations when it is not, he will produce an injustice, lose his case and his fee, or get beaten up, depending on his error. One case that immediately comes to mind is one in which a bailiff from a notoriously "shady" firm seized a low-income consumer's car. Now the debtor was an independant mechanic who needed his car to make his livelihood. The bailiff knew that to seize the car in this instance would be illegal, yet he assumed that the debtor was unaware of the law. This was his mistake. As soon as he touched the car he was hauled out by the enraged debtor who clobbered him with a steel jack. In this case the bailiff was clearly in the wrong. He typified the situation incorrectly and he paid dearly. He lost his case, his fee, spent three weeks in the hospital, he lost his wages he could have made during that period, and subsequently lost the legal case of

assault he brought against the debtor.

Habituation and typification of actions among bailiffs lend to an "institutionalized" way of dealing with certain situations from which a bailiff deviates at his own risk. A large measure of social control over the officer's behavior arises from this "institutionalized" "best way" of acting.

On occasion, a reciprocal typification of behavior will occur between routine debtor and bailiff where each knows what the other "typically" will do in the recurring situation. Peddlers' accounts among low-income consumers would be an example of the category. Many bailiffs mentioned that they have a steady group of regulars that are always outstanding on their debt and with whom they deal informally on a first name basis.

We had a writ to seize on Joe again.
 We went first thing in the morning.
 We were greeted on a first name basis.
 We sat down and had a quick cup of coffee and discussed the hockey game....
 Joe said he just didn't get around to paying the debt.... We went through the motions of evaluating his goods.
 He said he'd pay up in about two or three days.

"The case of Joe" is a familiar one for most bailiffs.
 The reciprocal typification may be violated by the

appearance of a new bailiff who decides to seize and store his goods; instead of dealing with it informally as a seizure where the debtor is sure to "pay off" in three days. The bailiffs involved in the reciprocal typification often argue for the correctness of their action, basing their arguments on the importance of the realm of habitual knowledge inaccessible to the new bailiff, for example, "Joe just needs a push". "He's lazy and he'll pay up tomorrow. Besides which he's been living there for four years. He'll pay up tomorrow. Storage is unnecessary".

The realm of habitual knowledge is relevant to the bailiff the more he gains contacts and experience. The "rookie" bailiff must have the various considerations, the realms of knowledge pointed out to him and he must personally go through the experience of evaluating his typifications before he can habituate his handling of situations. Though this description perhaps conveys the image of a bailiff tortured by self doubts at every step, this is not usually the case. Most situations allow a latitude of responses which are more or less acceptable. Even crucial situations allow for certain "leeways". the interaction rituals between bailiffs and debtors should not be interpreted mechanistically.

Extrinsic Transaction Knowledge

Both the intrinsic and extrinsic consequences of action are taken into account by the bailiff. The intrinsic considerations include the legality, fairness, and morality of the action as has been discussed. In most situations, as well, the realm of extrinsic relevances will be called to consciousness by some aspect of the situation. To collect his fee, the bailiff will have to determine whether one course of action or another is preferable, based on its effects on the relevant community or legal institutions in which he and his firm are engaged. Special consideration must be given to employer demands. Since there is no list of the informal institutionalized transactions that might be relevant to action for and against people, he must learn these relations before he can respond to them. A young bailiff might easily make a blunder in a situation, such as ignoring the specific requests of a particular employer or dramatically oversteering and violating the legal rights of an influential debtor that a more knowledgeable officer would avoid. A special bailiff might be sent to carry out the request of certain important creditors. Or a certain bailiff firm may assign a particular officer or group of officers to act as good

public relations men with important or critical community institutions. The bailiff firm that handles one of the community legal aid clinics, assigns one bailiff to handle all their cases and he in turn gives them a discount on his services. Learning what clues to attend to, to determine when to engage the realm of extrinsic knowledge, and to include its sub-strategies in his decision-making process is almost entirely learned from interaction with experienced bailiffs who are discussing situations. In an area such as this, exclusion from the informal networks may result in an officer's taking action which might hinder or destroy his career because he "wasn't in the know" that some person or activity should be attended to in a particular way. This is particularly true of firms and bailiffs that tend to handle political or illegal credit demands.

Some Situational Factors Relevant to the Choice of Decision Paths

Ultimately it would be near impossible to list all of the situational factors to which an officer might attend, given the scope and complexity of each case situation. Some of the substantive elements associated with specific case situations will be discussed in the next section of this chapter: here I would like to suggest

some elements which are common to many situations and which are often important considerations affecting the decisions a bailiff makes. In some cases, these factors incline the bailiff to legal action, in other cases, to non-legal action. They often affect his sense of the morality of a given situation and are equally important in determining the typicality of said case.

The "Attitude" of the Offender

When a bailiff talks about the "attitude" of a citizen, he means essentially one thing: how does the citizen overtly react to the situation in which he is confronted by the officer? There are basically two attitudes which the officer recognizes, "good" attitudes and "bad" attitudes. A good attitude is demonstrated by a polite, concerned, tactful manner where the offender shows respect for the bailiff, remorse for his transgressions, approval for the officer's actions and indicates that, in lieu of what he has done, he will not do it again. All of the elements need not be present to the officer to assume that the offender has a good attitude; politeness and self-control may be enough. Often in cases of property seizures, the officer suspends judgment because it is clear that the citizen is in some sort

of emotional trauma or depression or that he does not appear to be in control of himself. An officer thus applies roughly the legal criteria of responsibility before evaluating the attitude. A morose, crying debtor is assumed to irresponsible; an angry fighting debtor may be responsible. The sincerity of the attitude is also evaluated. On occasion a person may be insulting because he over-dramatizes his politeness or his sincerity. He may quickly become defined as trying to "pull a shot". The "con-wise" offender as well as the average citizen tends to avoid the extremes of responses and make a satisfactory presentation of self.

A bad attitude on the other hand is demonstrated by a cold, contemptuous, uncooperative, and unrepentant demeanor. It may also be illustrated by a hostile, aggressive, impolite, obscene demeanor. Anyone who calls a bailiff a "fucking bastard" or "un maudit voleur" has a bad attitude.

It is also possible to have, as far as the bailiff is concerned, no attitude. A person who has no apparent attitude is one who simply responds to the demands of the situation and sits or stands quietly, solemn, but volunteering nothing. Such an attitude presents grave

difficulties for a bailiff. The person, at best, is regarded as suspicious, and watched closely. He is not to be trusted. In the case of the guarded attitude, the bailiff utilizes other decision criteria without considering the attitude.

In some cases, the attitude of the offender is the most important factor controlling the bailiff's disposition. A good attitude will make the realm of non-legal knowledge relevant, a bad attitude will invoke formal authority and will tend to make the realm of legal knowledge relevant. In virtually all situations, the attitude of the offender has some influence on the disposition of his case. The bailiff then exercises varying degrees of judicial powers and he needs to know about the offender before he can make up his mind. The quasi-judicial nature of the situation then justifies, in the mind of the officer, taking the offender's attitude into account.

Just because a bailiff has to make decisions and needs more information is not a sufficient reason to place as much weight on attitude as is routinely done. There are all kinds of other criteria which might be relevant to the offender's circumstances and his reasons

for having defaulted on credit payment or whatever, but these may not be apparent in the immediate situation, and if they were inquired after, might be lied about. So attitude is taken as a key.

