ABSTRACT

Title of Dissertation:	WHEN "TOUGH" COPS DIVERT AND "SOFT" COPS CHARGE: TRAIT ATTITUDES VS. STATE SITUATIONAL NARRATIVES IN A FOCAL CONCERNS PROCESS OF POLICE DECISION-MAKING
	Molly P. Slothower, Doctor of Philosophy, 2019
Dissertation directed by:	Distinguished Professor Dr. Lawrence Sherman, Department of Criminology and Criminal Justice, University of Maryland

Research Question Do police officers' overall "tough" or "soft" attitudes toward crime and defendants determine how they handle discretionary cases, or does each officer look at the elements in each case to see whether they should act "tough" or "soft" in the given situation? This study tests whether police decisions to divert cases from prosecution into diversionary out-of-court disposals are driven by "trait attitudes"—each officer's overall "tough" or "soft" attitudes toward defendants, which are stable characteristics of each officer regardless of the situation—versus officers' "state attitudes"—their narratives about the meaning of specific elements present in each case as they make decisions.

Methods Thirty-four officers in a large urban force completed attitudinal surveys and 20 case study vignettes. For each vignette, officers recorded: each relevant element

(e.g. criminal history, alcohol involvement); whether each element pushed them toward prosecution or diversion, and why; and whether they would prosecute or divert the case. Officers recorded 2,241 elements across 645 case responses. Using primarily hierarchical logistic regression models, this study tests the impact of trait attitudes versus state narratives on recommended case outcomes.

Results Officer decision-making was more influenced by officers' interpretations of whether elements signaled each defendant was "reformable" or "incorrigible" than by their overall "tough" or "soft" attitudes. Officers often disagreed on how they interpreted the same elements in the same cases, leading to different outcomes. State narratives were strong predictors in most models regardless of officers' overall attitudes, including predicting diversion. Trait attitudes had little or no impact in most models, except for one subset of officers—officers in the "toughest" quartile of attitudes were more likely to perceive defendants as incorrigible and less likely to divert.

Implications This study provides evidence against the theory that officers are primarily driven by their overall attitudes toward defendants, and instead suggests their narratives interpreting case elements are important drivers of differences between officers in decision-making—officers try to pick the "correct" outcome in each case using these narratives. Therefore, research and police departments should explore officers' interpretation of situational elements, and test mechanisms to provide feedback regarding accuracy of assumptions.

WHEN "TOUGH" COPS DIVERT AND "SOFT" COPS CHARGE: TRAIT
ATTITUDES VS. STATE SITUATIONAL NARRATIVES IN A FOCAL CONCERNS
PROCESS OF POLICE DECISION-MAKING

by

Molly P. Slothower

Advisory Committee:
Professor Lawrence Sherman, Chair
Professor Greg Midgette
Professor Laura Dugan
Professor Lauren Porter
Professor Ritu Agarwal

To my Dad.

Table of Contents

List of Tables

List of Figures

Chapter 1: Introduction
Understanding Police Decisions

As the gatekeepers to the criminal justice system, police officers' day-to-day decisions—whether to arrest, what to do with someone once they are arrested, how to respond to a difficult citizen in the field—can have large and long-term consequences on individual suspects (Bernburg & Krohn 2003; Bernburg et al. 2006; Petrosino et al. 2010; Decker et al. 2015; Western 2002; Nagin et al. 2009), victims (Ullman 2010; Orth 2002; Winick 1997; Sherman and Harris 2015), and communities (Pew 2008; Braman 2003; Wildeman 2010; Wildeman and Muller 2012). In many of these decisions, officers have substantial discretion in how they choose to respond.

But when one suspect is arrested and one is not despite appearing the same in administrative data, how are we to know whether the right choice was made in each individual case? And what might have led two officers to make different decisions in apparently similar cases? Despite decades of research on police discretion, Mastrofski (2004) laments that "a fairly substantial body of research that attempts to illuminate what causes police to make an arrest tells us absolutely nothing about what causes the police to make arrests that we want them to make." The same sentiment holds true for other aspects of police decision-making—how do we know when the exercise of discretion is optimal or not? And what *should* officers be thinking about when they make a decision?

Two key principles form the unifying backbone of the potential solutions tested in this dissertation as it seeks to answer Mastrosfki's call. Both of these principles come from the earliest days of police discretion research, but today remain far from resolved. In considering the ongoing relevance of LaFave's (1965) seminal book on police discretion

1

30 years on, Remington (1993) notes that a central recommendation of LaFave's still had not been addressed in policing research or management: "police should acknowledge their exercise of discretion and reduce their law enforcement practices to writing, so that the practices can be continually reevaluated and improved" (p. 315). The foreword of LaFave's original book argues the nation's goal should be a criminal justice system in which decisions reflect an "intelligent, and responsible exercise of discretion" (Remington 1965, p. 315). This dissertation aims to weave together these sentiments—that decision-making should be recorded so it can be reevaluated and improved to further the goal of the intelligent, responsible exercise of discretion.

This dissertation presents a framework for the decision-making process at the individual officer level, drawing on focal concerns theory (Steffensmeier et al. 1998)—which is primarily used in the literature on courtroom decision-making—and adding in a process-based element informed by rational choice theories. This theoretical framework offers a model for researchers to record officer decision-making step by step. The model also may have value for police organizations to operationally track their officers' decision-making. The process-based focal concerns framework is tested by analyzing variations in real officers' decisions when different officers are faced with the same vignette-based situations that describe a case that police can either charge to be prosecuted in court or divert into an out-of-court disposal (a decision made by UK police in many situations).

Differences in Discretion?

Imagine a police officer entering a bar in response to reports of a fight. The officer scans the room and takes in the lay of the land—an upset elderly victim in one corner with reddening on his cheekbone, and an angry suspect in the other corner, being

held back by a group of men. With numerous witnesses and an out-of-control suspect attacking a stranger, the officer's decision is made without even thinking—anger problems, a vulnerable elderly victim, and a visible mark from an assault? He does what any officer would do: handcuffs on, into the squad car, under arrest.

Now let's revisit the same scene—same players, same room, same nuance—but with a different officer. Officer 2 walks into the bar, scans the room, and takes in the lay of the land—two men on opposite sides of the room, still heated from a scuffle but standing far apart by now. The one who the bartender points to is in a back corner, his friends calming him down at what clearly is a bachelor party, after he had what appeared to be one too many drinks. Witnesses report a scuffle over a spilled drink, but after speaking sternly to both parties, it seems to be calming down. With a generally rowdy atmosphere and two sides to the story, the officer's decision is made without even thinking—a rough-looking old alcoholic in a momentary tussle with a college-aged bachelor party? He does what any officer would do: tell the old man and the bachelor party to move along and stay out of trouble.

Two different officers, two different outcomes. How, in the exact same scenario, could two officers read the scene so differently? Are differences in perceptions all down to differences in overall attitudes? Even if Officers 1 and 2 had more or less the same beliefs and values, same background, and same views about their role as police officers, is it possible for them to come to different outcomes?

In our scenario, the officers each scan the room, picking up details, but some of the same details are interpreted differently, and some entirely different details are considered important. In effect, each officer is viewing an entirely different choice. Each

of the potential building blocks of the choice that an officer could consider are defined here as an "element" (such as elements listed above, including: location of the incident, age of the parties, involvement of alcohol, anger, relationship between individuals, presence/severity of the injury; as well as elements not listed above such as: time of day or night, the weather). Each element may differ in a number of ways in how it is perceived by Officer 1 versus Officer 2.

First, in the scenario above there is a difference in what elements the officers notice at all. Officer 2 noted that it was a bachelor party, whereas Officer 1 may not have noticed this fact. Second, there may be a difference in what elements they consider salient to the choice they have to make. Officer 1 might have noticed it was a bachelor party, but not found that factor relevant to the decision he had to make. Third, the same element may be interpreted differently by different officers—Officer 1 saw the victim as elderly and vulnerable, whereas Officer 2 saw the same person as an old alcoholic. Fourth, an element two officers interpret the same way may have different perceived implications for the officers—Officer 1 saw the anger aspect as evidence of a blameworthy anger problem, whereas Officer 2 saw the anger as meaning this was a temporary, forgivable, "heat of the moment" transgression. Last, even if they notice the same factors, perceive them as salient, interpret them the same way and perceive the same perceived implications, they may weight those factors differently and arrive at differing final conclusion—Officer 1 may have considered the fact that there was actual reddening to the cheek to be an overriding factor that meant he certainly should arrest, regardless of any other factor in the case.

This dissertation examines the extent to which the foundation of police decision-making is marked by variation in perceptions of elements. A myriad of pre-existing officer attitudes, psychological differences, and biases may be layered on top of these underlying variations in perception, which may exacerbate or otherwise interact with these differences. But the elements themselves, and the perception of each officer of those elements, are noteworthy in their own right, independent of any biases layered on top of those.

What would it mean if in like-for-like situations, different officers can walk into the same room and see a different choice? And are there times when these differences are acceptable and to be expected, and also times when certain decisions are preferable to others? How can this decision-making process be shaped by police organizational leadership in a way that would alter the resulting decisions, even when these leaders have no direct control over the scenes encountered by officers?

If we want police to improve their use of discretion over time, it is necessary break down the various elements involved in complex and dynamic police decisions (instead of the common approach of saying "police decisions are too complex to plan for in advance"), track cases that involve each of those respective considerations, and respond accordingly to specific elements that officers are or are not considering. Instead of traditional police measurement that tracks the *decisions that are made* (How many arrests of each crime type? How many detections? How many police shootings? How many stops and searches? Are there disparities in these rates?), the proposed approach would track the *decision making itself*. Specifically, what does the landscape of that choice look like to each officer, what elements are salient, what are their implications,

and how are they weighted? And are the assumptions that officers use to reach these conclusions empirically correct? While many factors influencing officers are unconscious, many are conscious, and influencing these conscious variables could go a long way. This chapter tests the process-based focal concerns theory that will be laid out below.

Chapter 2: Literature Review

This chapter will first describe the origins of police discretion theory and research, which had deep roots in individual-level decision making. It will then describe how in the years since the earliest days, policing discretion research has mostly focused on the layers of macro factors (race, attitudes of officers, legal factors, gender, etc.) that influence police decisions in the aggregate through modeling these various factors, and on understanding how those types of issues influence different categories of officers. The chapter then highlights a few key individual-level police discretion studies, before describing the two theoretical foundations—focal concerns and literature on the process of rational choice decision-making—that are then woven together into a theoretical framework at the end of the literature review.

2.1.   Background: The Study of Police Discretion

2.1.1.   Early Research

Research has long found that policing involves substantial discretion, and officers vary in the choices they make. Research on police discretion began with shattering "the myth of full enforcement" (Goldstein 1963)—pioneering scholars showed that despite the public perception that police simply enforce any crime they are aware of, policing in fact involves ample discretion by officers. In his foundational work describing why officers chose to arrest or not, LaFave (1965) argued that: "Discretion is exercised by the police but this takes place largely without the knowledge of the general public, without the concerted efforts of police administration to ensure that it is exercised properly, and without adequate attention from legislatures and courts" (p. 62). But in addition to drawing attention to problems with this discretion, these authors showed that discretion is

in many ways a necessary and important part of police work. Goldstein (1963) pointed out that in many situations, enforcing the letter of the law is counter to the spirit of the law—reasonable people would not always think it is appropriate to arrest for what is technically a crime: helping a drunk person home instead of always arresting; or ticketing a brand new driver for accidently going the wrong way down a one-way street.

Much of the early theoretical work on police discretion focused on describing different approaches to policing. Methodologically, scholars tended to explore these issues using narrative discussions or ethnography (e.g. J. Goldstein 1960; Kadish 1962; LaFave 1962). Theoretically, this work focused on understanding police goals and how conflicting goals are resolved, either *cognitively, as individual officers* (e.g. LaFave 1965; Skolnick 1966; Feeley 1973; Muir 1977) or through a macro lens *socially, as organizations or subcultures* (e.g. Weber 1954; Packer 1964; Wilson 1978).

At the cognitive individual level, Muir (1977) describes how an officer "Benjamin" handled the task of predicting how defendants would act in the future, by grouping them in categories he had mentally developed over time such as the "rebel" whom you could not "talk with" or "straighten out," or a "governable person" who was much easier to police. Muir described how Benjamin first *formed* concepts of categories of types of people, then with each new citizen *applied* those concepts to put citizens in these boxes based on his observations, then *confirmed* that the citizen was in the correct box by interacting with him. Muir noted that while these perceived categories of citizens were fairly uniform across officers, officers differed on how they went through steps to put citizens in the boxes. Skolnick (1966) described how officers cognitively respond to their environments—the danger and social isolation they face, the heavily hierarchical

and obedience-oriented nature of police organizations, the competing demands of "law" and "order"—with an overall cognitive focus on order over law, developing a "working personality" as the "efficient administrators of criminal law" (1966, p. 245).

Other early scholars focused more on how larger organizations or subgroups had often-conflicting conceptualizations or goals of policing. Packer (1964) identified a dichotomous criminal justice model that contrasted prioritizing due process (concentration on defendants' rights as they are carefully processed through a criminal justice system with carefully constrained powers) versus prioritizing crime control (concentration on repressing crime, moving cases quickly along a system with broad powers). Wilson's (1968) observations of 8 police forces found three types of approaches to policing: watchman, where order is maintained through informal and reactive actions by police with wide discretion; legalistic, where officers focus on enforcement of the law with little discretion; and service, focused on meeting the goals and requests of the community.

The interaction between the individual-level and the organizational level was also explored. For example, Feeley (1973) describes how police organizations have goals and rules, but these sometimes clash with individual officer-level goals especially due to the large number and ambiguity of these goals and rules. This literature also explored the difference between how officers enforce the law and how they *ought* to enforce the law in an ideal democratic system under a professionalized police force that operated with less uncontrolled discretion (e.g. LaFave 1965; Reiss and Bordua 1967; Reiss 1971; Skolnick 1966). The work by these early scholars led to a new path for some police research into building evidence on what works in policing (Remington 1993; Sherman 1998), which is

tangential to this dissertation but a clear element of its context.

2.1.2. Recent Decades

In more recent decades, theory and research on police decision-making largely moved away from this original focus on understanding discretion from the individual-level perspective of the officer. Since the mid-1970s, police discretion theory testing has most often focused on using broad theories to explain potential racial disparities, such as a debate between conflict versus consensus models. Consensus theory presumes a society based on shared norms and values, such that crime is considered deviant. Conflict theories presume Marxian class conflict, in which the status quo is sustained through enforcement of the desires of the dominant group via society's repressive institutions. When racial disparity in police decisions is found this is said to support conflict theory and if no disparity is found it is said to support consensus theory (e.g. Renauer 2012). Other broad theories applied to racial bias in policing included racial threat theory (Novak & Chamlin 2012) and Black's theory of law (Rojek, Rosenfeld and Decker 2012). More recently, researchers have begun to test for bias through the lens of implicit bias (Correll et al. 2007), the underlying racial stereotypes that are theorized to influence decision-making.

Another category of theories describe differing contexts when officers have greater or lesser amounts of discretion. Gottfredson and Gottfredson (1988) argue that there are two criminal justice systems—one system for serious crimes, which is characterized by little discretion, and another with substantial discretion for less serious crimes. The authors suggest that the development of theory and research in police discretion will be more fruitful by steering away from the higher-level offenses. In another duality theory, Bittner (1983) divides police discretion into legality and

workmanship. Legality involves ensuring "compliance with explicitly formulated schemes of regulation," whereas workmanship involves efforts to achieve progress toward standards of excellence in terms of knowledge, skills, and decision-making—the former allows random discretion as long as rules are not broken, and the latter attempts to hone discretion to improve decisions. A number of theorists have put forth arguments that police functions that have high risk and low frequency should require strong policies, formal procedures, and clear rules, while the reverse should be left to officer discretion (e.g. LaBrec 1982; Greene et al. 1992; Alpert and Smith 1994).

The research on police discretion in the years since the early scholars in the 60s and 70s has been criticized as being largely atheoretical descriptive studies that cluster variables that may influence discretion (Sherman 1980; Mastrofski 2004), with a focus on testing for racial bias or loosely describing discretion used in different broad categories of types of situations. When theories are used, scholars argue they tend to be underdeveloped and have limited practical relevance—Mastrofski (2004) argues that the theories used have been "only tangentially useful to those who wish to know how better to control police discretion" (p. 102). Engel et al. (2002) call for clear and coherent theories to move our understanding of police discretion forward. Other limitations that have been noted of the police discretion research are that it: tends to be overly macro with a heavy emphasis on aggregate administrative variables with the addition of occasional attitudinal studies (Ishoy 2015); focuses mostly on arrest, stop and search, and use of force (Mastrofski 2004) to the exclusion of other decisions that make up police work; and tends to neglect the mediating cognitive and organizational mechanisms by which these large-scale subconscious, attitudinal, or situational factors are processed and impact

decisions (see Ishoy 2015; Mastrofski 2004).

Variables Influencing Police Decisions

A fair amount of descriptive research has measured the degree to which macro factors influence police decisions. Overall, macro predictors tend to explain little variance in officer decisions (Sherman 1980; Mastrofski 2004). This section will briefly describe three predominant types of independent variables explored in policing research (legal factors, extralegal factors, and a special case of extralegal factors: individual officer-based differences) and their accompanying theoretical approaches, before diving more deeply into a particular theory (focal concerns) in the following section.

Legal factors (i.e. factors explicitly prescribed or authorized by law) have been consistently found to influence police discretion. Studies generally find an impact of offense severity on the likelihood of arrest (LaFree 1981; Gottfredson and Gottfredson 1988; Kerstetter 1990; Brown et al. 2009; Tatum and Pence 2015; Dai and Nation 2009) and use of force (Bolger 2015). Other legal factors such as strong evidence, criminal record, and violence of offense also influence arrest decisions, in part by limiting or expanding discretion depending on their strength (e.g. Black & Reiss 1970; Black 1971; Brown 1981; Brown et al. 2009; Dawson & Hotton 2014; Kochel et al. 2011). Tillyer, Klahm, and Engel (2012) emphasize that legal factors can constrain discretion considerably or in some cases completely (including departmental policies and strict enforcement areas), so police discretion research should focus instead on areas where there is substantial discretion.

Research on extralegal factors that influence police discretion has focused on demographics of the defendant and officer—particularly race—and on defendant demeanor. The large body of literature on the impact of defendant race on police

discretion will not be reviewed here, but research has found clear evidence of a disparity (e.g. Rojek et al. 2004; Lundman and Kaufman 2003; Novak & Chamlin 2012; Higgins et al. 2012). However, whether and how much disparities are due to direct bias, to differences in actual behaviors between races, or to some more indirect, interactive, subtle, and/or cumulative process is the subject of much ongoing inquiry (e.g. McCluskey et al. 1999; Engel 2003; Reisig et al. 2004). Officer demographic characteristics (age, length of service, education, gender, race) will also not be reviewed here. Studies of these variables are mixed, but generally they explain little variance in officer decision making (Sherman 1980; Worden 1995; Terrill and Mastrofski 2002; Paoline, Myers, and Worden 2000, but see Dunham, Alpert, Stroshine, and Bennett 2005), although a number of studies have found an effect of how long an officer has served (Breci 1989; Stalans and Finn 1995; Terrill and Mastrofski 2002).

Research finds some evidence that defendant demeanor matters for arrest and use of force (Berk and Loseke 1981; Engel et al. 2000; Swatt, 2002; Novak and Engel, 2005; Brown and Frank, 2006; Dai and Nation 2009). But Klinger (1994) pointed out that previous research had included measures of disrespectful demeanor that included actual illegal behaviors, and when he isolated legal displays of disrespect there was no effect. Since making this distinction, the literature has become less consistent in finding that disrespect affects police use of force (Garner et al. 2002; Sun 2007; Sun and Payne 2004; but see Terrill and Mastrofski 2002). It has generally continued to find that disrespect influences arrest (Swatt 2002; Engel et al. 2000; Novak and Engel 2005; Brown and Frank 2006; see Engel et al. 2000 for a summary; but see Brown et al. 2009; Phillips and Varano, 2008). Research has found interactions between demeanor and other variables,

which may be due to differential actual behaviors or to biased decision-making (e.g. race: Engel 2003, Engel et al. 2012, McCluskey et al. 1999, but see e.g. Reisig et al.'s 2004 finding no effect of race after controlling for concentrated disadvantage; offense type, Phillips and Varano 2008; race of officer, Mastrofski et al. 1996; age of defendant, Brown et al. 2009; and alcohol/drug use, Engel et al. 2000; Engel 2003).

Research consistently finds that situational factors drive police discretion more than factors that describe individual officers (e.g. DeJong et al. 2001; Novak et al 2002; Riksheim and Chermak 1993; Committee to Review Research 2003; Varano et al. 2009). Situational factors include legal factors and factors that describe defendants, as well as the organizational ethos (Mastrofski, Ritti, and Hoffmaster 1987; Smith 1987; Varano Huebner and Bynum 2004), spatial differences (Fagan and Davies 2000; Smith, Novak and Frank 2005; Phillips and Sobol 2011), and type of supervision (Engel and Worden 2003; DeJong et al. 2001).

Critics argue that the descriptive literature, like the theoretical literature, has limited practical relevance. This was Mastrofski's (2004) point referenced in the introduction when he lamented that "the fairly substantial body of research that attempts to illuminate what causes police to make an arrest tells us absolutely nothing about what causes the police to make arrests that we want them to make" (p. 108). Mastrofski and others note that these studies: tend to be macro, using imprecise administrative data; they draw conclusions despite relatively few controls; and they offer no theory or overly broad-brush theories. As with the theoretical literature, it is difficult to derive clear implications in an applied setting from the descriptive literature, which does not tell us about the actual decisions as perceived by officers.

Variations in Individual Officer Decision-Making in Like-for-Like Situations

Some research has begun to explore how some individual officers may arrive at different conclusions from those of other officers when faced with like-for-like decisions. Most of this research is on the impact of attitudinal factors on police decision-making, with mixed but overall weak findings, despite observed differences in attitudes of officers. Research consistently finds distinct groups of officers with differing perceptions of their roles and of defendants (e.g. Cochran and Bromley 2003; Novak et al. 2002; Ingram et al. 2013). For example, Paoline (2004) found 7 analytically distinct groups of officers with different attitudes and beliefs about defendants, victims, the role of police, and how to perform their jobs. But while it is often assumed that these variations create inequality in decision-making, evidence shows that differing attitudes appear to have little impact on decisions (Finckenauer 1976; Ajzen, 1991; Ajzen & Fishbein, 1977; Schuman & Johnson, 1976; Wicker, 1969; Worden 1989, 1995; DeJong et al. 2001; Riksheim and Chermak 1993; Terrill and Mastrofski 2002; Novak et al. 2002; Smith et al. 2005). A small minority of studies has found some impact of attitudes—Mastrofski et al. (1995) observed some differences in decisions made by officers who supported community policing versus those that did not in Richmond, Virginia. For the most part, however, studies have found little or no impact of attitudinal differences across officers on decision outcomes such as use of coercion, domestic violence arrest rates (in a non-mandatory arrest context), problem solving in policing, or community engagement (Johnson and Dai 2016; DeJong et al. 2001; Terrill and Mastrofski 2002; Worden 1995; Riksheim and Chermak 1993). Similarly, Novak et al. (2002) found little difference between decisions made by community policing officers versus beat officers. Scholars of

this literature generally conclude that police behavior is primarily driven by situational factors rather than individual officers' attitudes (Wortley 2003).

Yet research has consistently found that some officers behave substantially differently than others. A small percentage of officers have a much higher concentration of use of force and of police complaints than others (Christopher 1991). There is also evidence of different decision-making across different forces—strong demographic discrepancies were found in rates of setting out-of-court disposals between different UK jurisdictions (Laycock and Tarling 1985; Giller and Tutt 1987; Sanders 1988; Evans and Wilkinson 1990). Large differences in whether cases are handled by traditional means or via problem-oriented policing are also observed across jurisdictions (Weisburd et al. 2010).

This paradox in policing—that officers differ in their decisions, but their decisions do not seem to be primarily driven by attitudes—is as of yet largely unresolved. If individual variation is not primarily due to attitudes, why might officers differ? A small number of studies have begun to use vignettes and qualitative methods to explore officer variations in individual-level decision-making, mostly in the domestic violence context. These studies begin to capture officers' thought processes. For example, Friday et al. (1991) find that 18% of their sample responding to a vignette said they would not arrest for domestic violence because the situation appeared to be under control, noting officers' thought processes on *why* officers make the decisions they do (e.g. if the situation is under control, no need to arrest) as opposed to do just measuring *which* decisions they make. Eterno's (2003) survey-based study of decision-making in the NYPD finds that some officers err more than others toward expansion of stop and search powers:

- when there are ambiguities in the law;

- in rapidly unfolding dangerous situations to protect themselves, and

- in how they cognitively justify these adjustments.

The study found that officers cross the line less in situations when there are bright-line rules as opposed to situations without as clear of a bright-line rule.

Waaland and Keeley (1985) took the domestic violence vignette approach further to dig in to differences in decision-making between officers, albeit in an atheoretical manner. In this study 36 police officers responded to 71 wife assault vignettes that integrated 7 informational cues (occupation, history of wife assault, assailant's behavior toward officers, extent of victim injury, drinking by the assailant, drinking by the victim, verbal antagonism). Cues were distributed to each vignette by random number generator. For each case, officers were asked to rate on a scale how responsible each party was, and how strong of a sanction they would recommend (no action, severe reprimand, removal from premises, immediate arrest). For each cue/outcome variable combination, the number of officers for whom the cue was significant in explaining variance was calculated, as well as the number of officers for whom the cue made the most salient contribution. The authors found a tendency toward consistency between officers in identical cases, but with meaningful variation (reliability coefficients ranged from .68 to .78 on the three dependent variable scales). In all of the comparisons the cues predicted outcomes, and more than half of the variance was accounted for by the model in 94 of the 108 combinations of cues and outcome variables. In predicting how responsible the victim and defendant were, the primary factor most officers focused on was whether the victim was antagonizing the defendant; there was little agreement on other cues. In terms

of recommended sanctions, the amount of injury was far and away the most salient predictor (making the greatest contribution to 33 of 36 officers decisions, and accounting for 85% of the variance in the composite judgment measure), followed by assailant's behavior toward officers (significant for all, most salient factor for 2) and criminal history (significant for 21, most salient for 1). But all of the other predictive factors varied dramatically across and between officers. In addition, final outcomes were widely variant, with the percentage of officers selecting the most popular outcome option in each case remaining low (median=58%). Cases with severe injuries had more consistent outcomes, but half still did not consistently prescribe arrest for the severe injury cases. Judgments about how responsible the defendant was related to outcomes, but not judgments of how responsible the victim was.

While steps have been made toward understanding variations in officer decision-making, much more work is needed in this area. The next section describes early efforts to add to this literature through the theory of focal concerns.

2.2.   Focal Concerns

Focal concerns theory (Steffensmeier et al. 1998) originated in the courtroom context as a theoretical framework for how judges make decisions. Focal concerns theory argues that judges and other criminal justice actors involved in sentencing decisions have three focal concerns when making decisions: the defendant's blameworthiness; protection of the community; and the practical implications of sentencing decisions (such as: regulating case flow and correctional resources; whether defendants are safe, capable and healthy enough to serve time; their special needs; and whether a sentence would disrupt family ties). A core tenet of focal concerns theory is that judges rely on perceptual "shorthand" indications that they develop as a coding system based on cues, stereotypes,

and extra-legal factors. This shorthand helps them make decisions quickly about where each defendant falls in each of the areas of focal concern—how blameworthy or dangerous they are, or what practical constraints apply. The shorthand is necessary at least in part because courtroom decision-making is time-limited. These perceptual shorthand variables may in part be based on stereotypes, including race and gender.

Research on focal concerns with judges has primarily relied on finding pre-existing variables in administrative datasets as proxies for blameworthiness, protection of the public, and practical constraints, to predict whether defendants receive a favorable or unfavorable outcome. Then, race, gender, and age are included in models to indicate whether judges used stereotypes as shorthand variables—if any of these demographic variables are found to be significant, it is considered evidence of shorthand variables (Albonetti 1991, 1997; Steen et al. 2005; Schlesinger 2005). The shorthand process has been described as one by which court actors presume to attribute a defendant's behavior to either internal (bad person) versus external causes (offended due to friends, need, situation), creating stories about why defendants offend, which influence their decisions (Bridges and Steen 1998; Weiner, 1974; Albonetti 1991; Chugh 2003; Steen et al. 2005; Steffensmeier et al. 1998; Cochran et al. 2003; Fleury-Steiner 2002; Harris 2009). Harris (2009) notes that this attribution stage should be viewed in research as a separate step in a process, a mechanism by which outcomes are influenced by biases.

Researchers have only recently begun to use focal concerns theory to explain police decision-making (Tillyer and Hartley 2010). One of the first studies to apply focal concerns to policing sought to use the theory to understand officer decisions to deploy a Taser in 461 use-of-force incidents (Crow and Adrion 2011). Blameworthiness was

operationalized as the type of initial call (property/drug offense, violent crimes, traffic, etc.). Public safety was operationalized as whether the suspect resisted and presence of a weapon. Practical constraints were operationalized as the time of day and whether the force had a policy restricting use of force for that incident. Race, gender, and age were coded to test for bias in the officers' perceptual shorthand. The study found that blameworthiness was not significant, but public safety was significant. In terms of practical constraints, time of day was not significant but whether there was a policy on use of force was significant, which the authors interpreted to mean that officers considered some practical constraints but not others. Minorities and males were more likely to be Tasered, which the authors cited as evidence of biased perceptual shorthand.

Higgins, Vito, and Grossi (2012) tested whether focal concerns theory as an explanation of which cases generated successful requests for a consensual search during 3,717 traffic stops. Blameworthiness was operationalized as whether contraband was visible, and whether the officer smelled drugs. Public safety was operationalized as whether a records check (criminal history, registration, drivers license) was conducted. Practical constraints were operationalized by whether the officer had prior knowledge of the person and whether there was a call for service. Controls were included for rage, gender, and whether the driver was a city resident. The study found that only blameworthiness (visible contraband, smell of drugs), city residency, and age were significant predictors of whether a consented search was conducted, although city residency and age were only significant for black drivers.

Johnson, Klahm, and Maddox (2015) examined the length of time taken to serve 428 warrants. Blameworthiness was measured by a) whether the warrant was for a new

offense (as opposed to failure to appear, which was considered less blameworthy), b) the dollar amount of the bond, and c) the total number of prior offenses. Public safety was operationalized by three dichotomous variables indicating whether the warrant was for a) a criminal offense versus a civil offense, b) a felony offense versus a misdemeanor or civil offense, or c) a crime against a person versus all other crime types. Practical constraints were measured by whether the defendant was apprehended within the county. Variables for race, age, and gender were also coded. The authors found that race had no impact on the time between warrant and arrest. Warrants for a new offense, felony cases, those with high bond amounts, and apprehension in the county were associated with longer time to arrest. The authors considered this to be partial support for the hypothesis that officers base their arrest prioritization decisions on these focal concerns.

Together with a few other examples (e.g. testing whether police have different focal concerns than prosecutors in sexual assault case studies: Holleran et al. 2010; Wentz, E. A. 2014; Campbell, B. A. 2015), these studies mark an important step in bringing a theoretical framework into police decision-making. However, these focal concerns in policing studies mirror the police discretion literature that came before; they are heavily reliant on macro-level modeling of variables found retrospectively in administrative data. The macro-level modeling in these studies does not explore the perceptions of the officers themselves, leading to an overly simple understanding of their decision-making. There is uncertainty around the construct validity of the measures (e.g. it is often ambiguous whether an element represents blameworthiness versus practical constraints) and the causal inferences. In addition, the theoretical framework for focal concerns itself is relatively underdeveloped, with its origins limited to court research. An

even richer array of considerations may be involved in police decisions than in court cases. An inductive approach to a police-based focal concerns model would likely advance the value of this framework in a policing context.

2.2.1. Individual-Level Decision-Making

One recent study begins to explore police focal concerns at an individual level, allowing for some more nuanced insights on officer thought processes (Ishoy and Dagbney 2018). (It may be no coincidence that the primary author is a former police officer and now academic, as is Eterno (2003), who authored the other individual-level study described above that captures officer narratives around decision-making.) Ishoy and Dabney (2018) use semi-structured interviews to ask 25 front-line officers how they made decisions. The demographics of the sample were representative of the full 100-officer police force, though the officers' selection methods were not described. In each case, the authors gave the police officers a choice of 3 actions when confronted with a crime: take no action (or issue a verbal warning); issue a ticket; or custodial arrest. In almost all cases (aside from domestic violence), officers had discretion over their choices. Interviews were qualitatively coded for themes.

The authors asked the officers what influenced the officers in making decisions. Regarding blameworthiness, officers reported that almost all defendants were seen as blameworthy once it was clear they had committed a crime. The officers were not concerned about the negative consequences on a suspect of arrest because defendants were seen to have brought it on themselves. Officers also assessed blameworthiness based on the severity of the offense, noting that they had less discretion the more serious the offense. Officer assessment of protecting the community was complex: repeat defendants and defendants with prior criminal behaviors (regardless of whether the

22

defendant had ever been formally sanctioned) were seen as greater threats to the community. But officers also tended to feel that a person's criminal history was only relevant if it was related to the current offense. Officers tended to focus on short-term threat assessment and solutions to disturbances, plus the demeanor of the defendant. Defendant attitude was noted by every officer interviewed as a key indicator of the defendant's risk to the community, and a major determinant of what the officer would choose to do. A strong interaction between attitude and criminal history was reported; especially for lower-level offenses, defendants with a good attitude were likely to be let off. For the third category of focal concerns, practical constraints, officers tended to focus on constraints for the police department and the officer, rather than for the defendant. If the defendant stated they would lose their job if they got arrested, the officers did not see this as their responsibility to consider, as the defendant had chosen to act unlawfully. Officers did express concern about whether incidents could look bad for the department or the officer. Other practical concerns included whether children were present, whether the officers' beat would be left uncovered if they had to take someone to jail, whether officers needed to eat or use the bathroom, and whether the arrest was likely to result in the officer having to stay after the end of their shift or be subpoenaed to court during time off.

This study illustrates the added depth that can be achieved simply by asking officers about their decisions, although it does not report variation in officers' decision-making. This direct approach produces a rich tapestry of narratives about decision-making. However, open-ended interviews alone do not allow the quantitative exploration of how one thought process might lead to a given outcome. An additional tradeoff of this

approach is that unconscious factors, particularly racial bias, may be harder to capture. Officer narratives on how they make choices may differ from their actual choices, as will be discussed below. Nonetheless, this type of direct inquiry highlights key elements that officers consider that are not easy to capture any other way.

Overall, the focal concerns literature on policing remains underdeveloped. Areas in need of development include examinations of both how choices are made, and which factors influence choices. This is important theoretically in the interest of creating comprehensive models that can more reliably and comprehensively predict decision-making. It is also important pragmatically, as the focal concerns literature is challenging to apply to an operational setting in order to improve police decision-making. As police decision-making involves consideration of various factors to determine a preferred course of action, one element of rational choice literature—weighing pros and cons—will be drawn on to help build out an applied focal concerns model for policing.

2.3.   Weighing Pros and Cons

While focal concerns attempts to measure how different elements impact discretionary decisions, it does not clearly assess how criminal justice practitioners might weigh opposing elements in the same situation to reach a decision. To better understand how police officers conduct such weighing, this section draws basic elements from rational choice and related economic theories, and in the next section will connect them with focal concerns to form a more comprehensive model of the decision-making process.

A central tenet of rational choice theories is that when making decisions, people consider the outcomes of each possible option, weigh the pros and cons, and choose the option where the pros outweigh the cons (Baron 2008). Rational choice underpins a wide

range of theories (e.g. game theory, social choice theory, decision theory), but all share the core tenet of weighing pros and cons. The theory has long underpinned much economic theory, forming the basis of models to explain how financial incentives and rational self-interest drive economic decisions as humans strive to maximize expected utility (i.e. the pros outweigh the cons) when making decisions (von Neumann and Morgenstern 1947). Rational choice theories in economics model the quantity and importance of various attributes to explain outcomes of choices on dependent variables such as utility, happiness, or self-interest. Rational choice theories generally do not attempt to explain *why* people prefer one type of utility or another, but start from the position of assumed motivation (Baron 2008).

This approach of modeling the utility of various choices to predict outcomes has expanded from economics into the wide and colorful world of human decision-making in social sciences—psychology, sociology, criminology, political science, etc. For any choice with potential future costs and benefits that can be weighed, the rational choice perspective offered a framework to understand and model those choices. Countless studies across disciplines have found human decision-making to be based at least to some degree on a foundational process of maximizing utility by weighing of pros and cons, or costs and benefits (Wright and Decker 1994, 1997; Thayler 1988; Shover 1996; Prochaska et al. 1994; Baron 2008; Hastie and Dawes 2010; Paternoster 2018). Becker (1976) argued that human behavior more broadly is driven by a rich set of interests in outcomes, and that in all decisions individuals make choices to maximize welfare as they perceive it (Becker 1993). Becker argued that rational choice can be seen as a method of analysis, where any number of motivations could define utility or welfare, and any

number of limitations, attitudes, preferences, and calculations can shape decision-making.

However, humans make decisions imperfectly in an imperfect environment, with constrained time, information, and cognitive abilities and habits. The study of "bounded rationality" (Simon 1957) explores limitations on a perfectly rational process. Simon (1957) argued that rather than searching for an optimal outcome, people in reality search for a satisfactory outcome, in a process of satisficing. These qualifications to rational choice form the core of behavioral economics, and are now commonplace across many fields that involve human decision-making (Simon 1957; Homans 1961; Tversky and Kahneman 1974, 1981; Baron 2008). This research finds that due to internal processing constraints (cognitive limitations) as well as external situational constraints (limited time, energy, resources), people use heuristics to abbreviate the choice process and arrive at a decision (Baron 2008). These heuristics often lead to distorted and inaccurate decision-making, though they are often layered atop some form of weighing of pros and cons.

While this dissertation will not review all of the literature on types of heuristics, some important cognitive distortions that could theoretically apply to the focal concerns context (Kahneman and Tversky 1972; Baron 2008) include the following: the tendency to overweight the negative (Snyder and Tormala 2017); the representativeness heuristic (assuming someone is similar to a larger group); the base rate bias (ignoring information about a base rate, and only focusing on evidence relevant to the present case); the framing effect (different conclusions drawn from same information depending on framing); hostile attribution bias (attributing benign behavior as hostile); confirmation bias (looking for evidence supporting one's preconceived conclusions); law of the instrument (if you have a hammer everything looks like a nail); and fundamental attribution bias (attributing

others' behavior to their character and one's own behavior to situation). These heuristics may help drive how officers make decisions.

Despite all of these limitations on rationality, research continues to find some core of weighing of pros and cons, even if the actual bounded model that layers over this weighting process is complex. Modeling and assessing the underlying weighting process can still help us predict and shape what decisions will be made. For example, Kahneman (2011) distinguishes System 1 thinking—fast, intuitive, and often subconscious—from System 2 thinking—slow, analytical, and focused on methodical reasoning. Kahneman notes that while System 1 thinking tends to drive System 2 thinking, often introducing cognitive biases, System 2 thinking still produces reasoned arguments that are articulable and can drive outcomes. Therefore, understanding the core model of what pros and cons are being weighed, and how, is valuable independent of, and before considering, the layered impact of limitations to this underlying rational decision-making process.

Researchers have studied a range of specific processes people may use to weigh pros and cons (Tversky 1969; Baron 2008). For example, Bonnefon et al. (2007) used vignettes to explore how people rank and choose between options when the arguments under consideration are of varying importance, but their importance cannot be precisely quantified. They tested a series of 8 potential heuristics by which people might weigh pros and cons, where each heuristic had a different formula for predicting outcomes. The study found that the 62 adult participants responding to 33 situations did not vary substantially in the heuristics they tended toward. Every one of the participants consistently leaned toward "Levelwise Tallying" heuristics. Levelwise Tallying first considers pros and cons at the highest level of importance (ignoring arguments that were

not at the highest level of importance), adds up the pros and cons at the highest level of importance only, then computes a final count of pros vs. cons and chooses an option based on whether the pros or cons count was higher on that level alone. If there is a tie, the procedure is repeated at the next level of importance, and on down until a tie was broken. The consistency of the finding was strong—the most prominent variant of Levelwise Tallying consistently predicted outcomes far and away better than other heuristics, accurately predicting the outcome 77% of the time.

However, how people will weight pros and cons cannot always be predicted; sometimes the outcome options may be just different, but not clearly better or worse. The theory of reason-based choice (Shafir et al. 1993) contends that when people are faced with a decision, they often search for and construct reasons to help make and justify their choice. In complex or uncertain decisions, the choice often presents a conflict where the pros and cons may not be clear. It may be unclear what the likely outcomes of different options will be, or how much of one attribute is needed in order to outweigh another. Without capturing a person's specific stated reasons, the choice cannot be modeled accurately. Shafir and colleagues draw on formal economic rational choice models (von Neumann and Morgenstern 1947; Kahneman and Tversky 1979) and combined these with the tradition of informal narrative explications of decision-making that are more common in the fields of history, law, and political science (such as case studies that identify the reasons/arguments that were considered in a decision, and use the balance of reasons for and against alternatives to explain a choice). There has been little contact between these two scholarly approaches to understanding decision-making, but the authors describe the respective benefits of each. Economics models provide rigor but

lacks completeness and precision in complex real-world decisions. Narrative explications tend to be vague, with the "reasons" reported for defending a choice post hoc not always corresponding to the actual factors that drove the choice. Combining the two approaches produces models where pros and cons can be weighed and measured. In choices without clear optimization (e.g. when the costs and benefits of each option are just different, rather than clearly better or worse) reasons can help explain the decision.