Attitude is also paramount because the bailiff makes certain assumptions about people based on their demeanors. These assumptions are in part those which would be made by any member of the bailiff sub-culture and, in part, are specifically concerned with enforcement problems relevant to the occupation. The bailiff's presentation tends to be "professional" and business-like, and while he knows that people are not happy to be apprehended or "serviced", he expects that they will behave normally, at least on an interpersonal level. Should they respond to his "neutral, professional" presentation with hostility and uncooperativeness, it seems unreasonable to assume that there is no reason for it. The reason may be that the offender is guilty presently, or in the past, of the same or more serious infraction, or is a bailiff hater because of some previous contact. The reason may be that the person is misdeaned, and the bailiff assumes that anyone who responds to a symbol of society such as himself with such overt hostility is also generally anti-social and should be

reprimanded. A bad attitude indicates a lack of primary and secondary social controls which necessitates the imposition of tertiary controls. Another reason may well be that hostility tends to disconfirm the bailiff's subjective reality. The bailiff sees himself to be a powerful, active enforcer of the law. When an offender degrades him by his hostile or irreverent attitude, the bailiff's response may be to demonstrate that he does indeed have the power to "whip the offender into line". Finally, it is unpleasant to be hated or detested and a bailiff soon builds up hostility toward those who demonstrate so. How he vents his hostility depends on the bailiff and the firm involved. He may threaten and intimidate the debtor mercilessly or he may simply pick the most serious legal construction of the offender's act(s) possible and take him to court.

A bailiff is the target of much overt hostility, some of which he deserves, much of which he personally did not earn. It often seems puzzling to the bailiff - he believes he does good things - and when he processes judgements, he thinks it is usually for their own good or for the good of society as a whole. To be greeted with hostility in many situations does not square with his self conception, so the bailiff often assumes that

the moral character and social control of the offender is in some sense defective.

The offender may be hostile because he feels the law has no right in his personal matters, or because he feels bailiffs are rude and crooked, or because he has just had a dispute with his wife, but he does not always appreciate the effect his hostility will have on the bailiff officer. Not expecting the consequences, he will feel further offended that he has been dealt with so severely. Two bailiff members of the same firm, who seem to make a lot of seizures involving storage stated that whenever there is the least suspicion or trouble they get the police. The police often have to forcibly quiet down or hold back a further irritated offender. There is no indication that an offender learns from this situation. Most of the offenders interviewed stated that their hatred for bailiffs was intensified. Four or five had purchased guns and were "just waiting for him to return". One offender had read up on the law and was going to make sure that "when I shoot him, I'm going to make sure he falls outside my door".

Situational Demands

A series of seemingly petty situational contingencies affect the bailiff's decisions in many cases. For the

bailiff, the situation of entering a domicile, evaluating a person's private property, placing it under seizure, and possibly selling it off is a routine, nothing remarkable, everyday occurrence. Being seen in this light, it does not matter greatly to the bailiff if some get away "for a while", while he is attending to other considerations. Given this routineness, the minor offender may be temporarily let go if other matters are more pressing. Of course, for most offenders the prospect of being serviced and seized is a trying matter and not something to be treated lightly at all. A bailiff on his route may service documents on close to three hundred people a week as well as conduct some thirty-five seizures per week and it is very difficult for him to maintain any interest or concern with the individual offender. An atypical offender, or the seizure of a \$3,500.00 car will be important enough to disrupt his routine.

Another situational contingency that a bailiff pays considerable attention to is the status and demands of his employers: a creditor who has been the victim of some credit offense and wants something done about, it is not happy to hear that the bailiff cannot locate the debtor because the debtor has given them the slip or

because the bailiff lacks the conviction to conduct a seizure for a \$10.00 debt, or in the opinion of the bailiff, the "rush" demands of the creditor will just have to wait. So the bailiff in this situation faces the dilemma of telling the truth and having to face a dissatisfied employer, a disgruntled lawyer and demanding firm owner or associate; or disguising the truth, through misinforming the creditor and/or his legal representative, and withholding the truth from the firm. In many cases where the desired action cannot be immediately taken, the bailiff chooses to say these things which will leave the impression in the mind of the creditor that some purposive action is being taken. He may state, "Don't worry we're on top of this case, he won't duck us for long", or "we have a guy in the office on this, we'll trace it down soon". Depending on who the creditor is and the type of business relationship the bailiff firm has with him, the bailiff may actually spend several hours of time on his case or he may let it lie for a while. Thus a bailiff may present ambiguous statement to the effect that he has the situation under thumb, which the creditor interprets to mean that the bailiff is acting immediately in his interest, while in fact the bailiff is really just considering

and processing his case in a routine manner. The bailiff's ambiguity then supports two different and in some instances contradictory perspectives at the same time and does not confront either with the discrepancy which actually exists.

The bailiff's rating of the priority of various cases will affect the attention he gives to each. If he is assigned a last minute rush call by the office, he will usually drop the remaining business because the case is likely urgent and important, and a prompt response is good business relations in any event. If the call is a regular and clearly not serious, as for example a call to process a fifteen dollar debt by some anxious creditor, the bailiff may take his time responding, conducting the rest of his daily business, and handling it after or early the next day.

There are other sorts of personal business which an officer may attend to on duty which will be important to him. No one can really force a bailiff to work, and if he wants to put personal business first, he can literally avoid doing anything for a whole day. Bailiffs operating on a commission basis (there are few left) often "knocked off early", went home for lunch, ran family errands, etc.... One bailiff informed me that he arranged

his work in such a way that he took every Friday afternoon off, spending it in the tavern or up North.

The mood that an officer is in may well affect his selection of legal or non-legal realms for the disposition of offenders; it may also color his typification procedures so that offenders are placed in more or less serious types with resulting consequences for that disposition. His mood may arise from events in his personal or work life. It may seem unjust to be victimized by a bailiff's wrath just because the officer is having marital problems, but it is not an uncommon response to such frustrating experiences. Some days an officer may feel like coming down hard on certain credit violations, and may spend the whole day "storing" peoples' goods. Other times he may feel good and not store at all. On occasion he may be in a despondent mood, seething with anger, and the offender defined as having a bad attitude may get much more response than he bargained for. The bailiff folklore abounds with instances of "provoked" fights and scuffles after which the offender has been hospitalized. This sort of mood is often created by encountering a number of offenders, each of whom has a hostile, uncooperative demeanor. After ten or so in a day, the bailiff's temper gets the better of him and he lashes out at the hapless offender and creates

another bailiff hater. Moods thus also affect their actions. Since their actions are routine to them, the effect of their behavior does not seem great subjectively, but may seem great to the offender for whom the officer's animosity is a shattering event.

Although each bailiff has been exposed to the same training, each has been exposed to different patterns of offenses and to different solutions of enforcement. These personal experiences lead a bailiff to think of one offense as a dire crime or an example of irresponsible moral quality and another as hardly worth dealing with. Other things being equal, he will enforce the law against those activities he considers most serious more actively than he will enforce the law against other activities. Although this predisposition is most important in situations where the officer can take independent action, it is also manifest in his habitual solutions to problems with complainants. A bailiff can sometimes control the behavior of a complainant to achieve the ends he desires by making his course of action seem best to the complainant. Often however he is not given the choice. He has to follow instruction. One bailiff may store in every seizure case; another officer may never store a debtor's goods because it is

too troublesome, but he may conduct more seizures than average; still another may tend to negotiate settlements between both parties; another will specialize in conducting auctions or sales; and another will delay and avoid such sales. In part these different patterns of enforcement may reflect route problems, firm policy, and in part, the bailiff's own inclination. His inclinations enter into his choice of realms of knowledge, and into the sub-strategies he picks from each realm. The probability and manner in which a debt is processed thus varies with how the offense, offender, and complainant is defined and dealt with by an officer who is concerned about it.