2.4. Proposed Model: Expanding a Focal Concerns Process Theory on Police Decision-Making

Additional development of focal concerns theory in the policing context is needed, for reasons of both theory development and field application. This dissertation aims to build on past research on police discretion and police focal concerns research in three ways. First, it builds on Harris's (2009) argument that focal concerns decision-making is a process, exploring how officers can differ in different components of their choice. Second, it builds on findings that general attitudes alone do not explain a high degree of variation in officer decisions, exploring how specific situational narratives about defendants and effectiveness of outcomes may supplement global attitudes to help explain officer decisions. Third, it takes an initial look at how officers weigh different types of elements, comparing two potential heuristics for weighing pros and cons.

Police routinely face discretionary choices such as whether to arrest or not in a given case, whether to charge or not, etc. The present study focuses on the choice of whether to charge (or prosecute) a case or to divert it into a pre-court diversion out-of-court disposal (in a country where police have such powers, the UK). Regardless of the type of choice, the basic building blocks of each situation in policing are objective *elements* present in the facts of a case that officers subjectively observe and interpret.

These include elements about the victim (e.g. victim's age), defendant (e.g. mental illness), or offense (e.g. breach of trust).

Whether or not a given element is observed and how it is interpreted can lead an officer to a presumed implication—that is, a conclusion about which decision is most effective or appropriate given the officer's interpretation of that element. If each element is akin to a symptom, an officer's interpretation of that element could be thought of as the diagnosis, and the implication the prescription. Just as the Problem-Oriented Policing literature (Goldstein 1990) directs officers to scan and analyze before trying to solve specific crime and disorder problems in policing (e.g. youth spray painting in an area), this process in some way is reflected in officer day-to-day decisions about who to put through the criminal justice process.

The basic model proposed by this dissertation (Figure 1) is characterized by components akin to a diagnosis and prescription in medicine. It posits that in a single choice, officers consider a range of elements. Some elements may push the officer toward a charge by suggesting to the officer that the blameworthiness and/or dangerousness of the defendant is high. Other elements may push the officer toward diversion, as they may indicate blameworthiness and/or dangerousness of the defendant is low. Officers may have overall attitudes and beliefs about defendants, which may influence their choices. Building on the focal concerns concept of heuristics or perceptual shorthand, this dissertation suggests that officers also have element-specific narrative beliefs about what an element indicates about one or more of the focal concerns. For example, an officer may believe that when anger is involved in an offense, the person has an anger problem and therefore should not be given an out-of-court disposal because they are likely to

commit the offense again. These narratives may be partly informed by an officer's overall

attitudes, but they may have arrived at these narratives for many other reasons. Similarly,

officers may have both overall and element-specific narratives about the likely real-world

outcomes of different options—e.g. if a defendant is still young, they are likely to

successfully have their recidivism reduced by a rehabilitative intervention.
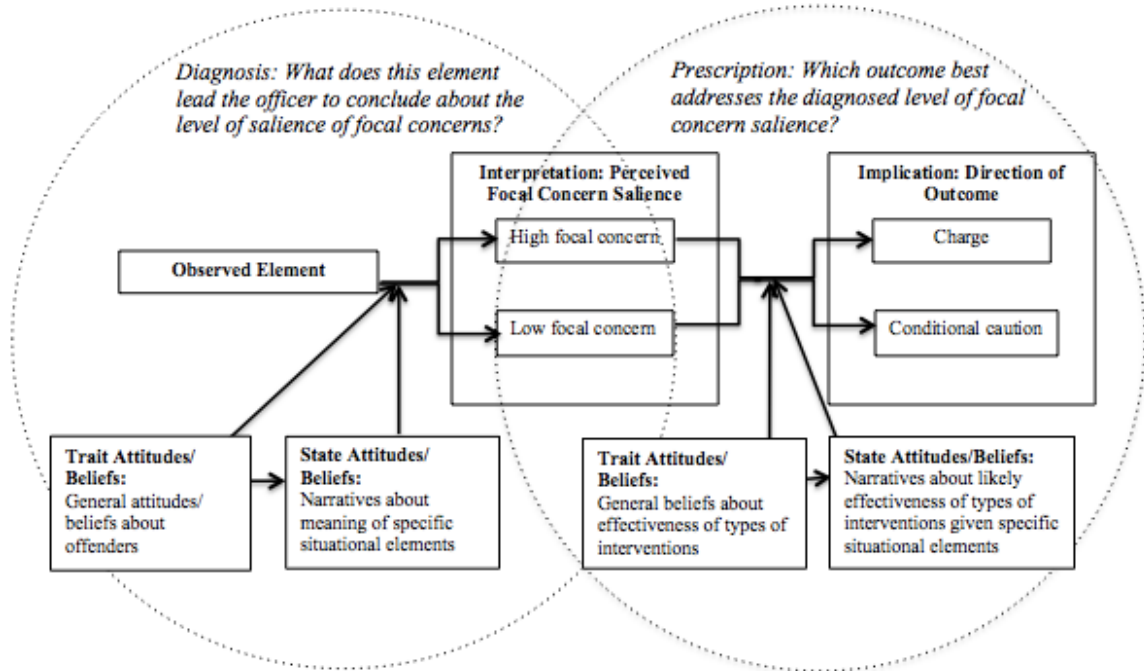
Figure 1: Overall Officer Decision-Making Model

This model references the trait versus state distinction made in psychology and

other fields. Traits are stable characteristics that are invariant from day to day, such as

overall beliefs and attitudes. These may align or differ from states they are in, which are

temporary behaviors, thoughts, or feelings at a specific moment in time. States can

depend on many factors present in a given situation, and these factors influencing a

person's state may either internal or external to the person. The relationship between

traits and states are akin to the relationship between climate and weather. Researchers can

test someone's overall trait characteristics, and then may find those overall characteristic

are either similar or different from how that person presents in a given specific situation. Take for example the State-Trait Anxiety Inventory (Spielberger et al. 1970). Someone may have low *trait* anxiety, meaning that overall they are not a very anxious person. But in a specific *state*, say specifically when that person is confronted with public speaking, they may find themselves in an anxious state.

The *trait* attitudes/beliefs in this police decision-making model refer to the stable beliefs and attitudes an officer holds toward defendants and crime overall, and the beliefs that officer holds about the effectiveness of different criminal justice outcomes. The *state* beliefs and attitudes are the narrative thoughts and attitudes they have in a given situational decision.

The *state* attitudes/beliefs (element-specific assumptions) in this model are a subset of the "perceptual shorthand variables" described in focal concerns theory (Steffensmeier & Demuth 2000, 2001; Steffensmeier et al. 1998), which are used by officers to make diagnostic decisions about where each defendant falls on the continua of blameworthiness, public safety, and practical constraints, and prescriptive decisions about what should be done with these defendants. Shorthand variables can often take the form of conscious narratives, or assumptions, about the meaning of a different element. Some examples include "people who get angry and assault others while they are drunk are different from other types of people who assault others" (diagnosis), and "the specific problem of alcohol and anger can be helped by rehabilitative interventions" (prescription).

State beliefs can also include beliefs in a given case about what would happen if the defendant was prosecuted versus charged—would they stop offending? Would they

pay compensation? While state narratives about defendants and outcomes may be informed to some degree by trait attitudes and beliefs officers have (global beliefs and attitudes about defendants and effectiveness of outcomes), they may also be influenced by other factors. Those factors may include personal experiences officers have had (e.g. a relative with an alcohol problem, or observed experiences in their jobs as police), things the officers have been taught, associations with other knowledge or highly specific beliefs, etc. Therefore, these state narratives can cause individual officers to vary—for example a given officer may be more punitive in one context than their fellow officers, and less punitive in other contexts than those same fellow officers.

This dissertation is designed to capture these state narrative assumptions, and parse out specifically which elements of diagnosis and prescription they are tied to. It also parses out both assumptions related to behavioral expectations about a defendant (e.g. propensity to reoffend), and those related to the likely effects of different possible outcomes (e.g. a charge or a conditional caution), given the elements present.

Each element in the "state" of a situation may have its own discrete signal to an officer. But the ultimate decision depends on how officers weigh the relative and combined importance of the various elements. Some elements may be overriding—no matter the other elements, if it is present the officer will always make the same choice. Yet for other elements, their effects may become powerful only in combinations of factors that outweigh other combinations.

In sum, each of the junctures in this model has potential for disagreement among officers. Officers could differ in the elements they observe and find relevant, how they interpret what each element means about the focal concerns of the defendant, what each

element and it's focal concerns interpretation mean for what outcome is going to be best, and how they weigh different elements and their various implications.

This dissertation is designed to address the following research question: To what extent, and by what decision-making processes, are police officer decisions to divert a case from prosecution into a diversionary out-of-court disposal driven by *trait* (overall) attitudes and beliefs about defendants and outcomes, as opposed to how officers derive their *state* assumptions about the same defendant in relation to the specific facts (narratives about the meaning of certain elements present in a particular case)?

Chapter 3: Methods

To achieve the goals of this dissertation, the author collected data from uniformed front-line police officers using a survey tool that included both an attitudes survey and vignettes describing recent controversial discretionary cases. The vignettes asked officers to decide whether to divert a case into a pre-court diversionary out-of-court disposal, or charge it to be prosecuted in court. The out-of-court disposal specified in the vignettes is a conditional caution, where defendants could avoid court by agreeing to abide by specific conditions under police monitoring that often included a rehabilitative component. Unlike most out-of-court disposals granted in the UK, which are purely administrative admonishments (e.g. a simple caution goes on the defendant's record, but does not stipulate any conditions), a conditional caution allows officers to attach rehabilitative or other conditions to the caution, which the defendant must complete in order to avoid a charge and prosecution in court. Both the legal system of England and Wales and the specific English police force under study had been using top-down policy and pressure to encourage more use of conditional caution in the years leading up to this study. In general, the choice to charge a case and send it to prosecutors or to issue a lesser punishment is more typical in the UK where police make the decision to charge or grant an out-of-court disposal such as a caution or conditional caution in summary offenses. This is a fairly sharp difference from much of the US, where such a decision is usually made by prosecutors (but not always—there are scattered pre-arrest or other police-initiated diversion programs in the US). However, in terms of overall decision-making processes, there may be parallels with other police decisions, such as the decision to

arrest or not in both the US and UK (e.g. see Phillips & Sobol, 2012, for a vignette study of how officers decide who to stop based on assessments about defendants' behavior, finding relationships between factors about the situation and the officer influence outcomes).

This dissertation aims to explore both between- and within-officer variation (Bryk & Raudenbush 2002). Each officer has overall attitudes and beliefs, and these vary between officers. But individual officers also are theorized to have situational element-specific attitudes and beliefs, which cause within-officer variation in how an officer approaches situations. These two dimensions of the theory match the tradition in psychology of using multi-level models. These models allow analysts to explore, among other things, the relationships between trait versus state characteristics such as emotions, beliefs or attitudes to measure both within and between individual variations (Fisher et al. 2013; Weinstein, Przybylski, and Ryan 2012; Wood et al. 2008). This allows for integration of individual differences in traits, situations, and cognitive mechanisms that mediate those two. Specifically, hierarchical linear modeling (HLM) has been used to compare individuals' trait beliefs based on questionnaire responses with their situational vignette-level perceptions (e.g. Ellman, Braver, and MacCoun 2012; Figueiras et al. 2015; Galperin et al. 2013). Therefore, hierarchical models will be used to analyze hypotheses in this study that operate at both the officer and case levels.

The use of vignettes may raise questions as to whether the actions officers recommend in vignettes would correspond to their actions in the field. There are several reasons to consider vignettes to be a useful method for the research questions of this dissertation. First, the validity of vignettes may depend on the specific situation under

analysis (Eifler 2007), and research indicates a much higher correlation between thoughts and behaviors when a behavior is highly routinized (Crespi 1971), as with daily police decisions on processing prosecutable defendants. Second, vignettes are a standard method for exploring decision-making in criminal justice (Cullen et al. 2000; Phillips, 2009; Paternoster 2018). Third, it is useful to understand officers' System 2 thoughts in a slowed down decision-making context to understand their logic—what they "think they think"—even if it differs in some way from how they would act in the field due to additional impacts of biases and other heuristics.

This chapter begins with a description of the sample and then describes the coding process and measures used both at the officer level and the case level. Finally, this chapter will describe the study's analytic methods.

3.1. <u>Sample</u>

The data in this study are based on an online survey of officers on a large police force in the UK. The sample was 45 police officers on investigations teams, of which 76% of officers (34) provided full or almost full responses. The officers were police constables (86.7%) and sergeants (13.3%). They came from across 7 neighborhood policing areas in the police force, and were on 20 different units across the force. The author originally collected the data for a different purpose, and this dissertation is based on secondary use of that data. All necessary IRB approvals were secured.

Demographic characteristics of the officers in the initial sample were fairly comparable with force-wide demographics. The sampled officers were 31.1% female, the same as the force-wide percentage of female police constables (31%) and slightly higher than the percentage of female sergeants (24.7%). Officers in the sample were about 90% white, with less than 10% black or Asian, similar to the overall force police constables

and sergeants (both 91% white). The officers in the sample were an average of 41 years old, similar or slightly younger than the average age of the force, which is approaching the mid-40s. Most of the officers in the sample had recently been reassigned to a unit of officers who would be responsible for selecting defendants for diversion into rehabilitative-oriented interventions (during a larger restructuring across all of the investigation teams on the force), however they had not yet begun that work. They were selected for unknown reasons, which could possibly include that some were selected because they were believed to be inclined toward diversion, while others were not selected for this reason.

Officers were asked not to discuss anything about the study with other officers until all had completed. Officers were given additional instructions both in email and in the beginning of the survey including that the survey was confidential from their leadership and peers; once they finished a page they would not be permitted to go back and change it.

All officers involved in the study were aware that the force has a policy of using conditional cautions as much as possible where appropriate. The officers had all received presentations in the past year discussing the goal of conditional cautions as primarily rehabilitative. Four out of five (79%) of the final sample of 34 had received within the previous month a lecture encouraging increased use of conditional cautions. This lecture included a brief summary of the police interest in the goal of reducing recidivism, including some key criminological facts such as the age crime curve and then-current high rates of recidivism in England. It also discussed childhood trauma's impact on later crime, mentioning that other factors such as substance abuse, families, and relationships

can influence an individual's lifetime likelihood of committing crime. The lecture also noted that most defendants who had their case heard in Magistrate's Court (the court for lower-seriousness crimes) received only a fine as the outcome of the case. While other officers in the past who had heard this lecture had also heard an explanation of the impact of cognitive behavioral therapy (CBT) on reducing recidivism, these officers in this sample did not receive the CBT element.

Another contextual factor for these officers included the availability of specific interventions, which varied between teams and officers. A local intervention was available that taught anger management, particularly for defendants for whom alcohol played a part in their crime, of which many officers were aware. Other services available locally included debt management, victim awareness courses, drug treatment, and so forth.

3.2.   Selection of Vignette Case Studies

It is suggested in literature on discretion in criminal justice that researchers focus on discretionary cases, rather than cases that are unambiguously too severe for any meaningful discretion (Gottfredson and Gottfredson 1998; Tiller, Klahm, and Engel 2012). Therefore, the vignettes focused on cases where officers had high discretion to either charge or divert. The study takes place in a context where the police force is encouraging officers to expand the use of diversion, particularly diversion to rehabilitative partner agencies.

The vignette case studies were all based on official records of actual cases where, in a recent previous randomized controlled trial, Turning Point (Neyroud, Slothower, and Sherman, forthcoming), officers had disagreed about whether the case should be diverted into an out-of-court disposal. In the Turning Point study, 96 field officers were

responsible for determining whether cases involving defendants taken into custody should be diverted into a disposal similar to a conditional caution, or charged and sent to court. Officers recorded decisions in an online screening tool designed by this author, in which cases were screened for basic eligibility criteria. These criteria included whether the case was not being considered for a lower-level diversion option, would not receive a likely incarceration sentence if charged, and involved neither domestic violence nor a hate crime. In the 924 cases that were ostensibly eligible for diversion based on the factors in the screening tool, it was up to the discretion of the officer whether to divert. In cases that officers chose to exclude from diversion and send to court (n=244), officers were required to note the consideration that led them to prosecute the case instead of sending it to diversion. Some common reasons for exclusion of a case from diversion were facts showing that the victim was particularly vulnerable (e.g. an elderly victim), that the victim was a police officer, or that the defendant was an employee who stole from their employer who trusted them.

To select case studies for the present vignette survey, cases from the previous study (almost entirely cases where the officer ultimately chose to prosecute the case) were categorized on two dimensions: the severity of the case, and the type of case. To categorize the severity of the case, the author drew on work by Hobday (2014). This study analyzed data related to the Turning Point study, specifically analyzing responses of four expert coders who coded the appropriateness of each of the 244 discretionary decisions to exclude a case described above, to determine whether it should in fact have been diverted.

The goal for the present study was to identify cases for vignettes in which there was in fact substantial discretion for officers. Drawing on the responses of the same four expert coders as in the earlier study (Hobday 2014), and in consultation with officers knowledgeable about the conditional cautions process, the author classified cases into four ordinal levels based on the likelihood of diversion. Level 1 cases were lowest-level cases where most reasonable officers would divert into an out-of-court disposal. Cases that would often be charged, but were low-hanging fruit for diversion, were classified as Level 2. These cases were primarily based on cases the Turning Point officers had generally agreed could be diverted, and that leaders of a specialist team involved heavily in conditional cautions agreed would be widely diverted by their team, but that officers would traditionally expect to charge. Level 3 cases were those that could still receive a conditional caution, but which pushed the boundaries of what even the specialized teams were diverting. These were primarily based on cases Turning Point officers initially declined to divert, but expert coders agreed should have been diverted. Parameters for these classifications included defining the injury amount in Level 2 as up to reddening/scratch, and Level 3 as multiple woundings or a wounding that included actual bodily harm such as a broken nose, but not including permanent disfigurement, which would be Level 4. Level 4 cases were those that clearly had to be charged because of the severity of the crime or criminal history of the defendant, as dictated by police force policy and widely known by officers.

Twenty case studies were selected from cases in the previous study to be used in the current vignettes. Four straightforward cases where officers had little discretion were included to establish baselines and to ensure no officers were put in the position of

having to mark the same response for every question: three of those four cases were included that normally most officers would agree would receive an out-of-court disposal due to being very minor (Level 1); and one case was included that virtually all officers would agree would be charged due to severity (Level 4). The remaining 16 cases (Table 1) were selected from Level 2 and Level 3. The cases each involved one of four considerations that caused disagreement among officers in the previous study: property offenses with an abuse of trust element; assault more serious than a simple assault; drug enterprise; and assault on police. Two Level 2 cases and two Level 3 cases were selected for each of the four case type categories.

Table 1: Level/Type Vignette Combinations

Element category codes	Level 1	Level 2	Level 3	Level 4
Drugs	1 case	2 cases	2 cases	
Property: Abuse of Trust	1 property case, without an abuse of trust element	2 cases	2 cases	
Violent	1 criminal damage case with no violence toward a person	2 cases	2 cases	1 case
Violent: Assault Police		2 cases	2 cases	

All cases were expressed in words that made the defendant's race neutral, and the defendant was always described as an adult. Prior records of the defendants were set to be minimal. The cases were trimmed to remove any extreme information, and to remove any elements for which there were clear black and white policies that would remove officer discretion. Case studies were shown to each officer in random order (randomization at the individual survey level), with one case per page. Once each page response was submitted, it was no longer accessible to be reviewed by the officer.

In a subset of 8 cases, additional information was provided with each case in order to dig deeper into how officers talk about the relative benefits of court versus diversion. Approximately 15 or 20 similar recent actual cases and the actual court outcomes of those cases were listed along with the case in question. Those outcomes generally showed that all of the level 1-3 cases in this study would be unlikely to receive a custodial sentence if prosecuted in court. These 8 cases (one of each type of level 2 and level 3 case) were always displayed to respondents after the other 12 cases were completed. See Appendix B for the full survey, including this added information.

3.3.   Measures

Measures were collected at the officer level, and at the individual vignette case response level. See Appendix A for a covariance matrix of all officer-level variables and all case-level variables.

3.3.1.   Officer-Level "Trait" Variables

The officer-level variables included in this study were selected to cover key static "trait" factors that might influence officer decisions to prosecute: demographic variables; attitudes toward defendants; and beliefs about the effectiveness of different traditional or more therapeutic criminal justice responses to crime.

- **Demographic Variables** The following self-reported officer variables will be used: age; gender (binary variable where male=1 and female=0); race (binary variable where white=1 and non-white=0); and highest level of education (ordered categorical variable from lowest UK educational attainment to highest, where: 0=Secondary School; 1=GCSE, O Level, CSE; 2=A Level, BTEC National Diploma, or (UK) College; 3=Diploma or City and Guilds; 4=Bachelors Degree; 5=Bachelors Degree Honors; and 6=Post-Graduate Certificate or

Masters).

- **Trait Attitudinal Survey** The Attitudes Toward Prisoners (ATP) scale (Melvin, Gramling, & Gardner 1985) is designed to measure whether the respondent officer sees prisoners as normal people capable of positive change, or as inherently deviant. The scale contains 36 items, answered on a 5-point Likert-type scale, in which 1 represents the most positive attitudes toward defendants, and 5 represents the most negative attitudes toward defendants (to make all of the positive answers in the same direction after collecting data in preparation for analysis, recoding is required). The reliability of this scale has been tested in at least five different samples with a moderate to high split-half (r= .84 to .92) and test-retest reliability (r= .82; Melvin et al. 1985). Two adjustments were made to this scale to make it applicable to the current context, as many of the people police deal with are not prisoners/taken into custody, and many of the defendants referred to in this study are lower-level defendants who would not be considered for prison. First, the word "prisoner" was replaced with the word "offender." Second, one question was removed: "If a person does well in prison, he should be let out on parole." The remaining 35 questions were combined to form a mean ATP scale.

- **Trait Beliefs About Effectiveness of Interventions** Two variables were created to measure officers' global beliefs about the effectiveness of intervention. First, officers were asked how effective various interventions are ("In your opinion, how effective is each of the following in stopping people who commit crimes from reoffending once people have started to offend?") on a scale of 1 to 4, where

1=very effective, 2=somewhat effective, 3=not very effective, and 4=not at all

effective. These items were recoded such that a higher score is more positive.

Second, an effectiveness of therapeutic intervention variable was created that

combined officer responses on this 1-4 scale about the effectiveness of five items

that described different types of rehabilitative interventions designed to stop

defendants from reoffending—drug treatment, mental health treatment, job skills

training, counseling by a psychologist, and an anger management course—

creating a summated scale with good reliability (α=.83). Third, an effectiveness of

traditional criminal justice intervention variable was created that combined officer

responses to 3 items: juvenile incarceration, adult incarceration, and being found

guilty in court (α=.78).

3.3.2. Vignette Response-Level Variables Reflecting "State" Attitudes and Beliefs

For each case study vignette, officers were tasked with choosing an outcome,

either charge or conditional caution. Officers were asked to list in separate text boxes any

elements of the case vignette that they considered relevant to choosing the outcome of the

case, with the following prompt: "What are the elements in this case description that you

would consider when deciding the outcome? (Do not include factors that are not in the

description--you can note these in the comments)" (Figure 2). Next to each element listed

by officers, a second text box was placed with a second prompt: "Does each factor

increase or decrease the suitability for a conditional caution, and why? (explain your

views)".

Below these questions was an open comments text box where officers could

record any additional information they felt was relevant, followed by a tick box asking

whether they would recommend a charge or conditional caution. Last, one more text box

asked the following: "[Only if you would recommend a charge]: Sometimes there may be

1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if

that element is there in a case the officer would definitely recommend a charge instead of

an out-of-court disposal. Which, if any, of the elements you listed above are "overriding"

elements?"

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Figure 2: Decision Capture in Vignette Response

The following vignette response-level variables were recorded and coded:

- **Elements Observed** Each element that each officer listed as relevant to their

  decision was coded using Grounded Theory (Saldana 2015), which is marked by a

  two-stage qualitative coding process. First, brief descriptive codes were generated

  by coding responses for each officer. Second, those brief descriptive codes were

  reviewed and organized into a coherent, theoretically informed coding scheme.

  Each element was categorized into one of 28 detailed codes for descriptive

analysis (Table 2), which were then collapsed for the purpose of additional analysis into one of 7 different codes based on the officer's own description. Codes included the following: criminal history severity (including severity and whether the history includes violence); criminal history pattern (including whether there was a pattern of the same offense type in their previous history, and how recent the prior record was); defendant intent (including whether the defendant pursued the victim or engaged in a sustained attack); motivation for offense (including ongoing dispute, drugs/alcohol, anger, and victim precipitation); severity (including cost, injury, and collateral impacts); victim characteristics (including elderly, stranger); and other. If a single statement contained more than one distinct element, both elements were coded. These variables are coded in separate binary variables.

- **Element-Specific "State" Narratives About Defendant** Assumptions stated by the officer about the nature of the defendant based on specific elements present in the case were coded if they were mentioned. These were coded at the element level, and then grouped into two binary variables per officer case response. One variable was coded as 1 if an officer mentioned the factor suggested the defendant was reformable, and as 0 for all other cases. Another variable was coded as 1 if an officer mentioned the factor suggested the defendant was incorrigible, and coded as 0 for all other cases.

Table 2: Element Category Codes

Sub Code	Top Code
Criminal History: Pattern	Pattern
Criminal History: Recency	Pattern
Criminal History: Severity	Criminal History Severity
Criminal History: Violent	Criminal History Severity
Intent: Created Weapon	Intent
Intent: Organized Crime Group	Intent
Intent: Pursued Target	Intent
Motivation: Alcohol	Motivation
Motivation: Anger	Motivation
Motivation: Drug	Motivation
Motivation: Mental Health	Motivation
Motivation: Money	Motivation
Motivation: Ongoing Dispute	Motivation
Motivation: Other or Ambiguous Need	Motivation
Motivation: Victim Precipitation	Motivation
Severity: Amount of Drugs	Severity of Current Offense
Severity: Cost	Severity of Current Offense
Severity: Drug Dealing	Severity of Current Offense
Severity: Injury	Severity of Current Offense
Severity: Multiple Victims	Severity of Current Offense
Severity: Potential injury	Severity of Current Offense
Victim Characteristics: Police	Special Victim
Victim Characteristics: Position of Trust	Special Victim
Victim Characteristics: Vulnerable	Special Victim
Avoid Negative Life Impacts	Other
Intervention Available	Other
Victim Characteristic: Relationship	Other
Other	Other

- **Element-Specific Focal Concerns Salience** Statements by the officer about the focal concerns of the defendant were coded into 3 variables: blameworthiness, public safety, and practical constraints. These variables were coded as: the officer explicitly stated that focal concern was not very salient (-1); that focal concern was not mentioned (0); and the officer stated that focal concern was highly salient (1). As it quickly became clear that it was usually not possible to distinguish

between officers' perceptions of blameworthiness and public safety, a fourth variable was coded in a similar manner that indicated the salience of blameworthiness and/or public safety. In that response, however, it was not possible to distinguish whether the officer was referencing blameworthiness, public safety, or both. This theoretically important issue will be explored further in the qualitative section of this dissertation.

The "salience" variables were interacted with the "element" variables to create one variable per element for each case that indicates whether the element multiplied by focal concerns was: present and low (=-1), not present (=0), or present and high (=1).

These variables were further collapsed by averaging the total focal concerns for cases where that element was present (-1 or 1) into an additive focal concerns salience variable. This represents a focal concerns salience scale for each vignette response for each officer—if each of 7 elements were present and they all were high, the score would be 7, and if each were present and they were all low, the score would be -7.

Additional vignette response-level variables recorded and coded were:

- **Recommended Case Outcome** The final disposition for the case (either a charge or a conditional caution) recommended by the officer was coded in a binary variable.

- **Overriding Elements** A binary variable was created at the officer vignette response level indicating an element is present in a case that was indicated by that individual officer as overriding.

- **Case** Dummy variables were created to control for the vignette case.

3.4. <u>Analysis</u>

3.4.1. Descriptive Statistics

First, descriptive statistics of the elements, narrative assumptions, and outcomes will be presented. Second, the amount of agreement will be compared using leave-one-out cross validation (Stone 1974; Arlot and Celisse 2010) to assess the gap between predicted and actual outcomes. This approach will use 33 officer responses to predict the 34th, and report the amount for which leave-one-out cross validation will be used to gauge officers' extent of agreement on whether each element was relevant in a given case response, and whether officers felt that each relevant element pushed them toward diversion or a charge.

3.4.2. Modeling Trait and State Factors

Model

This dissertation is designed to explore both global officer-level ("trait") and situational case-level ("state") drivers of officer decisions, so an appropriate analytic technique is needed to address both of these levels. This section describes the application of hierarchical models in this context, then the current model selection.

Many previous studies have used hierarchical methods to model vignette responses clustered within respondents, with the goal of testing trait attributes versus state responses. These methods allow researchers to analyze both within and between respondent differences. Some examples from a variety of fields include:

- **Attitudes scale and vignettes on recommended amount of child support (Ellman et al. 2011)** An attitudes score was calculated for each respondent based on 20 Likert-type items. In the same survey respondents also made recommendations for outcomes for a series of vignettes (recommending the

amount of child support vignette parents should have to pay). HLM was used to test how different income amounts in the vignettes predicted changes in recommended outcome. They also broke this down into high, medium, and low attitudes, to see how the differing attitude sub-groups responded to the vignettes.

- **Risk of coronary heart disease attitudes and beliefs and vignettes (Figueiras et al. 2017)** In a study of 476 respondents, the authors used HLM to test the impact of personal attitudes and beliefs about health risks to assessments of risk in 24 vignettes within the same survey. This study tested whether personal knowledge or experience with risk factors or development of coronary heart disease increased perceptions of the risk faced by others with those shared characteristics.

- **Perception of anger on overall attitudes and vignettes (Galperin et al. 2013)** In a study of 161 participants, HLM was used to test the impact of participants' own propensity to overreact with anger on perceptions of 4 vignette characters' level of anger and disgust.

- **Purchase manager traits and vignettes (Rooks et al. 2000)** 40 purchase manager participants in a management course were given 10 factorial vignettes each to judge how much time and how many departments each transaction would take, and traits about the respondents were accounted for.

- **Trait anxiety and differences in heart rate response to vignettes (Banks et al. 2018)** In a study of 80 adolescents, heart rate was monitored for reactions to 10 video vignettes. HLM was used to test the relationship of reactions with participant characteristics including their score an anxiety scale.

- **Gender and parental responses to child pain vignettes (Goubert et al. 2012)**

  HLM was used to measure the impact of the 743 parents' gender on how they would respond if their child was in pain in a way described in each of 4 vignettes.

  Theoretically, hierarchical models are well suited to account for the current study's case-level analysis where effects are clustered around the officer, as case outcomes may be more similar for individual officers (Raudenbush & Bryk 2002). A hierarchical model would account for both officer-level (Level 2) and case-level (Level 1) influences. Preliminary descriptive analysis of the data in the current study finds that indeed there is theoretical reason for a hierarchical model because individual officers vary situationally in their responses, often in ways that are not isolated to certain case types—or even uniformly within certain officers. While for some types of variables it may be possible to select and analyze separately only the cases with that element (e.g. alcohol involved), for many variables this would not be possible. It would not be possible, say, to select only the cases where the element of "pattern of previous behavior" is mentioned because officers vary dramatically in how they observe and interpret this variable. Figure 3 indicates that in 90% of cases officers mention the defendant's pattern of previous similar offending behavior (or lack thereof) as relevant to their decision. Figure 4 indicates that in 50% of cases where such a pattern is mentioned, officers disagree about whether the pattern of previous behavior pushes them toward a charge or conditional caution. And those narratives may vary situationally—Figure 5 indicates that 28% of officers who ever mentioned the defendant *did* have a pattern of similar offending behavior stated in some cases that the pattern element pushed them toward charge, and in other cases those same officers stated it pushed them toward conditional caution. The

variance that will be explored in this study comes from not just the officer level (and not just the aggregate case level) but at the officer case-response level (e.g. an analysis that considers all of the case responses where an officer mentions a pattern of previous offending).
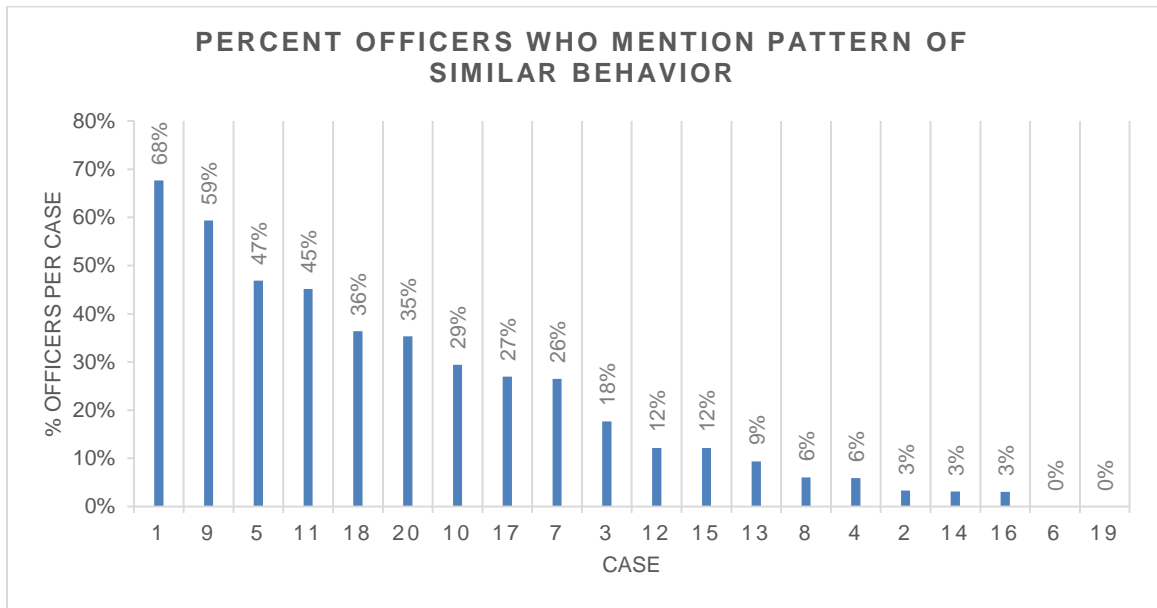
Figure 3
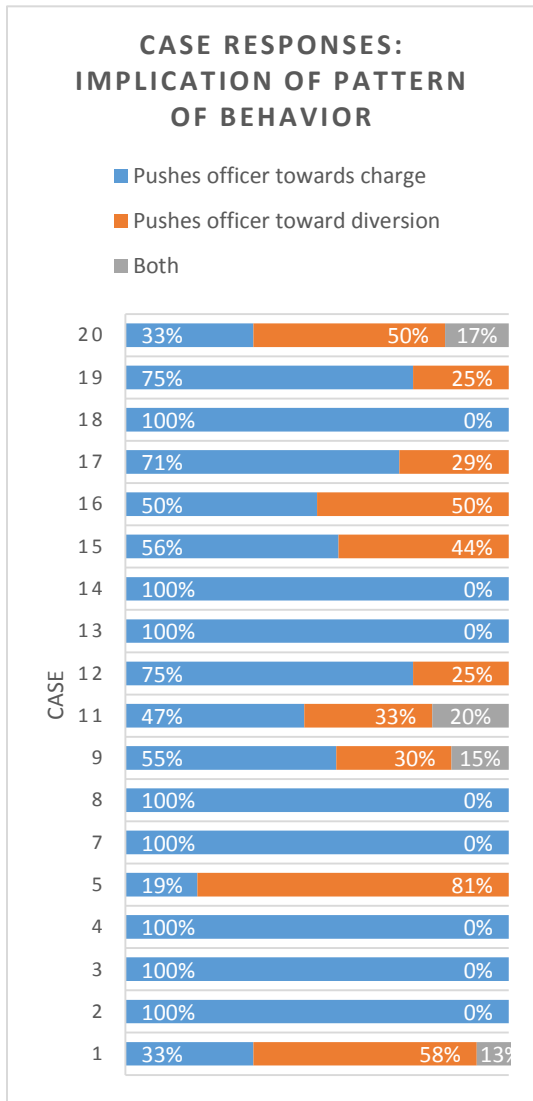
Figure 4
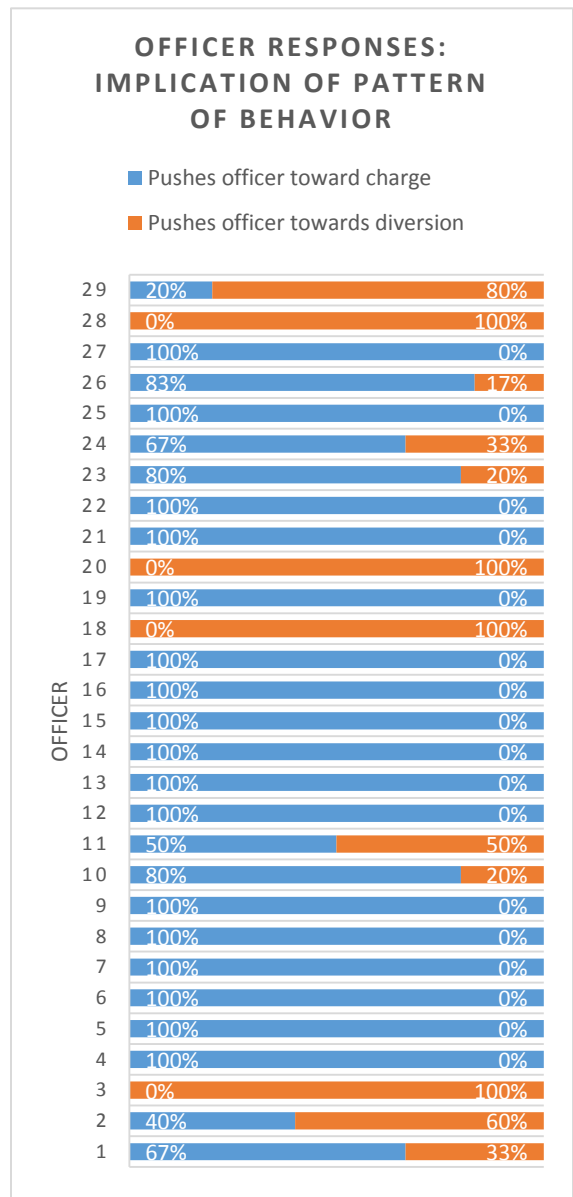
Figure 5

A mixed effects model was chosen over a logistic regression model at the officer level with key variables aggregated from the case level, in part practically because a key question of interest was differences in case-level responses. This is supported by the data—in a hierarchical logistic regression model predicting the outcome, even when controlling for overall officer attitudes, there is an effect of whether officers mentioned

that a specific factor in the case made them believe the defendant was incorrigible

($z=5.31$, $p<.001$). This effect remains when an officer-level variable for whether the

officer had *ever* mentioned a case being incorrigible was added. An aggregated approach

also loses too much individual variation, which can misrepresent the relationships

between the different variables (Raudenbush & Bryk, 1992).

A mixed effects model was chosen over a fixed effects model for practical

reasons. There are theoretical reasons based on past literature to suspect that there may be

systematic sources of between-officer variation, and the study of this variation is of key

interest for this dissertation. Table 3 shows the final mixed effects model compared with

the same case-level variables in a fixed effects model. The fixed effects model includes a

dummy variable for each officer in a case-level analysis to soak up all of the officer-level

variation, avoiding omitted variable bias by controlling for differences between officers,

leaving only group-level within-officer differences. For both of the models in this

comparison, there were no substantive differences in case response–level variables when

a random versus fixed effects model was used (see Appendix C for the full results

including a dummy variable for each case). When officer-level variables were added in to

the random effects model where "Officer ID" references the random effects parameter, at

least one officer-level variable was significant or marginally significant in all of the

models. This suggests that omitted-variable bias due to officer differences is not driving

the case-level outcomes, and as the study is testing for officer-level variables as well,

hierarchical random effects models are justified.

To test further whether a multi-level approach is appropriate, a preliminary test

was run to see whether the likelihood of a given outcome varies depending on the officer.

A hierarchical logistic regression was run including all of the predictors in the full final model, and the intraclass correlation coefficient (ICC) was calculated to determine the ratio of the between-officer variance to the overall variance. The resulting ICC of .14 indicates that 14% of the total variance is explained by between-officer differences, a sufficient amount to suggest that officer-level groupings should be taken into account in the final model. A likelihood ratio test was conducted between a single-level logistic regression model and a hierarchical logistic regression, with both models using all of the variables as predictors and the final outcome of the case as the dependent variable. This test statistic was significant (chibar2[1]=10.50, p=.0006), indicating that the multilevel model was a better fit than a single-level logistic regression. Conducting an analysis at the case level without accounting for officer-level effects is likely to lead to a number of problems, including underestimated standard errors (Raudenbush & Bryk 2002) and an increased likelihood of type I error (Hox 2010).

Table 3: Predicting Overall Recommendation of Diversion, Fixed vs. Mixed Effects Model

	Model 1: Fixed Effects			Model 1: Mixed Effects			Model 2: Fixed Effects			Model 2: Mixed Effects		
	OR	*SE*	*p*	*OR*	*SE*	*p*	*OR*	*SE*	*p*	*OR*	*SE*	*p*
Male	--	--	--	.26*	.14	.013	--	--	--	.56	.24	.180
White	--	--	--	.36+	.20	.065	--	--	--	.36+	.21	.083
Age	--	--	--	1.04	.03	.218	--	--	--	1.06+	.03	.050
Education	--	--	--	1.16	.13	.181	--	--	--	1.05	.16	.735
Trait: ATP	--	--	--	.54	.28	.233	--	--	--	.42	.24	.133
State: Reformable	3.59***	1.16	<.001	3.43***	.99	<.001	1.72	.67	.166	1.54	.562	.234
State: Incorrigible	.19***	.10	.001	.17***	.06	<.001	.66	.45	.548	.65	.38	.463
Focal Concerns Sum	--	--	--	--	--	--	.29***	.04	<.001	.27***	.05	<.001

Note. +p<.10, *p<.05, **p<.01, ***p<.001

A likelihood ratio test was run using a full model testing the impact of demographic, trait, and state variables on the recommended outcome to test whether an augmented intermediate model including random effects should be included in the model. While there is theoretical reason to suspect that the impact of narratives may vary by officer, this was tested in light of both the general principle of avoiding unnecessary risk of overparameterization (Bates, Kliegl, Vasishth & Baayen, 2015) as well as the importance in small-sample HLM models of prioritizing simplicity (Schoeneberger 2016). A likelihood ratio test found no advantage to including random effects (χ^2=.00; *p*=1.00).

Hypothesis Testing

The study will test the following five hypotheses, designed to support the overall research question: How are police officer decisions to divert a case from prosecution into a diversionary out-of-court disposal driven by *trait* (overall) attitudes and beliefs about defendants and outcomes, as opposed to *state* assumptions (narratives about the meaning of specific elements present in the case)? First, overall correlations between all variables and bivariate relationships are presented, as well as overall diagnostic tests. Then, for each hypothesis, model identification tests are described.

- **Hypothesis 1:** Officer trait (global officer-level) attitudes will impact state (situational case-level narrative) attitudes, as measured by officer narratives about the reformability or incorrigibility of defendants.

- **Hypothesis 2:** Officer trait attitudes will influence which elements officers consider relevant in a case.

- **Hypothesis 3:** Both trait (global officer-level) and state (situational case-level

narrative) attitudes and beliefs about defendants will influence the perceived salience

of focal concerns in a case.

- **Hypothesis 4:** Focal concerns salience and both trait (global officer-level) and state
  (situational case-level narrative) attitudes will influence the final recommended
  outcome in a case.

- **Hypothesis 5:** A model using overriding elements (i.e. highest level of importance
  heuristic) will be a better predictor of outcomes than a model using average focal
  concerns salience (i.e. sum of elements heuristic) across all elements mentioned.

Hypothesis 1: Officer trait (global officer-level) attitudes will impact state (situational case-level narrative) attitudes, as measured by officer narratives about the reformability or incorrigibility of defendants.

A hierarchical logistic regression model including officer demographic variables

and the trait (Level 2, global officer-level) ATP scale will be used to predict whether

officers mention state (Level 1, situational case-level) narratives in two separate models

predicting the binary variables for whether officers mentioned reformablity or

incorrigibility. The model predicting mention of reformability is below:

$$\log\left(\frac{Reform_{ij}}{1 - Reform_{ij}}\right)$$

$$= b_0 + b_1 ATP_i + b_2 Male_i + b_3 White_i + b_4 Age_i + b_5 Educ_i + u_i + \varepsilon_{ij}$$

(Model 1)

Model 1 predicts whether officer *i* mentioned a defendant in a vignette being

reformable (Reform) in the *j*th vignette. The model specifies this is a function of a

constant (b_0) plus the Level 2 variables for each officer's ATP score, gender, race, age

and education, plus a random error term (ε_{ij}). A similar Model 2 below was used to predict whether officer i interpreted an element in case j to indicate the defendant to be incorrigible. As no vignette-level predictors are used in these models, dummy variables for each vignette are not included.

$$\log\left(\frac{Incorr_{ij}}{1 - Incorr_{ij}}\right)$$

$$= b_0 + b_1 ATP_i + b_2 Male_i + b_3 White_i + b_4 Age_i + b_5 Educ_i + u_i + \varepsilon_{ij}$$

(Model 2)

Hypothesis 2: Officer trait (global officer-level) attitudes will influence which elements officers consider relevant in a case.

A hierarchical logistic regression model including officer demographic variables and the (Level 2) ATP scale will be used to predict whether officers indicate each of the elements are relevant in a given Level 1 case. Model 3 predicts the odds of officer i in the jth vignette mentioning the presence of a pattern of similar offending—this model will be repeated to predict each of the 6 element types[1]. As no vignette-level predictors are used in these models, dummy variables for each vignette are not included.

$$\log\left(\frac{Pattern_{ij}}{1 - Pattern_{ij}}\right)$$

$$= b_0 + b_1 ATP_i + b_2 Male_i + b_3 White_i + b_4 Age_i + b_5 Educ_i + u_i + \varepsilon_{ij}$$

(Model 3)

---

[1] No model will be created for "Other."

Hypothesis 3: Both trait (global officer-level) and state (situational case-level narrative) attitudes and beliefs about defendants will influence the perceived salience of focal concerns in a case.

A hierarchical linear regression model will be used to test the impact of officer demographic variables, the trait (Level 2) ATP scale, and the state (Level 1) binary element-specific narratives on the summed focal concerns salience (Focal) of officer i in the jth vignette (Model 4). Dummy variables will be included for 19 of the 20 individual vignette cases. Robust standard errors will be used to address potential variation in standard errors across officers.

$$Focal_{ij} = b_0 + b_1 Rehab_j + b_2 Incorr_j + b_{3j} \sum_{j=1}^{19} Case_j + b_4 ATP_i + b_5 Male_i$$

$$+ b_6 White_i + b_7 Age_i + b_8 Educ_i + u_i + \varepsilon_{ij}$$

(Model 4)

Then, hierarchical multinomial logistic regression models will be used to predict the outcome of salience of focal concerns for each element separately. In each of the six models (criminal history pattern; criminal history severity; motivation; intent; current offense severity; and special victim), the salience of the element will be predicted across all vignettes for all officers across three categorical outcomes: mention the element as having low concern (low focal concern=1), mention neutral or no mention of the element (no mention or neutral=2, reference category), or mention the element as having high concern (high focal concern=3). This will create six separate models, one predicting the perceived focal concerns salience across all vignettes for all officers for each of the six

specific elements. (Model 5 shown below predicts the salience of Pattern, which will be repeated with each of the six element types). Included in all of the models will be officer demographic variables (Level 2), the trait ATP scale (Level 2), and the binary state element-specific narratives of reformability and incorrigibility (Level 1). Robust standard errors are used, and dummy variables will be included for vignette cases. Some case dummies are removed due to multicollinearity or lack of variation (see Appendix D and Table 15 footnotes).

$$\ln\left(\frac{Pattern_{sij}}{Pattern_{tij}}\right)$$

$$= b_0^{(s)} + b_1^{(s)}Rehab_j^{(s)} + b_2^{(s)}Incorr_j^{(s)} + b_{3j}^{(s)}\sum_{j=1}^{19}Case_j^{(s)} + b_4^{(s)}ATP_i^{(s)}$$

$$+ b_5^{(s)}Male_i^{(s)} + b_6^{(s)}White_i^{(s)} + b_7^{(s)}Age_i^{(s)} + b_8^{(s)}Educ_i^{(s)} + u_j^{(s)} + \varepsilon_{ij}^{(s)}$$

s=1 (low), 3 (high)

(Model 5)

Hypothesis 4: Focal concerns salience and both trait (global officer-level) and state (situational case-level narrative) attitudes will influence the final recommended outcome in a case.

A hierarchical logistic regression model will be used to predict the recommended case outcome (Outcome) by officer *i* in the *j*th vignette. The model (Model 6) will include officer demographic variables, the trait (Level 2) beliefs about the effectiveness of interventions scale, the state (Level 1) element-specific narratives, and the summed focal concerns salience variable, which will be used to predict the final case outcomes.

Dummy variables will be included for 19 of the 20 individual vignette cases and robust standard errors used.

$$\log\left(\frac{Outcome_{ij}}{1 - Outcome_{ij}}\right)$$

$$= b_0 + b_1 Rehab_j + b_2 Incorr_j + b_3 Focal_j + b_{4j} \sum_{j=1}^{19} Case_j + b_5 ATP_i$$

$$+ b_6 Male_i + b_7 White_i + b_8 Age_i + b_9 Educ_i + u_i + \varepsilon_{ij}$$

(Model 6)

Hypothesis 5: A model using overriding elements (i.e. highest level of importance heuristic) will be a better predictor of outcomes than a model using average focal concerns salience (i.e. sum of elements heuristic) across all elements mentioned.

Model 7 will be created that will include both the summed focal concerns salience variable and the binary variable indicating the presence of an overriding element variable, and using the same demographic and case control variables. Dummy variables will be included for 19 of the 20 individual vignette cases, and robust standard errors used.

$$\log\left(\frac{Outcome_{ij}}{1 - Outcome_{ij}}\right)$$

$$= b_{0i} + b_1 Focal_j + b_2 Override_j + b_{3j} \sum_{j=1}^{19} Case_j + b_4 Male_i + b_5 White_i$$

$$+ b_6 Age_i + b_7 Educ_i + u_i + \varepsilon_{ij}$$

(Model 7)

3.4.3. Qualitative Exploration of Officer Vignette Responses

To provide a better illustration of officer decision-making and how different officers might come to different conclusions, a deep exploration of each vignette and officers' responses will be undertaken. All vignettes will be listed in full, and the following items will be discussed. A fuller description of methods used will be given in the qualitative section.

Qualitative Description of Officer Responses

For all 20 vignettes, officer responses will be described, and a table for each case will be presented compiling officers' reasons for pushing toward diversion or toward prosecution, using direct quotes as much as possible. All quotes were compiled for each case into themes, based on the element represented in the quote, and whether the quote indicated that the element pushed the officer toward diversion or prosecution. Representative quotes for each theme were selected. The approach used in this qualitative section is descriptive, aiming to organize and report officer statements. In the table, for each element discussed, one or more quotes or brief summary statements will be used until the point appears to be "saturated" where no additional quotes added substantive value to the officers' point being summarized. For each vignette, the description will begin with officers' basic perceptions about the severity of the incident or the harm caused itself, and their perception of the defendant's criminal history. It will go on to discuss major other issues that officers raised. A particular focus will be on when different officers interpreted the same element in different ways.

Archetypal Officer Responses: Positive and Negative Orientation Toward Defendants

For only the first vignette, the actual responses of officers will be used to create two theoretical officer archetypes, showing how a "tough" officer who had negative

views toward defendants and was oriented toward harsh punishment would be expected to react, as well as how an officer who had positive views toward defendants and was oriented toward rehabilitation would be expected to react. The value of analyzing these two archetypal officers' diverging perceptions of the same case is that it demonstrates how the same situations and elements can be interpreted in opposite ways leading to opposite outcomes. The quantitative chapters will test whether officers act similarly to these archetypes, and explore when the officers had more nuanced views, viewing some elements as weighing in one direction and others as weighing in the opposite direction.

These archetypes are the two polar extremes on the adapted Attitudes Toward Prisoners Scale (Melvin, Gramling, & Gardner 1985) used in this dissertation's quantitative analysis. An archetypal officer with a negative orientation toward defendants ("tough cops") would agree with the following:

- offenders never change;

- offenders only think about themselves;

- offenders are just plain immoral;

- trying to rehabilitate offenders is a waste of time;

- offenders are always trying to get something out of somebody;

- offenders only respond to brute force.

This archetype would also disagree with the following:

- most offenders are victims of circumstances and deserve to be helped;

- only a few offenders are really dangerous;

- if you give an offender respect, he will give you the same;

- some offenders are pretty nice people;

- most offenders can be rehabilitated.

The archetypical officer with a positive orientation toward defendants and rehabilitation would have the reverse responses.

Chapter 4: Results

4.1. <u>Descriptive Analysis</u>

Table 4 reports descriptive analyses of each of the key variables. Officers were on average 41 years old, 71% male, and 88% white. They had served as police officers for on average 15 years, with a range of between 7 and 28 years. Officers who responded to the survey closely matched the full sample on demographic characteristics. On average, they had completed A Levels, a British qualification that in US terms lies between a high school diploma and an Associate of Arts or Science degree. Officers ranged in their views toward defendants, averaging somewhat more toward positive than negative. They also tended to view therapeutic interventions as somewhat effective, more so than traditional criminal justice, whereas they viewed traditional criminal justice interventions as right in the middle between somewhat effective and not very effective.

The most common element officers noted across all cases was the motivation of the defendant, which they commented on in 64% of case responses. The next most common element they noted was the severity of the current offense (59% of the time) followed by the severity of the criminal history (41% of the time). A defendant's past pattern of similar behavior or lack thereof (22% of the time), any special status of the victim (21%), and the intent of the defendant in committing the crime (18% of the time) were all mentioned relatively equally. In only 4% of cases officers mentioned an element other than those listed—most often noting that the defendant did not appear to be connected to organized crime.

Table 4: Descriptive Statistics

	Mean or %	(SD)	Range
Officer Level:			
Officer Demographics			
Age (years)	41.32	(6.17)	31-53
Male (%)	71	(46)	
White (%)	88	(33)	
Education (0-6)	2.64	(1.43)	0-6
Trait Beliefs and Attitudes Scales (higher number = more positive)			
Attitudes Toward Prisoners (1-5)	3.13	(.45)	2.22-4.03
Effectiveness: Therapeutic (1-4)	2.98	(.49)	1.8-4
Effectiveness: Traditional CJ (1-4)	2.53	(.60)	1.3-4
Case Response Level:			
Elements Observed (%)			
Pattern	22	(42)	
Criminal History Severity	41	(49)	
Intent	18	(38)	
Motivation	64	(48)	
Severity of Current Offense	59	(49)	
Special Victim	21	(41)	
Other	18	(39)	
Element Interpretation (%)			
Reformable	39	(49)	
Incorrigible	7	(26)	
Focal Concerns Salience	-.40	(1.82)	-4-6
Overriding Elements (%)	13	(34)	
Recommended Diversion (%)	73	(45)	

In 39% of case responses, officers specifically mentioned that a certain element being present made them think the defendant was reformable—97% of officers mentioned this in at least one case, and it was mentioned by at least one officer in 100% of cases. In 7% of cases, officers mentioned they found a certain element suggested to them the defendant was incorrigible—55% of officers mentioned this in at least once case, and in 65% of cases at least one officer mentioned this.

In all, the sample contained 2,234 elements listed by officers, and 645 case responses. Officers answered on average 19 out of 20 questions. Officers reported that non-responses were due to wanting more information about a case before making a decision, or bugs with the IT system administering the survey. Table 5 shows the pattern of non-response and the overall percentage of officers who recommended diversion versus prosecution in each case.

Table 5: Officer recommended outcomes for each case

|	N	Case Recommendation	
		% Diversion	% Prosecution
Violence			
1) Attack on car	33	70	30
2) Assaults in a public park	32	66	34
3) Sports attack	34	88	12
4) Belt to the head	33	79	21
5) Assault over loud dog	34	71	29
6) Glassing in a pub	32	6	94
7) Scuffle at a school	32	88	12
Theft			
8) Thieving dog sitter	32	78	22
9) Theft by client minding desk	34	97	3
10) Pill theft by hospital staff	34	85	15
11) Theft from staff locker room	31	65	35
12) Store theft [4]	31	97	3
Assault Police			
13) Driving police officer	30	73	27
14) Drunk assault police	33	85	15
15) Headbutting of an officer	32	34	66
16) Assault and spit at an officer	32	72	28
Drug Dealing			
17) Dealer on a bus	26	73	27
18) Routine traffic stop of a dealer	33	82	18
19) Cannabis set-up upstairs	33	70	30
20) Cannabis set-up after an assault	34	71	29

As previously mentioned, it quickly became clear that focal concerns were not easily distinguishable for coding. In 31% of cases, officers mentioned an element specifically related to public safety. But in 58% of officer comments about specific elements (at the level of the specific element, not at the case level), even when very specific, could have referred to either public safety or blameworthiness. Only in 6% of cases was it clear that the officer referring specifically to blameworthiness. And in 5% of cases, officers referred to practical constraints. Because distinguishing public safety from blameworthiness was often not clear from officer responses (and this also appeared to not to be clear to officers themselves—the implications of this issue will be discussed in more depth in later sections of this dissertation), an overall variable was used in this analysis for whether the officer's comment on that element indicated it was high on any of the focal concerns (with practical constraints reversed—a practical constraint was considered "low," so as to match the pattern of the "low" responses for blameworthiness and public safety as being generally mitigating). Overall, officers' summed focal concerns on average were slightly below neutral toward mitigating, with a -.4 and a range of -4-6.

In 13% of cases, officers noted that a specific element was overriding (i.e., the officer would charge if that element was present no matter the other circumstances)—65% of officers indicated an overriding element in at least one case. In 73% of case responses, officers recommended diversion. Every officer recommended diversion at least once, and in every case, at least one officer recommended diversion. In 27% of case responses officers recommended prosecution, and in every case at least one officer

recommended prosecution, and all but 2 officers (94%) recommended prosecution at least once.

Differences by officer and case

Despite the relative consistency in the rate of recommending caution for each case (Figure 6—in about three quarters of cases, 70-90% of officers recommended caution), responses were marked by substantial variation. In the least recommended case, 6% of officers recommended a conditional caution, whereas in the most recommended case, 97% of officers recommended a conditional caution. The rate also varied by officer (Figure 7), and rates ranged from officers who recommended a conditional caution 30% of the time to officers who recommended a conditional caution 100% of the time.

Figure 6

RATE OF RECOMMENDING DIVERSION: CASES PER OFFICER
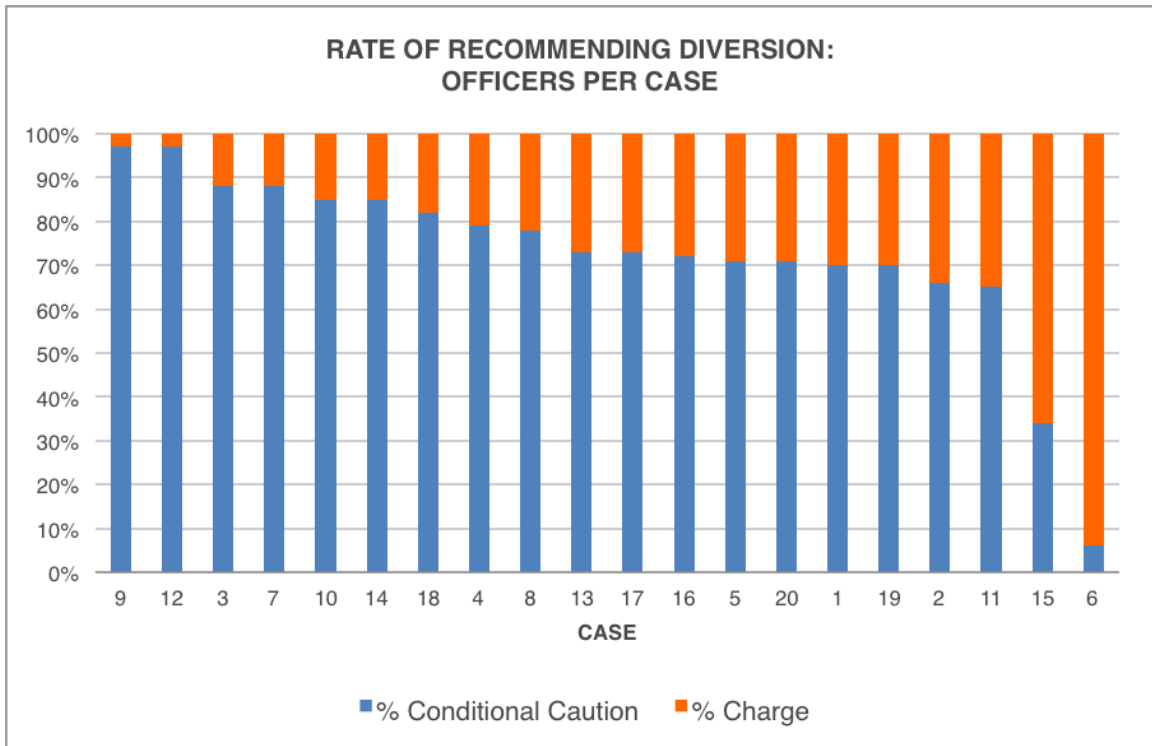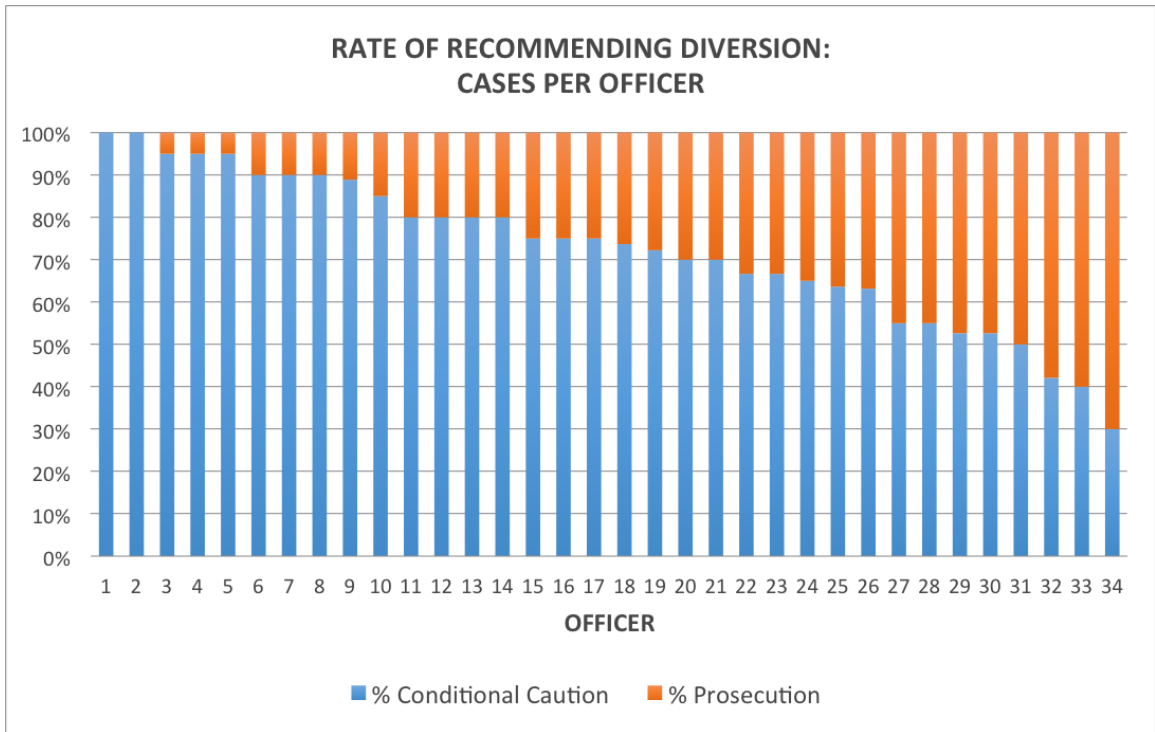
Figure 7

In case responses where each element was mentioned, Table 6 shows the rate at which officers indicated that element pushed them toward a charge versus toward diversion. In some cases, multiple aspects of one element were mentioned, and some of those aspects pushed toward a charge while others pushed toward diversion. For example, 87% of the time when an officer mentioned motivation, they thought the defendant's motivation in that case pushed them toward diversion. On the other hand, intent pushed them toward prosecution 71% of the time it was mentioned. Tables may not add up to 1 if officers mentioned equal factors going in both directions.

Table 6: Percent of Vignette Case Responses in Which Each Element Category Pushes the Officer Toward Charge vs. Diversion, out of All Cases in Which the Element Is Mentioned

	Push Toward Diversion	Push Toward Prosecution
Pattern	57	37
Criminal History Severity	74	26
Intent	29	71
Motivation	87	11
Severity of Current Offense	45	50
Special Victim	1	99
Other	56	44

Table 7 reports the percentage of case responses in which an element was mentioned as pushing toward diversion and the case ultimately was recommended for diversion and vice versa, the percentage case responses in which officers indicated an element pushed toward prosecution and ultimately indeed recommended prosecution. Officers who indicated a factor pushed them toward a charge still ultimately recommended diversion for that case between 26% and 62% of the time.

Table 7: Percent of Vignette Case Responses Officers Ultimately Recommended for Diversion or Recommended for Charge, out of All Cases in Which the Officer Mentioned that Element Pushed that Officer in the Same Direction

	Element Pushed Toward Diversion	Element Pushed Toward Prosecution
	Recommend Diversion	Recommend Prosecution
Pattern	92	66
Criminal History Severity	91	52
Intent	91	64
Motivation	89	80
Severity of Current Offense	91	63
Special Victim	--	42
Other	88	55

Restricting the sample to cases where officers answered affirmatively that an element was present in the case, it was also possible for officers to disagree about

whether there was a lot or a little of each element (e.g. whether the criminal history was severe or not severe, or whether the financial cost imposed on the victim was high or low).

To test the relative level of agreement between officers on different elements, leave-one-out cross validation was used (Table 8) to show the difference between the predicted versus actual officer mentions of each element. It produced a similar magnitude of agreement across element, with the lowest agreement on the relevance of criminal history, and the highest agreement on the relevance of intent.

Table 8: Degree of Agreement on Whether Each Element Is Relevant in a Given Case

	Root Mean Squared Errors
Pattern	.41
Criminal History	.49
Intent	.38
Motivation	.46
Severity	.46
Special Victim	.41

Table 9 shows the result of tests for the level of agreement on whether officers indicate the element pushes them toward diversion or prosecution in cases where they mention the element. Overall, the level of disagreement is increased from Table 8.

Table 9: Degree of Agreement on Whether Each Element Pushes Toward Diversion or Charge

	Root Mean Squared Errors (Restricted)
Pattern	.52
Criminal History	.86
Intent	.43
Motivation	1.29
Severity	.95
Special Victim	.41

*Descriptive relationship between trait and state attitudes*

To explore differences between trait attitudes and state attitudes, officers were divided into quartiles based on their score on the ATP scale (Table 10). In terms of trait attitudes toward defendants, of the officers with the most positive attitudes (those in the 1st and 2nd quartile), 75% recommended diversion. There was a small increase in diversion in the 3rd quartile. Officers with the most negative attitudes toward defendants (4th quartile) recommended 58% of cases for diversion, somewhat lower than the other 3 quartiles.

Table 10: Percent of Case Responses Recommended for Diversion in Each Quartile of Officers by ATP Score

	Mention Reformable	Mention Neither	Mention Incorrigible	*All Cases*
1st (Most Positive) Quartile	86	70	25	*75*
2nd Quartile	86	68	25	*75*
3rd Quartile	98	79	20	*82*
4th (Most Negative) Quartile	82	54	29	*58*
All Officers	*88*	*68*	*23*	*73*

A more dramatic differentiation is seen by state attitudes—whether officers said that something about the case made them think the defendant was reformable or incorrigible. Among case responses where the officer mentioned that an element about the case indicated to the officer that the defendant was reformable, 88% of the time officers recommended diversion (Table 10). Diversion was recommended 68% of the time neither of these factors were mentioned. In cases where the officer mentioned an element in the case made them think the defendant was incorrigible, diversion was recommended 23% of the time. The pattern is relatively similar across all quartiles of officers (Figure 8)—when reformable is mentioned the diversion rate is in the 80-90% range or higher, and when incorrigible is mentioned the diversion rate is in the 20-30%

range. This suggests that when officers perceive an element about the case indicates the defendant is incorrigible or reformable, similar decisions are made regardless of trait attitudes.

PERCENT CASES RECOMMENDED FOR DIVERSION BY MENTION OF REFORMABLE OR INCORRIGIBLE
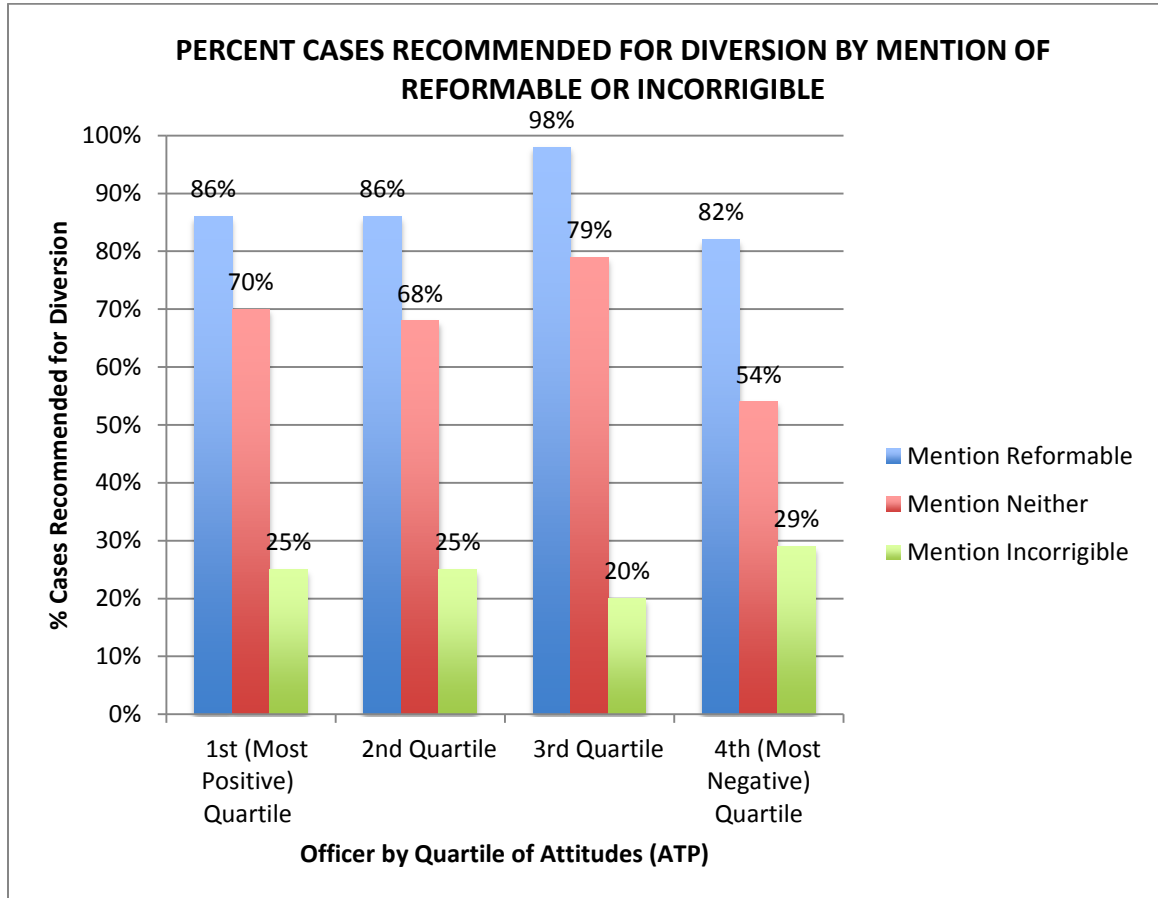
Figure 8

Officers in the 4th quartile of ATP were somewhat less likely to mention an element in the case meant the defendant was reformable, and more likely to mention an element meant the defendant was incorrigible (Table 11). Looking across all four quartiles, there is otherwise not a consistent trend downward in mentioning reformable, or upward in mentioning incorrigible.

Table 11: Percent of Case Responses with Mention of Incorrigibility or Reformability by ATP Quartile

	Mention Reformable	Mention Neither	Mention Incorrigible
1st (Most Positive) Quartile	39	60	2
2nd Quartile	62	32	9
3rd Quartile	34	61	6
4th (Most Negative) Quartile	28	64	13
Total Officers	39	54	7

Taking into account Tables 10 and 11 where descriptively there appears to be more salience to the difference between the 4th quartile (the self-reported "toughest" cops) and the rest of the groups, a binary variable was created where members of the 4th quartile were coded as 1, and the others three quartiles as 0. While the primary measure of attitudes in this dissertation is a continuous measure of officers' ATP score, to test sensitivity to the distinction between the 4th quartile group and all others, all of the key models throughout the rest of the dissertation were repeated using the 4th quartile binary variable. Any substantive changes in results when using this binary variable are reported.

To get a sense of whether it is the same officers consistently recommending charge in cases with a higher percentage charged, Figure 9 shows each case response. It plots each officer along the x-axis, rank ordered by the percentage of cases in which they recommended prosecution. It shows each case along the y-axis, rank ordered by the percentage of officers who recommended prosecution. Therefore, for example, the bottom right hand box is the case response for the case that was most often recommended for prosecution across all officers, by the officer who recommended the most cases for prosecution. This chart illustrates both the patterns and non-patterns evident in the overall outcome recommendations. It shows that for officers in the most negative quartile (the "toughest" cops), there is at least some degree of clustering toward the higher end of

recommending prosecution, whereas officers in the most positive quartile tend to land toward the middle of the overall distribution. It also shows that officers made many decisions that are not directly aligned with their attitudes score; officers among the most negative in their case responses still recommended diversion for many cases that other officers chose to charge, and officers in the most positive quartiles still recommended prosecution for cases that other officers found reason to divert.

Figure 10 maintains the rank ordering of cases and officers from Figure 9, and illustrates the case responses where an officer mentioned there is a factor that suggests the defendant may be reformable. Some officers were more likely to mention this overall. There were some case- and officer-based visual patterns—for example in the third case from the bottom, officers toward the left who recommended diversion tended to flag that a factor indicated reformability to them, and officers toward the right who recommended prosecution tended not to flag any factors indicated reformability, though two officers did note a reformability factor but recommended prosecution anyway.

Figure 11 continues to maintain the same ordering of cases and officers, and illustrates mentions of incorrigibility by officers. It shows a clustering of incorrigibility mentions in the bottom right corner. It also shows that a little less than half of incorrigibility mentions were made by officers in the lowest attitudes quartile.
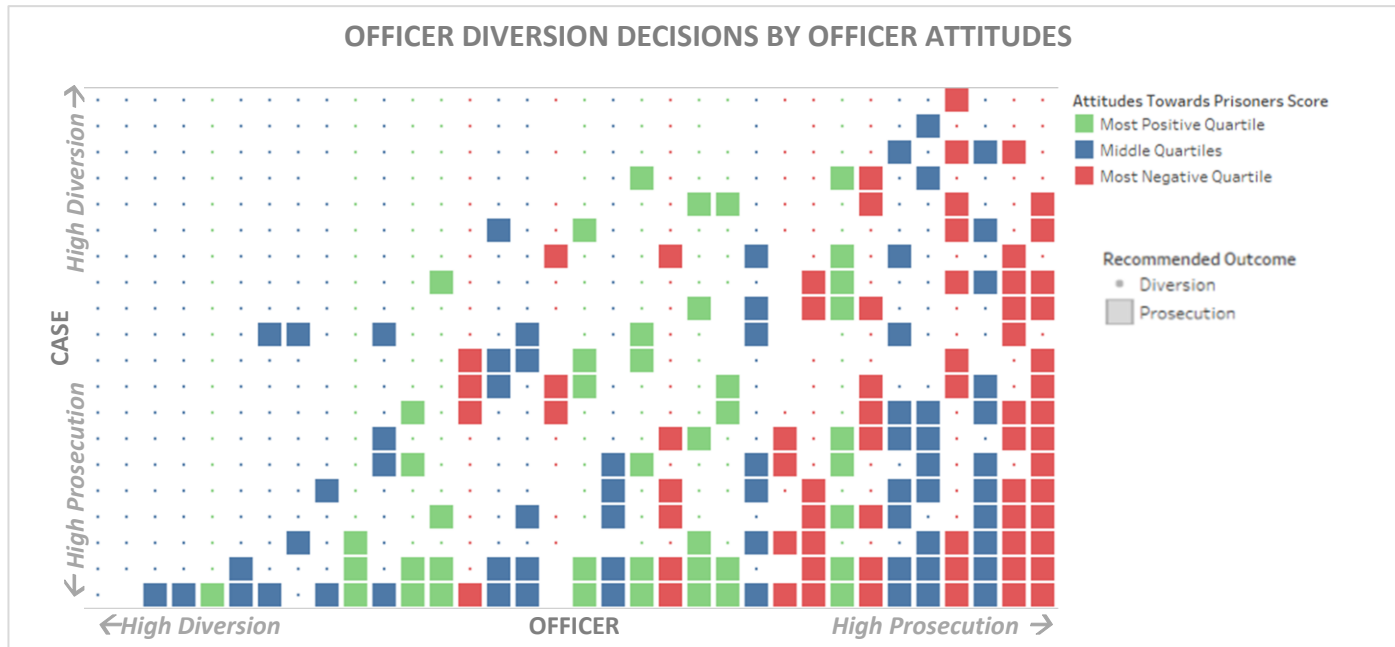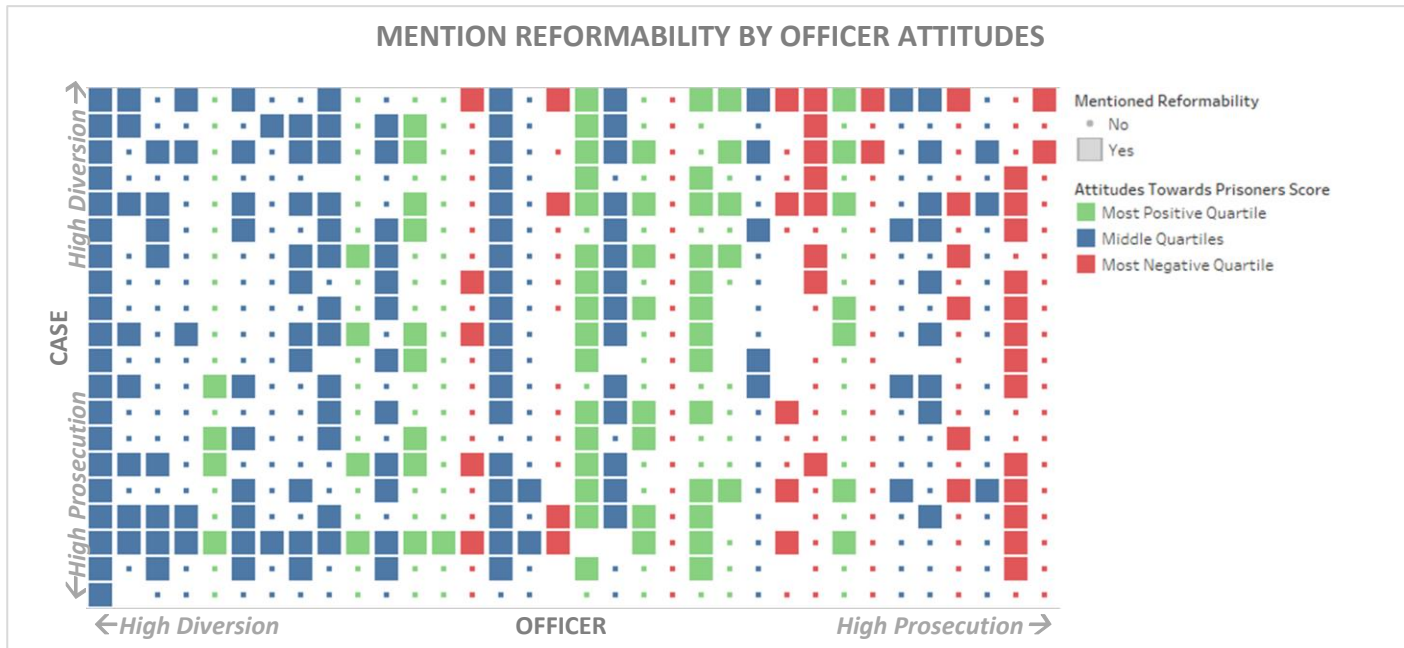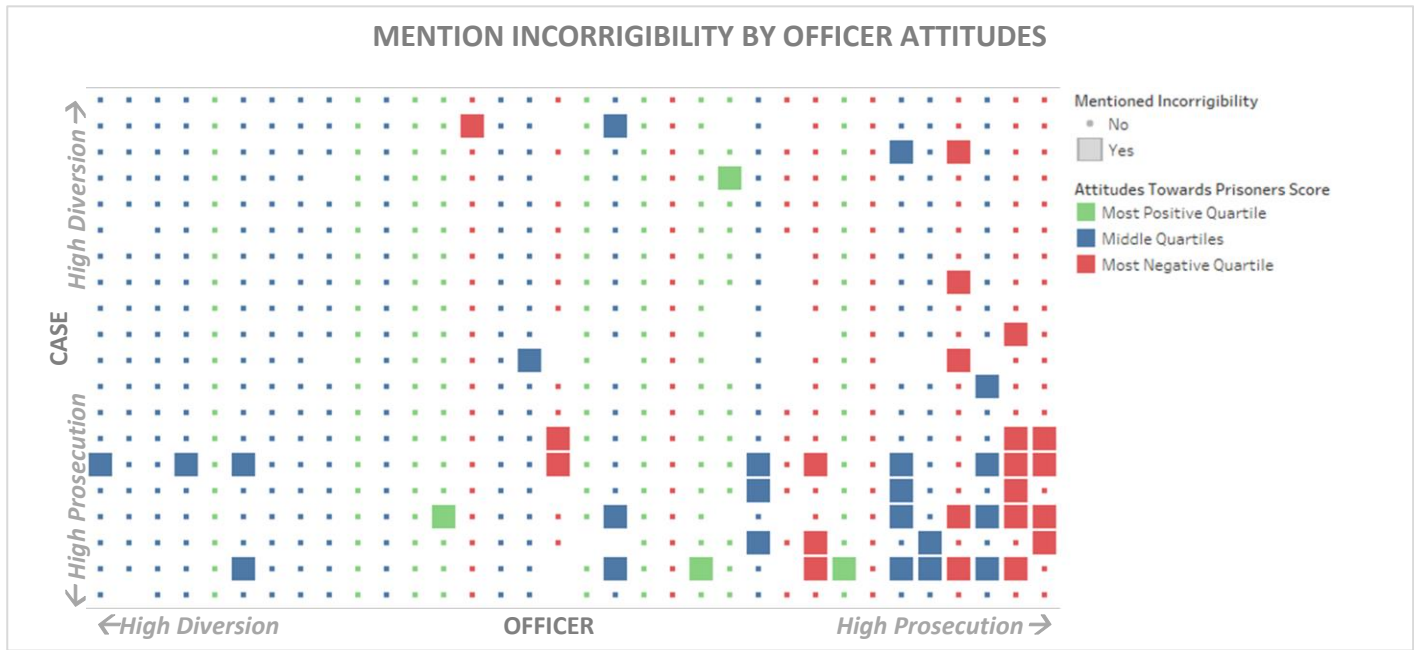
Figure 9

MENTION REFORMABILITY BY OFFICER ATTITUDES

Figure 10

Figure 11

4.2. Modeling Trait and State Factors

Hypothesis Testing

Hypothesis 1: Trait attitudes will impact state attitudes, as measured by officer narratives about the reformability or incorrigibility of defendants.