Some credit offenses will be defined as being "serious" or "worthwhile" by many bailiffs. These are offenses which the bailiff culture defines as serious, such as "pulling a shot", evading, or "absconding with goods" after a seizure has been made. They come to be so defined when the bailiffs perceive that it is an unnecessary consumption of time affecting both their fee and their productive efficiency. They may also achieve this status because they violate the conventional morality which most bailiffs share. Another way for an offense to become defined as "serious" is for their employers to place special emphasis on it or for opposition groups

to draw the public attention to the way credit cases are being processed.

The overall pattern of credit enforcement is an aggregation of bailiffs' individual patterns conditioned by systematic demands.

Situation: Simple Services

When a bailiff serves a document on a criticism or conducts a seizure he already assumes that the offender is involved in a dispute, perhaps committed a crime, and that the party at the door is partly responsible. The realm of legal knowledge is engaged and the sub-strategy is to have the party certify it as a true writ and to leave one copy with the party. The realm of non-legal knowledge is also engaged because the officer knows that this case is only the same as thousands of others that are occurring in Montreal that day. He knows that servicing legal documents are not considered serious acts by the public and that unless the case involved is clear and possibly dangerous, popular morality is silent. He knows that the ends of fee for service, efficiency, justice, and the correction of poor credit habits may also be served by encouraging a negotiated settlement than by mere formal servicing. He knows from habit that all of these

considerations are operative and that his choice is to informally and congenially negotiate or to formally service. He may know from past experiences that this offender can or cannot be "reasoned" with. Moreover, he may know exactly what his employers want. As he approaches the door, his badge ready to be flashed, all of these considerations are in his mind.

In the normal course of events the "attitudes" of the party helps him to make up his mind. If the offender is abusive, hostile, and contemptuous he gets the formal legal treatment. If he is extremely abusive and calls the bailiff a "goddam crook" or a "bastard" he will probably get a stern lecture on abusing an officer of the court, a threat to be taken to court, and a visit by the local police. He will probably be overcharged by the bailiff for his services rendered. For example, one bailiff recounted this story:

I went to service a writ on this guy from his wife. It was something to do with a divorce or a legal separation. Anyway I hit this guy with the writ. I ask him if everything is in order and would he mind signing. He didn't say anything for a few minutes, then he gets on his wife. She's a this and a that. He gets really mad. Tells me to fuck off and tears the writ up. By the time I was finished I threatened to take him to court, called the cops in, gave him about

three warnings. They guy was really scared. Finally I charged him three times the mileage I was entitled to.

Another bailiff told of the following events:

I had to make this seizure on this guy in the (low-income area). The account was small, about twenty-five bucks. It was for some small outfit. I don't exactly remember which one. Anyways it was no big thing. I get to this guy's house.... He's a big guy and he starts giving me a hard time, threatening me. In the end I had to call the cops.... But he paid. Instead of making a routine seizure, I decided to transport and store his goods.... He wasted a lot of my time and time in this business is money.

If the offender is polite, remorseful, and pleasant, if he can be "reasoned" with and is at all cooperative the bailiff will most likely "direct" rather than enforce. He will provide him information on what to do and in some cases where possible he may even negotiate directly on behalf of the offender. He will of course still be serviced and charged for legal services. If the offender is neutral, then the other considerations, nature of the offense, and court writ, demands of employer will weigh heavier. Should the offender be able to make some area of knowledge

relevant to the servicing officer, he will be leniently treated. For example, should he point out that an error has been made. It would be immoral to service him because he is really the brother of the offender or that the name on the writ is not his, the bailiff may check into the office and see if an error has been made. He may be let off. If an offender can engage the institutional transaction area by proving himself to be a bailiff or related to a bailiff he may be let off easy.

Minutes of Seizure

When a bailiff is called in to make a seizure he has to take minutes of that seizure which indicate exactly what has and has not been seized. The type of minutes he takes, and the ultimate choice of goods to be seized depends on his assessment of the realms of knowledge relevant to a particular case situation. If the bailiff is sure that the offender has no intention of paying up and if he feels that the offender might leave with the goods he will seize household goods covering way over the debt and will arrange for them to be stored. If he feels that the offender has just to be "softened up", he may use the minutes of seizure

as a threat to further action. He may just come in, evaluate the goods he is going to seize to cover the debt and warn the offender that he has three days grace to pay up. In other cases he may enter a domicile, list the items seized, give the offender a chance to voice his objections, perhaps remove an article from seizure, and leave without really taking anything. The tactic here being to scare or intimidate the offender into paying up the debt.

Frequently minutes of seizure are printed by bailiffs in such a way as to put into categories items which are frequently found. One list is composed of "necessaries" - stove, fridge, bedding, and tables, and is headed "items exempted from seizure to a value of \$1,000.00". The other is the list of seized items and includes television sets, stereos, radios, general household effects, etc. All the bailiff then has to do is tick off the relevant items on the minutes of seizure and assign them a relative monetary value. It should be kept in mind that the bailiff decides what is general use and what is luxury.

In taking minutes of seizure, the bailiff, before engaging the legal realm, is concerned to find

out the motivations of the offender. He knows that many offenders have every intention of "paying up", that some are just negligent or absent-minded. He knows that if he is forced to seize and store then the likelihood of conducting a time-consuming sale is high. He considers the nature and size of the debt, and the legal, economic and moral consequences of his decision. He takes the circumstances surrounding the situation into account by making his non-legal knowledge of debtor behavior relevant and he takes the presentation into account by examining the debtor's possible motivations as revealed in his apparent attitudes toward the debt collection process.

The Appointment of Solvent Guardian

After a bailiff has listed on the minutes of seizure what he has seized, he is required by law to appoint a solvent guardian. A solvent guardian is a person who must prove he is solvent to the extent of the debt by producing a cash bond to the amount of the debt. The realm of knowledge most applicable to this situation is habituated knowledge. Legal and moral considerations seldom enter into his consideration of solvency. A bailiff almost always defines the appointment of a solvent guardian as a typical situation which

necessitates his total control. Appointing outsiders, i.e. a neighbor or family member creates problems and witnesses. Bailiffs, almost always act to prevent the debtor from appointing a solvent guardian either through not informing him of that right or by giving the guardian virtually no time to prove his solvency.

The bailiffs interviewed considered the appointment of the solvent guardian as a mere formality to enable them to remove. Bailiffs usually appoint their drivers as solvent guardians, even though they never have to prove their solvency. If they had to so prove, they would have to show that they are economically capable of being solvent for about sixty debtors at once on a salary of \$100 a week. Highly unlikely! By making it virtually impossible for a debtor to appoint a guardian, a bailiff effectively retains total control of the seizure situation. He decides what to seize, whether to store, what the goods are worth and moreover, he virtually appoints himself as solvent guardian to the debt. After appointing himself as solvent guardian, the bailiff clears the way for removing whatever of the effects he has seized. Thus a bailiff can legally harrass a debtor by removing all the seized effects.

Habituation and typification of actions among

bailiffs have led to an "institutionalized" manner of dealing with the solvent guardian situation. The bailiff virtually automatically makes himself directly solvent for the offender's debt. He closes the seizure circle indiscriminately excluding outsiders. Habit has taught him that secrecy and deceit are indeed discreet.

Family Disputes

Occasionally in the service of his mandate, a bailiff may encounter a family fight. He may unwittingly walk into the troubled situation, he may have some pre-warning of the familial situation, or he may in fact be the spark that sets off a family fight. In any case, an officer knows that he has little legal remedy for such a situation. Only an attempted assault in his presence, or an action directed against him which could be construed as an assault, routinely give him the right to arrest anyone. Knowing this, he uses non-legal knowledge and his powers of moral persuasion to convince the participants they should stop quarreling. If he has established a reciprocal typification with the participants, he may treat the fight with little seriousness and the participants may treat him only as a pause between rounds of the fight. Family fights are frustrating

to most bailiffs because they feel they cannot do anything to solve the problem, and because hostility generated between the participants often becomes projected onto the bailiff. Bailiffs have no legal recourse to this type of problem, nor are they like policemen seen as symbols of law and order. They tend to avoid getting involved in interpersonal problems. The bailiff's non-legal knowledge is not likely to appeal to the family fighters because it is often based in a different milieu, as is his conception of what is moral behavior. (Exceptional bailiffs may be able to project themselves successfully but it is often a tedious and time-consuming process.) On occasion situational demands will incline the bailiff to take some sort of action so that he can effectively carry out his mandate. He may thus send for the police to strengthen his position vis-a-vis the offenders; or he may let a verbal dispute continue until one party takes a swing at the other and then have him arrested for assault; or he may become so morally outraged at the behavior of the participants that he himself will incite one of the participants to take a swing at him in which case he will either "beat up" or have him arrested for assault; or still yet he may intercede in

the hope of "cooling out" the participants. Bailiffs generally do not see themselves as social workers, so they tend to stay aloof from interpersonal relations, yet the exercise of their mandate often demands that they come up with alternatives to existing family disputes. When situational demands are such, he acts almost wholly as a moral agent - pleading, negotiating, "cooling out", or violently enforcing.

Although these examples are too brief and are somewhat abstracted, they do illustrate some of the important characteristics of various situations, the realms of knowledge called into relevance, and the possible consequences and outcomes. Though the bailiff is technically a specialist in law and legal enforcement, it is fairly rare that a situation will present itself which can be dealt with solely in legal terms. A bailiff must ply his trade by various means, not all of them sanctioned by the civil code of procedures. He brings a certain amount of non-legal knowledge into bailiff work with him which he combines with his experience with interpersonal problems, to come up with solutions or alternatives for people he deals with non-legally. Moreover, the bailiff brings an enculturated sense of morality to his work and has to put it to work in a wide variety of situations.

In servicing and seizure, the offender's

of the bailiff's mandate is contingent upon his typification of a social situation.

Bailiffs are themselves clearly controlled by their interaction with significant others: creditors, lawyers, fellow bailiffs, debtors, and buyers. That is to say that they must attend to the self and interactive social controls of the people they are dealing with to determine whether or not the application of formal, tertiary controls are necessary.

In the routine servicing of documents, bailiffs act primarily as social control agents. The operation is cut and dry. They hand a copy of the legal document to the party in question and obtain a written certification of the impeachability of the act. The bailiff's authority is clearly delegated and he more than not directs the party rather than enforces. Typically the servicing process takes no more than two or three minutes. The need for discretion is minimal and a bailiff rarely gets personally involved at this stage of the process. He is comparable to a postman obtaining a signature for a registered letter.

In the handling of executions of judgement, particularly seizure executions, the bailiff does often get personally involved and must therefore attend to the self and interactive controls of the people with whom he

is dealing. There is a complex relationship between the control of the institutions people are involved in and the control of behavior exercised by those legally authorized to enforce the behavior from possibly recalcitrant citizens. First of all, is the dilemma of the bailiff confronting a situation: How should he act? Should he attempt to control through appeals to customary behavior, through appeals to the debtor's self image, or should he control through appeals to his legal mandate? Often in the debt collection process the "threat" is more important than the actual act itself. So for example, the threat of seizure and its consequent actions is enough to convince an errant debtor to "pay up". Thus the bailiff dilemma, so to speak, is best characterized as one between "production demands" thrust upon the bailiff and the rule of law. These are not in the only interactions which push and pull at his behavior. The attitude of the offender, his previous contact with the offender and public expectations would also be factors relevant to the working bailiff.

The bailiff himself exerts customary control, sometimes using law as a lever, in a number of situations where legal solutions are inappropriate. Bailiff solutions outside of the legal context include restitution of control by family and friends. "You owe it to your wife and kids

to be responsible to your debts", "What will your neighbors think if they find out?" Threats to call in welfare people or to report negligent behavior to the appropriate legal authorities are also seen as feasible bailiff solutions. Working "deals" so as to convince a debtor to negotiate a settlement is also a common solution. Here a bailiff may threaten, accuse or persuade. Often he will bring relevant the everyday insitutions in which the debtor is involved. For example, he may threaten to inform his employer of the debtors poor credit status. He may invoke the threat of wage garnishment even though he has no legal warrant to do so. Bailiffs then often deal informally with debt collection problems thus establishing an institutionalized set of possibilities which guide and control the bailiff's disposition of his immediate problem.

In still other situations a bailiff may "professionalize" his work, distancing himself as much as possible from the informal process. He has a job to do and he relies on the formal controls at his disposal. If a debtor cannot or will not pay up then he feels the raw power of the bailiff. Yet even invoking the tertiary legitimated sanctions of force and violence is not void of interactive considerations. In conducting the seizure the bailiff develops techniques for "scaring" the debtor by

employing the positive and negative sanctions and everyday etiquette of the interactive situation to conceal from, or dramatically reveal to, the debtor what is really going to be his fate. Thus he may quickly and quietly evaluate the debtor's household goods in an air of stoney silence, or he may suddenly announce that he estimates that all the debtor will get for his best furniture is an amount far below its value. There are very few debtors who cannot be controlled and convinced by the skillful use of the sanctions and etiquette of everyday life once they have been convinced that the bailiff is capable and willing to invoke the legal solutions which are at his command. Violent "regular" debtors, "cons" and debtors with "bad attitudes", are usually the only dangerous offenders that bailiffs encounter most of the time. Even they, can often be talked to.

Clearly in the field of seizure executions bailiffs have considerably more discretion. They can appeal to the debtor's self image by shaming him - "What kind of a person are you!" - they pressure him by attending to social custom - "What if your boss finds out", and if need be they can invoke the rule of law - "Listen, if you want to stay out of trouble with the law, pay up now". Here bailiffs act as enforcers as well as directors.

When a debtor is so involved in the debt collection process so as to actually be at the stage where his goods are being sold, he is in a virtually hopeless situation. If he does not pay off just prior to the sale, then his goods will most certainly be auctioned and in all likelihood his inflated debt will not be covered. Thus the possibility of further legal action, possibly even re-seizure, becomes imminent. At this stage a bailiff will often make a last minute pitch to have the debtor settle the debt. Here again, as in the instance of seizure, he will appeal to self and interactive controls.

At the stage of bailiff auctions however, the bailiff acquires wider discretionary power. As we move along the debt collection path from service to sale, the legal controls over his behavior become relaxed. Also his significant others in the interaction process shift from debtor to buyer. He becomes more convinced that the debtor simply will not or cannot "pay off". So he initiates the tertiary social control process, but even here the debtor's behavior is controlled by considerations of social interaction. The bailiff as the jury may find him guilty, but as a judge he is willing to give him a suspended sentence. He skillfully inserts both positive and negative sanctions into the

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control process. The carrot dangles as the stick comes down. As the formal controls over his behavior lessen, the bailiff usurps for himself a discretionary structure, previously non-existent. He arbitrarily wheels and deals: inventing, lying, trading and denying.

The sale stage in a sense signifies the removal of the debtor from the decision-making concerns of the bailiff. He is treated as a non-entity, and the considerations of the bailiff shift dramatically to concerns of his interactive relationships with other social actors in the credit system. His focus of attention moves from intrinsic to extrinsic concerns. That is to say, another series of questions and possibilities become more relevant.

Because he has acquired for himself considerable discretionary power he is now able to operate with little legal controls. The debtor is of little consequence at this point. The threats of debt collection have not reaped their desired ends. The bailiff is now stuck with the "goodies". Special considerations are thus given to the informal institutionalized transactions where by he can efficiently process the sale of goods. Reliable buyers, creditors, even a bailiff assistant or a driver or perhaps he himself become possible social actors who might solve this dilemma.