Before testing the respective impacts on outcomes, the relationship between trait and state attitudes is tested. Table 12 reports on models using the trait attitude score on the ATP scale as a dependent variable, and the state attitudes variables as dependent variables.

Table 12: Odds Ratios of Trait Variables Predicting Mention of State Attitudes

	Models	
	Model 1: Mention Reformable	Model 2: Mention Incorrigible
Male	.90	3.66**
White	1.05	7.94*
Age	1.00	.93*
Education	1.01	.87
Trait: ATP	.73	4.53***

*Note. *p<.05, **p<.01, ***p<.001*

The models tested the impact of the trait ATP score on reformable and incorrigible interpretation of elements. This hypothesis was partially supported. There is no significant effect of the ATP score on the dependent variable of indicating whether an element about the case made the officer think the defendant was reformable. This bordered on marginal significance when the binary 4th ATP quartile variable was used in place of the ATP score (OR=.40; SE=.22; *p*=.100). There were impacts of trait variables on whether the officer mentioned incorrigibility: white, younger, and male officers were more likely to mention that an element in the case made the officer think the defendant was incorrigible. There was a strong effect of the score on the ATP scale on whether the

officer mentioned an element made them think the defendant was incorrigible. Officers with more negative views toward defendants ("tougher" officers) were more likely to mention a factor made them feel the defendant was incorrigible.

Hypothesis 2: Officer attitudes will influence which elements officers consider relevant in a case.

This hypothesis—that attitudes would impact elements considered relevant—was not supported. Table 13 reports the outcomes of 6 models that test the relationship between the ATP score and whether or not each element was mentioned. Trait factors about officers did have some other impacts on elements considered relevant in a case. White and male officers were more likely to mention the severity of the current offense, and significantly or marginally significantly more likely to mention the special status or vulnerability of the victim (which most often referred to the victim being a police officer, young, or pregnant). In addition, those with a higher education were more likely to mention the severity of the criminal history, in addition to two other marginal demographic effects. The only substantive difference when the most negative quartile variable is used is that attitude becomes a significant predictor of whether officers mention the intent of the defendant (OR=.52; SE=.17; *p*=.048)—officers in the "toughest" quartile of overall attitudes were less likely to specifically mention the malicious intent of the defendant or pre-meditated nature of the crime.

Table 13: Odds Ratios of Trait Factors Predicting Mention of Elements

		Models				
	Pattern	History Severity	Intent	Motivation	Current Severity	Special Victim
Male	1.58+	.91	1.40	.63	2.22*	1.50+
White	1.20	1.58	1.85	.98	4.08**	3.69**
Age	.98	1.02	1.00	.99	1.03	1.02
Education	1.04	1.19*	1.19+	.93	1.15	1.06
Trait: ATP	1.10	.75	.70	1.24	.97	1.39

Note. +$p<.10$, *$p<.05$, **$p<.01$

Hypothesis 3: Both trait (global officer-level) and state (situational case-level narrative) attitudes and beliefs about defendants will influence the perceived salience of focal concerns in a case.

This hypothesis was partially supported, finding no impact of trait attitudes and a strong impact of state attitudes on the overall summed salience of all of the focal concerns referenced in a case (reformable factors reduced focal concerns salience and incorrigible factors increased focal concerns salience) in models including dummy variables to control for each case. Table 14 reports on the outcomes of three hierarchical linear models testing the impact of the independent variables on the overall sum of focal concerns salience in each case response—i.e. whether the overall perception of the summed elements was high or low is influenced by trait and state attitudes. Gender was a significant predictor of overall perception of summed focal concerns salience in all three models. The trait ATP score was not significant, including before the narratives were added in. Models using the binary variable for most negative quartile of ATP scores were not significant or approaching significance. Both narratives (reformable and incorrigible) were significant predictors of overall focal concerns salience sums. In other words, when officers mentioned an element that made them think the defendant was reformable, the sum of the total focal concerns salience of the case was more oriented toward low

blameworthiness, public safety, indicating officers had more factors that made them think the case was not concerning; and when officers mentioned an element that made them think the defendant was incorrigible, the sum of the total focal concerns salience of the case was more oriented toward high focal concerns, indicating officers had more factors that made them think the case was concerning.

Table 14: Predicting Overall Sum of Case Focal Concerns Salience

	Model 1: Demographics Only			Model 2: Adding Trait Attitudes/Beliefs			Model 3: Adding State Attitudes/Beliefs		
	Coeff	SE	p	Coeff	SE	p	Coeff	SE	p
Male	.58**	.22	.008	.54*	.21	.011	.43*	.20	.031
White	.38	.24	.120	.36	.25	.157	.22	.23	.333
Age	-.01	.02	.682	-.01	.02	.599	-.002	.02	.875
Education	-.04	.08	.620	-.05	.10	.624	-.04	.09	.625
Trait: ATP	--	--	--	.31	.29	.273	.10	.30	.729
State: Reformable	--	--	--	--	--	--	-.71***	.12	<.001
State: Incorrigible	--	--	--	--	--	--	1.75***	.24	<.001

Note. *$p<.05$, **$p<.01$, ***$p<.001$

Table 15: Exp(b) Predicting Perception of High or Low Salience for Each Element[2]

Variables		Pattern			Criminal History Severity			Intent[3]		
		Model 1	Model 2	Model 3	Model 1	Model 2	Model 3	Model 1	Model 2	Model 3
Male	Lo.	1.21	1.17	1.17	.71	.75	.80	1.46	1.58	1.60
	Hi.	3.98**	3.90**	3.16	1.61	1.62	1.41	1.56	1.59	1.50
White	Lo.	.69	.67	.65	2.09	2.18+	2.25+	1.13	1.36	1.16
	Hi.	3.19	3.16	2.20	.95	.94	.84	4.22	4.16	4.29
Age	Lo.	1.00	.99	1.00	1.03	1.03	1.03	1.00	1.00	1.00
	Hi.	.94+	.94+	.94	1.00	1.00	1.01	1.00	1.00	1.00
Education	Lo.	.94	.93	.95	1.20	1.20	1.20	1.49*	1.59*	1.60*
	Hi.	1.14	1.14	1.17	1.32	1.32	1.31	1.19	1.17	1.18
Trait: ATP	Lo.	--	1.22	1.29	--	.65	.69	--	.32*	.32*
	Hi.	--	1.17	.44	--	.89	.73	--	.84	.77
State: Reformable	Lo.	--	--	1.50	--	--	1.04	--	--	1.83
	Hi.	--	--	.75	--	--	.53+	--	--	.64
State: Incorrigible	Lo.	--	--	.45	--	--	.17*	--	--	1.51
	Hi.	--	--	19.65+	--	--	2.23	--	--	1.43

---

[2] A sensitivity analysis using a model restricting the cases to only those that mentioned the element in question did not change the overall results, and sample sizes became untenably small.

[3] Case dummies for 15 cases for "low" were removed, as they and the reference category had no or almost no mention of the element of intent lessening their perception of salience.

Table 15
continued

		Motivation[4]			Current Offense Severity[5]			Special Victim[6]		
		Model 1	Model 2	Model 3	Model 1	Model 2	Model 3	Model 1	Model 2	Model 3
Male	Lo.	.46	.45	.46+	2.56+	2.63*	2.76*	--	--	--
	Hi.	1.15	1.06	1.15	2.80*	2.79*	2.52*	2.80*	2.55*	2.68*
White	Lo.	.82	.81	.90	3.68**	3.78**	4.05**	--	--	--
	Hi.	1.15	1.18	.74	5.23***	5.10***	4.60***	9.21**	8.60**	9.16**
Age	Lo.	1.00	1.00	.99	1.02	1.02	1.02	--	--	--
	Hi.	.97	.97	.98	1.04+	1.04	1.05*	1.03	1.02	1.02
Education	Lo.	.91	.91	.91	1.17	1.17	1.17	--	--	--
	Hi.	.76	.75	.74	1.02	1.02	1.01	1.14	1.12	1.11
Trait: ATP	Lo.	--	1.23	1.72	--	.82	.81	--	--	--
	Hi.	--	2.10	1.63	--	1.03	.87	--	2.06	2.2
State: Reformable	Lo.	--	--	12.94***	--	--	.50*	--	--	--
	Hi.	--	--	1.00	--	--	.90	--	--	1.30
State: Incorrigible	Lo.	--	--	.29***	--	--	.38*	--	--	--
	Hi.	--	--	2.17+	--	--	3.15**	--	--	.66

Note. +$p<.10$, *$p<.05$, **$p<.01$, ***$p<.001$

---

[4] Case dummies that were non-significant in model 2 were removed in model 3 for parsimony.

[5] Case 19 was excluded from the analysis altogether, as there was no variation in response—every officer agreed the case was high in severity.

[6] In all but one occasion where the special status of the victim was commented on, the officer indicated it had high focal concerns salience. Therefore a binary indicator of whether a special victim is mentioned is modeled using hierarchical logistic regression. Case dummies for almost half of the cases are removed, as they and the reference category had no officers indicating special victim status.

A similar pattern is observed in element-specific models that test whether the officer reports that the criminal history in a given case increases or decreases the likelihood of charge, although there was substantial variation by element (Table 15). Male officers were more likely to note that a pattern of previous behavior, current offense severity, and special victim status pushed them toward a charge. White officers were more likely or marginally more likely to mention current and past offense severity, and special status of the victim. ATP score did not approach significance in any of the models, except for intent. Narratives about elements meaning the defendant was reformable and incorrigible were significant or approaching significance for criminal history severity, current offense severity, and motivation, whereas only the incorrigible narrative pushed the officer toward a charge for pattern, past offense severity, and current offense severity. There was no impact of narratives on special victim status or intent, and mentioning incorrigibility in a case was marginally significantly related to likelihood of criminal history pattern pushing the officer toward charge.

The only substantive differences to the attitude and narrative variables when the ATP most negative quartile binary variable is used in place of the full ATP score is that ATP negative quartile becomes marginally significant in special victim Model 3 (OR=2.54; SE=1.33; p=.074). In other words, officers in the "toughest" quartile were marginally more likely to mention that the special vulnerability status of the victim pushed them toward charge.

Hypothesis 4: Focal concerns salience and both trait (global officer-level) and state (situational case-level narrative) beliefs will influence the final recommended outcome in a case.

There was support for this hypothesis. In Table 16, Model 3 includes each of the main trait and state variables as predictors of the overall recommendation of diversion in

a case, and Model 4 adds the summed focal concerns salience variable. Male is significant in Models 1-3. There is no significant effect of the ATP scale in any model, though the ATP scale is marginally significant in Model 2. In Model 4, the focal concerns sum variable is significant, and all other variables lose significance. The reformability and incorrigibility narratives are significant in Models 2-3.

Table 16: Odds Ratios Predicting Recommendation of Diversion

	Model 1: Demographics Only	Model 2: Adding Trait Attitudes	Model 3: Adding State Attitudes	Model 4: Adding Focal Concerns
Male	.20**	.24**	.26*	.56
White	.29*	.31+	.36+	.36+
Age	1.04	1.05	1.04	1.06+
Education	1.16	1.18	1.16	1.05
Trait: ATP	--	.41+	.54	.42
Reformable	--	--	3.43***	1.54
Incorrigible	--	--	.17***	.65
Focal Concerns	--	--	--	.27***

Note. $+p<.10$, $*p<.05$, $**p<.01$, $***p<.001$

Using the ATP lowest quartile binary variable, ATP is significant in Models 2-4 (Model 2 – OR: .27, SE: .11, $p=.001$; Model 3 – OR: .37, SE: 15, $p=.017$; Model 4 – OR: .32, SE: .05, $p=.005$). This suggests that being in the lowest quartile of officer attitudes (being a "tough cop"), does drive outcomes recommendations, though attitudes do not appear to drive outcomes for the rest of officers.

Hypothesis 5: A model using overriding elements (i.e. highest level of importance heuristic) will be a better predictor of outcomes than a model using average focal concerns salience (i.e. sum of elements heuristic) across all elements mentioned.

There is partial support for this hypothesis—both the summed focal concerns variable and the overriding factor variables were strong and independent significant predictors reducing the likelihood that an officer would divert a case. Table 17 reports on

a model including both of the potential heuristics models that describe two ways officers may make decisions: either (1) summing all of the positive elements and the negative elements, or (2) when relevant, identifying a most important element that overrides other considerations. Both the focal concerns summed variable and the overriding variable had independent effects on the outcome recommended by officers.

Table 17: Odds Ratios Predicting Recommendation of Diversion by Heuristic Type

Male	.33*
White	.41
Age	1.08
Education	1.05
Average Focal Concerns	.25***
Overriding	.001***

Note. $*p<.05, ***p<.001$

Hypothesis Testing: Summary

Overall, the 5 hypotheses received mixed support (Table 18). The overall take-away is that trait attitudes had either no impact or only a modest impact on officer decision-making in most models, while across the board, state attitudes had strong impacts on officer decision-making. There were two exceptions—trait attitudes impacted the likelihood of mentioning incorrigibility, and the 4th quartile of attitudes ("tough cops") were less likely to divert, even when state attitudes and focal concerns were taken into account. However, in this last finding, state attitudes remained significant even when controlling for trait attitudes. Demographic factors occasionally emerged as significant predictors, but no demographic factors were consistent predictors throughout all or most models, except that the gender of the officer was a significant predictor of outcomes in a number of models.

Table 18

Hypothesis Testing Outcomes Summary	
Hypothesis 1	
Trait attitudes will impact state attitudes, as measured by officer narratives about the reformability or incorrigibility of defendants.	**Partial support** – No effect of trait attitudes (ATP score) on mentions of reformability; strong effect of trait attitudes on mentions of incorrigibility.
Hypothesis 2	
Officer attitudes will influence which elements officers consider relevant in a case.	**No support** – Trait attitudes not significantly related to elements officers considered relevant in any main model.
Hypothesis 3	
Both trait (global officer-level) and state (situational case-level narrative) attitudes and beliefs about defendants will influence the perceived salience of focal concerns in a case.	**Partial support** – Little impact of trait attitudes, strong impact of state attitudes (incorrigibility and reformability) on overall summed salience of focal concerns.
Hypothesis 4	
Focal concerns salience and both trait (global officer-level) and state (situational case-level narrative) beliefs will influence the final recommended outcome in a case.	**Support** – Both focal concerns and state variables were significant in predicting the recommendation of diversion in one of the final two models. Overall trait attitudes did not drive recommendations, although the dichotomous "tough cop" indicator of the lowest quartile of ATP was significant.
Hypothesis 5	
A model using overriding elements (i.e. highest level of importance heuristic) will be a better predictor of outcomes than a model using average focal concerns salience (i.e. sum of elements heuristic) across all elements mentioned.	**Partial support** – Both average focal concerns and the overriding flag variables were significant predictors of the recommendation of diversion.

4.3. Qualitative Exploration of Officer Reasoning

The officers' task in each vignette was to identify the outcome they thought was most appropriate. The explanations officers provided for their choices focused on two broad goals: 1) retrospective problem-solving (addressing the harm the incident had already caused, so as to "make things right" with the victim and society), which is most related to the defendant's blameworthiness; and 2) prospective problem-solving (stopping

the incident from happening again to the same or another victim), which is most related to the defendant's public safety risk. Officers looked to the elements present in each vignette as signals of what would work best or be most appropriate to achieve these retrospective and prospective goals. For example, officers viewed some elements as signals of the defendant's blameworthiness or their ability to repay the victim, which then informed the appropriate outcome to retrospectively "make things right." Other elements served as signals of the defendant's public safety risk, which then informed the appropriate outcome to prospectively prevent recurrence.

To determine the appropriate outcome to address the retrospective harm done, officers looked to elements that answered questions like: How harmful was the incident to the victim? How harmful could it have been, if factors outside of the defendant's control did not prevent more damage? What is the best way to ensure the victim is made whole again for anything they lost? If the case were not sent to court, would it leave the victim feeling that the police did not care or the offense was not taken seriously?

To answer these types of questions, officers looked to elements that signaled whether the defendant was incorrigible, i.e. unlikely to change, or whether the defendant was reformable. To assess whether the defendant was incorrigible or reformable, the officers focused heavily on the context of the incident and the defendant—how and why the damage was done. Was the incident particularly malicious or premediated? Did the defendant react to a particularly provoking victim? Did the defendant have an addiction or other addressable problem that caused their offending? Many officers felt that defendants were reformable when they could identify a specific reason a defendant acted the way they did. Identifying a root cause of the defendant's behavior enabled those

officers to identify specific corrective actions outside of traditional court processing or incarceration that might prevent recurrence. For example, if the defendant had a problem that led to their offending, such as alcohol or anger issues, that could be addressed with a program officers were aware of, such as alcohol treatment or anger management, then some officers viewed such elements as indications that defendants were reformable. Or if some unique situation provoked the incident, and that situation was not likely to recur, officers were less likely to see the defendant as inherently incorrigible.

However, in officer responses related to incorrigibility versus reformability, the distinction between retrospective versus prospective problem solving was often not clear, because incorrigibility or reformability could relate to blameworthiness as well as public safety risk. In many cases it appeared that officers themselves may not have consciously made this distinction. Identifying the root cause of a defendant's behavior could enable an officer not only to identify potential prospective corrective services, but could also enable an officer to understand why the defendant acted that way and find the defendant's conduct more forgivable, reducing the officer's desire to punish the defendant and altering the officer's perspective of the retrospective harm done. Whether an officer was interpreting an element for its retrospective or prospective value was especially unclear when officers considered elements related to characteristics of the defendant. Did the defendant act in a particularly malicious or premeditated way? A malicious and premeditated intent could mean that the defendant was extra blameworthy because they were a bad person (relevant to addressing retrospective harm), or it could mean the officer felt that they would be more likely to do it again in the future. And for many officers, these two appeared to be inextricable.

This section will discuss the reasoning provided by the officers themselves to explain their choices in each of the 20 vignettes. First, this section will describe some of the things officers considered when determining the outcome of each case. Then, for all 20 vignettes, the qualitative responses of officers will be described, showing how they thought about different elements and how those interpretations varied between different officers.

Last, for just the first vignette of each type, the actual responses of officers will be used to create two theoretical officer archetypes. These archetypes help to show (1) how an officer who had negative views toward defendants and was oriented toward harsh punishment would be expected to react, and (2) how an officer who had positive views toward defendants and was oriented toward rehabilitation would be expected to react. These basic archetypes are used here for illustrative purposes. This is not to argue that in fact there are subsets of officers who always align with negative archetypes or positive archetypes—indeed the results above indicate that in this sample, officers did not operate primarily based on trait archetypal beliefs, and almost all officers sometimes made decisions that aligned with negative and sometimes with positive archetypes, depending on the situation. The value of analyzing these two archetypal officers' diverging perceptions of the same case is to demonstrate how the same situations and elements can be interpreted in opposite ways leading to opposite outcomes. The theoretical dichotomy could also be explored in relation to possible race effects, where an officer has a negative orientation response to a minority defendant, and a positive orientation response to a white defendant, though that analysis is not conducted here.

4.3.1.   Vignettes Relating to Violence

This study included six vignettes relating to violence against civilians. The first vignette was about "violence" against a person's property, but not the person themselves. Vignettes #2 and #3 involved low-level assaults on people resulting in reddening or bruising but no cuts through the skin. Vignettes #4 and #5 were medium level assaults producing actual lacerations. Vignette #6 was a crime that resulted in grievous bodily harm in permanent disfigurement.

Violence Vignette #1: Attack on car

PIC[7] having damaged a Renault motor vehicle by pulling off the driver side wing mirror & causing a hole through the boot lid. Total damage £900. The car is owned by PICs former roommate. Officers called back to the address today after PIC had returned there and caused a disturbance. PIC is 20 years of age, and PIC and their partner attended the home and banged on the door but nobody answered, before [they?] walked around and damaged the vehicle. PIC said they had come to the house to state their anger at the IP[8] for a previous incident, and got angry when the IP didn't answer the door even though they saw movement in the window. Offender had one previous caution for an assault a month and a half prior, and a community resolution for an assault 10 days prior.

In Violence Vignette #1, officers considered a number of issues in order to assess what outcome would be best to achieve their retrospective and prospective problem-solving goals. Officers had to decide:

- whether the severity of harm to the victim was too high to warrant diversion;

- whether or not the defendant could repay the damage in a conditional caution;

- whether or not the defendant's recency of prior offending, low level of prior

---

[7] Officers in this force often use the term "PIC" ("person in custody") to refer to defendants. Although "PIC" is maintained in the vignette text to reproduce exactly what officers saw, this study replaces "PIC" with "[defendant]" when quoting officer responses.
[8] Officers in this force often use the word "IP" ("injured party") to refer to victims. Though "IP" is maintained in the vignette text to reproduce exactly what officers saw, this study replaces "IP" with "[victim]" when quoting officer responses.

offending, and youth indicated a new behavioral issue that could be resolved out of court, or those factors meant the defendant was incorrigible;

- whether or not the defendant was particularly malicious and vicious in how they pursued and attacked the victim and the victim's car;

- whether the ongoing nature of the dispute made the defendant more or less of a public safety risk in the future;

- whether or not the defendant could be helped with their anger issues; and

- whether the offense was particularly forgivable because of mitigating circumstances like provocation.

The severity of the cost of the damage to the car was the most common element mentioned by officers (82% of officers) for this vignette (Table 19). For many officers, this was tied to a concern about the impact of the incident on the victim. Officers generally agreed that higher costs meant a conditional caution was less suitable, but officers disagreed about whether £900 of damage was a lot or a little (54% felt the cost of the damage was low, 46% felt it was high). Among officer who felt it was a lot of damage, all felt this pushed them toward a charge, but there were a number of different reasons expressed. Of those who felt it was a lot of damage, 54% mentioned being concerned about the financial burden that the incident would put on the victim. Three officers were concerned that the cost was too much for the defendant to reasonably repay in a caution, so felt court was necessary. On the other hand, other officers felt the damage was reparable, meaning that diversion was not ruled out because the defendant may be able to financially repair the damage, or stated they would consider a conditional caution only if the defendant could pay.

Some officers (29%) noted that the defendant had sought out the victim and came to the house specifically for the conflict or that the damage to the car being in multiple places was an indication of a prolonged attack. Officers indicated these factors meant a decreased appropriateness for diversion, because the defendant acted with more malicious intent. Many officers (42%) noted that the incident was part of an ongoing dispute with the victim, and that the defendant knew the victim. To about half of these officers, an ongoing dispute decreased the appropriateness for diversion because the issue was likely to continue, while 57% said an ongoing dispute increased the appropriateness for diversion because it meant that the defendant was less likely to harm a stranger in the future, or because the victim's provocation meant the incident might not have happened without the provocation.

Slightly more than half (59%) of officers mentioned the defendant's recency of previous offending, as the defendant had two out-of-court disposals in the last two months for assaults, and no priors before that. But officers' takeaways from that recency were polarized. On one side, 75% of officers who commented on the recency of offending noted that recency indicated incorrigibility and therefore weighed in favor of a charge. Similarly, 1/3 of officers who felt the recency pushed them toward a charge linked this recency to a pattern of violence, noting that the defendant has violence issues. On the other side, 25% of officers who mentioned the recent pattern of behavior suggested that it meant the defendant needs help, and 3 linked it with the defendant's relatively young age as a factor that also suggested the defendant needed help. For these officers, the recency of the youth's behavior indicated reformability and weighed in favor of a conditional caution.

Table 19

Violence Vignette #1	
Category:	Violence
Level of Case:	2
Percent of Officers Choosing to Prosecute:	29%
Percent of Officers Choosing to Divert:	71%

Elements Officers Considered	Officers Interpreting that Element as Supporting Diversion	Officers Interpreting that Element as Supporting Prosecution
Severity of harm (most common element considered, widely considered important)	• Assumed low severity supported diversion	• Assumed high severity supported prosecution
Severity of harm: impact on victim (of £900 car damage)	• Some officers described this as only a little damage • "damage, while costly, can be repaired"	• "The [victim] will be at a financial loss for the large cost of damage…" • "Lot of money for some people, (me included)."
Severity of harm: ability of defendant to repay	• Officer would consider a conditional caution "if financial recompense realistic" • "this could always be awarded in a Civil Court."	• "…reasonably high value which the [defendant] may not have the capability to pay back" • "any conditional caution should have compensation for the victim and this might be simply setting the offender up to fail if he cannot find the payment" • Some officers were unaware that compensation could be part of diversion, or noted a policy of not diverting cases with damages above a certain limit
Severity of harm: blameworthiness		• "public expectation of punishment for blatant crime in the street" • "… lock him up and make him pay back every penny before release."

Criminal history: recency of prior offending (two out-of-court disposals for assault in last two months, no earlier priors)	• "has only recently taken to acts of violence" • "Due to him being 20 yrs old and all his offending has occurred recently would suggest he has some recent issues, anger? Drugs/alcohol abuse? that has caused this change in behaviour"	• "The offender has very recent offenses… not learning from previous actions" • "A community resolution was provided only 10 days prior to this and clearly the [defendant] has not changed his behaviour". • "had a chance, charge them"
Violence		• "violence issues...[might] cause harm to someone...a risk to the public" • "previous caution / community resolution… [the defendant has] anger issues…. violent character… clearly he has not learnt his lesson and needs to go to court."
Defendant intentionally pursued victim for conflict		• "Has made a concerted effort to back to [victim]'s address… wanted to continue the issue" • "The offender has had plenty of time to consider his behaviour. He has attended the location angry with the aim to cause problems" • "could have left [victim] alone but chose to confront [victim]"
Ongoing dispute	• "[victim] and [offender] are known to each other… not a random attack, [defendant] does not display as a risk to other members of the public" • "Mitigation… previous incident may have provoked offence"	• Likely to continue

| Defendant's youth | • "We need to find the underlying cause as to why this 20 year old has such anger issues which fuel his offending behaviour and the issues between the offender and the [victim]. Relevant pathways would hopefully assist this 20 year old and prevent them committing further offences"
• "[defendant] is young and a charge could result in difficulty finding employment in their future, potentially leading them into crime as a source of income". | |

Trait-Based Archetypal Decisions: Attack on car

What might decision-making in this case look like for an officer whose decision-making was based primarily on the officer's trait characteristics in terms of their beliefs about defendants and criminal justice? A response to this case from an officer who had a negative orientation toward defendants would theoretically result in charging the case for prosecution in court. Such an officer would interpret each element as weighing in favor of charging the defendant. The officer would assess the situation as expensive damage committed by a violent offender with deep and persistent anger issues. The offender had recently been involved with the law for violent offenses, and this was an intentional malicious and sustained attack—the defendant searched out the victim, and then hit the car multiple times. There had been an ongoing (possibly violent) dispute between the victim and offender before, and it was likely to continue if nothing serious was done. The damage could have been even worse, if not for the fact that the victim did not open the

door. If the defendant had opened the door, the defendant may have assaulted the victim—the victim was understandably afraid. The offender had already ignored his previous out-of-court disposal, and would not be likely to take another one seriously. Therefore, a charge is necessary.

Some of the comments from various officers that, if combined into one officer, would create a negative archetypal response are these: "Significant cost to the victim"; "[defendant actively went] to the [victim's] house… potential to reattend and reoffend"; "he was angry and concerns me that if [victim] answered would he have been assaulted"; "the offender has a tendency for violence"; "very recent offending history for violent offences"; "public expectation of punishment for blatant crime in the street"; "had a chance, charge them"; "clearly he has not learnt his lesson and needs to go to court"; "The offender for this matter has committed 3 offences in less than 2 months. A community resolution was provided only 10 days prior to this and clearly the [defendant] has not changed his behaviour and is showing aggressive behaviour."

On the other hand, a response to this case from an officer who had a positive orientation toward defendants and rehabilitation would theoretically result in diversion into a rehabilitative conditional caution. The officer would assess the situation as a small amount of property damage committed by a kid who was upset by an argument that was going on with another kid. The officer would note that the kid just needed a little guidance, and the fact that all of his offenses were recent suggests that there is something recent that happened to the kid or something currently going on in the kid's life to upset them, not that the kid is inherently or incorrigibly problematic.

Some of the comments from various officers that would fit with a positive archetypal response are: "This could be considered for a resolution and discussion as to his behaviour. He is clearly young and this situation caused him to be hot headed"; "[victim] and [offender] are known to each other… not a random attack, [defendant] does not display as a risk to other members of the public"; "has only recently taken to acts of violence"; "damage… can be repaired"; "[Defendant] is 20yrs old with no criminal record until very recently. Due to him being 20 yrs old and all his offending has occurred recently would suggest he has some recent issues (anger? Drugs/alcohol abuse?) that has caused this change in behaviour."

Violence Vignette #2: Assaults in a public park

Offender arrested for 3 separate assaults in a public park, where he approached strangers taunting them to fight him. Offender punched first IP in the chin, resulting in redness and swelling. The second IP was assaulted with a punch that grazed offender's cheek and connected with IP's shoulder, resulting in pain and discomfort, as well as redness. The third victim ran off and was not found, but was observed by a witness being punched in the cheek. Offender has 14 previous offences including assaults, GBH, and criminal damages over dates ranging from 29 to 12 years prior to the current arrest. Offender admitted the offence and expressed remorse, admitting he had been drinking excessively and getting in fights on a regular basis since he lost employment.

In Violence Vignette #2 (Table 20), officers had to decide:

- whether the type of injury was too serious to warrant diversion;

- whether the fact that there were three victims and the random public nature of the assaults made the offense too serious to warrant diversion;

- whether the defendant's criminal history was too severe to warrant diversion, or whether the fact that the criminal history was not recent was enough mitigation for diversion;

- whether the defendant's claimed alcohol and employment issues meant the case warranted diversion.

Officers considered the harm done to each victim low more often than high (69% of officers who mentioned harm to each victim felt it was a low amount of harm—but out of only 50% of officers who mentioned the level of harm to each individual victim at all). A more common factor mentioned (69% of all officers) was the fact that there were three victims, not just one. For all officers who mentioned the three victims, this element pushed them toward prosecution. The fact that the defendant attacked randomly (34%) and in public (31%) were two factors that particularly concerned officers. Two officers specifically mentioned the fact that the harm could have been worse if the defendant had not been stopped.

In terms of criminal history, 25% of all officers focused on the fact that the criminal history included many violent offenses, noting that this defendant was a "violent offender," which pushed them toward charge. Other officers (41%) focused on the fact that those offenses were not recent, which those officers felt decreased the relevance of those criminal history arrests to the decision to divert or prosecute.

A few officers disagreed about the likely court outcome for the case, with 3 emphasizing the low likely penalty at court, and 2 emphasizing a high likely penalty. Some officers considered the loss of employment (33%) to pushed them toward diversion because it indicated an underlying cause.

The presence of alcohol led to mixed reactions—75% of all officers mentioned alcohol as a driving force leading to the offense, and of those, 79% felt it pushed them toward diversion to address the alcohol, whereas 21% of those who mentioned alcohol

felt it pushed them toward a charge because the defendant was drunk at the time. A few officers indicated they did not think the offender's employment and alcohol issues constituted sufficient justification for the acts. One officer noted that prosecution did not mean the defendant could not get help for their issues, and suggested rehabilitation could be taken care of by the courts.

Table 20

Violence Vignette #2		
Category:	Violence	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	12%	
Percent of Officers Choosing to Divert:	88%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm (widely considered important): low level of injury per assault vs. number of victims/assaults	• "no major injuries and not sustained attacks" • "low level assault unlikely to result in a custodial sentence, if each injury was taken in isolation"	• "don't see anything other than a charge for this offender. I know the injuries are slight but nevertheless three different victims being threatened and then attacked in public"
Randomness of assaults and lack of provocation		• "randomness of assaults… no specific target, increased danger to community" • "the fact that he was willing to assault anybody near to him for no reason"

Public location of assaults		• "public place violence… public park - place for relaxation and families" • "the public have a right to feel free and safe whilst going about their business, this pic needs to go to prison to protect the public!" • Could have caused more harm if not stopped
Criminal history: many violent priors vs. long ago	• "offender out of trouble for so long possibly due to employment." • "[diversion] would target the apparent root cause of the issue, however only due to the 12 year gap in offending, otherwise consider charge"	• "extensive previous inc[luding] assault… pattern of behaviour obviously does not learn their lesson, given many chances to change" • "offender has 14 previous violence/kindred offences… conditional caution [not] suitable as the offender has not learnt the error of his ways."
Expected court outcome (assumed that if low, divert; if high, prosecute)	• "unlikely to result in a significant punishment at court"	• "repeat offender, repeat victims, repeat offences. Custodial sentence likely"
Alcohol and unemployment as addressable issues (frequently mentioned by officers)	• "would be ideal candidate to rehabilitate and find work. Help via [diversion] would help stem/stop further issues" • "he had not been in trouble for 12 years and this has occurred due to his loss of job and now drinking which he could be helped with by pathways."	• "no reasonable defence" • "pathetic excuses given"

Violence Vignette #3: Sports Assaults

PIC was playing football in a casual match in a public park where players were drinking pints in the sidelines when due to a disagreement he punched three members of the opposing team repeatedly, causing reddening and discomfort. A previous NFA for assault 2 years ago, and a previous caution for assault 1 year ago. Offender admitted the offence and expressed remorse, admitting he had been drinking excessively recently due to stress. PIC was remorseful, stating he should have kept himself under control.

In Violence Vignette #3 (Table 21), officers had to decide:

- whether the harm was severe enough, including the fact that there were multiple victims, to preclude diversion;

- whether the fact that the incident happened during a sports game with alcohol made the offense more forgivable;

- whether the defendant's stated reason for the issue, drinking due to stress, mitigated the offense or warranted a rehabilitative intervention.

Officers generally agreed that the harm to victims was low; of the 29% who mentioned harm, only 1 thought the harm to individual victims was high. Unlike the previous case (Violence Vignette #2), there was little emphasis on the fact that there were multiple victims in this case—4 officers mentioned it briefly as a factor that pushed toward prosecution but with little emphasis. Only 2 officers put particular emphasis on the three victims, and they found it an overriding factor, especially in combination with the public place violence factor. The fact that the defendant attacked innocent victims in public particularly concerned 3 officers who all ultimately recommended charging the case. One officer mentioned they wanted to know whether the victims felt diversion was appropriate.

Officers differed on whether they emphasized the defendant's criminal history as low or high. Some officers mentioned the defendant had no prior convictions to emphasize that the criminal history was low as a factor pushing toward diversion (as the previous arrests had been dismissed or diverted). A few officers mentioned the criminal history as high, pushing toward prosecution. One officer mentioned the fact that a simple caution in the past (without a rehabilitative intervention) had "clearly not worked" was a reason to try diversion into a rehabilitative intervention now. The lack of randomness in this case, since it was during a sports game where everyone had high aggression, was an important factor that increased appropriateness for diversion for many officers. As with the previous case, many officers mentioned the defendant's purported issues (in this case alcohol and stress) as a factor that pushed them toward diversion.

Table 21

Violence Vignette #3		
Category:	Violence	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	12%	
Percent of Officers Choosing to Divert:	88%	
Officers received information about recent court outcomes in similar cases, which had not received custodial sentences (see Appendix B)		
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: injury per assault vs. number of assaults	• "low level assault reddening and discomfort."	• "Three separate assaults is the aggravating factor indicating charge."
Public location of assaults		• "3 innocent victims, public place violence - probably children watching the game too?"

Criminal history: no convictions, but violence	• "no previous convictions" • simple caution in the past had "clearly not worked," so perhaps worth trying diversion to intervention	• "previous offending for assaults… violent tendencies"
Explanation for violence—not random	• "aggression during sport is not uncommon… believe charge would be disproportionate in these circumstances"	
Expected court outcome	• "likelihood of a custodial sentence is very, very low"	
Alcohol (frequently mentioned by officers)	• "offender has admitted drinking to be the cause of his behaviour which would be better suited for addressing via intervention than a court outcome"	
Deterrence		• "court finalization required to provide a proper deterrent."
Desires of the victims	• Depends: "I would like to make contact with the [victims] to discuss their concerns and thoughts and also discuss the conditional caution option."	• Depends (see previous cell)

Violence Vignette #4: Belt to the head

DP swung his belt and struck the victim's head with the buckle outside nightclub. IP 42 year old male. Bruising and a three inch cut to the head occurred. Suspect was very intoxicated at the time of the incident. Suspect states he vaguely remembers attending [pub] and there being some kind of disorder but cannot recall assaulting the [victim]. He accepts, however, that he may have committed the offence due to his intoxicated states and since all evidence points towards this he accepts it is the truth. Offender had a previous NFA for criminal damage 7 years prior, and a caution for an assault 3 years prior.

In Violence Vignette #4 (Table 22), officers had to decide:

- whether the harm caused was too serious for diversion, as it caused actual bodily harm;

- whether the fact that the defendant was intoxicated mitigated the offense;

- whether the criminal history aggravated the offense.

In this case, officers differed as to whether they emphasized the low or high level of harm to the victim. Of the 70% of all officers that mentioned the severity one way or the other, 30% emphasized the low amount of harm: "Increase [appropriateness for diversion] - no lasting injury. Cut to head"; and 70% of those that mention severity emphasized the low amount of harm: "decrease suitability [for diversion]… a charge might be necessary as the offender has caused a cut with intent on the victim and offence may be too serious." In addition, 45% of all officers mentioned that the use of the belt as a weapon increased the seriousness of the offense, because it could have harmed the victim and showed lack of concern for the victim, and showed a concerted effort in taking off the belt to cause harm.

As with previous cases, officers differed on whether they emphasized the criminal history as serious and violent (24% of the 62% of all officers who mentioned severity of the criminal history), or emphasized that the criminal history was not serious and low level (76%). Three quarters of officers noted that an alcohol intervention might be most appropriate given the defendant's problem with alcohol and anger, and the existence of an intervention available for these issues. Three officers indicated the fact that the defendant was drinking pushed them toward prosecution.

Table 22

Violence Vignette #4		
Category:	Violence	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	21%	
Percent of Officers Choosing to Divert:	79%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm	• "no lasting injury. Cut to head"	• "charge might be necessary as the offender has caused a cut with intent on the victim and offence may be too serious."
Weapon: belt		• "injuries could have also been a lot worse." • showed "lack of thought for victims" • taking off belt showed "concerted effort to commit offence."
Criminal history	• "it would appear that he does not have a major offending history."	• "known for assaults - previously violent" • "prior caution… clearly did not work first time around"
Alcohol (frequently mentioned by officers)	• "intoxication… this can be dealt with by a pathway [(alcohol intervention)] should it be this that is the cause of his behaviour."	

Violence Vignette #5: Assault over a loud dog

The IP in this matter lives directly below the PIC's flat, the IP states ongoing tensions between both parties which the [housing] council are aware of regarding noise. In this incident the IP brought his two young children a puppy, which was making a lot of noise in the middle of the night. The IP's partner had received a knock on her door from the PIC complaining about the noise, and the PIC had become aggressive towards the partner and called her a b**ch. When the IP returned home he went to the PIC's flat and the IP's wife answered the door and the IP stood behind

her. The IP has said to the offender "who do you think you are", PIC replied "don't you shout at me", the PIC was getting more and more aggressive and angry. The offender has then punched the IP's right eye and ear, causing bruising to the right eye and a 3 inch laceration behind the right ear, causing injury resulting in pain and discomfort. The IP has been to the hospital as immediately after the incident was sick and dizzy, and had minor concussion. The IP has had a CT scan and this is clear. Offender had 2 previous convictions for assault, several years ago.

In Violence Vignette #5 (Table 23), officers had to decide:

- whether the amount of harm was too serious to warrant diversion;

- whether the apparent fact that the incident was provoked by the victim made the case more appropriate for diversion.