He learns through his interaction with other bailiffs that certain sub-strategies have now to be engaged. The creditor is demanding action. Close the case. The decision path, most often taken at this point is to tip off a buyer and work out a deal. The social control agent thus finds an informal network as an available mechanism by which he can solve his problem. As I mentioned before, the controls over his behavior are minimal. His interaction with other social actors results in what may be termed a complicity network where work crimes are an everyday reality. The debtor of course is unaware. He is insignificant and victimized. Howard Becker's description of enforcement activity is most apt for bailiff behavior.

Enforcers, then, responding to the pressures of their own work situation, enforce rules and create outsiders in a selective way: whether a person who commits a deviant act is in fact, labeled a deviant depends on many things extraneous to his actual behavior, whether the enforcement official feels that at this time he must make some show of doing his job in order to justify his position, whether the misbehavior shows proper deference to the enforcer, whether the "fix" has been put in, and where the kind of act he has committed stands on the enforcer's list of priorities."⁶

Sometimes, the choice is obvious, when the acts are great enough or minor enough; other times the choice may be dictated by the availability of interactive social control agents. The decisions to invoke or not to invoke

legal sanctions and the delicate interplay between degrees of enforcement is 'an everyday reality for the bailiff.

It is not part of his legally defined duties and it is rarely recorded except in the verbal folklore of the bailiff profession.

FOOTNOTES

Chapter I

1. Herbert Blumer, "What is Wrong with Social Theory?", American Sociological Review, 19 (February 1954), pp. 3-10.
2. It should be pointed out that further research of a more structural or social organization type could be obtained by explaining the networks opened up by this research. For example, I would envisage four levels of research moving from the encounter level which focuses on face-to-face relationships to the social group level which would focus not only on bailiffs but also on lawyers, buyers and certain creditors. Above groups stand social organizations or bureaucracies, which represent situations of interactions among large numbers of like-situated persons who are engaging in legitimated, cooriented action. Thus the inner networks of the legal courts could be tapped by observing the relationships, encounters and groups involved in the life of the organization. Lastly, it is possible to distinguish communities and entire societies as units of analysis. Thus questions of class relationships, ideology and interest groups can be analyzed.
3. For an elaboration of interactive sampling models see Norman K. Denzin, The Research Act (Chicago: Aldine Publishing Company, 1970), pp. 89-96.
4. C. Wright Mills, Sociological Imagination (New York: Oxford University Press, 1959), p. 211.
5. See Herbert Blumer, "Science Without Concepts", American Journal of Sociology, 36 (January 1931), pp. 515-533.
Also, Herbert Blumer, "What is Wrong with Social Theory?", American Sociological Review, 19 (February 1954), pp. 3-10.

6. Peter L. Berger and Thomas Luckmann; The Social Construction of Reality (New York: Doubleday, 1967); pp. 53-56.
7. The concept of the definition of the situation was formed by W.I. Thomas and developed throughout his work on typification. Also see Nicholas J. Spkyman, The Social Theory of George Simmel (New York: Atherton Press, 1966).
8. The term stock of knowledge is taken from the work of Alfred Shutz.
9. Berger and Luckmann, Op. Cit., p. 58.
10. Ibid., p. 60.
11. Kurt Wolff, The Sociology of George Simmel (New York: Free Press, 1964), pp. 99-104 and Spkyman, Op. Cit., pp. 95-111.
12. William A Faunce, Problems of an Industrial Society (New York: McGraw-Hill, 1968), p. 103.
13. See in this respect the work of George Hubert Mead. Particularly, Anselm Strauss (ed.), George Herbert Mead on Social Psychology (Chicago: The University of Chicago Press, 1956), pp. 19-44.
14. Spkyman, Op. Cit., pp. 103-104.
15. Michael Banton; The Policeman in the Community (New York: Basic Books, 1964).
16. The types of social control in any society are often related to the kind of social cohesion which binds a community together. Much of the work on Social Control theory has argued that as societies become more urbanized kinds of solidarity based upon similarities, called by Durkheim, mechanical solidarity, becomes replaced by differentiation,

17. specialization, and location of labor. Furthermore the argument runs that informal control processes are replaced by Formal Control Processes and social integration is viewed as functioning on impersonal control such as law. See particularly J.S. Roucek (ed.) Social Control (New York: D. Van Nostrand Co. Inc., 1956). What this approach fails to consider is how these legal impersonal controls get enacted. This paper argues that to separate the Formal from the Informal is to misconceive the dilemmas of enforcement in an urban environment. While it is certainly true that the urbanized city has numerous complex and diverging group realities it is not true that regulative means such as public opinion, custom, group indignation, and moral sanctions have little, if any, effects at all in a highly complex and depersonalized city. Indeed the aspects which I consider in my paper suggest that custom, morality and law are indeed regulative in structuring facets of bailiff behavior. Just because the environment has changed to an urban one need not mean that self and interactive regulations have ceased. It merely means they have changed and a bailiff who typifies peoples' roles and actions is highly cognizant of the urban environment in which he works. He appeals as we shall see to neighborhood loyalties, family ties, moral prescriptions, legal prescriptions, etc.
18. See in this respect John McMullan, "Suburbia in Transition: Patterns of Cannabis Use and Social Control", and Lorna Roth, "The Cosmos Ward: High Flyers and Buy Byers", in H. Taylor Buckner (ed.), Observations on the Normalization of Cannabis (mimeo, Sir George Williams University, Montreal, 1972).
19. Arthur L. Stinchcombe, "Institutions of Privacy in the Determination of Police Administrative Practice", American Journal of Sociology, (September 1963), pp. 150-160.
20. See H. Taylor Buckner, Deviance, Reality and Change (Toronto: Random House, 1971).

21. Berger and Luckmann, Op. Cit., p. 126.
22. Their argument runs similar to a lot of the literature in the area of Sociology of Deviance. See particularly G.M. Sykes and David Matza, "Techniques of Neutralization: A Theory of Delinquency", American Sociological Review (December 1957), pp. 664-670.
23. Stinchcombe, Op. Cit., p. 152.

Chapter II

1. See in this respect Lincoln Clark (ed.), Consumer Behavior (2 vols.; New York: New York University Press, 1955), II.
Hillel Black, Buy Now Pay Later (New York: William Marrow and Co., 1961).
William H. Whyte, Jr., "Budgetism: Opiate of the Middle Class", Fortune (May, 1956).
David Caplovitz, The Poor Pay More (New York: The Free Press, 1967).
Danuta Barr, "Credit: A Complex Resource for Poor Families" (unpublished Master's thesis, McGill University, 1971).
P.E. Rock, "Observations on Debt Collection", British Journal of Sociology (March, 1968), pp. 176-190.
2. The newspapers most frequently used was The Montreal Star and the court records were known as The Court House Daily Digest. The name of the citizen group is being withheld so as to protect their confidentiality.
3. For a further elaboration of these techniques see Norman K. Denzin, The Research Act (Chicago: Aldine Publishing Company, 1970), especially Chapter 4.
4. For a further elaboration of this discussion see Morris Zelditch Jr., "Some Methodological Problems of Field Studies", American Journal of Sociology, LXVII (March, 1962), pp. 566-76. See also Denzin, Op. Cit., and Herbert Blumer, Symbolic Interactionism

- (Englewood Cliffs, N.J.: Prentice Hall, 1967).
 George McCall and J.L. Simmons (eds.), Issues in Participant Observation: A Text and Reader (Reading, Mass.: Addison-Wesley, 1967), and
 John Lofland, Analyzing Social Settings (Belmont, California: Wadsworth Publishing Co., 1971).
 Barney Glaser and Anselm Strauss, The Discovery of Grounded Theory: Strategies for Qualitative Research (Chicago: Aldine Publishing Company, 1967).
5. For further considerations on this topic see Aaron V. Cicourel, Method and Measurement in Sociology (London: The Free Press of Glencoe, 1964). McCall and Simmons, Op. Cit., and Robert Hyman, Interviewing in Social Research (Chicago: The University of Chicago Press, 1954).
 6. See Cicourel, Op. Cit.
 7. William F. Whyte, Street Corner Society (Chicago: University of Chicago Press, 1955).

Chapter III

1. For previous contributions in these areas see the following:
 Peter L. Berger (ed.), The Human Shape of Work: Studies in the Sociology of Occupations (Chicago: Henry Regnery Co., 1973).
 Everett C. Hughes, "Work and the Self" in his Men and Their Work (Glencoe, Illinois: The Free Press, 1958).
 Harold L. Wilensky, "Varieties of Work Experience" in Henry Barrow (ed.), Man in a World of Work (Boston: Houghton Mifflin Company, 1964), pp. 125-154.
 William F. Whyte, "When Workers and Customers Meet" in Sigmund Nasow and William Form (eds.), Man, Work and Society (New York: Basic Books Inc., 1962), pp. 467-475.
 Howard S. Becker and Blanche Greer, "The Fate of Idealism in Medical School", American Sociological Review, 23, (1958), pp. 50-56.
 H.S. Becker, "The Professional Jazz Musician and His Audience", The American Journal of Sociology, 57

(1951), op. 136-144.

H.S. Becker and Anselm L. Strauss, "Careers, Personality and Adult Socialization", American Journal of Sociology, 62 (November 1956), pp. 253-263.

2. The Montreal Star, December 8, 1971.
3. For a discussion on variations of professional conduct among military officers see Morris Janowitz, The Professional Soldier: A Social and Political Portrait (New York: The Free Press, of Glencoe, 1964).
4. Michael Banton, The Policeman in the Community (New York: Basic Books, 1964), p. 113.
5. E.C. Hughes, "The Work and Self", Op. Cit.
6. This may be favorably contrasted with the way a policeman develops his social role. See in particular Michael Banton, Op. Cit., p. 197. Also William Westley, "Violence and the Police", American Journal of Sociology, 59 (July 1953), pp. 34-41.
7. This process of defining situations as dangerous bears marked similarities with that of police officers. See for example I. Piliavin and S. Briar, "Police Encounters with Juveniles", American Journal of Sociology, 70 (September 1964), pp. 206-214.
8. One notorious bailiff firm composed primarily of non-corporation bailiffs "stores" approximately 60% of the time. "Stores" here refers to the actual removal of goods and the holding of the debtor's goods in a warehouse or some such place of storage.
9. One particular bailiff who has a reputation for conducting unscrupulous dealings received a good amount of empathy from fellow bailiffs outside his firm after being hospitalized for being beaten on the head with a tire jack. The rationalization seemed to be that "it could have been me".

10. For examples of the severity of public criticism see the following:
The Montreal Star, October 7, 1971, pp. 33-34.
The Sunday Express, November 28, 1971.
The Montreal Star, November 29 and 30, 1971.
The Montreal Star, December 1, 1971, editorial.
11. The importance of uniform in assisting to control many situations particularly among policemen is succinctly presented out in Herbert P. Vallow, Police Arrest and Search (Springfield, Ill.: Charles Thomas, 1962), p. 21. See also H. Taylor Buckner, "The Police: The Culture of a Social Control Agency" (unpublished Ph.D dissertation, University of California at Berkeley, 1967), pp. 228-230.
12. See in this respect George Homans, The Human Group (New York: Harcourt Brace and Company, 1950), especially the chapter on "The Job of the Leader", pp. 415-440.
13. For an excellent discussion of the practical dilemmas a police officer faces in the service of his mandate see Wayne R. La Fave, "The Police and Non-enforcement of the Law", Wisconsin Law Review (1962), pp. 104-137. Also his book Arrest: The Decision to Take a Suspect into Custody (Chicago: Little Brown and Company, 1965), particularly Parts II and III.
14. The difference between "corporation" and "outside" bailiffs is as follows. "Corporation" bailiffs are those who are licensed and registered under the Montreal Bailiff Association. "Outside" bailiffs are those who are not members of the Association but who practice in the City.
15. The way in which police officers define, transform and typify reality in the legal process is succinctly analyzed by H. Taylor Buckner, "Transformations of Reality in the Legal Process", Social Research, Vol 37, 1 (Spring 1970), pp. 88-101.
16. This process contrary to the way a policeman must

operate runs from legal reality to common sense reality. Thus the onus is on the bailiff to reinterpret the law into everyday reality.

17. This notion of an added agent-mediator is similar to Erving Goffman's conception of an agent-mediator in his discussion of mental institutions. See Erving Goffman, Asylums: Essays on the Social Situation of Mental Patients and Other Inmates (New York: Doubleday Anchor Books, 1957).
18. See in this respect Banton, Op. Cit., pp. 166-181, and Abraham S. Blumberg, "The Practice of Law as a Confidence Game, Organizational Co-optation of a Profession", Law and Society Review, Vol. I (1967), pp. 15-39.
19. Blumberg, Op. Cit.
20. When the bailiff profession was being seriously criticized by the public media, its most staunch public supporters were "collection lawyers" who frequently wrote "letters to the editor" exalting the virtues of bailiffs and the "bad faith of the researchers, journalists and editorialists".
21. This is done in direct violation of the law. The amount the bailiff is entitled to charge for a service is determined by law in tariffs laid down by the judges of the courts. In the Provincial Court, for example, there are four tariffs: one applicable to cases involving between \$500 and \$1,000; another for cases involving \$100 to \$500; a third for actions involving \$25 to \$100; and another for actions under \$25. Furthermore a bailiff is also entitled to add to this tariff a mileage charge based on a per mile basis. He is entitled to charge \$3.00 per mile.
22. This whole question of reduced rates and "secret dollars" is a very difficult one to quantifiably measure because it varies considerably from bailiff to bailiff depending on his client, and

lawyer and the relationship they may have worked out. It serves no purpose in providing the fees as set by the courts because they are never adhered to. Indeed it appears that lawyers have such a monopoly control over bailiffs that lawyers often don't pay bailiffs unless they "deliver". That is to say, a bailiff can spend weeks tracing down an offender to seize, but if he is not successful he does not get paid. This is of course a direct violation of the law, but nonetheless it is a common practice among lawyers and bailiffs. Clearly the onus is on the bailiff to produce. It is no wonder then that bailiffs overcharge on mileage rates, overseize a debtor's property, and overcharge him court costs.