The 56% of officers who mentioned the severity of the offense were evenly split about whether they considered the assault serious or not (47% vs. 53%, respectively): "minor injury"; vs. "serious assault"; "concussion is not a minor thing and neither is a laceration."

Of the 24% of officers who mentioned the severity of the criminal history, half of those officers emphasized the previous convictions as a factor pushing them toward charge, while the other half emphasized that the criminal history was minor and historic and pushed toward diversion. While 24% of officers noted the offense would not get a severe punishment in court, 2 officers disagreed, thinking the case might get a custodial sentence (incarceration). One officer indicated that the case should not have even got to the point of diversion, and that that officer would have given it an informal street resolution.

A third of officers felt there was some shared responsibility between the victim and the defendant in the attack, and that the defendant was provoked, which lessened their culpability. Thirty-eight percent of officers noted that the tense relationship between

the victim and offender was the problem, and required mediation and treatment as an ongoing conflict, rather than a crime. However, 2 officers explicitly stated that the defendant was not sufficiently provoked, and the assault was solely the responsibility of the defendant. Many officers (44%) mentioned that some sort of intervention for the defendant would be helpful, such as anger management, and of those, all but 3 officers felt diversion would be the best way to deliver such an intervention.

Table 23

Violence Vignette #5		
Category:	Violence	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	29%	
Percent of Officers Choosing to Divert:	71%	
Officers received information about recent court outcomes in similar cases, which had not received custodial sentences (see Appendix B)		
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: injury per assault vs. number of assaults	• "minor injury"	• "serious assault" • "seriousness of injury - concussion is not a minor thing and neither is a laceration."
Criminal history: existence, quantity, and recency	• "only has 2 previous convictions" • "previous convictions a long time ago"	• previous convictions
Expected court outcome	• "unlikely custodial [sentence;] neighbour issues minor injury"	• "laceration and hospital treatment required… potential custodial sentence… if not then a restraining order required."
Provocation: whether victim shared blame	• "[victim] provoked the violence" • "'victim' has attended the offender's address blatantly kicking off"	• "unprovoked attack. No mention of intoxication so [defendant] knew what he was doing when he attacked the [victim]"

Ongoing neighbor conflict: mediation more appropriate than criminal system	• "obviously issues between the parties involved which have been building. Charge is unlikely to solve this issue in fact is likely to make the situation worse. There is an obvious need for mediation between the two in the first instance" • "more likely to cause more issues if offender charged, which will not help [the victim]" • "both parties know each other and will have to try and get a long as they live in the same block."	
Anger management appropriate	• Many said something like: "[diversion into] intervention regarding violent offense anger management victim awareness course, RJ [restorative justice] with victim"	• One said: "due to injury would be suitable for charge as ongoing issue that would need to be dealt with at a high level with a recommendation for anger management course."

Violence Vignette #6: Glassing in a pub

In a pub offender has smashed a bottle to create a weapon after verbally abusing IP and IP's partner. Shouted threats at IP, then glassed IP in the face and shoulder. Multiple stitches across face due to face being cut open with jagged edge of bottle. IP brought to hospital in ambulance, medical staff states permanent scar likely.

In Violence Vignette #6 (Table 24), officers had to decide:

• whether the severity of the offense made the case inappropriate for diversion;

• whether intentional smashing of the glass aggravated the offense to make it

inappropriate for diversion.

In this case, officers almost all agreed that the harm to the victim caused was too severe to warrant diversion, as it constituted grievous bodily harm with intent—and all officers indicated the severity pushed them toward prosecution. This offense is indictable only, meaning it must be handled in Crown Court (the higher court for more severe offenses in the UK). Most officers indicated the severity of the offense was the overriding factor that meant they would have charged the case regardless of other elements. Most officers (79%) also mentioned the fact that the defendant created a weapon increased the severity of the offense, pushing them toward prosecution. One officer who similarly recommended a charge noted that the only way they would consider diversion was if the victim was supportive of diversion. The couple of officers who did mention diversion in this case indicated that a conditional caution was still appropriate because the defendant had anger issues that needed to be addressed, and had no previous arrests reported.

Table 24

Violence Vignette #6		
Category:	Violence	
Level of Case:	4	
Percent of Officers Choosing to Prosecute:	94%	
Percent of Officers Choosing to Divert:	6%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: overriding factor for most officers	• "Not suitable for out of court disposal unless supported by the victim."	• Most agreed harm too severe for diversion, as required by UK law • "injury far too serious and permanent… made a weapon and used it with intent to injure" • "Even if this was the defendant's first ever offence"

A couple officers found the need for anger management might make diversion appropriate	• "looking at the causal factors that led up to the offence, offering relevant pathways to prevent reoffending… anger management"	

Violence Vignette #7: Scuffle at a school

In a disorder between 2 parents at a school, the PIC has been verbally aggressive. PIC has grabbed the victim under the chin and pushed her away hard, leaving a red mark and pain to the IP's jaw. This was in the presence of other children and parents. Offender has no previous arrests.

In Violence Vignette #7 (Table 25), officers had to decide:

- whether the harm was too serious to warrant diversion;

- whether the fact that the incident happened in a school pushed them toward diversion or charge.

All but two officers out of the 94% who mentioned the severity of the injury agreed that the injury caused was low level, and all but one also agreed the defendant's criminal history was low level (as there were no previous arrests). Three officers mentioned this may be "out of character for the [defendant]," who due to lack of previous arrests is of "previous good character." One officer noted that the minimal injuries might not have been intentional. On the other hand, one officer noted that if the defendant is willing to "behave like this at a school, what are they like elsewhere?" A few officers (13%) mentioned that while the injuries were slight, the defendant was "verbally aggressive" and might be a further "threat of harm."

Many officers were most concerned about the fact that the incident happened in front of children, with all but one mentioning this issue. For 13% of officers, this was an

116

overriding factor that they said would have made them prosecute the case regardless of other elements. There was widespread concern that the children may have been upset or emotionally affected by the incident, or that it means the parent is a bad role model for the children. One officer mentioned that they would need to "assess safeguarding around the child" to ensure the child is not at risk for harm from the parent.

Two officers found the fact that the parents will all still be regularly attending the same school and will have to spend time together in the future pushed the officers toward diversion. Some officers (22%) felt a conditional caution with mediation or anger management could prevent the problem from happening again.

Table 25

Violence Vignette #7		
Category:	Violence	
Level of Case:	1	
Percent of Officers Choosing to Prosecute:	88%	
Percent of Officers Choosing to Divert:	12%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm	• Most agreed it was low	
Intent	• One officer noted minimal injuries possibly unintentional	
Criminal history	• None • Suggested this may have been an "out of character" one-time event	

Public location: school and in front of children		• "If the defendant is willing to "behave like this at a school, what are they like elsewhere?" • For some officers, overriding factor that it may have upset children and provided bad role model • Public perception might be problematic if not prosecuted
Aggression	• Anger management may be appropriate	• "verbally aggressive" • "has shown high level of aggression" • "would suggest that the [defendant] instigated the matter" and might be a further "threat of harm."
Ongoing relationship means likelihood of reoffending	• Parents "will still see each other," and diversion can "ensure no repeat of these circumstances" • "both parents presumably will still have to attend the location re their children - a charge may result in future problems between the two. A conditional caution may be beneficial here."	
Learning/improvement opportunity	• "offender needs to learn better behaviour, which would be more useful to society than general punishment."	

4.3.2.	Vignettes Relating to Abuse of Trust

There are four vignettes that relate directly to thefts marked by abuse of trust. #1 and #2 involve theft by someone entrusted to look after something while the victim was away, but not a formal employee. #3 and #4 involve theft by an employee of an organization. In addition, as a comparison #5 in this section is a case involving low-level theft, but without an abuse of trust element.

Abuse of Trust Vignette #1: Thieving dog-sitter

PIC has stolen £880 from neighbour from inside coat pocket in the home after agreeing to feed the neighbour's dog while they were away on holiday, which the IP had just received from the sale of his boat. IPs are a 42 year old husband and 40 year old wife. PIC admitted the offence, saying the money was sticking out of the pocket and PIC was in debt and had to make a payment. One previous NFA [case dismissed with no further action by the police] for theft three years prior.

In Abuse of Trust Vignette #1 (Table 26), officers had to consider:

- whether the officer thought the amount stolen was too high to warrant diversion;

- whether or not the defendant's abuse of the victim's trust in the defendant was enough of an aggravating factor to make diversion inappropriate;

- whether or not the defendant could return the money;

- whether or not the fact that the money was left out, and thus this was a crime of opportunity where the defendant could not resist their temptation (as opposed to premeditated) was enough of a mitigating factor to make diversion appropriate;

- whether or not the elements suggested that the defendant was likely to commit more crime in the future;

- whether the defendant's previous dismissed arrest should be considered, what that arrest tells the officer about the defendant (Has an ongoing problem? Is more of a

bad person than this opportunistic case made them sound?), and whether that

previous history was enough to warrant a charge;

- whether or not something could be done to help get the defendant out of debt, and
  whether that would in turn stop them from offending again.

Officers focused on the amount stolen in part as an indicator of the level of harm

to the victim (59%). A little less than half of officers (42%) who mentioned the amount

stolen noted it was a large amount stolen, and one noted that for some people that amount

of money "could be a fortune." The other 58% mentioned that the amount stolen was

low—one officer also noted that the amount stolen would have a "low impact on [the]

victim (Who owns a boat)." A few officers wanted to know a little bit more about the

relative amount of harm losing that amount of money would cause to this specific victim.

Officers (41%) felt it was important for the defendant to return what was stolen as part of

any outcome, and wanted to know whether the defendant would be able to repay the

money. Some officers (22%) mentioned this was purportedly not a crime that the

defendant planned, but they saw the money and took it.

In this case, the most common concern officers noted in terms of victim harm was

the abuse-of-trust element (66%)—the victims had entrusted the defendant with their

keys and their home while they were away, and the defendant violated that trust, which

pushed most officers toward prosecution and was overriding for some. On the other hand,

two officers felt that diversion is a better option to preserve the future neighborly

relationship going forward. Several officers (16%) indicated they would heavily weigh

the victim's preferred outcome in this case. The defendant's debt was mentioned by the

majority of officers (72%), all but two indicating it pushed them toward diversion as the

defendant could get help in diversion. Half of officers noted the fact that there was very little criminal history, which may have lent credence to the defendant's reason for the theft. Many officers (32%) also nodded to the availability of debt counseling programs as a reason for diversion. One officer did not find the debt explanation compelling, and explicitly mentioned that the debt and the "payment due" was "immaterial" to their decision to prosecute in this case.

Table 26

Abuse of Trust Vignette #1		
Category:	Abuse of trust	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	22%	
Percent of Officers Choosing to Divert:	78%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: impact on victim	• One officer noted "low impact on victim (Who owns a boat)" • Officers wondered: "is the amount life-changing for the [victim]"?	• Many noted it was a large amount stolen; one said to some it "could be a fortune"
Severity of harm: ability of defendant to repay	• Many officers thought diversion was appropriate if defendant could repay, e.g.: "repayment would be an ideal resolution via a conditional caution"	• "unlikely to be able to afford to pay back money," e.g. due to debt
Abuse of trust		• Overriding element in favor of prosecution for many officers • "position of trust… a charge might be necessary because the offender has shown that he cannot be trusted"

Ongoing relationship between defendant and victim (neighbors)	• "[diversion would be better so as] not to cause trouble, people have to continue to live next door"	
Victim's preference	• Several officers would heavily weigh victim's preference, particularly because of the ongoing relationship	
Defendant's understandable motivation: debt	• Majority of officers said debt weighed in favor of diversion • "A one off that has been born out of desperation to make a necessary financial payment"	• To one officer, the debt and the "payment due" was "immaterial" to their decision
Availability of assistance: debt counseling programs	• "trigger for this offence is debt...pathways to assist offender to manage his debt and prevent further similar offences"	
Criminal history: minimal	• Lent credence to defendant's claim that theft was due to debt	
Premeditated intent: lack thereof	• "On the face of it this is opportunistic and not premeditated" • "appears to have succumbed to temptation seeing money." • "the offender may not have stolen the money if it wasn't there in the first place."	

Abuse of Trust Vignette #2: Theft by client minding desk

A member of a fitness centre known to the IP from repeated visits to the fitness centre where the IP is a staff member was asked by the IP to keep an eye on the employee information desk while the staff member stepped out to take a telephone call. At that time PIC took 3 digital music devices belonging to the fitness center, which were discovered missing several

days later, and sold them on to cash converters. Devices valued at £50 each. Offender had one previous caution for shoplifting 5 years previously. Offender apologized for the incident, and stated he wasn't thinking at the time, and that when he saw the devices he took them to supply his alcohol addiction which he stated stemmed from his depression.

In Abuse of Trust Vignette #2 (Table 27), officers had to decide:

- whether the amount stolen was too high for a diversion;

- whether the abuse of trust was a serious mitigating factor, even though the defendant was not an employee but was just asked for help;

- whether the defendant's alcohol issues make them more appropriate for diversion.

Officers agreed the value of property stolen in this case was low, especially for a company rather than a personal victim. They also agreed the defendant's criminal history was low and not recent, and that this would not result in a serious court punishment. One officer noted that legally, that old of a criminal history should not be counted because it is considered "spent." Two officers mentioned the offense was aggravated by intent because the defendant went on to sell the items, making it premeditated, while two mentioned it was premeditated and not spur of the moment. Officers largely agreed (76%) that the defendant's need for help with alcohol was a good reason to divert the case.

Table 27

Abuse of Trust Vignette #2		
Category:	Abuse of trust	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	3% (1 officer)	
Percent of Officers Choosing to Divert:	97%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: impact on (corporate) victim	• "low value of property stolen for a company"	

Likelihood of prison sentence	• Court unlikely to give custodial sentence: "minimal penalty at court anticipated" • Court would order fine defendant "wouldn't be able to pay."	
Criminal history: quantity and recency	• Low and long ago: "only one previous caution for theft 5 yrs ago."	
Premeditated intent	• Some thought no: "spur of the moment theft"	• Some thought yes: "aggravated by intent as he continued to go on to sell items."
Mitigation: victim's unclear hands	• One officer said crime was "mitigated by... staff asking offender to undertake work that [staff] should have been doing."	
Defendant's addressable problem	• "stated has alcohol addiction and the theft was to fund this...pathways to manage this can be used to prevent further offending." • "behaviour seemingly out of character" and "alcohol dependency" is the "root reason for why this offense occurred" • "He would benefit from help with his drink and depression issues thus would hopefully stop him needing to steal, he would not go to prison and court would not address his issues" • "If we charge him to court is this going to create further depression issues and alcohol issues? Is he going to spiral further out of control?"	

Social consequences suffered already: sufficient?	• One officer noted: "although he knew the victim and was trusted by them, he will likely have lost that trust/friends/membership of the gym as a result of this."	

Abuse of Trust Vignette #3: Pill theft by hospital staff

Hospital staff member had been taking tablets--a box of Codeine and Diazepam--every week for the last year. Offender admitted the offence, stating they took the drugs for personal use. Offender stated they had become addicted to painkillers since a back problem last year and this is why they have been taking the tablets. Offender had slipped a disk last year and was put on Co-codamol by GP. After a while this was not sorting the pain and the PIC started taking the pills. Offender had no previous convictions, one previous voluntary interview for criminal damage, and one caution for breach of the peace.

In Abuse of Trust Vignette #3 (Table 28), officers had to decide:

- whether the amount stolen was too high for diversion;

- whether the abuse of trust made the case too serious for diversion;

- whether the defendant's addiction and the fact that the theft stemmed from legitimate use of prescribed drugs after an injury makes the case more appropriate for diversion.

Officers mostly agreed in this case that the criminal history was low (71%, whereas one felt the criminal history is high), which a few officers indicated was particularly important in this case as it made them more inclined to believe the defendant's reason for taking the pills was addiction following a back injury. Many officers (41%) felt that an important factor in this case that made it more appropriate for diversion was that the defendant acted for personal use because of pain or addiction and

"not malicious intent or for personal financial gain." Unlike previous cases, almost no officers (only 1) mentioned the cost of the amount stolen, except a couple of officers noted that a conditional caution would be appropriate if the defendant could repay the money. One officer noted the fact that it was drugs that were stolen was aggravating, beyond a normal theft.

As with the previous cases, the primary concern expressed by officers in this case (76%) was the abuse of trust element, especially since the defendant was working in a hospital, which officers considered a heightened position of trust and a public institution. Two officers expressed some concern about making sure the theft showed up on a background check if the defendant went to work in another position of trust. However, one officer expressed a desire to prevent this from happening so the defendant was not prevented from future jobs. There was some disagreement about whether or not the offense would show up on a background check if diverted—one officer noted the incident would still show up on a background check if the defendant was diverted, and one officer noted it would not.

As with other cases involving drugs or alcohol, many officers (85%) noted that diversion may be appropriate to help the defendant with their addiction. A few officers explicitly noted that court may not help the defendant, and might make their situation worse. A few officers expressed particularly strong ambivalence with this case: "[recommend prosecution] I would want to charge for this matter due to theft from employee and drugs taken not prescribed, but can see that conditional caution could be considered for (medical) pathway drugs."

Table 28

Abuse of Trust Vignette #3		
Category:	Abuse of trust	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	15%	
Percent of Officers Choosing to Divert:	85%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Criminal history: low	• Limited criminal history "would suggest that this [theft] is to do with the reasons [e.g. back pain/addiction] offender gave"	
Severity of harm: defendant's ability to repay	• Diversion appropriate "if… [defendant] can pay compensation"	
Severity of harm: sensitivity of item stolen		• Drugs as item stolen was an aggravating factor
Severity of harm: repeated/extended nature of conduct		• "length of time offence… [it was] not a one off incident."
Abuse of trust		• "trust broken and taken advantage of where they work" • "not suitable [for diversion] due to abuse of position"
Public service location / victimization of public		• "working in [a] hospital there are greater trust issues" because of the "position of trust around medication and patients" and the "important public sector role."
Premeditated		• "theft by employee… premeditated dishonesty on multiple occasions."

Defendant's reasonable motivation: addiction	• For personal use because of pain or addiction and "not malicious intent or for personal financial gain," which many found a "plausible reason for committing offence." • "offender has formed an addiction after using medication legitimately"	
Defendant's addressable problem: addiction	• "offender has an addiction which help can be offered for alternative pain management" • "pathway identified reduce chance of reoffending if this is targeted." • "a charge would cause more issues for this offender and she would not receive the required support" • "if [addiction is] not addressed, what can it lead to"?	

Abuse of Trust Vignette #4: Theft from staff locker room

Staff member at leisure centre took 8 watches from swimming baths, which were in a secure area, only staff had access to, and sold them on to cash converters. Watches valued at £60. Manager IP states saw himself as mentor to the offender and was disappointed about incident. A number of staff's personal items had gone missing around the same time such as shampoo, iPods, loose change. Offender had no previous convictions, one previous voluntary interview for criminal damage, and one arrest for breach of the peace. Offender apologized. IP reported that the offender had quit two weeks ago, but had been causing problems with other employees and was a day away from being sacked. Offender states he took the watches to pay for Cannabis, which at the time he would go without food and not pay rent and spend roughly £140 per week on Cannabis. Had already registered at drug support center and have weekly appointments.

Similar to the previous abuse of trust case, in Abuse of Trust Vignette #4 (Table 29) officers had to decide whether they felt the cost of the theft and the abuse of trust factor were severe enough that diversion could still be considered. Additional factors officers had to consider that were not present in the previous case are:

- whether the fact that there were multiple victims made diversion no longer appropriate;

- whether the drug problem identified increased suitability for a conditional caution, or whether the fact that the defendant was already engaged in drug treatment meant prosecution was more appropriate.

Officers generally agreed that the amount stolen was low. But many expressed concern that there were multiple victims in this incident. One officer expressed that he would ultimately recommend a caution, but was not happy about it because of the impact on so many victims: "whilst it would pain me this meets the criteria of a conditional caution. My concern is we have numerous [victims] who have all lost out in one way or the other. [But] the [defendant] would not get custodial time for this and needs help with cannabis addiction."

About a third of officers (39%) mentioned the breach of trust element in this case as pushing them toward prosecution. One mentioned that their supervisor requires that all theft-by-employee cases should be "auto charge[d] to court." While some officers (13%) emphasized the case was not severe because it was not likely to be sentenced to incarceration, one officer concluded the case was severe, noting that it would receive "likely higher penalty" in court (perhaps such as a substantial community sentence).

A source of some disagreement in this case is whether the fact that the defendant was already in drug treatment should push officers toward diversion or prosecution. While 87% of officers mentioned the defendant seemed to need help with drug issues, some officers (16%) felt that the fact that the defendant was already engaged in a drug intervention program was a positive factor that encouraged diversion. On the other hand, a similar number of officers (19%) noted that the fact that he was already receiving drug treatment meant that prosecution was necessary because treatment was not working, was not sufficient to stop the offending, or because there was nothing additional diversion could add in terms of interventions since the defendant was already receiving an intervention. A few officers (13%) tried to navigate this balance by suggesting that the defendant may need additional assessment in their existing drug rehabilitation program, or that the court should put more conditions on the defendant to "ensure they engage with drug support."

Table 29

Abuse of Trust Vignette #4		
Category:	Abuse of trust	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	35%	
Percent of Officers Choosing to Divert:	64%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: impact on victim(s)	• Low	
Severity of harm: multiple victims, instances of conduct		• "multiple offences at separate times all rolled in to one" • "My concern is we have numerous [victims]…" • "not just a one off incident"

Premeditation		• Repeating conduct multiple times showed premeditation
Likelihood of severe court sentence	• Defendant "would not get custodial time for this"	• "likely higher penalty" in court (perhaps such as a substantial community sentence)
Abuse of trust		• "there is a trust issue here as a member of staff has been stealing"
Defendant's addressable problem: already in a drug program	• "… clearly needs further support. A charge is not really an option" • "clearly has a drug problem which needs to be sorted and appears he has started to do this" • "has already got a drugs worker in place" • "Clear problem with cannabis use… has shown an understanding of the problem and a will to be helped, although this would need to be enforced by Police."	• "Offender is already in attendance with drug support and has continued to offend despite this" • "already getting help with drugs which isn't working, so needs escalating" • "suitable pathway" exists for rehabilitation but defendant is "already receiving drug support." • Court should put conditions on the defendant to "ensure they engage with drug support."

Abuse of Trust Vignette #5: Store theft without abuse of trust

At children's clothing store clerk staff had observed this person select a basket of various goods and detag some of the items (children's clothing) and then secrete these about their person. Value of goods is £91.94. One previous community resolution for theft shops two years ago and two NFAs for theft 4 years prior.

In Abuse of Trust Vignette #5 (Table 30), officers had to decide:

- whether the amount stolen was too serious for diversion;

- whether the fact that the defendant might have been stealing for their own children

    might make the defendant less culpable and more in need of help;

- whether the fact that this was not their first time stealing pushed the officer toward diversion or charge.

Officers who mentioned the amount stolen agreed (81%) the amount stolen was low. Several officers mentioned that the fact that the items were retrieved for the store was a factor that also lessened the severity of the offense. As with some other cases previously discussed, there were some mixed perceptions of the criminal history. Most officers (88%) who mentioned criminal history severity felt the criminal history was low and pushed them toward diversion (one even stating "previous arrests irrelevant" because defendant was not given a positive disposal such as a caution or conviction). Three felt it pushed them toward a charge because had already received a community resolution, which "has not worked as a deterrent," and because this was not their first theft, which some officers felt shows a dishonest character.

The primary factor that aggravated the case pushed toward prosecution (mentioned by 39% of all officers) was the fact that the defendant detagged the items and concealed them, as it showed dishonesty.

Many officers (39%) noted that the theft was from a children's store, and it may be that they were stealing to clothe their child, which these officers found a compelling reason pushing them toward diversion. One suggested it could be theft to fund a drug habit, and 52% wanted to know more information about what the reason for the stealing was. Half of officers who recommended diversion indicated that a conditional caution rehabilitative pathway reflective of the defendant's reason for stealing would be a good outcome, while the other half

who recommended diversion simply noted the lower-level nature of the case as the reason. One officer mentioned that a conditional caution with a potential banning order would be a good outcome.

Table 30

Abuse of Trust Vignette #5		
Category:	Abuse of trust	
Level of Case:	1	
Percent of Officers Choosing to Prosecute:	Only 1	
Percent of Officers Choosing to Divert:	All but 1	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: victim impact	• All agreed: low • Particularly low because items were retrieved for the store	
Criminal history	• Most agreed it was low and supported diversion • "previous arrests irrelevant" because defendant was not given a positive disposal such as a caution or conviction • "no court appearances" • "2 years since previous…conditional caution would be a suitable escalation of punishment"	• A few felt it supported prosecution • "was given community resolution previously" which "has not worked as a deterrent" • defendant "has committed the same offence previously"… "shop theft is the offender's MO." • "appears actively involved in theft and has potentially gotten away with previous offences"
Premeditated intent and skill		• Some officers thought de-tagging and concealment of items showed "knowledge of shoptheft and level of dishonesty" and might have required de-tagging equipment: "going equipped to steal"

Defendant's reasonable motivation: children's financial need	• "may be stealing for own children if has financial issues"	

4.3.3. Vignettes Relating to Assaulting a Police Officer

Assault Police Vignette #1: Driving police officer

Whilst being transported to the police station intoxicated PIC has kicked out at Police Officer driver kicking left upper arm three times. Reprimand assault 3 years ago.

In Assault Police Vignette #1 (Table 31), officers had to decide:

- whether or not the harm done to the victim is too severe to warrant diversion;

- whether or not the fact that the officer is a police officer is enough of an aggravating factor that diversion is not appropriate;

- whether or not the fact that defendant kicked multiple times was enough of an aggravating factor that diversion was not appropriate.

Officers generally agreed that the actual harm to the victim for this case was relatively low, although 19% of officers flagged the fact that the assault was sustained because it included three kicks instead of one as a factor that pushed them toward prosecution. Many officers felt it was more serious than the injury alone would indicate, for a variety of reasons. The primary factor that aggravated the action by the defendant that officers mentioned was the fact that the victim was a police officer (mentioned by 54% of officers, all but one of which felt that it pushed toward prosecution), which was an overriding factor for 36% of officers who mentioned it. On the other hand, almost half (46%) of officers in the case did not even mention that the assault was on an officer and spoke about it as a general assault case. A few officers who did note the victim was an

officer also noted that diversion was still a good option because it would prevent assault in the future. Two officers noted that the case would not be treated severely in court. Another factor that increased the perceived severity of the offense mentioned by 38% of officers was the fact that much more harm could have been caused by the defendant's actions because the officer was driving.

As with other cases, officers differed on whether they felt the criminal history of the defendant pushed them toward diversion or prosecution. Of the 65% of officers who mentioned criminal history, 71% mentioned the criminal history was minor, but 29% felt the previous criminal history was serious, or that the assault indicated a violent disposition and it pushed them toward prosecution. One officer mentioned that the previous arrest for assault decreased appropriateness for diversion because the defendant "has not learnt his lesson from previous reprimand."

Table 31

Assault Police Vignette #1		
Category:	Assault of Police	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	26%	
Percent of Officers Choosing to Divert:	74%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: impact on victim vs. recklessness to victim and public	• Generally agreed harm to the victim was only a "minor injury" • "low level assault"	• Officer was driving: "reckless actions could have posed serious danger to officers and members of the public"

Severity of harm: repeated conduct		• "kicked the officer three times… would suggest that he was not reckless but intentionally kicked the officer" • "[officer] was kicked repeatedly… sustained attack."
Victim was police officer (the overriding factor for most officers who chose to prosecute—though that was a minority of officers overall)	• "even though decreased [appropriateness for conditional caution] factors outweigh increase, would be more beneficial to police if rehab provided"	• "because they are authority" • "[is an] attack upon the Queen / the Country" • "Need to send a positive message out that assaulting officers is taken seriously" • "almost all assaults on police should be charge" • "assault police… [means] a charge might be necessary because the offender has shown that the law means nothing to him."
Likelihood of severe outcome in court	• Would be heard in Magistrate's Court (for low-level crimes) • "Although it is an assault on a uniformed officer if it was a low level injury it is unlikely that a significant sentence or community order would be given at Court."	
Defendant's addressable problems: alcohol and anger	• "it is obvious that alcohol is an issue in the offender's life and could be addressed to prevent reoffending" • "anger management course would be more beneficial than court outcome" • There are "courses available for anger and alcohol issues."	• One officer who recommended prosecution (because "Assaults on Officers should not be tolerated" noted that the court could include a requirement to attend alcohol or anger management courses.

| Criminal history: minor & not recent vs. violent | • "appears not to have a major offending history"
• "previous violent behaviour, but a long time ago" | • "propensity for violence"
• "risk of harm to others."
• "has not learnt his lesson from previous reprimand." |
| Mitigating factor: victim shared responsibility | • "officer should have had proper control." | |

Assault Police Vignette #2: Drunk assault police

PIC was intoxicated and screaming, PIC raised hands and struck Officer to the face causing pain and discomfort. Accepts responsibility, remorseful. No previous convictions, previous caution and NFA for assault. No previous alcohol marker.

In Assault Police Vignette #2 (Table 32) officers had to decide:

- whether the harm caused was too serious to warrant diversion;

- whether the fact that the victim was an officer makes the case

  inappropriate for diversion.

Officers agreed that this case resulted in a low level of injury, and that the offending history was low. Many officers (33%) felt that a conditional caution with an alcohol awareness course would be a good outcome. One officer noted they recommended a charge because "nothing more would be gained through the courts." As with the previous case, some officers (15% of all respondents) recommended a charge because assault of a police officer is an overriding factor for them. One officer felt that court was necessary, and a victim awareness course should be mandated as part of the court outcome. A few (3) officers did ultimately recommend diversion because they knew the force was pushing conditional cautions, but felt conflicted about it.

Table 32

Assault Police Vignette #2		
Category:	Assault of Police	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	15%	
Percent of Officers Choosing to Divert:	85%	
Officers received information about recent court outcomes in similar cases, which had not received custodial sentences (see Appendix B)		
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Victim was police officer (the overriding factor for most officers who chose to prosecute—though that was a minority of officers overall)		• "assaulting a police officer is unacceptable, charge regardless" • "I am simply of the opinion a standard has to be set and all assaults on police should be charged… [insufficient criminal justice responses to] assaults on police are a disgrace and the reason why so many officers continue to be assaulted, no deterrent." • Although force policy would say to give a caution with an anger/alcohol referral, "For me, tough. Any attack on an Officer is a charge. Just my opinion."
Severity of harm: impact to victim	• Generally agreed low level of injury	•
Criminal history	• Generally agreed limited offending history • "normally of good character"	
Usefulness of court	• "nothing more would be gained through the courts."	• "whilst has no previous convictions, it is highly likely that at court a conviction would result in a stern punishment."

Defendant's addressable issue: alcohol	• Many officers felt that a conditional caution with an alcohol awareness course would be a good outcome. • "alcohol could be the main and deciding factor in this offence being committed."	
Mitigating factor: victim shared responsibility	• "officer should have been more spatially aware dealing with a drunk person."	
Defendant showed remorse	• Some officers noted this weighed in favor of diversion	

Assault Police Vignette #3: Headbutting of an officer

Disorder at a public house, Officer took hold of PIC who was trying to keep officers from arresting of another offender. PIC asked "Who is grabbing me?" Officer answered "It's the police", at which time PIC has flung head backwards and headbutted the officer in the face causing a small cut and swelling to left cheekbone and a bloodshot left eye and pain and discomfort to same. In interview offender remorseful, states was intoxicated, scared, and angry about the arrest of their friend at the time. Previous cautions for affray, assault.

In Assault Police Vignette #3 (Table 33), officers had to decide:

• whether the harm caused was too serious to divert;

• whether the fact that the victim was a police officer precluded diversion;

• whether the intentional act apparently aimed to hurt the officer and the disruption of an officer attempting to make an arrest of a third party makes the case too serious to divert;

• whether the fact that the defendant was intoxicated and upset makes diversion more appropriate.

Of the 75% of officers who mentioned the level of harm, 84% indicated it was a relatively serious level of harm to the officer, though a few (17%) mentioned it was a low amount of harm. As with previous cases, a number of officers felt the case should be charged due to assault of a police officer being an overriding factor (61% of all officers), though one officer felt it would be "better for police if they can rehabilitate offender." Some officers (19%) felt the deliberate obstruction of police work increased the severity of the offense. In general, many officers spoke more sharply about this defendant than in other cases and stated the offense was clearly intentional and designed to hurt and insult a police officer, which pushed more officers in this case than other assault police cases to recommend prosecution. One officer noted that diversion could be considered only if the officer who was assaulted agrees to it.

There were a few circumstances that pushed officers toward diversion in this case. Many officers felt that the fact that he got so angry while drunk that he did something violent was a factor that should be addressed through a rehabilitative pathway in diversion. Two officers mentioned that the defendant seemed to need help with alcohol and they would have diverted the case into an alcohol diversion course, but only if the offense had been less serious. In addition, three officers mentioned that the fact that the defendant was so upset and angry about his friend's arrest when the assault was committed was a factor that pushed them toward diversion.

Table 33

Assault Police Vignette #3	
Category:	Assault of Police
Level of Case:	3
Percent of Officers Choosing to Prosecute:	66%
Percent of Officers Choosing to Divert:	34%

Elements Officers Considered	Officers Interpreting that Element as Supporting Diversion	Officers Interpreting that Element as Supporting Prosecution
Severity of harm: impact on victim	• "not life threatening."	• "visible injuries" • "assault police with wound"
Victim was police officer (the overriding factor for many officers who chose to prosecute)	• "Can consider a CC but only on victim wishes, with strong, relevant, stringent conditions. Non compliance then to charge."	• "No chance, straight to court" • "Charge. Without doubt. Assault deliberately carried out - plus KNOWING it was a Police Officer (technically an assault upon the Queen in my view). Should be locked up for years in my personal opinion and made to attend a drink rehabilitation course whilst there" • "If it was not an assault on an officer in the execution of his duty I may have been thinking of a conditional caution as a drink pathway may be what is required, however, I am a strong believer that any assault on an officer on duty should be automatically a charge."

Criminal history: violent	• "No previous referrals [to rehabilitative services] to address these issues,"	• "Has previous for assault… Already showing as violent offender so no [diversion]" • "Multiple prior cautions for violence" • "Offender has previous convictions for violence and kindred offences and was not perturbed by the fact that the police were present"; • "too much similar previous… Not learnt from similar behaviour in the past."
Intent to injure		• "the injuries would suggest that it was a firm headbutt meant to cause the officer an injury"
Obstruction of policing		• "Deliberately tried to prevent the arrest of another person" • "interfering with arrest… PIC had no reason to get involved with a police incident"
Public place violence		• "public expectation of punishment for this type of offence" • Children present? • "assaulting a police officer in public place violence is unacceptable, charge...this [defendant] should go to prison."
Defendant's motivations: anger at friends' arrest, drunk, and scared	• "heightened tensions over friends arrest… increase [appropriateness for diversion], he was angry" • "Offender was trying to help his friend… offender was intoxicated and scared… offender was angry about the arrest of his friend"	

Defendant's addressable issues: anger and alcohol	• "Better for police if they can rehabilitate offender" • "increase suitability [for diversion,] the offender has acted whilst intoxicated and angry and these may be core issues that could be addressed to prevent future offences" • "May only be violent when abusing alcohol" • "clearly this person offends whilst drunk and is angry and then is violent… opportunities to refer for help to manage drinking and behaviour to prevent this offending pattern"	• "drink referral candidate for sure if the offence was less serious." • "the offender has previous violence cautions and has not stated he suffers with alcohol issues, assault seems intentional to cause harm to the officer and it would be that the apology is false having never been charged. Court could always refer to other agency if they see fit."

Assault Police Vignette #4: Assault and spit at an officer

PIC was present at reported disorder with a large group of people. PIC was intoxicated and screaming, told to leave the town centre on a number of occasions. On failing to do so, Officer attempted to place the PIC into an escort position and got PIC to a taxi. At this point, the PIC raised hands and struck him to the face causing a small cut to his right cheek. While in custody, spat at officers just missing them. Stated cannot recall the incident due to intoxication but accepts it happened. No previous convictions, previous caution and NFA for assault.

In Assault Police Vignette #4 (Table 34), officers had to decide:

• whether the injury was too serious for diversion;

• whether the fact that it was a police officer made the case too serious for

  diversion;

• whether the fact that the defendant was drunk and may not have been aware of

  his actions made the offense less serious.

Table 34

Assault Police Vignette #4		
Category:	Assault on Police	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	28%	
Percent of Officers Choosing to Divert:	72%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm	• Some viewed as limited, with similar quotes to earlier cases	• Some viewed as more severe • "continued demeanor whilst in custody"
Criminal history	• Some viewed as limited, with similar quotes to earlier cases	• Some viewed as more severe, with similar quotes to earlier cases
Assault on police (some found overriding)		• Some viewed any assaults on police as requiring prosecution, with similar quotes to earlier cases
Intentional or not?	• "conditional caution offender was very intoxicated to the point of not remembering the incident, it may not of been an intention attempt to assault the officer" • "accepts he had drunk too much, injuries to officer might not have been caused deliberately."	
Expectation of court outcome	• "Minimal penalty at court anticipated" • "unlikely to receive a custodial sentence";	

144

Mitigating factor: victim shares responsibility	• "Officer should have been more situationally aware when dealing with a drunk person clearly wound up from an incident. Again the spitting is drunken behaviour (would be avoided with spit hood allocation!)."	

As with other cases, officers differed on whether the severity of the harm caused was high (31% of those who mentioned severity of injury) or low (69%). While 50% of officers mentioned the low-level nature of the criminal history, two officers stated that the criminal history pushed them toward a charge. As with Assault Police Vignette #3, some officers (19%) found the assault police element to be overriding. Three officers indicated they thought the assault might not have been intentional, which pushed them toward diversion. A few officers (13%) mentioned that they did not anticipate a severe punishment in court. And one officer indicated they thought the officer was partially to blame, as the officer should have been "more situationally aware when dealing with a drunk person."

4.3.4. Vignettes Relating to Drug Dealing

Drug Dealing Vignette #1: Dealer on a bus

On a pre-planned bus operation, officers searched PIC when he smelt of cannabis. The smell was coming from his bag and in light of this he was searched and 12 small bags of herbal cannabis was found, along with a scale, and 5 wraps of cocaine. PIC 20 years of age. The offender apologized and said he knew it was stupid, he had been doing this because he needed the extra money and didn't know what to do with his life, and university was not for him but he didn't know what to do instead. No known links to organized crime.

In Drug Dealing Vignette #1 (Table 35), officers had to decide the following:

- whether or not the amount of drugs was too much to justify diversion;

- whether the apparent fact that the defendant was selling drugs was too serious to justify diversion;

- whether or not the defendant's explanation was credible and justified diversion;

- whether there is a way diversion could help the defendant to avoid future crime.

The fact that the defendant was apparently selling drugs was the most common concern that officers mentioned (57% of officers), and that element pushed all officers who mentioned it toward prosecution. Three officers mentioned the negative impact of drug dealing on members of the public who are addicted. A few officers noted the severity of the drug sale offense by pointing to the legal guidelines—to show the severity of the offense, two officers noted that this could be tried in Crown Court (which is in the UK reserved for more serious offenses). On the flip side, to show that the offense is not so severe, two officers noted that this could also be heard in Magistrate's Court (which in the UK is reserved for less serious offenses). Many officers (33%) mentioned that the fact that the defendant did not have any known ties to organized crime pushed them toward diversion.

Aside from the dealing, the amount of drugs found was also a common factor discussed (mentioned by 43% of officers), with half of officers who mentioned the amount of drugs indicating that it was a small amount that would make diversion more appropriate. The other half noted that it was a larger amount of drugs or that having a class A drug (cocaine) not just class B (marijuana) increased severity and decreased appropriateness for diversion.

The defendant's need for help was also mentioned by many officers (63%), and specific types of help suggested included general life guidance, education, drug treatment, financial training, debt support, and so forth. Most officers who mentioned money interpreted the defendant's act as based on financial need (53%), but one officer stated that the fact that the defendant "admits that he was doing this to make money" showed that the defendant was acting selfishly, and thus this factor pushed him toward prosecution. One officer indicated skepticism by saying "suitable sob story provided by [defendant]", but still recommended diversion. Another officer indicated the fact that the defendant said that the fact that the defendant "states it's because of a lack of a life compass" pushed toward "neither [diversion or prosecution] - we all have to make choices, he made the wrong one." Some officers (20%) specifically mentioned the defendant's relatively young age (20 years old) as a factor that pushed them toward diversion.

Among officers who recommended prosecution, all mentioned that the element of dealing was the overriding element that made them recommend prosecution. Three of these officers also said that the need for help was a factor in favor of diversion, but ultimately decided to recommend a charge.