23. The variability in the organization of bailiff firms is similar to the early development of various police departments with their rather obvious political and illegal networks. See in this respect William F. Whyte's discussion of the police in Street Corner Society (Chicago: The University of Chicago Press, 1943), p. 138, and August Vallmer, The Police and Modern Society (Berkeley: The University of California Press, 1936).
24. I have not in my research to date been able to ascertain the background of why and who pushed for this amendment. Some bailiffs interviewed suggested that it was an attempt by lawyers to enlarge the market of bailiffs on the City. In any case, it has seriously undercut the powers and authority of the professional bailiff association.
25. As far as is known to date the only standards of procedures affecting bailiffs across the Province are those listed in the Civil Code of Procedures. Therefore there is really no set professional admissions and control practices in force outside Montreal.
26. For a more elaborate discussion of the elements and dimensions of police culture see William A. Westley,

- "The Police: A Sociological Study of Law Custom and Morality" (unpublished Ph.D. dissertation, University of Chicago, 1951);
 Michael Banton, Op. Cit.;
 Egon Bittner, The Functions of the Police in Modern Society (Chevy Chase, Md.: National Institute of Mental Health, 1970);
 H. Taylor Buckner, Op. Cit.
27. Westley, Op. Cit., p. 187.
28. See in this respect The Montreal Star, October 13, 1971.
29. George H. Mead, Mind, Self and Society (Chicago: The University of Chicago Press, 1944), p. 144.
30. The idea to discuss conservatism as "ideologically coping" was encouraged by Professor Hubert Guindon. I also found the following occupational studies of use in conceptualizing the problem. H.S. Becker, "The Professional Jazz Musician and his Audience", The American Journal of Sociology, Vol. 57, (September 1951), p. 137. Raymond L. Gold, "In the Basement - The Apartmen Building Janitor", in Peter L. Berger (ed.), The Human Shape of Work (Chicago: Henry Regnery Company, 1973), pp. 1-49. Ely Chinoy, "Manning the Machines - The Assembly Line Workers", in Peter L. Berger (ed.), Ibid., pp. 51-81.

Chapter IV

1. See Report of a local legal aid group, "Service Seizure and Sale", Community Legal Services, Montreal, 1971. (mimeographed.) Also The Montreal Star, October 23, 1971.
2. To date the results have been negative. No progress has been made and it seems unlikely that any action will be taken in the near future. The Justice Minister has recently ruled against making bailiffs civil servants of the courts.
3. See in this respect Wayne La Fave, "The Police and Non-enforcement of the Law", Wisconsin Law Review (1962), Part II, p. 179. Also see his

excellent book Arrest (Chicago: Little Brown and Company, 1965), Part II.

4. The Montreal Star, February 1973.
5. Report of a local legal aid group, "Service, Seizure and Sale", Community Legal Services, Montreal, 1971. (Mimeographed.)
Also, Bailiff Seizure Collective, "A Study of Bailiff Practices in Low Income Neighborhoods of Montreal, Sir George Williams University, Montreal, 1971. (Mimeographed.)
Also, John McMullan and Keith Wilcox, "Bailiffs: Just Actors in Ruthless Credit System", The Montreal Star, November 16, 1971.
6. Service may also be made at an "elected domicile" usually a bailiff's or attorney's office. Service can also be made at a person's place of business by speaking to a reasonable person there if the person is not originally resident in the Province. Special rules apply for service on corporations, partnerships, and succession. A judge or another court officer, the prothonotary, can if the circumstances so warrant, authorize service by public notice or by registered mail.
7. H. Taylor Buckner, "Transformations of Reality in the Legal Process", Social Research, Vol. 37, No. 1 (Spring 1970) gives the example of how a burglary and the operation of the legal process intermesh so that the interpretation of the act is routinely transformed from a common sense reality to a legal reality.
8. It is important to keep in mind that an offender need not literally appear in court - it means that he must file an appearance - a simple document signed by himself or his attorney acknowledging that he has received the writ and giving notice to the plaintiff of his address for further services.
9. Report of a local legal aid group, Op. Cit., pp. 15, 16.
10. A further example of importance of efficiency is in the case of seizure before judgement. In

many cases of arrears of rent or articles sold on credit and in cases of urgency where there is reason to suspect that the offender/debtor will abscond with his assets, the law allows for a bailiff to conduct a seizure before a judgement from the court has been granted.

11. These two visits are usually at the same time as the issuance of the writ of summons indicating the nature of the legal problem and at the time of the actual execution of seizure. In some cases a bailiff may make more or less than two visits. Less when the law is abrogated for the sake of efficiency or when notorious shady bailiff firms or lawyers are prosecuting and more when a bailiff is negotiating a settlement.
12. An example of a seizure which was considered unduly harsh and which subsequently tarnished the bailiff profession was the infamous North End Block apartment seizure. See The Montreal Star, November 29, 30, December 1, 2, 1971. An example of a bailiff action which was considerate of justice and good community relations is the case of Mrs. A, an immigrant facing eviction. See The Montreal Star, June 28, 1973.
13. In a city the size of Montreal, it is unusual for debtor to run into the same bailiff several times or to become a "bailiff problem", although in some types of credit practices, particularly in credit practices related to low-income consumers there emerges a pattern of events where a debtor is seized and resealed often by the same bailiff or the same bailiff firm.
14. This situation is gleaned from David Caplovitz, The Poor Pay More (New York: The Free Press, 1967). For a further elaboration and critique of Caplovitz see also Danuta Barr, "Credit: A Complex Resource for Poor Families" (unpublished Master's thesis, McGill University, 1971).
15. See previous chapter for details of Case of Joe.

16. One way that many of these "cons" can avoid seizure is to purchase in the name of a responsible person. That is to say that they sign over the ownership rights to either a relative or a friend. The "con" of course keeps the goods in his home and if the bailiff seizes, they can easily issue a counter seizure and get back the goods because legally the household effects belong to a third party.
17. The pattern of bailiff sales varies considerably. Generally, the trend is for the sale to be held in the domicile of the debtor. However, two firms in particular routinely utilize their warehouses. Investigation has uncovered that this warehouse is used by generally one bailiff firm who in turn handles a large number of low-income accounts. The connection between creditor and bailiff is visible in the workings of the sales conducted at this warehouse.
18. The information passed on to the public is: the name of the defendant, the name of the plaintiff, location of the sale, items available for purchase, date and hour available for sale, and the name of the bailiff conducting the sale.
19. The dimensions, extent and workings of this graft system are ambiguous. The information obtained on one rather notorious Accounts Buying Firm suggests that the creditor himself acquires a position of power where he actually controls lawyers and a bailiff firm. Lawyers lend their name to the debt collection process and bailiffs, under the direct authority of the creditor, enforce his will. Moreover, this particular Accounts Buying Firm operates primarily in low-income neighborhoods. Their tactic seems to be one of buying out accounts, delaying, threatening, charging exorbitant costs and inflated interest, seizing, waiting, and reseizing. They prey on the same debtor time and time again. They create circumstances where a debtor gets caught in a debt cycle. This practice appears as a quite lucrative one for the Accounts Buying Firm.
20. This can vary in accordance with where the sale is being held. If it is being held at a warehouse or at the bailiff's office, then the likelihood of the debtor appearing is minimal.

21. This probability is hinted at by Caplovitz, Op. Cit. and further suggested by Danuta Barr in her study of credit practices in a low-income community in Montréal.

Chapter V

1. These particular lawyers and student researchers published a report that created considerable public controversy and led to a media critique of bailiff practices. The report which was subsequently sent to the Minister of Justice's office focussed on describing the deviations found in bailiff action. The law as stated in the Civil Code of Procedure was taken as a given, to be practiced to the letter. If such did not happen then the bailiff was somehow in the wrong. The image presented by the "lawyers" report was that of bailiffs as "bad guys" operating on the fringes of the law and on whom is placed all the blame for all difficulties in debt collection. Lawyers and their student counterparts were reluctant however to investigate their own kind. Moreover, their report fails to consider the legal context, the working, and environmental hazards of the bailiff. See Report of local legal aid group, "Service, Seizure and Sale", Community Legal Services, Montreal, 1971. (Mineographed.)
2. See in this respect The Montreal Star, November 29, 1971; November 30, 1971; December 8, 1971, January 26, 1972.
3. See Sunday Express, November 28, 1971; Montreal Star, November 29, 30, 1971
4. The phenomenological approach used in the formulation of this issue is largely derived from Peter L. Berger and Thomas Luckmann, The Social Construction of Reality (Garden City, N.J.: Doubleday, 1966).