Table 35

Drug Dealing Vignette #1		
Category:	Drug Dealing	
Level of Case:	2	
Percent of Officers Choosing to Prosecute:	27%	
Percent of Officers Choosing to Divert:	73%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity/type of harm and impact on public of selling drugs	• Generally agreed small amount: "whilst PIC is possibly dealing, this amount is small/relatively low value" • That defendant did not have any known ties to organized crime supported diversion	• Almost all officers who recommended prosecution said drug *dealing* was the overriding factor • "this is not just a case of possession of cannabis. The amount of cannabis, scales, and cocaine suggest that the offender is supplying drugs" • "charge. Drugs dealers need locking away for a very long time. Drugs are the root of all crime in this country." • "impact on others [via] drug addiction." • A few officers noted that having a class A drug (cocaine) not just class B (marijuana) increased severity
Expectation of court outcome		• "serious offence likely to receive a significant community order"

Defendant's addressable needs (officers listed education, drug treatment, financial training, debt support, and more)	• "appears to need guidance" • "Although a serious offence, pathway has been identified and could be focussed on to reduce the likelihood of reoffending" • "He sounds like that he wants/needs help with sorting his life out, pathways into other education or drug related pathways" • "needs money. Financial hardship."	• One officer: "[Defendant] [s]tates it's because of a lack of a life compass... [this has no bearing on the decision to prosecute because] we all have to make choices, he made the wrong one." • One officer noted that the fact that the defendant "admits that he was doing this to make money" was a factor that pushed him toward prosecution, as it was seen as a selfish act rather than an act based on need, contrary to how other officers interpreted that element.
Defendant open to help	• A few officers noted that the fact that he asked for help was an important factor in pushing them toward diversion.	
Defendant's age: young	• "Increase suitability [for diversion] as [the defendant is] young and naive" • "young enough to turn his life around" • "not a career criminal so important to divert before they become involved [in more serious crime]".	

Drug Dealing Vignette #2: Routine traffic stop of a dealer

PIC was pulled over in a traffic stop. Due to the smell of cannabis his backpack was seized, and it contained among 12 small bags of cannabis, 5 wraps of cocaine and a scale. No relationship to organized crime found. PIC stated his friend gives it to him to sell, to supplement his low paying

part-time job to help pay off debt and support his daughter. PIC was apologetic. No previous arrests

In Drug Dealing Vignette #2 (Table 36), officers had to decide:

- whether the defendant's lack of criminal history and possession of a relatively minor amount of drugs outweighed the fact that he intended to sell; and

- whether the defendant's supposed motivations—debt and daughter—reduced his blameworthiness.

Officers who mentioned criminal history (45%) all agreed that the lack of arrests in the defendant's criminal history pushed them toward diversion. Many officers (55%) also noted that, as with other cases, defendant could be assisted with debt management courses, although one said "further support could be given through a conditional caution however owing to the low income and requirement for more money it is not likely the offender would attend the sessions as required." Two officers said the defendant's need to support his daughter pushed them toward diversion.

The officers who recommended a charge felt that supplying drugs was the overriding factor for which they would charge regardless of the other factors in the case. A few officers (15%) mentioned the likely light court outcome as a factor pushing them toward diversion, but one emphasized the high court outcome ("likely to receive an extended custody sentence"). One officer indicated they would divert the case because a "charge in this instance could cost him his job and push him further into crime in order to make a living."

Table 36

Drug Dealing Vignette #2	
Category:	Drug Dealing
Level of Case:	3
Percent of Officers Choosing to Prosecute:	12%
Percent of Officers Choosing to Divert:	82%
Officers received information about recent court outcomes in similar cases, which had not received custodial sentences (see Appendix B)	

Elements Officers Considered	Officers Interpreting that Element as Supporting Diversion	Officers Interpreting that Element as Supporting Prosecution
Severity of harm: drug dealing as overriding factor	• An officer who ultimately chose to prosecute said: "would not be adverse to [diversion] if[:]…no drugs [were] ever sold. No phone, forensic evidence to support drug supply. No financial gain. No other supporting evidence to suggest, prolonged extensive drug dealing."	• "Possession with intent to supply. Serious offence." • "Job would say caution. I disagree. The fact is we have a to soft prison system in place. Drug dealers should be imprisoned with no cushy gym / cable TV. It should be hard labour in my view regardless of what Political Correctness it may offend" • "Charge - Class A drug supply, feeds VVA offences. High public issues relating to Class A use and supply - scourge on society."
Criminal history	• Generally agreed that lack of prior arrests supported diversion	

151

Defendant's addressable need: debt, finances	• "could be assisted with debt management, assist to find better paid work" • "Conditional caution would be more effective in managing the suspects needs and prevent further issues." • "The [defendant] is working and intentions are to support his daughter. Charge in this instance could cost him his job and push him further into crime in order to make a living. The correct education and support could divert [defendant]away from future offending."	• "further support could be given through a conditional caution however owing to the low income and requirement for more money it is not likely the offender would attend the sessions as required."
Defendant's reasonable motivation: supporting child	• "Has family circs, financially dependent daughter"	
Expectation of court outcome	• "would like to charge but likely to get a fine and if he is trying to pay off debt, waste of time fining him" • "unlikely to receive a custodial sentence if charged" • Due to suspect's lack of criminal record, likely "nothing further than a fine may be given at court. out of court disposal would be a more cost effective use of police time."	• "Charge on basis likely to receive a extended custody sentence."

Drug Dealing Vignette #3: Cannabis set-up upstairs

Upstairs in rear bedroom cannabis set-up found consisting of 30 medium sized plants. DP's 23 year old daughter who was a few months pregnant was also present but mother stated that she is the only occupant and

responsible for the cannabis. Hydroponic set-up included usual tent, heat lamps and fertilizer. No evidence of electricity being tampered with. In interview suspect stated that she refused to name the person that did the set up but the person would return in some time to crop it. At that time she would get paid £10,000. She stated that she did it because did it because she is in debt £3,000 rent and £4,000 loan and has to help support family. She is living alone and takes medication for depression and bi-polar daily. She has a CPN mental health nurse. One previous voluntary interview for criminal damage, and one caution for breach of the peace. PIC had received a caution and a final warning for possession of Class C drugs 5 and 6 years ago. Fully admits her part in the offense and expressed remorse.

In Drug Dealing Vignette #3 (Table 37), officers had to decide:

- whether the high number and value of drugs involved outweighed the fact that there was no specific victim;

- whether criminal history was minimal (old and limited) or problematic (drug offense);

- whether the defendant's motive of making money indicated financial need or greed;

- whether the witness's unwillingness to name her supplier weighed against diversion; and

- whether the pregnancy of the defendant's daughter meant the defendant presented a danger to the baby and thus should be removed from the house through prosecution, or whether the family should be kept together.

As with the previous case, the drug dealing element was seen as increasing the seriousness of the offense. Of the 64% of officers who commented on the amount of drugs, all but two emphasized that it was a high amount of drugs. Two officers noted that the large amount of drugs seized suggested this was not the defendant's first involvement in growing cannabis. On the other hand, three officers emphasized that while it was a

153

high amount, it was still permissible to caution at that level. One officer noted that the fact that it was a "Regina offense" (i.e. offense against the crown, not a specific victim harmed) supported diversion. In terms of criminal history, 36% of officers mentioned this element, and of those, 38% felt the criminal history pushed toward diversion due to being low, while 62% felt it pushed toward prosecution.

A source of disagreement was whether the fact that the defendant was doing it for the money should push toward diversion or charge. Many officers (73% of all respondents) felt that the choice to commit the crime for money was because of her need, which pushed the officers toward diversion as this explained the crime and could be addressed. On the other hand, a few officers (12%) felt that the fact that the defendant was doing it for the money demonstrated greed and pushed them toward a charge.

Many (70%) officers commented that she may have been motivated by her mental health issues, pushing them toward diversion. As with other cases, many officers (42%) noted that diversion into a rehabilitative intervention might address both the debt and any mental health issues. Two officers mentioned these elements could be addressed in court.

Another factor that a few officers disagreed on was whether the fact that the daughter was pregnant pushed them toward prosecution because of the risk to the baby (4 officers), or toward diversion because it might provide a better outcome for the child (2 officers). One officer indicated that the fact that the defendant was pregnant did not push either toward diversion nor charge, for this officer, the fact that she is pregnant is "not relevant to me if she's committing crime."

Many officers (36%) felt that the defendant's unwillingness to name the person who was scheduled to purchase the cannabis was key factor pushing them toward

prosecution. One officer noted this factor was overriding for him, despite the officers'

comment that: "the suspect clearly needs help/support/guidance which could be offered

as part of a conditional caution." Another officer felt that what the defendant stated about

the prospective purchaser was sufficient to consider her helpful in the investigation.

Table 37

Drug Dealing Vignette #3		
Category:	Drug Dealing	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	30%	
Percent of Officers Choosing to Divert:	70%	
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: amount of drugs, suggests experienced drug dealer		• High "number of plants"; exceeded 9, the maximum for a caution • "£10,000.00... large value of cannabis." • "large set up, done it before?" • "High value cannabis set up. Plants nearly fit and ready to be cropped - suggesting prior relevant knowledge."
Severity of harm: drug dealing	• Offense is against the public, but there was no specific victim harmed here • "appears that [defendant] is only minding the crop." • Drug not yet sold, "crop would be seized and destroyed"	• "Charge should be issued as it would be likely this factory involved in the supply of cannabis to a drug dealer etc."
Criminal history	• "very little previous" • "no recent like offences"; • "she was cautioned/final warning but a long time ago"	• "previous for drugs… not suitable [for diversion]" • "previous drugs offences"

Defendant's motivation: money	• In "debt and needed the money… she states that she has money worries" • "debt [is] the main reason [for the defendant to] commit the offence" • "offender is supporting family." • "could be that she has been taken advantage of due to her financial situation."	• "Getting paid 10,000… She is being paid a substantial amount of money to commit crime" • "Motivation, Greed?" • "Financial gain [decreases appropriateness of diversion]"
Defendant's addressable need: debt	• Many officers felt that some sort of help ("courses available for debt management"; "address debt issues to reduce likelihood of repeat offending") would help her, which supported diversion. • "Mental Health Issues… would benefit more from help through [diversion]" • "vulnerability… mental health issues, financial difficulties."	• "due to the amount of plants and the monetary value involved I do not see that a cc would be suitable… already having help with [mental health services] and unlikely to be imprisoned" • "Charge with a court request to support Mental Health treatment, and provide limited costs due to debt" • "once released from custody - charge may result in various health engagement post court." • "offence too high value and drugs related. Any personal issues of offender irrelevant."

Willingness or unwillingness to cooperate by naming supplier	• One officer noted she might not have named the supplier because she "could be afraid" • One officer found what she stated sufficient: "she has stated that the person will return and has provided that intelligence"	• Many officers noted defendant's unwillingness to name the supplier as supporting prosecution, with one officer calling it overriding. • "Had she named the offender or given detail which could lead to his capture I would have gone for a conditional caution" • "By not giving up the named offender more crime will be committed." • "refuses to co-operate" • "Her unwillingness to identify the dealer is paramount. How many other grows does he have with other women/houses?" • Unwillingness to name dealer "leaves her vulnerable to continue behaviour and less likely to engage" • "unknown person involved… could be part of a larger organised crime syndicate."
Defendant's daughter pregnant	• A few officers thought diversion would provide a better outcome for the child • "Dependents in the house… potential imprisonment could see daughter and child in dire financial straits" • One officer was ambivalent: "affect on unborn child if in prison… also affect of unborn child with company being kept"	• A few officers thought defendant presented a risk to the baby • "safeguarding issue surrounding unborn child" • "clearly involved with drugs which may affect her baby, uncooperative in interview, charge."

Drug Dealing Vignette #4: Cannabis set-up after an assault

After a call to an assault in a home of a non-resident assaulting the PIC, cannabis set up of approximately 30 plants found upstairs in home, along with a scale and small bags. PIC and their partner accepted full responsibility for the set-up and state they got the seeds from a friend as a way to make extra money. No evidence suggests a link to any organised crime activity. PIC had received a caution and a final warning for possession of Class C drugs 5 and 6 years ago.

In Drug Dealing Vignette #4 (Table 38), officers had to decide:

- whether the amount of drugs found was higher than appropriate for diversion;

- whether any amount of drug dealing was an overriding factor requiring prosecution;

- whether the five-or-more-year-old caution and final warning for drug possession were minimal and outdated or weighed in favor of prosecution; and

- whether the defendant's motive of making money indicated financial need or greed.

In this case, officers were mixed on whether the amount of drugs, as a metric for the severity of the offense, was a high amount (53%) or a low amount (approximately half). As with other cases relating to dealing, the dealing aspect aggravated the drugs aspect for officers. For 70% officers who recommended a charge, the high quantity of drugs to be sold was the overriding factor. Two officers specified that they suspected there was more going on, such as involvement in an organized crime group or a past history of dealing that was not known to the police. As with many other cases, the 47% of officers who mentioned criminal history were mixed on whether they felt the criminal history pushed them toward diversion (69%) or prosecution (44%), and two officers felt that elements about the criminal history pushed in both directions. The 35% of officers

who mentioned that the defendant was motivated by money mostly indicated this pushed them toward diversion, but two said it pushed them toward prosecution because it was indicative of greed to them.

Table 38

Drug Dealing Vignette #4		
Category:	Drug Dealing	
Level of Case:	3	
Percent of Officers Choosing to Prosecute:	29%	
Percent of Officers Choosing to Divert:	71%	
Officers received information about recent court outcomes in similar cases, which had not received custodial sentences (see Appendix B)		
Elements Officers Considered	**Officers Interpreting that Element as Supporting Diversion**	**Officers Interpreting that Element as Supporting Prosecution**
Severity of harm: amount of drugs	• "PWITS [possession with intent to supply] although appears small scale" • "no links to organised crime"	• "large scale set up with scales and bags for supply." • Amount suggested defendant was operating on "an organised scale"… • "the set up shows prior knowledge and makes me ask how many times in the past they've done this."
Severity of harm: drug dealing		• Dealing aspect weighed in favor of prosecution for many officers
Criminal history	• Some officers saw as limited: "no recent convictions"	• Some officers saw as severe: "this is now the 3rd time the PIC has been dealt with for drug offences"

Defendant's motivation: money	• "this is obviously a matter that has resulted due to financial difficulty. A charge and a cost implication which not be productive, because the offenders clearly have money matters"	• "committed knowing that it was to benefit them financially."

V. Officer Causal Assumptions

An additional result of this qualitative analysis is it allows identification of a list of officers' assumptions about causal relationships they cannot directly observe, or at least they cannot systematically observe. Some of these assumptions may be objectively true, some not true, or some partially true. Some of these relate to the officers' theories of offending and theories of offender behavior change.

A list of assumptions identifiable *from a single officer* are compiled below. They fall into a series of types of assumptions: what factors impact likelihood of reoffending; what would happen if cases were charged to court; the relative effectiveness of prosecution versus diversion; and what would make the victim and public feel justice is served.

Assumptions about who is likely to reoffend:

- Someone who takes the time to fashion a weapon or otherwise prepare for an offense is more likely to do it again because they really meant it, it was not just heat of the moment. Someone who commits a violent crime while they are angry is less likely to do it again because it was in the heat of the moment;

- Someone who is remorseful after a crime is less likely to do it again;

- Someone who is willing to assault a police officer probably assaults others more

regularly.

Assumptions about what would happen at court:

- Common assault, even if of a police officer, would be heard in Magistrates' court (lower-level criminal court);

- Growing 30 cannabis plants would be heard in Crown Court (upper-level criminal court).

Assumption about prospective problem solving, i.e. the relative effectiveness of court versus diversion:

- Prosecution is more likely to stop an offender with a history of violence from doing it again;

- Prosecution is more likely to stop a defendant accused of a serious crime from doing it again;

- Prosecution is more likely to deter other defendants from assaulting police officers;

- For defendants with debt/anger/mental health issues, reoffending can be reduced by interventions. Prosecution would not stop their offending from happening again because it would not address those issues;

- If someone has never received a rehabilitative intervention, a rehabilitative intervention is likely to reduce their recidivism, but if they have had an intervention before, another one is unlikely to reduce their recidivism.

Assumptions about retrospective problem solving, i.e. what will ultimately satisfy the victims and the public that a case:

- In more serious cases, a victim and society will feel more like justice was done if

the case is prosecuted than if it is diverted.

In a case where the officer viewed the list of previous similar court outcomes, the officer commented that their causal assumptions about what would happen in court were altered:

- "Initially I thought to charge for the offender but reading through the previous disposals PIC is unlikely to receive a custodial or an extensive community order and therefore a conditional caution to target offending behaviour would be the most suitable disposal method."

The specific causal assumptions varied between officers. However, a similar list to the one presented here for one officer was compiled for each officer.

Chapter 5: Discussion

5.1. <u>**Unpacking the Officer Decision to Divert**</u>

This dissertation explored how police officer decisions to divert a case from prosecution into a diversionary out-of-court disposal are driven by *trait* (overall) attitudes and beliefs about defendants and outcomes (whether an officer is a "tough" or "soft" cop), as opposed to *state* attitudes (narratives about the meaning of certain elements present in a particular case, such as whether something in the case indicated the defendant was "reformable" or "incorrigible"). The analysis was guided by 5 hypotheses. This section will first discuss some overall takeaways, then walk through the implications of each of the 5 hypotheses analyses. It will also connect those results to implications for policing.

Overview

The descriptive analysis, modeling, and qualitative findings of this dissertation all support the conclusion that different officers derive different meaning from the same case elements—and the different narratives underlying these element interpretations are an important driver of variations in discretionary outcomes. Officers in this sample widely exhibited a core rational choice process of applying narratives to elements in a case in order to predict the likely ramifications of different choice options. Differences between officers were found across various stages of the decision-making process: the elements officers found most relevant to their decisions; the meaning they derived from those elements; and the assumptions they made about the likely outcome of different courses of action given those observed elements.

Most of the observed differences in this study were not driven by differences in overall attitudes, as captured by the ATP scale (Melvin, Gramling, & Gardner 1985). There was little impact of officers' trait attitudes towards defendants on narratives or diversion recommendations across three quarters of the sample. The exception was in the "toughest" quartile of attitudes—these officers recommended outcomes that were somewhat less favorable to defendants, and were somewhat more likely to record narratives unfavorable to defendants.

But even when attitudes (or force policies, biases, or other factors) were at times layered onto the state narratives, these state narratives about the meaning of different elements in a case were still found to be important drivers of decisions for all types of officers in the study. Officers exhibited relatively similar reactions when similar narratives were recorded. Across all quartiles of officers by ATP attitudinal score (i.e., both "tougher" and "softer" cops), officers diverted at a high rate when an element in the case made them feel the defendant was reformable, diverted at a low rate when an element made them feel the defendant was incorrigible, and diverted at a middle rate when they did not indicate either reformable or incorrible (see Figure 8 in the Results chapter).

Going back through the history of policing research, this study challenges theories that heavily emphasize the role of between-officer differences in the overall trait attitudes they hold toward defendants (e.g. Muir 1977). For the most part, an officer's overall views did not heavily drive decision-making, although the lowest quartile of officers (the "toughest" cops) did make decisions that were net less favorable to defendants. However, this study lends more support to a different theory found in the same early observational

findings: that officers widely make judgments to categorize people's characters into different types of people and situations, and they use indicators to assess which categories people and situations fall into (Werthman and Piliavin 1967; Wilson 1968; Ericson 1982; Worden 1995). Muir's (1977) further point about similarities and differences fits this study's findings well: categories of citizens that officers perceive ("rebel", "governable person") are fairly uniform across officers, but officers differed on how they went through steps to put citizens in the boxes. In this dissertation, even when an officer held overall "tough" attitudes, they recommended diversion 58% of the time, and officers in the quartile with the most positive attitudes toward defendants (these officers would probably argue "soft" is misnomer) recommended a charge 25% of the time. This study also provides qualitative evidence that officers use narratives to interpret case elements to predict likely ramifications of diversion versus prosecution in each case.

As with many theories of decision-making, one could look at these study results and focus theoretically on either the *patterns* or the *differences* between officer decisions. Some important patterns emerged, and at the same time these patterns explain only a modest amount of the difference in perceptions and case outcomes. Despite the fact that the objective case characteristics themselves were held constant through the use of vignettes, almost all officers sometimes mentioned reformable narratives, and half sometimes mentioned incorrigible narratives, but officers varied in which cases they made these comments. Understanding the narratives that officers have about different elements appears to go deeper than their overall beliefs about defendants as a group, and controlling for case characteristics, attitudes and demographic variables, substantial variation was left. This suggests that officer trait-based theories of police decision-

making at best provide only an inconsistent and incomplete explanation for who police—and perhaps criminal justice officials as a whole—choose to treat in one way versus another. The majority of the differences in this study's results arose from other sources of different interpretations of the same situation, only some of which were isolated in the quantitative portion of this study. The qualitative portion identified many more of these narratives.

These narratives are related to focal concerns theory's perceptual shorthand variables (Steffensmeier & Demuth 2000, 2001; Steffensmeier et al. 1998) and theories such as differential attributions (Bridges and Steen 1998; Weiner, 1974; Albonetti 1991), in that all of these focus on the narratives officers use to classify someone as high or low on the focal concerns of blameworthiness or public safety risk. However, rather than being primarily a mechanism by which System 1 instinctual racial biases are translated into police justifications for a decision they already made based on race, the findings of this study suggest there is more of a nuanced role that these narratives may play. This vignette-based study relied on a slowed down System 2 decision-making process, in which officers rationally explain their decision-making process step by step (even if their explanations may sometimes be post-hoc rationalizations to justify a decision the officer already made). In this context it appears these narratives are tied to rationally held beliefs about the likely outcome of their potential choices (in this case to prosecute or divert) given different elements present in the case.

This dissertation also highlights methodological opportunities for expanding the understanding of within- and between-officer decision-making. Moving beyond reliance on administrative data, or on pure qualitative analysis, this dissertation offers methods to

combine quantitative rigor with qualitative depth including applying hierarchical modeling, vignettes, and approaches to capture both reasons (elements) and reasoning (the full logic chain) behind decisions to the police discretion context. Though the generalizability of the current study's findings is not certain, the generalizability of the methods to begin to unpack the choices officers make is clear—these methods could provide insight in a wide range of policing and criminal justice contexts.

The next section addresses each of the dissertation hypotheses and links them with the descriptive and qualitative results where appropriate. It will then return to the theoretical and applied implications of the study.

Hypothesis 1: Impact of Trait Attitudes on State Narratives

The first hypothesis was that officer trait attitudes would predict whether the officers referenced specific situational narratives that the defendant seemed reformable or incorrigible. The analysis found partial support for this hypothesis. Overall attitudes *did* matter in determining whether they mentioned incorrigibility—officers were more likely to mention an element made them think the defendant was incorrigible if they were in the most "tough" quartile of attitudes. Overall attitudes did *not* matter, or mattered only a little bit, how "tough" or "soft" an officer's attitudes toward defendants were to whether they mentioned that an element made them think the defendant was reformable.

Drawing on the descriptive analysis, officers with the most positive quartile of views toward defendants did not differ systematically from the full study sample in terms of reformability narratives. This group mentioned that an element in the case made them think the defendant was reformable 39% of the time, which is the same rate as the full study sample. Officers in the "toughest" quartile of officers' ATP scores mentioned reformable narratives somewhat less often (28% of the time), though there was not a

167

significant effect of overall ATP score. When a binary variable for this 4th quartile group was used instead of the continuous trait ATP score, this variable bordered on a marginally significant impact on reformability narratives ($p=.100$), such that it may have been significant with a larger sample. This 4th quartile group mentioned incorrigible narratives more often—13% of the time, as compared to the average of 5% across the other three quartiles.

However, even among officers in the same quartile of attitudes, there was substantial within- and between-officer variation. Trait attitudes were certainly not deterministic of state narratives—officers often mentioned elements that are "counter" to what their overall attitudes might predict. The most negative quartile mentioned defendants might be reformable more than a quarter of the time, and officers in the upper three quartiles mentioned an element made them conclude that the person is incorrigible between 2% and 9% of the time. Almost all officers mentioned an element that made them think the defendant might be reformable at least once, and half of officers mentioned that something made them think the defendant might be incorrigible at least once.

Hypothesis 2: Impact of Officer Traits on Types of Elements Observed

The second hypothesis explored whether attitudes and demographic variables predicted what types of elements officers focused on as relevant to their decision—i.e. whether they mentioned the pattern of previous offending, the severity of the criminal history, the intent or motivation of the defendant, the severity of the case, or the special status of the victim. For the most part, officers did not significantly differ across demographic groupings on which elements they considered relevant. The primary exception is that males and white officers were substantially more likely to mention the

severity of the current crime, and the special status/vulnerability of the victim. These groups focused on more traditionally tough-on-crime issues, specifically increased culpability of the defendant when there was more damage done, and the special status or specific vulnerabilities of victims (especially assaulting police officers), and the ways in which victims are impacted by an offense. There was no impact of officers' trait ATP score on the likelihood of mentioning any element except for intent of the defendant—officers with more positive ATP scores were less likely to mention a lack of intent on the part of the defendant (e.g. the offense was not a sustained attack, or was provoked, etc.).

Hypothesis 3: Impact of Trait Attitudes and State Narratives on Perceived Salience of Focal Concerns

The third hypothesis posited that both state and trait attitudes toward defendants would influence the total perceived salience of focal concerns in the case. The focal concerns salience score is an average where each comment that an element made the officer think the defendant was higher or lower in focal concerns (more blameworthy or risky) respectively counts as a point increasing or decreasing the officer's overall perception of the focal concerns severity of the case. Therefore, the measure can be interpreted as the balance of the total blameworthiness, public safety risk, and practical constraint comments indicated in each case response (unweighted by relative importance of each element). This hypothesis that this score would be related to both trait attitudes and state narratives was only partially supported. An officer's attitude did not predict overall focal concerns salience—their attitude was unrelated to the total number of elements that they flagged as highly concerning versus lessening their concern. However, there was a strong and significant relationship between the state narratives and the overall focal concerns score. Mention of reformable narratives was associated with a lower

overall focal concerns salience, and mention of incorrigibility narratives was associated with higher focal concerns salience in that case response. There was also a pattern of male officers being more associated with higher focal concerns scores.

When perceptions of salience are broken down into specific element types, more nuanced patterns begin to emerge. Reformability narratives predicted the perceived focal concerns salience to at least some degree of criminal history severity, intent, motivation, and current offense severity, but not other elements. Incorrigibility narratives predicted the perceived focal concerns salience of patterns of behavior, current offense severity, criminal history severity, and motivation. These results suggest that broadly, officers find narratives of reformability[9] and incorrigibility to be related to the direction of the salience of some types of elements and not others. The element of intent was the only element that was significantly associated with overall attitudes, finding that officers with more negative views towards defendants were more likely to mention an element that made them think that the defendant had *low* intent or maliciousness. One possible explanation

---

[9] There are multiple ways that reformability could be interpreted in a traditional focal concerns measurement and analysis framework. Theoretically, a defendant that an officer deems as reformable could be seen as *high focal concerns,* a danger to the public, who would remain dangerous with no outside intervention. Then separately the officer could consider the likely effectiveness of diversion. The officer might decide that even though they are high focal concerns, the defendant should be diverted because diversion would be effective, which in the long run would make them low focal concerns. But alternatively this defendant could be measured as *low focal concerns*—the officer makes a prediction that given future intervention, the defendant will be a low public safety threat, so they are measured as low focal concerns. So on the one hand, reformability could be seen as operating as part of the focal concerns calculation, as it does suggest the person is less dangerous *given certain intervention takes place.* On the other hand, reformability could also be seen as operating as a separate step following the focal concerns reformability, as a separate logical calculation about the likely outcomes of different possible courses of police action after determining that someone poses a threat to public safety. In this scenario, someone's focal concerns are initially set, and reformability is a separate calculation about what to do about the defendant. In the analysis in this section, reformability is treated as part of the focal concerns calculation. This helps explain why a narrative of reformability makes a pattern of previous similar offending behavior become associated with less focal concerns.

for this counter-intuitive finding could be that for these "tough cops" the presumption is that defendants acting maliciously when committing rimes, so they are more likely to take note if something indicates this defendant is an exception to this presumption.

Hypothesis 4: Impact of Trait Attitudes, State Narratives, and Focal Concerns on Outcomes

The fourth hypothesis was that trait attitudes, state narratives, and focal concerns salience would predict the outcome each officer recommends for each case—prosecution or diversion. This hypothesis received mixed support, producing a key central finding of the dissertation—trait attitudes were not related to outcomes for the majority of officers (with the exception of the "toughest cops") while state narratives were strong predictors of the outcome across all attitudinal groups of officers.

Trait attitudes did not predict outcomes when the overall ATP variable was used, while state narratives (on incorrigibility and reformability, as well as overall focal concerns) did predict outcomes. The analysis found only a marginal association of ATP score and the likelihood of a case being recommended for a charge; this turned to non-significance when the narrative factors of reformability and incorrigibility are added to the model. However, when the 4th quartile "tough cop" binary indicator was used, the impact of being in that group was a strong predictor of officers not recommending diversion, including when state variables are added. This indicates that being in the "tough cop" quartile mattered even controlling for the effect of reformable and incorrigible narratives, though the reformable and incorrigible variables still remained strong and significant in the model with the "tough cop" variable.

State narratives have a strong relationship with the outcome. Reformability is substantially related to increased likelihood of recommending diversion, and

incorrigibility is substantially related to a decreased likelihood of recommending diversion. With the addition of the sum of focal concerns salience scores, the relationship of narratives to recommended outcomes became insignificant. However, as narratives are strongly related to focal concerns narratives, and focal concerns narratives are strongly related to outcomes, this finding is theoretically likely to represent a mediation effect.

There could be a number of reasons why trait attitudes measured by the overall ATP score (as opposed to the 4th quartile "toughest cops" only) did not have a strong relationship to officers' recommendations for diversion, which can only be speculated on here. The vignette cases in this study make up a band of cases where there is substantial discretion on the part of officers, so theoretically one might expect to see attitudinal and belief differences shine through. One explanation is their narratives about situational elements are often not in fact closely related to any sort of objective overall view of all defendants, and officers working in the field every day with suspects recognize the variation in typologies of people and situations they come into contact with. There is evidence from the qualitative analysis of case responses that officers are looking to specific elements for clues about how concerning different defendants are, and also responsive defendants would be to various interventions.

In addition, it is known that in this situation, officers had been given some level of guidance in various contexts from the force and their supervisors on how to think about aggravating and mitigating factors in the charging decision. This analysis could tend to support research that suggests that a driving factor in officer use of discretion is what the officer thinks they are supposed to do, including what they think their supervisor wants them to do in a given situation (Engel and Worden 2003; DeJong et al. 2001; see also

Johnson 2011). This research goes on to suggest that what officers *think* their supervisor wants them to do often does not comport with what their supervisor *actually* wants them to do, and can vary between officers. Here, officer respondents may have in some cases deviated from the choices they would make based on their trait attitudes because they were trying to make the choices they thought their supervisors wanted them to make. Then again, these officers might do the same thing in the field, making the survey results accurately represent field outcomes whether or not they represent what officers would prefer to do in their "heart of hearts."

In the present study, there is some indication in the officer responses that supervisory preferences might be playing at least some role here—"job would say [diversion]. I disagree." was one officer's comment, resonating with Feeley's (1973) point that sometimes officer's goals and rules clash with their organizations' goals and rules. However, if that dynamic is at play, it would tend to support the idea that they do not all agree on what it is the "job" wants them to do. While most officers recommended somewhere around three quarters of the cases for diversion, there is substantial disagreement on specifically *which* three quarters of the cases should be diverted. Numerous times in the qualitative results officers nodded to one or another official policy, but these were at times interpreted and applied in different ways. The idea of doing what the job wants them to do does not necessarily contradict research that suggests that officers find ways around policies that they do not agree with. Nor does it necessarily contradict evidence that strict policy guidelines can lead to officers making subversive decisions in order to achieve the outcomes they find appropriate (Parkinson 2012). Indeed, the limits of doing what the job wants them to do may come when an

officer strongly feels an outcome is wrong, or is not worth the effort to make it work, or when they are wrong about what is wanted of them, or when ambiguity arises as they try to apply a complex set of overlapping messages, without clarity on how those should be prioritized in each case. That is not at odds with the theory that the majority of the time, officers prefer taking actions that they believe their supervisor wants them to take.

Another explanation for why there was not a strong relationship between an officers' trait overall attitudes and their state narratives could be that officers may be trying to distinguish between *when* diversion is appropriate, as opposed to largely being ideologically opposed to diversion for this band of defendants in general. Only officers in the quartile of most negative ATP score appeared to make substantially different decisions than the other officers, recommending less diversion. But these officers only recommended modestly less diversion than other officers. Officers in the top three quartiles generally did not vary in a linear way.

Hypothesis 5: Heuristics: Sum of Focal Concerns Salience vs. Overriding Elements

The fifth hypothesis posited that when officers think that a specific element in the case is overriding, this would be a stronger predictor of recommended outcomes than the sum of the total focal concerns salience in the case. This hypothesis was partially supported. Both overriding elements and the focal concerns salience sum had independent and strong relationships with recommended outcomes.

Some examples of officer explanations of overriding factors include:

- "Had this not been an officer assaulted, I would suggest conditional caution but any assault on an officer should be a charge"

- "Breach of trust element decides it for me… charge regardless of anything else"

174

- "Assault on school grounds, in front of children"

- "Volume of victims… 3 assaults"

- "Number of bags of cannabis and cocaine"

- "Extensive pre cons"

- "Offender drunk [committing] public place violence"

Some elements were more likely to be deemed overriding than others. Among the most common were assault of a police officer, a large amount of drugs, and abuse of trust. In all of these cases where overriding factors for specific officers were mentioned, numerous other officers did recommend those cases for diversion, indicating those same elements were not overriding for all officers in those same cases.

Sources of Variations: Focal Concerns as a Process

These results capture several sources of variation: 1) variations in what element was present in each case; 2) variations in whether officers perceived each element to be present in high or low amounts; and 3) variations in whether officers perceived an element's level of salience to compel them toward diversion or prosecution.[10] The leave-one-out cross validation tests begin to parse these out, finding substantial variation for comparisons of each element within the first and second of these sources of variation. In separate tests for each element, where each case is held constant, significant disagreement was found among officers about whether each element was relevant in that case, and about whether each element was present in a high or low amount.

---

[10] A fourth source of variation, variations in the actual objectively recorded elements listed in each case, was controlled for by the use of vignettes and the inclusion of case dummy variables.

Even in a given case among officers who agreed an element was present in a high amount/affirmatively present, there was still significant disagreement about the implications of that element being present in that case. Specifically, for the two elements of 1) patterns of similar previous offending behavior (e.g. a history of assaults), and 2) a motivating factor being present that explained the defendant's motivation to offend (e.g. a drug problem), there was substantial disagreement about whether this pushed officers toward diversion or prosecution. This was only a source of disagreement among those two elements, whereas the other elements did not have significant variation on whether their presence in high amounts/affirmative presence pushed the officer toward diversion or prosecution.

Among those two elements that caused the aforementioned disagreement, differing qualitative narratives shed light on why officers disagreed in those situations. For example, some officers explained why a pattern of similar behavior pushed the officer toward prosecution:

- "Caution about a month ago for assault… might suggest a charge as he obviously hasn't learnt from his actions"

- "Propensity for assault decrease[s suitability for a conditional caution]—he has not learnt his lesson from previous reprimand"

In contrast, other officers in the same situation explained why those same factors pushed them toward diversion, citing rehabilitative needs:

- "Series of anger-related behavior increased [suitability for a conditional caution]—clearly needs anger management"

- "[Increased suitability for a conditional caution because] previous [offending

history] would suggest that court disposals are not changing or dealing with the [defendant's] causation for criminality [and] low-level thefts, which is addiction to cannabis. This could be addressed by intervention referral, giving the [defendant] opportunity for change"

There were similar disagreements found based on most of the motivations mentioned: money; drug; anger; alcohol; and the offense being an ongoing dispute. The exceptions are: mental health, where officers always indicated that factor pushed them toward diversion; and the offense being victim-precipitated, for which officers always indicated that element pushed them toward diversion.

One contributing factor to the differences in implications may be the types of diversion options made available and relevant to officers. A number commented on this in their responses, noting that there were pathways available for debt, employment, etc., and these factors were described as pushing the officer toward diversion. However, these factors are unlikely to explain all of the differences, as all officers are made aware that these pathways existed. Variations in the depth of that awareness may be a factor—some officers may have substantial knowledge of these pathways, whereas others may be only peripherally aware. These variations in awareness of options may also reflect the situation in the field, contributing to differential field decisions.

Officer Assumptions: Assessing Risk, Effectiveness

As a product of this study, it was possible to create a list of each officer's assumptions about causes and effects underlying their perceptions about whether each element pushed towards diversion or prosecution, therefore ultimately underlying their outcome decisions. These include assumptions about what traits about a defendant or

crime indicate that defendant is of greater or lesser likelihood of committing another crime, and about what is most likely to be effective to address the offense in various contexts. This includes qualitative evidence that officers use narratives to interpret case elements to predict likely ramifications of diversion versus prosecution in each case. It is of both theoretical and practical importance that:

1. these assumptions are all testable hypotheses;

2. these assumptions vary between officers; and,

3. there is evidence that some of the assumptions officers cite to make decisions are not accurate, according to research or police policy.

An example of an officer assumption that is not supported by research is that more serious defendants are less likely to be positively impacted by rehabilitative services. In fact, criminological research on programming to reduce recidivism finds that defendants who are higher risk, with a pattern of previous offending, are *more* responsive to intervention than those who are lower risk (Andrews and Bonta 2018). Some officers felt the defendant should be charged in order to protect the victim or deter the defendant from harming future victims, but research suggests that victims may not in fact be more satisfied when the case is charged than when it is diverted into an out-of-court disposal (Slothower, forthcoming), and the defendant not less likely to reoffend if the case is charged (Neyroud, Slothower and Sherman, forthcoming). Another such error is the assumption of many officers that defendants can only be rehabilitated if they have a specific issue (e.g. anger problems, drug problems, debt). But in fact the majority of evidence-based programs are focused on general offending behavior, and address things

like decision-making, anti-social attitudes, etc. (Andrews and Bonta 2018; Aos et al. 2006; Blueprints for Healthy Youth Development).

Some officers also had erroneous ideas of the police force's policy. For example, some officers indicated that a victim could not be paid back if they were diverted, but force policy allows victim compensation in a conditional caution.

On the other hand, officer assumptions bring up a number of important questions that research may not yet have clear answers to: is a defendant more likely to repeat the offense if the victim is a stranger? Or if it is someone they know? Or if they fight someone at a school? Or if the offense contains some element of prolonged effort or attack (i.e. going to the defendant's house, or continuing to attack someone for several punches)? And in those contexts, what is the most effective outcome to prevent it from happening again? Thus, the officers' assumptions revealed by this study provide important hypotheses for future research, especially as the assumptions appear to currently be drivers of police decisions.

5.2.   Limitations

A limitation of the study is the small sample size. It sits on the low margin of what is appropriate for hierarchical models, and the total number of officers is small. It is possible that with a larger sample, some of the specific results would have been different. Replication and further development of this study should be undertaken with larger and different samples.

In addition, careful consideration should be paid to which elements of this study may be more generalizable than others. For example, this study aims to use this sample to understand the decision-making process and to develop a method to explore and manage decision-making, as opposed to identifying the specific beliefs of police officers more

generally. These particular officers work on a UK police force that has been encouraging rehabilitative out-of-court disposals (which do not even exist on many police forces), and some of the officers had been specifically selected for unknown reasons to work on these teams. The specific rates at which officers made one choice and not another, or noted certain elements but not others, or had attitudes supportive of or opposed to rehabilitation should not be generalized outside the bounds of this sample of officers, cases, the country of the UK, and the specific way in which these officers were asked to report their views. Even the race and gender effects found may be limited to this sample. Particularly because the sample was small and was a convenience sample, the demographics and even specific attitudinal breakdown may have over-weighted certain types of officers. Therefore, more research should be undertaken that addresses these limitations and understand how these findings apply to different contexts.

However, the method and paradigm applied in this study may be generalizable more widely to police decision-making, though further research is needed to explore this. One of the early insights that launched the field of policing research was the realization that much of the work of policing was deciding *when* to arrest and when not to, shattering "the myth of full enforcement" (Goldstein 1963; see also LaFave 1965). In this dissertation's study sample, almost every officer sometimes diverted and sometimes charged—this may also be reflected in the wider decision of whether to arrest or not, and to the increasing call for police to become involved in diversion, or when to bring in other social service professionals. In any context where police have discretion there may be reasons that they connect to different elements in the choice, which may vary between officers and may sometimes differ from what their overall attitudes might predict.

Therefore, the method and approach in this study could be valuable in helping to understand and improve those decisions.

Another potential limitation is the ordering of the vignettes. The order that officers saw and responded to each case in the survey varied between officers. It could be that the severity of the previous case influenced the outcome of each officer's next case response, and that could be a source of variation. However, this would be an accurate reflection of variation in real world policing—for each new case, it is often a roll of the dice what case an officer just came from. This does not undermine the findings of this study, as it is just another factor that influences why such variation between officers can be found.

This study also may magnify differences between officers, as it involved vignettes intentionally chosen because they fell in a zone that allowed for high discretion between charge and diversion. However, there may be many contexts in policing where there is discretion, and many other contexts where there are marginal cases such as those represented in the study vignettes. In any of these contexts, the broad findings might be more generalizable: that officers vary across in their choices; that they have situational narratives that influence those choices; and that their attitudes may impact their decisions but not be the sole drivers of outcomes in discretionary cases. Research is needed to understand where those areas of police discretion are in the field.

There are also cases in which officers were probably influenced by a factor, but did not think to note it, or did not note it in a way that could be clearly captured in the coding. Such is the nature of open-ended questions, though they add value in other ways (such as avoiding influencing the types of elements officers thought of in response to the

vignettes). Because many of the study's findings of note demonstrated directly and explicitly contradictory comments in the same cases, the overall findings are likely to remain robust on this issue. However, future research in this area should include other means of information capture, in order to capture more comprehensively the thought processes within and across officers.

One other limitation is the vignette nature of the study itself. It may be that in the field, officers would have made different decisions; a vignette is a kind of laboratory test. However, as previously mentioned, the routine nature of police charging decisions may make these vignette decisions more similar to field decision-making (Crespi 1971). In addition, the substantive finding in this study was the wide variation. If there is substantial variation even when officers are operating in a slowed down, System 2 context where they have to think through and write out their decisions, theoretically in the field officers may vary *more*, if officers are responding to different biases and heuristics. It also could be that their assumptions or narratives about the defendants were partially driven by differing images of the "types" of defendants in the vignettes. Future studies should explore these concepts in the context of field decision-making, although this makes it much more challenging to control for actual differences between cases.

5.3.   Theoretical and Policy Implications

The central implication of this study is that variations in decision-making cannot be explained by attitudes or situational factors alone. Broadly speaking, this study finds that officers vary across different elements of their choices; that they have specific narratives about a situation that influence those choices and vary across officers; and that their larger attitudes may impact their decisions in much more complex and nuanced ways than the current research suggests. The study lends support to the theory that there

182

are specific assumptions about cause and effect in each case by police officers in the field, and these assumptions help drive who gets harsh or lenient treatment—regardless of whether an officer has "tough" cop attitudes or not. This study also flags that that officers rely on these assumptions whether or not they are in fact accurate. It remains to be seen how this process plays out in larger, more diverse, and non-UK samples. But if future research finds that officers generally make decisions based on causal assumptions about elements they see in a case (see e.g. Eterno 2003 and Ishoy and Dagbney 2018 for studies that support this conclusion), this has implications for how we measure, and monitor—and in the future, how we might shape—officer discretion.

From a research standpoint, it suggests that more attention should be paid to the specific situational narratives officers have, as opposed to focusing exclusively on the broad officer-level attributes or case-level attributes. The variation found within this study is both between and within officers. From a theoretical standpoint, this would indicate research should beginning to track the factors involved in a decision, and the defenses or explanations that officers make of their decision.

In terms of support for focal concerns theory, this study tends to support the general framework of officers focusing on:

- specific elements present;

- what those elements tell the officer about the dangerousness, blameworthiness, and practical concerns of the officer; and

- whether those elements predict outcomes.

This study found that it was often not possible to distinguish between the three specific focal concerns articulated in the literature—elements that sounded like the officer was

referencing blameworthiness quite often could also be interpreted as the officer referencing public safety, and vice versa. For example, consider this statement: "A charge might be necessary because the offender has been given two recent chances and is not changing his behavior." This could mean the person should be charged because they are dangerous, or because they are maliciously repeating their behavior. That distinction may well be unclear in the officers' own mind, and they may see the two as going hand in hand. The ubiquity of the blurring between these two focal concerns suggests that it is probably not a fruitful distinction for trying to identify existing attitudes, although it could be a valuable area for providing ongoing training and feedback to help officers disentangle those distinctions, and better identify outcomes that respond to each respectively. It may thus be a waste of time for focal concerns research to continue to focus as heavily on trying to build variables in the administrative data that distinguish between those constructs. It is also interesting that when rehabilitation is on the table, blurring those lines tends to runs counter to the "risk principle" in criminological research, finding that behavior change programs are *more* effective with higher risk defendants (Andrews and Bonta 2018). The blurring between public safety and blameworthiness may be one of the areas in which feedback of ongoing outcomes to officers would be helpful.

An additional theoretical implication is that this study suggests that officers do use some form of rational choice decision-making, even if that is layered over with heuristics when police are out in the filed. But the narratives officers hold about what is likely to happen in the future means that many of the decisions are ultimately rational efforts to achieve certain outcomes. The fact that officers had relatively similar overall

rates of recommending diversion, but they chose to do so in different cases, suggests that more research is needed into when and how officers build the narratives that drive those decisions. The challenge is that this is likely to vary substantially both between and within officers in the presence of different situational elements. Therefore this study's model of capturing narratives at the officer/case level—not only at the officer level or the case descriptive level—should be continued in future research.

On a practical level, these results suggest that finding ways to track these officers' decision-making *process*, not just the *outcomes* of the decisions they make, may be the next frontier of police management. This would not be the first policy foray into tracking decision-making in criminal justice. Some court systems have even moved into tracking judicial decisions on the record. Findings of guilt have long been recorded and subject to appeal, the federal system has judges track reasons for departures from the sentencing guidelines, and New York and New Jersey's respective recent systemic bail reform packages included a new requirement that judges defend their detention decisions on the record. Why should the same kind of tracking not be used for diversion from prosecution?

However, implementation research in a wide variety of fields suggests that tracking alone is not enough (Sherman 2013; Sherman et al. 2014; Fixsen et al. 2005, 2009; Joyce & Showers 2002; Davis 1995; Ager & O'May 2001; Rogers 2002; McGuire 2001). Providing feedback systems to help officers learn the outcomes of their cases would give officers valuable insight into the actual outcomes of their choices to prosecute or divert (or other critical choices, such as whether to arrest). Feedback on outcomes of cases could include court outcomes. For example in this study, the majority of cases at

this level in these vignettes received a dismissal, conditional discharge, or fine in court, *not* a custodial sentence (incarceration) and in many cases, not even a community-based sanction or intervention. Some sort of metric of victim feedback, and possibly even recidivism, could also be tracked, although this would have to be done with care as programs could be effectively reducing reoffending but still have substantial recidivism. Feedback helping officers understand what research or other sources suggests about the assumptions that are evident from their rationales for decisions could also go a long way toward better aligning decisions with effective outcomes. Feedback from research could include finding ways to frame existing scientific evidence in a way that officers can connect to their own decision-making.

Feedback systems would also allow for a police force to take its line officers' hypotheses seriously. These hypotheses can be collected, tested, and fed back to line officers, allowing for systematization, or scaling up, of the scientific process to embed it further into policing. There could be specific value in having officers begin to view their assumptions overall as working hypotheses, as opposed to convictions. Part of the professionalization of a field often involves movement toward incorporating growing bodies of research, and a system such as this could provide a boost for policing to move in this area as it would promote this way of approaching the problems faced by officers day-to-day in the field.

Policing scholars have noted that field supervisors have "little firsthand knowledge of the performance of their officers, limiting their ability to offer constructive feedback on the majority of work their officers perform" (Johnson 2015). There are exceptional challenges of supervising line officers, due to subjectivity of measures,

balancing of multiple goals, and their remote activities (Johnson 2015). Research finding an effect of supervisors (Engel and Worden 2003; DeJong et al. 2001; see also Johnson 2011) suggests there may be value in helping police mangers determine what to prioritize and how to communicate those goals with their staff. This study goes a step further and suggests that broad goals are not enough—helping staff to sift through assumptions and their own narratives to determine how to strengthen the accuracy of those assumptions may be an important step in supporting staff to make better decisions, without resorting to wide-scale restrictions on discretion.

This dissertation aimed to provide a foundation for future research and practice development, by reframing the question. Instead of researchers and policy-makers thinking about which cops are good or bad, or which policies are good or bad, or which large groups of people are incrementally more or less likely to get which outcome, this dissertation aims to ask: what do officers *think* they are doing in each case? From that foundation, a system can be built to help them assess and learn over time whether their thoughts are in fact correct, or if not, what might be a better course of action.

Appendix A – Correlations Between Variables

	Male	Age	Edu	White	ATP	Pattern Behav	Criminal History Severity	Intent	Motiv	Severity Current Offense	Special Victim	Other Reason	Reform	Incorr	Focal Concern Sum	Diver Rec
Male	1															
Age	0.1036	1														
Education	0.1577	-0.2332	1													
White	-0.0533	0.1724	-0.1638	1												
Attitude Towards Prisoners	0.1476	0.0843	0.0544	0.0545	1											
Pattern of Behavior	0.0694	-0.0608	0.0753	0.0632	0.0163	1										
Criminal History Severity	0.0684	-0.0433	0.0171	-0.0716	0.0442	0.0978	1									
Intent	0.0165	0.0096	-0.0243	0.0487	0.0366	0.0762	0.0329	1								
Motivation	0.1323	-0.0043	0.0168	0.0152	0.0329	0.1628	0.1299	0.2014	1							
Severity of Current Offense	-0.007	0.0418	-0.0658	0.0085	0.0238	0.1432	0.3084	0.201	0.1019	1						
Special Victim	0.1004	0.0488	0.0372	0.1134	0.0868	0.0693	-0.1195	-0.0617	0.0802	-0.0629	1					
Other Reason	0.1287	0.0645	-0.0874	0.0879	0.1008	0.1249	0.1055	0.1055	0.0833	0.1679	0.0364	1				
Reformable	-0.023	0.0123	0.0006	0.0005	-0.0629	-0.1019	-0.0489	-0.1262	-0.45	0.035	0.0114	-0.1816	1			
Incorrigible	0.1251	-0.0304	0.0296	0.0772	0.1718	0.3698	0.257	0.052	0.2146	0.1599	0.0332	0.1394	-0.0783	1		
Focal Concerns Sum	0.1396	0.0143	-0.0144	0.0577	0.0916	0.4605	0.5381	0.4199	0.5542	0.6582	0.1986	0.4316	-0.2512	0.3708	1	
Diversion Recommended	-0.1617	0.0172	0.0175	-0.0881	-0.1482	-0.2774	-0.3021	-0.2961	-0.4685	-0.4563	-0.1643	-0.2127	0.2368	-0.2959	-0.6748	1

188

Appendix B - Survey Instrument

Discretion in out-of-court disposals

With changes underway in out-of-court disposals, investigations, and PIPTs, it is of key importance to better understand the complex ways in which officers exercise discretion around out-of-court disposals.

The purpose of this understanding is not to constrain discretion, but to gain a better understanding of the various factors officers are faced with, and to identify what can be done to better support officers as they make these day-to-day decisions, especially in cases where officers disagree as to the appropriate outcomes.

In some cases, most officers would agree on the outcome. In others, reasonable officers may disagree.

This assessment has three parts:

- 20 case studies
- A page of questions about your views about various potential outcomes
- A page of questions about your views about offenders

Once you continue past a page, you cannot go back.

Upon the request of officers, **you now can return to the survey to pickup where you left off** if you have to leave for any reason. However, completing in one go is preferred.

To continue later where you left off, **you MUST click "save and continue later"** on the top of the page--you will enter your email and receive a personalized link to continue later.

At any point once you've turned a page, your data from previous pages is never lost--if something happens contact the email addresses in the email you received with the initial assessment request.

Your responses as an individual will be **completely confidential**--no one including your leadership, trainers, or peers will know who answers what. Only aggregate findings will be reported.

This demographic data will be used measure overall types of officers responding.

Collar Number (this will be confidential and is collected for administrative purposes only) *

Length of time in police *

Gender *

Age *

Highest level of education attained *

Race/Ethnicity (for statistical purposes for analysis only) *

Whilst being transported to the police station intoxicated PIC has kicked out at Police Officer driver kicking left upper arm three times. Reprimand assault 3 years ago.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

PIC having damaged a Renault motor vehicle by pulling off the driver side wing mirror & causing a hole through the boot lid. Total damage @£900. The car is owned by PICs former roommate. Officers called back to the address today after PIC had returned there and caused a disturbance. PIC is 20 years of age, and PIC and their partner attended the home and banged on the door but nobody answered, before walked around and damaged the vehicle. PIC said they had come to the house to state their anger at the IP for a previous incident, and got angry when the IP didn't answer the door even though they saw movement in the window. Offender had one previous caution for an assault a month and a half prior, and a community resolution for an assault 10 days prior

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**In your view, does each factor increase or decrease the suitability for a conditional caution, and why?** (A little more detail here is helpful, explain your views--e.g. more than just "aggravating factor", instead something like "charge might be necessary because the offender may not be ___.") **Note: A case may have several "decrease suitability" factors but still be overall suitable for a conditional caution.**
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

o   Charge   o   Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

PIC has stolen £880 from neighbour from inside coat pocket in the home after agreeing to feed the neighbour's dog while they were away on holiday, which the IP had just received from the sale of his boat. IPs 42 year old husband and 40 year old wife. PIC admitted the offence, saying the money was sticking out of the pocket and PIC was in debt and had to make a payment. One previous NFA for theft three years prior.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

DP swung his belt and struck the victim's head with the buckle outside nightclub. IP 42 year old male. Bruising and a three inch cut to the head occurred. Suspect was very intoxicated at the time of the incident. Suspect states he vaguely remembers attending Bushwackers and there being some kind of disorder but cannot recall assaulting the IP. He accepts, however, that he may have committed the offence due to his intoxicated states and since all evidence points towards this he accepts it is the truth. Offender had a previous NFA for criminal damage 7 years prior, and a caution for an assault 3 years prior.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Upstairs in rear bedroom cannabis set-up found consisting of 30 medium sized plants. DP's 23 year old daughter who was a few months pregnant was also present but mother stated that she is the only occupant and responsible for the cannabis. Hydroponic set-up included usual tent, heat lamps and fertilizer. No evidence of electricity being tampered with. In interview suspect stated that she refused to name the person that did the set up but the person would return in some time to crop it. At that time she would get paid £10,000. She stated that she did it because did it because she is in debt £3,000 rent and £4,000 loan and has to help support family. She is living alone and takes medication for depression and bi-polar daily. She has a CPN mental health nurse. One previous voluntary interview for criminal damage, and one caution for breach of the peace. PIC had received a caution and a final warning for possession of Class C drugs 5 and 6 years ago.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

In a pub offender has smashed a bottle to create a weapon after verbally abusing IP and IP's partner. Shouted threats at IP, then glassed IP in the face and shoulder. Multiple stitches across face due to face being cut open with jagged edge of bottle. IP brought to hospital in ambulance, medical staff states permanent scar likely.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

At children's clothing store store clerk staff had observed this person select a basket of various goods and detag some of the items (children's clothing) and then secrete these about their person. Value of goods is £91.94. One previous community resolution for theft shops two years ago and two NFAs for theft 4 years prior.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

197

In a disorder between 2 parents at a school, the PIC has been verbally aggressive. PIC has grabbed the victim under the chin and pushed her away hard, leaving a red mark and pain to the IP's jaw. This was in the presence of other children and parents. Offender has no previous arrests.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

198

Hospital staff member had been taking tablets--a box of Codeine and Diazepam--every week for the last year. Offender admitted the offence, stating they took the drugs for personal use. Offender stated they had became addicted to painkillers since a back problem last year and this is why they have been taking the tablets. Offender had slipped a disk last year and was put on Co-codamol by GP. After a while this was not sorting the pain and the PIC started taking the pills. Offender had no previous convictions, one previous voluntary interview for criminal damage, and one caution for breach of the peace. No previous offences.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?
o Charge
o Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Offender arrested for 3 separate assaults in a public park, where he approached strangers taunting them to fight him. Offender punched first IP in the chin, resulting in redness and swelling. The second IP was assaulted with a punch that grazed offenders cheek and connected with IP's shoulder, resulting in pain and discomfort, as well as redness. The third victim ran off and was not found, but was observed by a witness being punched in the cheek. Offender has 14 previous offences including assaults, GBH, and criminal damages over dates ranging from 29 to 12 years prior to the current arrest. Offender admitted the offence and expressed remorse, admitting he had been drinking excessively and getting in fights on a regular basis since he lost employment.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Disorder at a public house, Officer took hold of PIC who was trying to keep officers from arresting of another offender. PIC asked "Who is grabbing me?" Officer answered "It's the police", at which time PIC has flung head backwards and headbutted the officer in the face causing a small cut and swelling to left cheekbone and a bloodshot left eye and pain and discomfort to same. In interview offender remorseful, states was intoxicated, scared, and angry about the arrest of their friend at the the time. Previous cautions for affray, assault.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

On a pre-planned bus operation, officers searched PIC when he smelt of cannabis. The smell was coming from his bag and in light of this he was searched and 12 small bags of herbal cannabis was found, along with a scale, and 5 wraps of cocaine. PIC 20 years of age. The offender apologized and said he knew it was stupid, he had been doing this because he needed the extra money and didn't know what to do with his life, and university was not for him but he didn't know what to do instead. No known links to organized crime.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1		
Element 2		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case?

○ Charge   ○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Juvenile IP was in an argument with neighbor over parking, and IP went into the property returning with a crowbar, assaulted IP causing injuries and hitting glass front door causing it to smash. PIC has not shown any remorse and the local community feel strongly that that this matter be dealt with at the court.	Bound over in sum of £200 for 12 months
During fight PIC exited residence in possession of a cricket bat where she involved herself in the fight and tried to hit a female. PIC received a caution for a similar matter the day before this offence	Community Order 12 months, attend as directed probation
Female IP has tried to intervene when PIC assaulted ex-girlfriend, and PIC has allegedly punched her to the left cheek bone, causing a break in three places. IP will require surgery and with need plates to be fitted.	Dismissed from court
IP pushed over by PIC following an argument, receiving a deep large cut to the back of the head.	Bound over 12 months in sum of £500, Dismissed
Following an altercation over taxi fare and IP's declining to be hugged by the PIC, PIC punched the IP to face and body and hit her to the face hard with a bread basket causing her to fall to the floor where he then kicked her to the head, causing a 1cm cut to left hand and bruising to body.	Community Order 12 months, unpaid work 100 hours, compensation £150
After a verbal altercation on a bus, IP was struck several times to the face by unknown offender causing nose bleed and scratches to face, nose potentially broken. IP's child in a pushchair was knocked over, and was examined at hospital.	Community Order after fail to comply with original conditional caution
Suspect assaulted victim by grabbing her hair, attempt to force her to the ground, bitten victim multiple times to her hand and to back of her neck, and caused	

203

brusing to victims body by kicking and hitting. IP received hospital treatment for injuries. PIC had one previous NFA for traveling on a railway without offering a fair 2 years ago, and one previous assault NFA 1 year ago	Community Order, Supervision requirement.
After altercation regarding music volume at a shared accommodation for young adults, PIC punched IP in the face causing a black eye, pulled her hair, kicked her, stamped on her whilst she was on the floor causing fear of a spinal injury (none found in medical examination). IP blacked out for a short time, and received bruise to left arm, reddening to neck where her hair was pulled out and pain and discomfort to her shoulder from the assault. Offender has one previous caution for assault a year and a half prior.	Community Order 6 months, Activity requirement 30 days, Supervision requirement 6 months, Comp £200,
PIC appeared from behind a bush as IP was walking holding a lump of concrete after falsely luring IP into leaving IP's home. PIC has hit IP to the head repeatedly with the concrete causing the IP to fall, the pic has then struck IP approximately 12 times to head/face, then kicked the IP as he lay in the floor to his body, IP has suffered a minor injury to his head and a lump under his left eye requiring hospital treatment. IP's face x-rayed in hospital but due to the severe swelling were unable to ascertain if there is a fracture, so received a second x-ray finding no fractures. Offender has a previous 4 years ago caution for assault, and an NFA for rape.	Community Order 6 months, supervision requirement 6 months
Observed pic and co pic involved in an altercation with another male, then IP was seen unconscious on the floor with a head injury. PIC was seen standing over IP with blood on his hands and believed responsible for the assault	Discontinuance from court
DP swung his belt and struck the victim's head with the buckle outside nightclub. IP 42 year old male. Bruising and a cut to the head occurred. Suspect was very intoxicated at the time of the incident. Offender had a previous NFA for criminal damage 7 years prior.	Suspended Imprisonment 8 months, Supervision 12 months Unpaidwork 100 hrs, 21 Day anger management programme

had a previous NFA for criminal damage 4 years prior	requirement Comp 400
IP attacked by a group of males in a club whereby numerous persons have punched him and he has been bitten on the nose, resulting in numerous facial wounds.	Discontinuance
At hostel IP and PIC had argument over cooking food and the PIC removed his watch and hit the IP on the top of the head causing a 2 inch laceration.	Discontinuance
Weapon - PIC fit profile description of recent armed robberies in the area, upon search PIC had a 4inch knife in right trouser pocket. Offender had a community resolution 4 years ago for handling stolen goods, a reprimand 2 years ago for battery, and an NFA 1 year ago for theft shops.	Community Order 6 months
Weapon - PIC found in possession of a knife after threatening and jumping into canal to escape from officers and reports of thefts matching PIC description. PIC had 2 previous NFAed arrests in the past year for battery and assault PC, and a second offence for section 47 assault, violent disorder.	Community Order, Comp4.89 Unpaid work

What would you recommend for the case below?

The IP in this matter lives directly below the PIC's flat, the IP states ongoing tensions between both parties which the council are aware of regarding noise. In this incident the IP brought his two young children a puppy, which was making a lot of noise in the middle of the night. The IP's partner had received a knock on her door from the PIC complaining about the noise, and the PIC had become aggressive towards the partner and called her a "b***ch". When the IP returned home he went to the PICs flat and the IP's wife answered the door and the IP stood behind her. The IP has said to the offender "who

do you think you are", PIC replied "don't you shout at me", the PIC was getting more and more aggressive and angry. The offender has then punched the IP's right eye and ear, causing bruising to the right eye and a 3 inch laceration behind the right ear, causing injury resulting in pain and discomfort. The IP has been to the hospital as immediately after the incident was sick and dizzy, and had minor concussion. The IP has had a CT scan and this is clear. Offender had 2 previous convictions for assault, several years ago.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		
Comments		

43. What outcome would you give this case? *

    ○ Charge

    ○ Conditional Caution

44. **[Only if you would recommend a charge]:** Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Before stating what you would recommend in the case described below, here are the outcomes for

the most similar intent to supply situations around the same time:

Officers approached DP as he smelt of cannabis. In light of this he was searched and a quantity of herbal cannabis was found and a small bag containing 4 wraps white powder was also found.	Conditional Discharge
A motor vehicle was stopped by officers, the PIC was the driver and sole occupant and on speaking to the PIC officers could smell a strong odour of cannabis. A search was carried out and a large bag of herbal cannabis and small bags was found in the vehicle.	Fine £135
Officers stopped a vehicle and officers noticed a strong smell of cannabis coming from the car. The PIC had been a passenger in the car and attempted to walk off, but was stopped for a drugs search and was found to be in possession of a bag of cannabis.	Community Order 12 months

The car was also searched and a sports bag was located in the car where the PIC had been sat. Inside the bag was a large quantity of cannabis. The PIC admitted the bag was theirs	Community Order 12 months
University security stated that due to an unrelated incident, bag belonging to PIC has been searched and a quantity of cannabis has been found, PIC admitted that it is his, its cannabis and he has been dealing outside the university.	Community Order 6 months
Two males had been observed to discard an item, officers have chased the co PIC and this male has made off. Officers have returned to where the item was discarded and they discovered a large carrier bag of herbal cannabis.	Conditional Discharge 6 months
PIC and two others were detained for purpose of a drugs search. In custody a plastic bag containing eight bags of herbal cannabis was found during strip search, which were removed from PIC's boxer shorts.	Community Order 6 months
PIC was seen to be involved in a drug deal whereby the PIC and co-PIC got out of the vehicle obtained a firearm from the boot which was in a blue plastic bag. This was pointed at an unknown male the firearm was then placed back into the back and down the PIC's trousers. During the incident the PIC's tires had been slashed. PIC and co-PIC have then driven to a tyre repair shop where a 'hardstop' was conducted by firearm officers. A quantity of class A and class B has been recovered from the PIC's boxer shorts.	Fine £110
A large bag of cannabis, separate deal bags and a deal list found from PIC.	Conditional Discharge 12 months

What would you recommend for the case below?

208

PIC was pulled over in a traffic stop. Due to the smell of cannabis his backpack was seized, and it contained among 12 small bags of cannabis, 5 wraps of cocaine and a scale. No relationship to organized crime found. PIC stated his friend gives it to him to sell, to supplement is low paying part-time job to help pay off debt and support his daughter. PIC was apologetic. No previous arrests.

46. Response:

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

47. What outcome would you give this case? *

○ Charge

○ Conditional Caution

209

48. **[Only if you would recommend a charge]:** Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Before giving your recommended outcome for the case at the bottom of this page, here are the outcomes

for the most similar assault police situations around the same time:

Intoxicated DP has grabbed AO 3 fingers, squeezing them to the point AO couldn't break free causing immense pain. DP refused to release and a taser deployed on DP. DP fully admits and accepts responsibility, is very remorseful for the incident, states it was totally out of character and will never happen again. Has a previous FPN for drunk and disorderly a year ago, and a caution for a Section 5 POA and the same time as an NFA for Posesssion Class A 2 years prior.	Fine £270, Comp £50, after conditional caution noncompliance
Intoxicated PIC being transported pinned officer across the throat with his shoulder between rear seat and headlining of the vehicle causing the officer to black out. Offender had one previous conviction for battery 9 years prior	Suspended imprisonment after conditional caution noncompliance
DP was threatening to kill herself and was being unco-operative to ambo crew. Clearly upset and distressed. Info was she had bladed weapons, DP states for use on herself only. DP would not go with ambo staff to hospital and stated she would kill herself, and became aggressive. She was taken to floor and handcuffs applied. DP has kicked out at PC, kicking him to groin and kicked him in chest forcing him into fire place	Community Order 12 months, Supervision requirement

and kicked him in chest forcing him into fire-place causing a graze to his left elbow and pain to groin area. ABH NFA a year ago.

Officer dealing with an unrelated incident when PIC threw a haymaker punch, punching Officer to the right temple/eye area causing pain, blackening and swelling, and blurred vision to the right eye for an extended period of time. Medical evidence obtained. Offender has one previous reprimand for affray 6 years prior	Fine £110, £50 Compensation

What would you recommend for the cases below?

PIC was present at reported disorder with a large group pf people. PIC was intoxicated and screaming, told to leave the town centre on a number of occasions. On failing to do so, Officer attempted to place the PIC into an escort position and got PIC to a taxi. At this point, the PIC raised hands and struck him to the face causing a small cut to his right cheek. While in custody, spat at officers just missing them. Stated cannot recall the incident due to intoxication but accepts it happened. No previous convictions, previous caution and NFA for assault.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case? *

○ Charge

○ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

212

At call for disturbance officers, PIC on ground restrained by door staff. PIC **grabbed Officer by the hair and threw a punch at her catching** top of the forehead. No previous arrests or reprimands	Fine £260, £100 Compensation
During attempted flee PIC pushed Officer, continued to resist violently, **hitting Officers in the legs**. Previous theft/criminal damage and violent disorder NFAs 2 and 3 years ago respectively.	Conditional Discharge 12 months after conditional caution noncompliance
DP **pushed Officer in the chest** when Officer asked her to stop as part of travel operation after being informed by transit staff she had no ticket. 9 years ago No further BOP, 3 years ago NFA Willfully ill-treat child, NFA Battery	Conditional Discharge 6 months; Acquitted on appeal
Officers restraining DP at disorder attempted to speak with DP who was extremely aggressive and wanted to fight Officers. DP **attempted to bite Officer**. DP was restrained but continued to struggle and violently resist. Previous NFA Battery 4 years ago, previous NFA section 47 NFA 2 years ago, NFA FPN 1 and a half years ago.	Fine £80
Drunken male in taxi passenger seat refusing to leave. Officer found PIC fast asleep and was extremely difficult to rouse, then awoke and became abusive toward Officer, grabbed hold of and **wrestled Officer to the floor**. Reprimand for criminal damage 8 years ago. FPN public order 7 years ago. FPN D&D 6 years ago. Cautioned burglary other 5 years ago. Battery discontinued in court 4 years ago.	Community Order 6 months, Supervision requirement, Comp £100, Unpaid work requirement

In the rear of Police motor vehicle the PIC **kicked the**

door into Officer's arm, and repeated this 3 - 4 times. This has caused pain and discomfort to AO right arm. Reprimand theft of vehicle 3 years ago. NFA Robbery and reprimand common assault 2 years ago.	Fine £75
Report of a large group of males **armed with crowbars**. Officers engaged with the PIC and shouted at him to drop the dark coloured object in his left hand, which he has refused to do. Officers surrounded by the remaining group (approx 15 persons). Other persons warned to stay back but refused. PIC **grabbed Officer with both hands to the chest area and pushed him backwards** into a parked vehicle. No previous of any kind.	Withdrawn
Whilst being transported to the police station intoxicated PIC has **kicked out at Officer driver kicking her left upper arm three times**. Reprimand assault 3 years ago.	After noncompliance with conditional caution due 2x further assault police: 2 year suspended imprisonment 50 pound compensation supervison requirement. Activity requirement 30 days alcohol workbook
On arrival at a report of agitated person, PIC was immediately volatile to officers and staff, **punched Officer in the arm and chest area several times**. No previous	Withdrawn
Drunken woman placed into the back of police car after abusive behavior towards police, in vehicle **kicked Officer in the knee** and started to struggle. She has **spat** all over the back seat of the police car, rubbing it in. No previous	Assault Police- Fine £75, Criminal damage - Fine £75, fail to surrender fined £110
Whilst officers restraining PIC's son during son's arrest, the PIC has attempted to pull Officer to the back, grabbing to stab vest. While another officer attempted to restrain PIC began **slapping, pushing, and kicking out at Officer**. No previous	Case dismissed
After public order offence, PIC resisted his arrest, causing **injury to Officer's right hand, and damaging**	Assault Police: Comp100+100; Public order: Suspended Imprisonment 12 weeks;

officer wrist watch. No previous.	Supervision 12 months; Unpaid work 100 hrs
PIC told Officer to 'f**k off' and has **pushed Officer to chest**. NFA theft shops 9 years ago.	Fine £35
Following D&D, intoxicated **PIC pushed the Officer in the chest** so AO pushed PIC against some shutters in an attempt to gain control of him. Officer has **pain to his middle finger** as a result. Common assault NFA 7 years ago, 6 months referral order for criminal damage 7 years ago, theft NFA 7 years ago.	Obstruct Police- Fined £100; D&D - Fine £50
Drunk passenger was was spitting in taxi and refused to leave. PIC was verbally abusive calling officer a 'c**t' repeatedly. PIC **swung two punches connecting to Officer's left cheek** causing pain/discomfort, and continued with his aggression. Suspect claimed he cannot remember the incident due to intoxication. No previous.	Fine £100, Comp £50
While resisting arrest for theft at a Bar PIC **kicked Officer to the knee** causing lasting pain and discomfort. While in holding cell PIC spat in the face of arresting officer. No previous.	Assault Police: £100 compensation to each officer; Theft: Community order, curfew requirement 6 weeks, tagged electronically
Disorder at a public house, PIC asked "Who is grabbing me?" Officer answered "It's the police", at which time PIC has flung head backwards and **headbutted the officer in the face causing swelling to left cheekbone and a bloodshot eye** and pain and discomfort to same. Previous cautions for affray, assault.	Fine £150, Community order 24/11/13, Compensation £200, electronic tag curfew for 12 weeks

What would you recommend for the case below?

PIC was intoxicated and screaming, PIC raised hands and struck Officer to the face causing pain and discomfort. Accepts responsibility, remorseful. No previous convictions, previous caution and NFA for assault. No previous alcohol marker.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case? *

○ Charge

○ Conditional Caution

56. **[Only if you would recommend a charge]:** Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

[ ]

Before giving your recommended outcome for the case at the bottom of this page, here are the

outcomes for the most similar types of assault cases around the same time:

IP assaulted by the PIC who punched him to his face and strangled him with his own headscarf, causing a lump to his face and a friction burn to the back of his neck.	Conditional Discharge 12 months
Male attacking multiple staff members at pub, causing pain and discomfort.	Fine £35, Compensation £50
Taxi driver has picked the PIC up along with another male, a dispute has occured over payment, driver believed that the note was fake. Driver questioned this the PIC has launched at the IP repeatedly kicking and punching him to the body and head causing reddening, swelling, pain and discomfort.	Community Order, Supervision requirement, Compensation £150, unpaid work requirement

217

After verbal argument at friend's flat, PIC assaulted two IP's by punching.	Dismissed
Three offenders have then assaulted the IP who threw a snowball near PICs, by punching and kicking IP. Injuries to IP were bruising and swelling to leg, and other minor scratches and bruises.	Dismissed
A group of males confronted IP, PIC punched IP to the mouth area causing bleeding.	Fined £210, Compensation £100
Taxi driver had been assaulted, PIC had repeatedly punched him to the face causing an abrasion to his right cheek and swelling.	Community Order, Supervision requirement, Compensation £312, Activity requirement

What would you recommend for the cases below?

PIC was playing football in a casual match in a public park where players were drinking pints in the sidelines when due to a disagreement he punched three members of the opposing team repeatedly, causing reddening and discomfort. A previous NFA for assault 2 years ago, and a previous caution for assault 1 year ago. Offender admitted the offence and expressed remorse, admitting he had been drinking excessively recently due to stress. PIC was remorseful, stating he should have kept himself under control.

58. Response:

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

59. What outcome would you give this case? *

○ Charge

○ Conditional Caution

60. **[Only if you would recommend a charge]:** Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

[   ]

Before stating what you would recommend in the case at the bottom of this page, here are the outcomes

for similar theft abuse of trust situations around the same time:

PIC was a secretary at a law practice where she overcharged a two clients and kept the gain for herself of £700. PIC admitted the offence and stated that the reason she did it was that for a couple of months she felt intimidated by her employer, who kept shouting at her.	Dismissed
13 x separate deliveries of Samsung S4 mobile phones were failed to be delivered at various addresses. The PIC was the driver on each occasion.	Community Order 12 months Compensation £500 Supervision Order 12 mo Unpaid Work 60 hrs
Over 2 years PIC has taken various high value goods from his employer then sold them on EBay. Goods valued at over £2,600.	Community Order 12 months, unpaid work requirement 150 hours, curfew requirement 3 months with electric tagging comp £2623.83, VS £60
Female staff member had been taking tablets from the hospital--a box of Codeine and Diazepam had been taken every week.	Community Order 12 months, Supervision requirement
PIC staff member at fitness centre took equipment valued at £200 to sell. No previous convictions, two NFAs for disorderly conduct.	Fine £175, Compensation £175
Car Salesman PIC agreed to facilitate the sale of a car	

220

for £800 with permission of the IP. Following sale the PIC has failed to provide money from the sale to the IP and has left the company without trace. Caution for assault 12 years prior, caution for criminal damage 11 years prior, NFA for robbery 2 years prior, and an NFA for theft from dwelling/criminal damage 1 and a half years prior	Community order
15,000 had been closed in IP's safe, which was removed by care manager to donate after IP was deceased to a charity of his choice. Less than 2 pounds were given to the charity, and the remainder was kept by the care manager. Suspect admitted to the offence due to his gambling addiction.	Suspended Imprisonment 22 weeks, Supervision order 12 months, unpaid work 160 hrs.
Whilst at work, the PIC staff member has selected a laptop (£400 Approx) and CD, concealed it in a carrier bag and left the store offering no payment. Offender stated he was angry because his wages were down for the third time and his diabetes is impacting his state. Offender had been found guilty of theft one time prior 17 years prior and received 12 months probation.	Community Order 12 months, Unpaid work requirements
On separate occasions PIC as a security guard at a grocery store handed females empty shopping bags, which they used to secrete alcohol and place the items into his vehicle. A search of the vehicle found a quantity of alcohol and suncream to the value of £245.89 along with a silver detagging device were found in the boot of vehicle. Suspect is being investigated internally for the loss of around £30,000 worth of alcohol during his 12 months employment, where he is supplying the alcohol to a family business of his. Received a caution for TADA and NFA for theft of motor vehicle 4 years prior, and was found not guilty for driving without due care and failure to stop and report.	Community Order 2 Years; Supervision 12 mo; Unpaid work £200.
Over a 12 month period numerous items from the store including clothing and equipment have gone missing and never been paid for, taken by staff member. Cautioned for a common assault 15 years prior, cautioned for fraudulent use of excise license 11 years prior	Community Order 12 months; Unpaid work 150 hrs

Offender who is a waiter has on numerous occasions charged an amount for food/drink to customers then applied a discount on the till, whereby offender has then pocketed the rest of the monies charged. Total stolen £767.63. Offender has no previous record.	Fine £75, Compensation £767.63
Temporary staff at package shipping company have opened mail looking for jewelry and stole items before taking other packages in into the staff room and hiding them in toilet paper. In the offenders pocket was a necklace, intended recipient reported it was a sliver heart necklace for her daughter, valued at £3.	Community Order, £50 Compensation
PIC is a cleaner at hotel. While cleaning IP's hotel room offender stole £35 CASH from IP's purse.	Dismissed
Staff member took money from retail store by false refund entries at till totaling approximately £3179.64. Suspect states he has debts in excess of £75,000 and also a mortgage of £1075 per month, and the money helped relieve pressure on him and his family.	Community Order 12 months, Unpaid work 150 hours
Offender has been in charge of the float for entertainment centre. She made bank transfers, but float has gone down hy £8,532.00 which she had taken for herself.	Suspended Imprisonment 3 months, 200 hour unpaid work, 12 month supervision order
PIC is an employee at the company has removed a watch and £10 cash from a vehicle owned by the company.	Conditional Discharge 6 months
Staff member PIC has removed numerous air conditioning systems from the location and has sold them to a known male to the value of £3325.00 and kept the money for himself, without permission from the company. Offender has no previous convictions.	Community Order 12 months, Compensation £2500, unpaid work
Contractor at school has stole approximately £7,000 worth of copper piping from an open building site within the school grounds, cutting the piping off some exposed roofing sections	Suspended imprisonment 12 weeks, Supervision order

rooring sections.

Caretaker of school has taken various school equipment
and attempted to sell these without the permission of the   Not guilty discontinued
school.

What would you recommend in the following case:

Staff member at leisure centre took 8 watches from swimming baths, which were in a secure area, only staff had access to, and sold them on to cash converters. Watches valued at £60. Manager IP states saw himself as mentor to the offender and was disappointed about incident. A number of staff's personal items had gone missing around the same time such as shampoo, iPods, loose change. Offender had no previous convictions, one previous voluntary interview for criminal damage, and one arrest for breach of the peace. Offender apologized. IP reported that the offender had quit two weeks ago, but had been causing problems with other employees and was a day away from being sacked. Offender states he took the watches to pay for Cannabis, which at the time he would go without food and not pay rent and spend roughly £140 per week on Cannabis. Had already registered at drug support center and have weekly appointments.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case? *

☐ Charge

☐ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Before stating what you would recommend in the case at the bottom of this page, here are the

outcomes for the most similar types of theft cases around the same time:

While viewing the property under auction PIC entered insecure outbuildings of the property and stole items from within.	Conditional Discharge 12 months, Compensation £60
Motorcycle reported stolen after PIC borrowed it from IP and then did not respond to contact from IP requestin it back for several months.	Conditional Discharge
IP lent his iPod 8G to PIC a flat mate at the address they shared. She moved out and kept the iPod, then sold it to cash generators.	Dismissed
At nightclub IP asked nearby unknown PIC to watch their group's pile of jackets and bags while they went to the toilet, PIC bent down and took a purse and went into toilets, removing £145 before exiting the nightclub.	Community Order 12 months, Supervision requirement, Compensation £145, Activity requirement.
PIC is an employee at the company has removed a watch and £10 cash from a vehicle owned by the company.	Conditional Discharge 6 months

What would you recommend in the following case:

A member of a fitness centre known to the IP from repeated visits to the fitness centre where the IP is a staff member was asked by the IP to keep an eye on the employee information desk while the staff member stepped out to take a telephone call. At that time PIC took 3 digital music devices belonging to the fitness center, which were discovered missing several days later, and

devices belonging to the fitness center, which were discovered missing several days later, and sold them on to cash converters. Devices valued at £50 each. Offender had one previous caution for shoplifting 5 years previously. Offender apologized for the incident, and stated he wasn't thinking at the time, and that when he saw the devices he took them to supply his alcohol addiction which he stated stemmed from his depression.

66. Response:

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

67. What outcome would you give this case? *

☐ Charge

☐ Conditional Caution

68. **[Only if you would recommend a charge]:** Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

69.

Before stating what you would recommend in the case described below, here are the outcomes for the

most similar cultivation of cannabis cases to the case below, which took place around the same time:

Cannabis set up of approximately 20 plants in residence. PIC found to have one wrap of cocaine between his buttocks. Previous caution and a final warning for possession of class C drugs 5 and 6 years ago.	Fine £35 Possess Class A drugs; NFA-Cultivating drug.
After house fire fire brigade told officers substantial cannabis set-up in loft - believed to be cause of fire.	Community order 12 months, unpaid work 150 hrs
Small tent containing 12 mature cannabis plants with soil and growing equiptment.£960 cash also found. 2 previous cautions (8 years prior for a theft of a pedal cycle, and 3 years prior for criminal damage)	Community order 12 months, Supervision requirement, Non RES Drug/alcohol treatemt, Drug rehab 3 months
Two males were seen to be involved in a drug deal, PIC obtained a firearm from the boot, pointed at an unknown male. A quantity of class A and class B has been recovered from the PIC's boxer shorts. No previous arrests or warnings.	Fine £110
Cannabis factory, PIC sole resident. Offender had a caution and a final warning for posession class C drugs 6 years and 5 years prior	Dismissed, no evidence offered

Hydroponic set up and 143 cannabis plants at residence, with electrics interfered to provide power. Offender had one previous NFA for a possess weapon in a public place.	Suspended Imprisonment 2 years, supervision order 2 years. Drugs rehab programme 3 months
Cannabis factory behind shop in a rear unit (workshop), about 93 plants with hydroponic system, feed, and light. Offender had one previous caution for affray 8 years prior.	Suspended Imprisonment 20 months, 100 hrs unpaid work, Supervision order 9 months, programme requirement 8 days - substance abuse workbook
Cannabis factory with 24 plants. PIC spent 3 years in custody for previous drugs offence	Not guilty
Large amount of cannabis seized from the offender's bedroom, 24 small bags. This pic had one reprimand for cannabis.	12 months community order, supervision requirement, drug rehabilitation requirement
Case involves cultivation of drugs to the value of XX18,000	Community order 12 months

What recommendation would you make for the following case:

After a call to an assault in a home of a non-resident assaulting the PIC, cannabis set up of approximately 30 plants found upstairs in home, along with a scale and small bags. PIC and their partner accepted full responsibility for the set-up and state they got the seeds from a friend as a way to make extra money. No evidence suggests a link to any organised crime activity. PIC had received a caution and a final warning for possession of Class C drugs 5 and 6 years ago.