5. Howard S. Becker, Outsiders (New York: Glencoe Free Press, 1963), especially Chapter 8 on "Moral Entrepreneurs".
6. Ibid., p. 161.

BIBLIOGRAPHY

Books

- Banton, Michael. The Policeman in the Community. New York: Basic Books, 1964.
- Barow, Henry, ed. Man in a World of Work. Boston: Houghton Mifflin Company, 1964.
- Becker, Howard S. Outsiders. New York: The Free Press, 1963.
- Berger Peter L., ed. The Human Shape of Work: Studies in the Sociology of Occupations. Chicago: Henry Regnery Co., 1973.
- Berger Peter L.; Luckmann, Thomas. The Social Construction of Reality. New York: Doubleday, 1967.
- Bittner, Egon. The Functions of the Police in Modern Society. Chevy Chase, Md.: National Institute of Mental Health, 1970.
- Black, Hillel. Buy Now Pay Later. New York: William Marrow and Co., 1961.
- Blumer, Herbert. Symbolic Interactionism. Englewood Cliffs, N.J.: Prentice Hall, 1967.
- Buckner, H. Taylor, ed. Observations on the Normalization of Cannabis. Montreal: Sir George Williams University, 1972. (Mimeographed.)
- Buckner, H. Taylor. Deviance, Reality and Change. Toronto: Random House, 1971.
- Caplovitz, David. The Poor Pay More. New York: The Free Press, 1967.
- Clark, Lincoln, ed. Consumer Behavior. The Life Cycle and Consumer Behavior, Vol. II. New York: New York University Press, 1955.
- Cicourel, Aaron V. Method and Measurement in Sociology. London: The Free Press of Glencoe, 1964.
- Dehzin, Norman K. The Research Act. Chicago: Aldine Publishing Company, 1970.

- Faunce, William A. Problems of an Industrial Society. New York: McGraw-Hill, 1968.
- Glaser, Barney; Strauss, Anselm. The Discovery of Grounded Theory: Strategies for Qualitative Research. Chicago: The Aldine Publishing Company, 1967.
- Goffman, Erving. Asylums: Essays on the Social Situation of Mental Patients and Other Inmates. New York: Doubleday Anchor Books, 1957.
- Homans, George. The Human Group. New York: Harcourt Brace and Company, 1950.
- Hughes, Everett C. Men and their Work. Glencoe, Ill.: The Free Press, 1958.
- Hyman, Robert. Interviewing in Social Research. Chicago: The University of Chicago Press, 1954.
- Janowitz, Morris. The Professional Soldier: A Social and Political Portrait. New York: The Free Press of Glencoe, 1964.
- La Fave, Wayne R. Arrest: The Decision to take a Suspect into Custody. Chicago: Little Brown and Company, 1965.
- Lofland, John. Analyzing Social Settings. Belmont, California: Wadsworth Publishing Co., 1971.
- Mead, George H. Mind, Self and Society. Chicago: University of Chicago Press, 1944.
- McCall, George; Simmons, J.L., eds. Issues in Participant Observation: A Text and Reader. Reading, Mass.: Addison-Wesley, 1967.
- Mills, C. Wright. The Sociological Imagination, New York: Oxford University Press, 1959.
- Nasow, Sigmond; Form, William, eds. Man, Work and Society. New York: Basic Books Inc., 1962.
- Roucek, J.S., ed. Social Control. New York: D. Van Nostrand Co., Inc., 1956.

Spkyman, Nicholas J. The Social Theory of George Simmel. New York: Atherton Press, 1966.

Strauss, Anselm, ed. George Herbert Mead on Social Psychology. Chicago: The University of Chicago Press, 1956.

Vallw, Herbert P. Police Arrest and Search. Springfield, Ill.: Charles C. Thomas, 1962.

Vallner, August. The Police and Modern Society. Berkeley, California: The University of California Press, 1936.

Whyte, William F. Street Corner Society. Chicago: The University of Chicago Press, 1955.

Wolff, Kurt. The Sociology of George Simmel. New York: Free Press, 1964.

Articles

Becker, Howard S. "The Professional Jazz Musician and his Audience". The American Journal of Sociology, Vol. 57, September 1951.

Becker, Howard S.; Greer, Blanche. "The Fate of Idealism in Medical School". American Sociological Review, 23, 1958.

Becker, Howard S.; Strauss, Anselm L. "Careers, Personality, and Adult Socialization". American Journal of Sociology, 62, November 1956.

Blumberg, Abraham S. "The Practice of Law as a Confidence Game, Organizational Co-optation of a Profession". Law and Society Review, Vol. I, 1967.

Blumer, Herbert. "Science Without Concepts". American Journal of Sociology, 36, January 1931.

Blumer, Herbert. "What is Wrong with Social Theory?". American Sociological Review, 19, February 1954.

Buckner, H. Taylor. "Transformation of Reality in the Legal Process". Social Research, Vol. 37, No. 1, Spring 1970.

- Chinoy, Ely. "Manning the Machines - The Assembly Line Workers". The Human Shape of Work. Edited by Peter L. Berger. Chicago: Henry Regnery Company, 1973.
- Gold, Raymond L. "In the Basenest - The Apartment Building Janitor". The Human Shape of Work. Edited by Peter L. Berger. Chicago: Henry Regnery Company, 1973.
- La Fave, Wayne. "The Police and Non-enforcement of the Law". Wisconsin Law Review, 1962.
- McMullan, John. "Suburbia in Transition: Patterns of Cannabis Use and Social Control". Observations on the Normalization of Cannabis. Edited by H. Taylor Buckner. Montreal: Sir George Williams University, 1972.
- Rock, P.E. "Observations on Debt Collection". British Journal of Sociology, March 1968.
- Roth, Lorna. "The Cosmos Ward: High Flyers and Bye Byers". Observations on the Normalization of Cannabis. Edited by H. Taylor Buckner. Montreal: Sir George Williams University, 1972.
- Stinchcombe, Arthur L. "Institutions of Privacy in the Determination of Police Administration Practice". American Journal of Sociology, 69, 2, September 1963.
- Sykes, G.M.; Matza, David. "Techniques of Neutralization: A Theory of Delinquency". American Sociological Review, 22, 6, December 1957.
- Westley, William. "Violence and the Police". American Journal of Sociology, 59, July 1953.
- Wilensky, Harold. "Varieties of Work Experience". Man in a World of Work. Edited by Henry Barow. Boston: Houghton Mifflin Company, 1964.
- Whyte, William H., Jr. "Budgetism: Opiate of the Middle Class". Fortune, May 1956.

Whyte, William F. "When Workers and Customers Meet". Man, Work and Society. Edited by Sigmund Nasow and William Form. New York: Basic Books Inc., 1962.

Zelditch, Morris, Jr. "Some Methodological Problems of Field Studies". American Journal of Sociology, LXVII, March 1962.

Unpublished Materials

Barr, Danuta. "Credit: A Complex Resource for Poor Families". Unpublished Master's thesis, Sociology, McGill University, 1971.

Buckner, H. Taylor. "The Police: The Culture of a Social Control Agency". Unpublished Ph.D. thesis, Sociology, University of California, Berkeley, 1967.

Westley, William A. "The Police: A Sociological Study of Law, Custom and Morality". Unpublished Ph.D. thesis, University of Chicago, 1951.

Community Legal Services. "Service, Seizure and Sale". Pointe St. Charles Legal Aid Clinic, Montreal, 1971. (Mineographed.)

Bailiff Seizure Collective. "A Study of Bailiff Practices in Low-Income Neighborhoods". Sociology, Sir George Williams University, Montreal, 1971. (Mineographed.)

Newspapers

The Montreal Star

Sunday Express

The Court House Daily Digest