	What are the elements in this case description that you would consider when deciding the outcome? (Do not include factors that are not in the description--you can note these in the comments)	**Does each factor increase or decrease the suitability for a conditional caution, and why?** (explain your views)
Element 1 *		
Element 2 *		
Element 3		
Element 4		
Element 5		

Comments

What outcome would you give this case? *

☐ Charge

☐ Conditional Caution

[Only if you would recommend a charge]: Sometimes there may be 1 or 2 "overriding" elements in a case--no matter what the other facts of the case are, if that element is there in a case the officer would definitely recommend a charge instead of an out-of-court disposal. **Which, if any, of the elements you listed above "overriding" elements**?

Section 2 - Views on Outcomes

What do you think matters most to victims when they have been a victim of crime?

Why do you think offenders commit crime?

What do you think we can do to reduce future offending?

In your opinion, how effective is each of the following in stopping people who commit crimes from reoffending once people have started to offend:

	Very effective	Somewhat effective	Not very effective	Not at all effective
Adult incarceration facilities	○	○	○	○
Juvenile incarceration facilities	○	○	○	○
Drugs treatment	○	○	○	○
Community service	○	○	○	○
Being found guilty in court	○	○	○	○
Probation supervision	○	○	○	○
Mental health treatment	○	○	○	○
Offender management supervision	○	○	○	○
Job skills training	○	○	○	○
Fines in court	○	○	○	○
Counseling by a psychologist	○	○	○	○
Anger management course	○	○	○	○
Suspended imprisonment	○	○	○	○
Enter another option	○	○	○	○

Section 3 - Views on Offenders
The statements listed below describe different attitudes towards offenders in the UK. There are no right or wrong answers, only opinions. You are asked to express *your* feelings about each statement by indicating whether which response best fits your feelings. Please answer *every* item.

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Offenders are different from most people	○	○	○	○	○
Only a small proportion of offenders are really dangerous	○	○	○	○	○
Offenders never change	○	○	○	○	○
Most offenders are victims of circumstances and deserve to be helped	○	○	○	○	○
Offenders have feelings like the rest of us	○	○	○	○	○
It is not wise to trust an offender too far	○	○	○	○	○
I think I would like a lot of offenders	○	○	○	○	○
Bad prison conditions just make offenders more bitter	○	○	○	○	○
Give an offender an inch and he will take a mile	○	○	○	○	○
Most offenders are not smart	○	○	○	○	○
Offenders need affection and praise just like anybody else	○	○	○	○	○
You should not expect too much from an offender	○	○	○	○	○
Trying to rehabilitate offenders is a waste of time and money	○	○	○	○	○
You never know when an offender is telling the truth	○	○	○	○	○
Offenders are no better or worse than other people	○	○	○	○	○
You have to be constantly on your guard with offenders	○	○	○	○	○
In general, offenders think and act alike	○	○	○	○	○
If you give an offender respect, he will give you the same	○	○	○	○	○
Offenders only think about themselves	○	○	○	○	○
Offenders will listen to reason	○	○	○	○	○
Most offenders are too lazy to earn an honest living	○	○	○	○	○
I wouldn't mind living next door to an ex offender	○	○	○	○	○
Offenders are just plain mean at heart	○	○	○	○	○
Offenders are always trying to get something out of somebody	○	○	○	○	○
The values of most offenders are about the same as the rest of us	○	○	○	○	○
I would never want a child of mine dating an ex offender	○	○	○	○	○
Most offenders have the capacity for love	○	○	○	○	○
Offenders are just plain immoral	○	○	○	○	○
Offenders should be under strict, harsh discipline	○	○	○	○	○
In general, offenders are basically bad people	○	○	○	○	○
Most offenders can be rehabilitated	○	○	○	○	○
Some offenders are pretty nice people	○	○	○	○	○
I would like associating with some offenders	○	○	○	○	○
Offenders respect only brute force	○	○	○	○	○
Most offenders stop reoffending eventually	○	○	○	○	○

Sentences from courts in this area are

Much too lenient	Little too lenient	About right	Little too tough	Much too tough
○	○	○	○	○

.

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
More focus should be on addressing underlying causes of offending	○	○	○	○	○
Most offenders offend because they are behind in mental/emotional development but may develop further in the future, stopping their offending	○	○	○	○	○
An offender should be punished first, then we can worry about rehabilitation	○	○	○	○	○
Many offenders need rehabilitation in order to change, while many others need punishment in order to change	○	○	○	○	○
In general, conditional cautions are a waste of time	○	○	○	○	○
If done properly, conditional cautions are reasonably likely to get a sizeable number of offenders to turn their lives around and stop offending before they are too far down the wrong path.	○	○	○	○	○

Thank You!

Many thanks for your time and responses.

233

Appendix C - Table 3 Full Fixed vs. Mixed Effects Models

Predicting overall recommendation of diversion, fixed vs. mixed effects model

	Model 1: Fixed Effects			Model 1: Mixed Effects			Model 2: Fixed Effects			Model 2: Mixed Effects		
	OR	SE	p	OR	SE	p	OR	SE	p	OR	SE	p
Case 2	2.89	2.15	.154	2.64	1.88	.173	1.02	.92	.983	.80	.689	.793
Case 3	.68	.49	.591	.64	.50	.566	.27	.25	.155	.22	.221	.130
Case 4	13.77	15.76	.022	13.37	14.66	.018	1.71	2.11	.664	1.64	2.19	.709
Case 5	.88	.61	.856	.85	.68	.839	.26	.23	.125	.20	.208	.119
Case 6	.64	.43	.507	.58	.45	.484	.75	.65	.740	.59	.55	.571
Case 7	.65	.45	.540	.58	.47	.506	.21	.17	.062	.15	.127	.027
Case 8	.10	.07	.004	.11	.08	.004	.09		.009	.08	.081	.013
Case 9	.01	.01	<.001	.01	.01	<.001	.03	.04	.005	.02	.032	.005
Case 10	.55	.36	.363	.52	.38	.371	.46	.35	.303	.36	.327	.261
Case 11	1.06	.73	.935	1.01	.80	.990	.72	.68	.726	.60	.643	.631
Case 12	1.18	.85	.823	1.12	.95	.897	.28	.25	.157	.21	.22	.135
Case 13	.62	.41	.468	.58	.42	.455	.19	.17	.066	.18	.160	.054
Case 14	1.22	.87	.776	1.13	.99	.885	.27	.24	.150	.20	.181	.076
Case 15	.70	.47	.595	.65	.54	.606	.14	.13	.038	.11	.092	.008
Case 16	1.85	1.33	.388	1.63	1.37	.558	.42	.41	.372	.25	.248	.163
Case 17	2.34	1.82	.274	2.17	1.88	.369	.76	.92	.821	.56	.65	.621
Case 18	.38	.27	.175	.33	.25	.149	.17	.16	.059	.13	.10	.008
Case 19	7.80	9.03	.076	7.55	10.31	.139	.73	.92	.802	.62	.81	.714
Case 20	.92	.60	.895	.79	.54	.734	.41	.36	.311	.26	.208	.091
Male	--	--	--	.26	.14	.013	--	--	--	.56	.24	.180
White	--	--	--	.36	.20	.065	--	--	--	.36	.21	.083
Age	--	--	--	1.04	.03	.218	--	--	--	1.06	.03	.050
Education	--	--	--	1.16	.13	.181	--	--	--	1.05	.16	.735
Trait: ATP	--	--	--	.54	.28	.233	--	--	--	.42	.24	.133
State: Reformable	3.59	1.16	<.001	3.43	.99	<.001	1.72	.67	.166	1.54	.562	.234
State: Incorrigible	.19	.10	.001	.17	.06	<.001	.66	.45	.548	.65	.38	.463
Focal Concerns Sum	--	--	--	--	--	--	.29	.04	<.001	.27	.05	<.001
Officer ID	--	--	--	.91	.20	--	--	--	--	.74	.25	--

Appendix D - Hypothesis 1-5 Models

Hypothesis 1: Odds ratios predicting mention of state attitudes

	Mentions Reformable			Mentions Incorrigible		
	OR	SE	p	OR	SE	p
Male	.90	.46	.840	3.66	1.63	.004
White	1.05	.80	.952	7.94	8.29	.047
Age	1.00	.04	.972	.93	.03	.014
Education	1.01	.18	.940	.87	.10	.224
Trait: ATP	.73	.40	.558	4.53	1.78	<.001
Officer ID	1.25	.21	--	.00	.72	--

Hypothesis 2: Odds ratios predicting mention of elements

	Pattern			Severity			Intent		
	OR	SE	p	OR	SE	p	OR	SE	p
Male	1.58	.41	.082	.91	.18	.622	1.40	.41	.248
White	1.20	.47	.644	1.58	.49	.138	1.85	.87	.192
Age	.98	.02	.346	1.02	.02	.139	1.00	.02	.971
Education	1.04	.09	.659	1.19	.08	.012	1.19	.12	.089
Trait: ATP	1.10	.30	.725	.75	.16	.174	.70	.21	.242
Officer ID	.39	.16	--	.23	.15	--	.46	.17	--

	Motivation			Offense Severity			Special Victim		
	OR	SE	p	OR	SE	p	OR	SE	p
Male	.63	.21	.330	2.22	.79	.024	1.50	.33	.066
White	.98	.49	.363	4.08	2.20	.009	3.69	1.78	.007
Age	.99	.03	.943	1.03	.03	.353	1.02	.02	.326
Education	.93	.11	.744	1.15	.14	.272	1.06	.08	.442
Trait: ATP	1.24	.43	.622	.97	.38	.933	1.39	.31	.140
Officer ID	.71	.14	--	.81	.15	--	.06	.68	--

Hypothesis 3: Predicting sum of focal concerns

	Model 1			Model 2			Model 3		
	Coeff	SE	p	Coeff	SE	p	Coeff	SE	p
Case 2	-1.05	.38	.006	-1.05	.38	.006	-.52	.37	.159
Case 3	-1.04	.40	.009	-1.04	.40	.009	-.59	.42	.158
Case 4	-1.42	.35	<.001	-1.42	.35	<.001	-.74	.35	.036
Case 5	.78	.41	.057	.78	.41	.057	.67	.42	.108
Case 6	-.93	.34	.006	-.93	.34	.006	-.61	.39	.122
Case 7	-1.45	.50	.004	-1.45	.50	.004	-.89	.47	.058
Case 8	-1.20	.47	.010	-1.20	.47	.010	-.77	.44	.082
Case 9	.21	.46	.645	.21	.46	.646	.38	.42	.361
Case 10	-2.01	.34	<.001	-2.01	.34	<.001	-1.33	.36	<.001
Case 11	-1.68	.38	<.001	-1.68	.38	<.001	-1.31	.35	<.001
Case 12	-.31	.28	.275	-.31	.28	.279	.12	.28	.677
Case 13	-1.18	.38	.002	-1.18	.38	.002	-.69	.38	.071
Case 14	-.65	.41	.111	-.66	.41	.109	-.13	.41	.755
Case 15	-1.83	.42	<.001	-1.83	.42	<.001	-1.33	.44	.002
Case 16	-1.69	.40	<.001	-1.69	.40	<.001	-1.14	.40	.004
Case 17	-.57	.38	.130	-.57	.38	.130	-.24	.36	.511
Case 18	-.75	.37	.042	-.75	.37	.042	-.32	.39	.414
Case 19	1.75	.42	<.001	1.75	.42	<.001	2.02	.42	<.001
Case 20	-.95	.41	.020	-.95	.41	.020	-.69	.39	.076
Male	.58	.22	.008	.54	.21	.011	.43	.20	.031
White	.38	.24	.120	.36	.25	.157	.22	.23	.333
Age	-.01	.02	.682	-.01	.02	.599	-.002	.02	.875
Education	-.04	.08	.620	-.05	.10	.624	-.04	.09	.625
Trait: ATP	--	--	--	.31	.29	.273	.10	.30	.729
State: Reformable	--	--	--	--	--	--	-.71	.12	<.001
State: Incorrigible	--	--	--	--	--	--	1.75	.24	<.001
Officer ID	.55	.08	--	.54	.07	--	.50	.07	--

Hypothesis 3: Predicting mention of criminal history pattern

	Model 1 - Low			Model 1 - High			Model 2 - Low			Model 2 - High			Model 3 - Low			Model 3 - High		
	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p
Case 2	.04	.04	.002	.00	.00	<.001	.04	.04	.002	.00	.00	<.001	.04	.05	.018	.00	.00	<.001
Case 3	.26	.17	.041	.00	.00	<.001	.26	.17	.040	.00	.00	<.001	.27	.31	.262	.00	.00	<.001
Case 4	.07	.06	.002	.00	.00	<.001	.07	.06	.002	.00	.00	<.001	.06	.08	.027	.00	.00	<.001
Case 5	.25	.17	.046	.56	.35	.352	.25	.17	.046	.56	.35	.352	.26	.27	.201	.50	1.07	.746
Case 6	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001
Case 7	.25	.20	.086	.10	.07	.002	.25	.20	.086	.10	.07	.002	.24	.29	.233	.18	.43	.475
Case 8	.04	.04	.001	.02	.02	.002	.04	.04	.001	.02	.02	.002	.04	.05	.019	.03	.07	.140
Case 9	.96	.61	.947	.21	.16	.044	.96	.61	.948	.21	.16	.044	1.00	1.01	.996	.15	.28	.318
Case 10	.54	.38	.380	.00	.00	<.001	.54	.38	.379	.00	.00	<.001	.49	.58	.545	.00	.00	.000
Case 11	.40	.27	.179	.16	.10	.004	.40	.27	.179	.16	.10	.004	.41	.44	.409	.31	.77	.636
Case 12	.13	.11	.016	.02	.02	<.001	.13	.11	.016	.02	.02	<.001	.13	.16	.113	.03	.07	.166
Case 13	.12	.10	.013	.00	.00	<.001	.12	.10	.013	.00	.00	<.001	.12	.16	.106	.00	.00	<.001
Case 14	.04	.05	.010	.00	.00	<.001	.04	.05	.010	.00	.00	<.001	.03	.05	.032	.00	.00	<.001
Case 15	.16	.13	.022	.00	.00	<.001	.16	.13	.022	.00	.00	<.001	.16	.18	.108	.00	.00	<.001
Case 16	.04	.05	.010	.00	.00	<.001	.04	.05	.010	.00	.00	<.001	.03	.06	.040	.00	.00	<.001
Case 17	.35	.22	.101	.08	.06	.002	.36	.22	.100	.08	.06	<.001	.36	.39	.341	.08	.18	.253
Case 18	.57	.33	.328	.09	.06	<.001	.57	.33	.327	.09	.06	<.001	.58	.63	.617	.18	.43	.469
Case 19	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001	.00	.00	<.001
Case 20	.21	.14	.021	.16	.12	.015	.21	.14	.021	.16	.12	.015	.23	.34	.326	.29	1.39	.796
Male	1.21	.50	.653	3.98	1.98	.006	1.17	.48	.707	3.90	2.02	.009	1.17	.52	.723	3.16	2.46	.141
White	.69	.30	.391	3.19	2.55	.148	.67	.30	.379	3.16	2.60	.162	.65	.32	.379	2.20	1.36	.200
Age	1.00	.03	.871	.94	.03	.071	.99	.03	.849	.93	.03	.067	1.00	.03	.982	.94	.04	.122
Education	.94	.15	.677	1.14	.15	.318	.93	.13	.637	1.14	.15	.319	.95	.14	.726	1.17	.27	.498
Trait: ATP	--	--	--	--	--	--	1.22	.57	.667	1.17	.45	.692	1.29	1.77	.852	.44	1.61	.823
State: Reformable	--	--	--	--	--	--	--	--	--	--	--	--	1.50	.57	.286	.75	.41	.596
State: Incorrigible	--	--	--	--	--	--	--	--	--	--	--	--	.45	.31	.254	19.65	33.00	.076
Officer ID	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--

236

Hypothesis 3: Predicting mention of criminal history severity

	Model 1 - Low			Model 1 - High			Model 2 - Low			Model 2 - High			Model 3 - Low			Model 3 - High		
	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p
Case 2	.43	.46	.426	.06	.05	.003	.43	.46	.426	.06	.05	.002	.34	.36	.311	.08	.07	.004
Case 3	.99	.76	.985	.26	.18	.048	.99	.76	.989	.26	.18	.049	.77	.58	.733	.32	.25	.139
Case 4	15.04	10.67	<.001	.17	.17	.077	15.22	10.68	<.001	.16	.17	.082	11.62	7.96	<.001	.26	.25	.159
Case 5	1.92	1.87	.504	1.92	1.06	.238	1.91	1.87	.509	1.91	1.05	.238	1.84	1.77	.525	1.80	1.01	.291
Case 6	54.50	45.64	<.001	.00	.00	<.001	54.83	45.40	<.001	.00	.00	<.001	47.21	38.29	<.001	.00	.00	<.001
Case 7	1.24	.90	.770	.19	.13	.016	1.24	.91	.766	.19	.13	.016	.99	.72	.994	.26	.19	.070
Case 8	4.96	3.55	.025	.00	.00	<.001	5.00	3.58	.025	.00	.00	<.001	4.04	2.71	.038	.00	.00	<.001
Case 9	.00	.00	<.001	2.19	.89	.053	.00	.00	<.001	2.19	.88	.052	.00	.00	<.001	2.59	1.10	.025
Case 10	1.67	1.30	.511	.00	.00	<.001	1.68	1.30	.504	.00	.00	<.001	1.29	.96	.733	.00	.00	<.001
Case 11	14.95	11.62	.001	.61	.44	.487	15.08	11.68	<.001	.61	.44	.487	12.93	9.80	.001	.69	.49	.605
Case 12	1.70	1.51	.553	.29	.20	.068	1.70	1.51	.551	.29	.20	.068	1.40	1.25	.707	.39	.24	.130
Case 13	6.81	5.53	.018	.24	.20	.086	6.89	5.57	.017	.24	.20	.087	5.35	4.31	.038	.30	.24	.140
Case 14	.88	.79	.890	.00	.00	<.001	.90	.79	.901	.00	.00	<.001	.75	.65	.741	.00	.00	<.001
Case 15	7.53	5.77	.008	.00	.00	<.001	7.62	5.82	.008	.00	.00	<.001	5.87	4.31	.016	.00	.00	<.001
Case 16	5.66	4.16	.018	.00	.00	<.001	5.71	4.18	.017	.00	.00	<.001	4.41	3.13	.037	.00	.00	<.001
Case 17	5.66	4.24	.021	.45	.30	.238	5.70	4.26	.020	.45	.31	.239	4.82	3.57	.034	.44	.33	.275
Case 18	8.11	5.52	.002	.71	.48	.614	8.16	5.53	.002	.71	.48	.613	6.48	4.23	.004	.83	.57	.784
Case 19	.20	.23	.169	.05	.06	.011	.20	.23	.169	.05	.06	.011	.16	.18	.109	.06	.07	.016
Case 20	.83	.66	.812	.00	.00	<.001	.83	.66	.817	.00	.00	<.001	.69	.55	.643	·	·	·
Male	.71	.29	.407	1.61	.64	.233	.75	.31	.486	1.62	.68	.249	.80	.32	.572	1.41	.61	.421
White	2.09	1.00	.122	.95	.52	.924	2.18	.99	.086	.94	.55	.919	2.25	1.01	.070	.84	.59	.808
Age	1.03	.03	.271	1.00	.03	.932	1.03	.03	.231	1.00	.03	.901	1.03	.03	.290	1.01	.03	.694
Education	1.20	.16	.191	1.32	.26	.157	1.20	.18	.227	1.32	.27	.179	1.20	.19	.246	1.31	.28	.209
Trait: ATP	--	--	--	--	--	--	.65	.24	.238	.89	.52	.847	.69	.26	.319	.73	.43	.593
State: Reformable	--	--	--	--	--	--	--	--	--	--	--	--	1.04	.29	.878	.53	.18	.067
State: Incorrigible	--	--	--	--	--	--	--	--	--	--	--	--	.17	.12	.011	2.23	1.21	.139
Officer ID	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--

Hypothesis 3: Predicting mention of intent

	Model 1 - Low			Model 1 - High			Model 2 - Low			Model 2 - High			Model 3 - Low			Model 3 - High		
	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p
Case 2	54.01	34.64	<.001	.00	.00	<.001	28.82	12.08	<.001	.00	.00	<.001	32.33	13.67	<.001	.00	.00	<.001
Case 3	--	--	--	.21	.21	.112	--	--	--	.21	.21	.110	--	--	--	.23	.22	.130
Case 4	--	--	--	.21	.18	.068	--	--	--	.21	.18	.064	--	--	--	.26	.21	.104
Case 5	--	--	--	.35	.28	.184	--	--	--	.35	.27	.178	--	--	--	.31	.26	.156
Case 6	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001
Case 7	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001
Case 8	--	--	--	.21	.21	.121	--	--	--	.21	.21	.119	--	--	--	.22	.21	.113
Case 9	--	--	--	.10	.10	.021	--	--	--	.10	.10	.022	--	--	--	.10	.10	.022
Case 10	--	--	--	.21	.19	.078	--	--	--	.21	.18	.072	--	--	--	.25	.21	.100
Case 11	--	--	--	2.65	1.36	.058	--	--	--	2.65	1.35	.056	--	--	--	2.78	1.47	.054
Case 12	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001
Case 13	27.96	11.51	<.001	.00	.00	<.001	55.74	37.25	<.001	.00	.00	<.001	57.37	37.17	<.001	.00	.00	<.001
Case 14	--	--	--	.56	.42	.438	--	--	--	.56	.41	.429	--	--	--	.64	.48	.551
Case 15	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001	--	--	--	.00	.00	<.001
Case 16	17.08	12.01	<.001	.00	.00	<.001	17.33	12.41	<.001	.00	.00	<.001	17.85	12.61	<.001	.00	.00	<.001
Case 17	--	--	--	.72	.53	.654	--	--	--	.72	.53	.651	--	--	--	.73	.55	.674
Case 18	--	--	--	3.29	1.80	.029	--	--	--	3.29	1.78	.028	--	--	--	3.53	2.21	.044
Case 19	--	--	--	34.30	24.76	<.001	--	--	--	33.98	24.08	<.001	--	--	--	32.80	25.59	<.001
Case 20	22.11	16.64	<.001	.14	.17	.105	22.78	17.51	<.001	.14	.17	.106	26.69	18.74	<.001	.13	.16	.103
Male	1.46	.89	.534	1.56	.90	.442	1.58	1.00	.468	1.59	.92	.420	1.60	1.03	.469	1.50	.87	.477
White	1.13	.89	.872	4.22	3.88	.118	1.36	.85	.627	4.16	3.87	.126	1.16	.77	.826	4.29	4.34	.149
Age	1.00	.05	.973	1.00	.05	.945	1.00	.05	.961	1.00	.04	.945	1.00	.05	.973	1.00	.04	.949
Education	1.49	.27	.024	1.19	.19	.295	1.59	.33	.028	1.17	.18	.320	1.60	.34	.028	1.18	.18	.274
Trait: ATP	--	--	--	--	--	--	.32	.18	.038	.84	.32	.640	.32	.18	.038	.77	.31	.522
State: Reformable	--	--	--	--	--	--	--	--	--	--	--	--	1.83	.78	.155	.64	.25	.264
State: Incorrigible	--	--	--	--	--	--	--	--	--	--	--	--	1.51	1.85	.739	1.43	.89	.558
Officer ID	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--

Hypothesis 3: Predicting mention of motivation

	Model 1 - Low			Model 1 - High			Model 2 - Low			Model 2 - High			Model 3 - Low			Model 3 - High		
	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p
Case 2	6.64	4.419	.004	.68	.69	.705	6.65	4.52	.005	.69	.69	.711	6.93	4.88	.006	--	--	--
Case 3	3.36	1.919	.034	1.73	1.20	.431	3.37	1.96	.037	1.73	1.37	.491	4.14	2.78	.035	--	--	--
Case 4	26.04	17.637	<.001	.00	.00	<.001	26.07	17.49	<.001	.00	.00	<.001	22.43	17.44	.000	.00	.00	<.001
Case 5	6.96	4.698	.004	2.11	1.95	.420	6.97	4.71	.004	2.14	1.94	.403	16.14	12.05	<.001	--	--	--
Case 6	.24	.137	.012	.35	.34	.273	.24	.14	.012	.36	.36	.306	.35	.25	.138	--	--	--
Case 7	13.39	8.424	<.001	.00	.00	<.001	13.41	8.43	<.001	.00	.00	<.001	12.94	8.47	<.001	.00	.00	<.001
Case 8	5.56	3.753	.011	1.10	1.23	.933	5.56	3.82	.012	1.10	1.24	.933	8.43	6.08	.003	--	--	--
Case 9	16.56	12.401	<.001	11.35	9.85	.005	16.59	12.33	<.001	11.36	9.87	.005	24.72	18.30	<.001	9.75	6.74	.001
Case 10	49.26	37.183	<.001	.00	.00	<.001	49.33	39.05	<.001	.00	.00	<.001	44.66	33.21	<.001	.00	.00	<.001
Case 11	.83	.648	.813	.00	.00	<.001	.83	.64	.813	.00	.00	<.001	.88	.79	.885	.00	.00	<.001
Case 12	31.13	25.065	<.001	4.35	4.82	.185	31.18	25.47	<.001	4.39	5.26	.217	27.45	20.60	<.001	--	--	--
Case 13	7.53	4.746	.001	.68	.85	.756	7.54	4.71	.001	.67	.90	.767	11.50	8.36	.001	--	--	--
Case 14	57.82	41.467	<.001	34.09	4.73	<.001	58.31	53.95	<.001	34.14	35.12	.001	35.78	37.58	.001	23.42	22.08	.001
Case 15	5.32	3.236	.006	.51	.70	.623	5.33	3.26	.006	.51	.66	.605	7.96	5.40	.002	--	--	--
Case 16	4.73	3.014	.015	.99	.97	.991	4.73	3.00	.014	.99	1.04	.992	5.14	4.11	.041	--	--	--
Case 17	7.52	4.771	.001	.95	.97	.963	7.53	4.77	.001	.95	.96	.961	12.89	8.78	<.001	--	--	--
Case 18	13.27	7.746	<.001	3.23	2.91	.192	13.30	7.72	<.001	3.24	2.87	.184	17.79	11.72	<.001	--	--	--
Case 19	.17	.153	.046	.74	.57	.701	.17	.15	.048	.75	.64	.740	.47	.40	.375	--	--	--
Case 20	2.08	1.384	.273	.61	.61	.622	2.08	1.39	.273	.61	.65	.643	3.86	2.62	.047	--	--	--
Male	.46	.242	.140	1.15	.68	.818	.45	.24	.128	1.06	.61	.914	.46	.21	.092	1.15	.61	.793
White	.82	.824	.844	1.15	1.31	.904	.81	.79	.827	1.18	1.32	.885	.90	.80	.906	.74	.73	.758
Age	1.00	.034	.946	.97	.03	.428	1.00	.03	.919	.97	.03	.265	.99	.03	.821	.98	.03	.601
Education	.91	.131	.530	.76	.13	.104	.91	.13	.514	.75	.13	.104	.91	.11	.429	.74	.12	.075
Trait: ATP	--	--	--	--	--	--	1.23	.64	.692	2.10	1.12	.164	1.72	.84	.261	1.63	.90	.379
State: Reformable	--	--	--	--	--	--	--	--	--	--	--	--	12.94	4.17	<.001	1.00	.57	.998
State: Incorrigible	--	--	--	--	--	--	--	--	--	--	--	--	.29	.09	<.001	2.17	.99	.089
Officer ID	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--	2.72	--	--

Hypothesis 3: Predicting mention of severity of case

	Model 1 - Low			Model 1 - High			Model 2 - Low			Model 2 - High			Model 3 - Low			Model 3 - High		
	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p	exp(b)	SE	p
Case 2	1.44	1.085	.626	10.22	7.09	.001	1.43	1.08	.633	10.22	7.09	.001	1.21	.93	.806	12.33	8.890	<.001
Case 3	1.30	.624	.583	1.98	1.14	.239	1.30	.63	.584	1.98	1.15	.241	.97	.52	.953	2.52	1.486	.116
Case 4	.95	.486	.921	.43	.32	.251	.95	.49	.923	.43	.32	.250	.91	.50	.864	.57	.42	.452
Case 5	1.16	.832	.837	5.75	3.33	.002	1.15	.83	.842	5.76	3.33	.002	1.02	.80	.984	4.86	2.947	.009
Case 6	8.05	4.576	<.001	1.10	.99	.913	8.06	4.58	<.001	1.10	.99	.912	5.98	3.65	.003	1.19	1.150	.855
Case 7	.42	.267	.173	.32	.22	.095	.42	.27	.173	.32	.22	.098	.41	.29	.204	.39	.28	.186
Case 8	.87	.451	.790	.58	.45	.482	.87	.44	.787	.58	.43	.459	.67	.39	.499	.70	.504	.623
Case 9	.55	.434	.449	4.54	2.44	.005	.55	.43	.446	4.54	2.44	.005	.48	.41	.389	4.42	2.31	.005
Case 10	1.59	.814	.367	-	-	-	1.59	.82	.367	-	-	-	1.40	.78	.542	-	-	-
Case 11	9.81	5.486	<.001	.64	.68	.678	9.84	5.48	<.001	.64	.68	.678	8.63	5.05	<.001	.61	.69	.659
Case 12	.66	.517	.598	6.25	3.25	<.001	.66	.51	.592	6.24	3.26	<.001	.55	.44	.457	7.04	3.507	<.001
Case 13	1.16	.671	.801	2.78	1.42	.046	1.16	.67	.802	2.78	1.42	.046	.90	.58	.865	3.53	1.769	.012
Case 14	.60	.359	.392	.38	.29	.203	.60	.36	.396	.38	.29	.200	.64	.41	.485	.42	.31	.239
Case 15	1.58	.829	.383	.17	.17	.083	1.58	.83	.379	.17	.17	.083	1.26	.72	.686	.22	.234	.153
Case 16	.94	.555	.922	.78	.50	.702	.94	.55	.922	.78	.50	.705	.78	.50	.693	1.02	.705	.979
Case 17	1.81	1.355	.429	5.03	3.36	.016	1.81	1.35	.430	5.03	3.37	.016	1.55	1.24	.585	5.69	3.698	.007
Case 18	1.84	1.236	.367	6.43	3.12	<.001	1.83	1.23	.368	6.42	3.13	<.001	1.43	.96	.595	1.96	1.209	.277
Case 19	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Case 20	1.06	.558	.917	1.80	1.11	.338	1.06	.57	.919	1.81	1.15	.356	.79	.44	.668	.76	.565	.710
Male	2.56	1.266	.057	2.80	1.19	.016	2.63	1.29	.049	2.79	1.18	.016	2.76	1.29	.029	2.52	1.09	.033
White	3.68	1.775	.007	5.23	2.18	<.001	3.78	1.87	.007	5.10	2.17	<.001	4.05	2.05	.006	4.60	1.80	<.001
Age	1.02	.032	.473	1.04	.03	.110	1.02	.03	.453	1.04	.03	.102	1.02	.03	.527	1.05	.02	.039
Education	1.17	.178	.305	1.02	.13	.873	1.17	.18	.307	1.02	.12	.872	1.17	.18	.297	1.01	.13	.914
Trait: ATP	-	-	-	-	-	-	.82	.45	.722	1.03	.58	.960	.81	.44	.703	.87	.50	.807
State: Reformable	-	-	-	-	-	-	-	-	-	-	-	-	.50	.15	.020	.90	.261	.724
State: Incorrigible	-	-	-	-	-	-	-	-	-	-	-	-	.38	.18	.046	3.15	1.36	.008
Officer ID	2.72	-	-	2.72	-	-	2.72	-	-	2.72	-	-	2.72	-	-	2.72	-	-

Hypothesis 3: Predicting mention of special victim

	Model 1 - High			Model 2 - High			Model 3 - High		
	OR	SE	p	OR	SE	p	OR	SE	p
Case 2	--	--	--	--	--	--	--	--	--
Case 3	--	--	--	--	--	--	--	--	--
Case 4	547.71	407.01	<.001	566.45	424.64	<.001	534.88	404.19	<.001
Case 5	266.70	193.54	<.001	280.58	205.69	<.001	325.93	247.338	<.001
Case 6	850.43	661.50	<.001	883.13	692.47	<.001	947.58	751.590	<.001
Case 7	2.58	3.01	.417	2.60	3.05	.416	2.48	2.91	.439
Case 8	46.74	32.82	<.001	49.16	34.97	<.001	49.50	35.372	.000
Case 9	--	--	--	--	--	--	--	--	--
Case 10	--	--	--	--	--	--	--	--	--
Case 11	--	--	--	--	--	--	--	--	--
Case 12	14.54	11.41	.001	15.17	12.03	.001	14.28	11.418	.001
Case 13	237.15	169.76	<.001	247.08	178.77	<.001	248.07	180.585	<.001
Case 14	95.32	67.09	<.001	99.24	70.71	<.001	94.82	68.62	<.001
Case 15	37.95	26.84	<.001	39.85	28.53	<.001	38.94	27.995	<.001
Case 16	--	--	--	--	--	--	--	--	--
Case 17	174.36	128.76	<.001	182.81	136.40	<.001	185.99	138.954	<.001
Case 18	--	--	--	--	--	--	--	--	--
Case 19	--	--	--	--	--	--	--	--	--
Case 20	--	--	--	--	--	--	--	--	--
Male	2.80	1.32	.029	2.55	1.17	.041	2.68	1.25	.035
White	9.21	7.47	.006	8.60	6.78	.006	9.16	7.32	.006
Age	1.03	.04	.444	1.02	.04	.516	1.02	.04	.566
Education	1.14	.19	.437	1.12	.18	.494	1.11	.18	.521
Trait: ATP	--	--	--	2.06	1.01	.138	2.20	1.10	.114
State: Reformable	--	--	--	--	--	--	1.30	.453	.456
State: Incorrigible	--	--	--	--	--	--	.66	.39	.486
Officer ID	.88	.44	--	.78	.40	--	.81	.42	--

Hypothesis 4: Odds ratios of diversion recommendation

	Model 1			Model 2			Model 3			Model 4		
	OR	SE	p	OR	SE	p	OR	SE	p	OR	SE	p
Case 2	1.18	.84	.819	1.16	.83	.833	.58	.474	.506	.15	.127	.027
Case 3	1.05	.67	.935	1.05	.67	.941	.58	.423	.455	.18	.160	.054
Case 4	3.06	2.34	.143	3.05	2.34	.146	1.12	.95	.897	.21	.22	.135
Case 5	.13	.09	.002	.13	.09	.002	.11	.083	.004	.08	.081	.013
Case 6	3.88	2.54	.039	3.84	2.53	.041	2.64	1.876	.173	.80	.689	.793
Case 7	4.11	3.29	.078	4.10	3.29	.079	2.17	1.88	.369	.56	.65	.621
Case 8	1.14	.83	.861	1.13	.83	.863	.65	.544	.606	.11	.092	.008
Case 9	.77	.50	.686	.77	.50	.682	.58	.45	.484	.59	.55	.571
Case 10	20.46	25.61	.016	20.45	25.62	.016	7.55	10.31	.139	.62	.81	.714
Case 11	18.40	19.94	.007	18.34	19.93	.007	13.37	14.66	.018	1.64	2.19	.709
Case 12	.98	.58	.979	.97	.58	.964	.52	.382	.371	.36	.327	.261
Case 13	1.69	1.08	.412	1.69	1.08	.414	.85	.683	.839	.20	.208	.119
Case 14	.72	.43	.579	.72	.43	.574	.33	.25	.149	.13	.10	.008
Case 15	3.04	2.16	.118	3.03	2.16	.120	1.63	1.368	.558	.25	.248	.163
Case 16	2.26	1.63	.256	2.25	1.62	.259	1.13	.991	.885	.20	.181	.076
Case 17	.99	.71	.994	.99	.71	.987	.64	.496	.566	.22	.221	.130
Case 18	1.80	1.17	.367	1.79	1.16	.372	1.01	.804	.990	.60	.643	.631
Case 19	.01	.01	<.001	.01	.01	<.001	.01	.009	<.001	.02	.032	.005
Case 20	1.05	.59	.926	1.05	.59	.934	.79	.542	.734	.26	.208	.091
Male	.20	.12	.007	.24	.13	.009	.26	.14	.013	.56	.24	.180
White	.29	.17	.035	.31	.21	.089	.36	.20	.065	.36	.21	.083
Age	1.04	.03	.218	1.05	.03	.140	1.04	.03	.218	1.06	.03	.050
Education	1.16	.17	.320	1.18	.15	.205	1.16	.13	.181	1.05	.16	.735
Trait: ATP	--	--	--	.41	.21	.082	.54	.28	.233	.42	.24	.133
State: Reformable	--	--	--	--	--	--	3.43	.990	<.001	1.54	.562	.234
State: Incorrigible	--	--	--	--	--	--	.17	.06	<.001	.65	.38	.463
Focal Concerns Sum	--	--	--	--	--	--	--	--	--	.27	.05	<.001
Officer ID	1.04	.21	--	.93	.20	--	.91	.20	--	.74	.25	--

Hypothesis 5: Odds ratios of diversion recommendation by heuristic type

	OR	SE	p
Case 2	.14	.27	.308
Case 3	.03	.04	.031
Case 4	.37	1.10	.738
Case 5	.03	.06	.066
Case 6	.71	1.33	.856
Case 7	.12	.20	.215
Case 8	.02	.03	.012
Case 9	.44	.77	.640
Case 10	.12	.23	.269
Case 11	.31	.60	.543
Case 12	.16	.29	.314
Case 13	.09	.17	.209
Case 14	.03	.03	.004
Case 15	.04	.07	.076
Case 16	.03	.04	.026
Case 17	.14	.24	.252
Case 18	1.75	3.85	.799
Case 19	.01	.02	.021
Case 20	.03	.05	.032
Male	.33	.15	.017
White	.41	.26	.165
Age	1.08	.04	.032
Education	1.05	.25	.845
Focal Concerns Avg.	.25	.05	<.001
Overriding	.001	.00	<.001
Officer ID	.00	.00	--

References

Ajzen, I. (1991). The theory of planned behavior. *Organizational Behavior and Human Decision Processes*, 50(2), 179-211.

Ajzen, I., & Fishbein, M. (1977). Attitude-behavior relations: A theoretical analysis and review of empirical research. *Psychological Bulletin*, 84(5), 888.

Albonetti, C. A. (1991). An integration of theories to explain judicial discretion. *Social Problems*, 38(2), 247-266.

Albonetti, C. A. (1997). Sentencing under the federal sentencing guidelines: Effects of defendant characteristics, guilty pleas, and departures on sentence outcomes for drug offenses, 1991-1992. *Law and Society Review*, 789-822.

Alpert, G. P., & Smith, W. C. (1994). Developing police policy: An evaluation of the control principle. *American Journal of Police*, 13, 1.

Aos, S., Miller, M. G., & Drake, E. (2006). *Evidence-based adult corrections programs: What works and what does not*. Washington State Institute for Public Policy.

Arlot, S., & Celisse, A. (2010). A survey of cross-validation procedures for model selection. *Statistics Surveys*, *4*, 40-79.

Banks, D. M., Scott, B. G., & Weems, C. F. (2018). Anxiety, hostile attributions, and differences in heart rate response to ambiguous situational vignettes in adolescents. *Emotion,* 18(2): 248-259.

Baron, J. (2000). *Thinking and deciding*. Cambridge University Press.

Bates, D., Kliegl, R., Vasishth, S., & Baayen, H. (2015). *Parsimonious Mixed Models*.

Becker, G. S. (1976). Altruism, egoism, and genetic fitness: Economics and sociobiology. *Journal of Economic Literature*, 14(3), 817-826.

Becker, G. S. (1993). Nobel lecture: The economic way of looking at behavior. *Journal of Political Economy*, 101(3), 385-409.

Berk, S. F., & Loseke, D. R. (1980). "Handling" family violence: Situational determinants of police arrest in domestic disturbances. *Law and Society Review*, 317-346.

Bernburg, J. G., & Krohn, M. D. (2003). Labeling, life chances, and adult crime: The direct and indirect effects of official intervention in adolescence on crime in early adulthood. *Criminology*, 41(4), 1287-1318.

Bernburg, J. G., Krohn, M. D., & Rivera, C. J. (2006). Official labeling, criminal embeddedness, and subsequent delinquency: A longitudinal test of labeling theory. *Journal of Research in Crime and Delinquency*, 43(1), 67-88.

Bittner, E. (1983). Legality and workmanship: introduction to control in the police organization. *Control in the Police Organization*, 1-12.

Black, D. (1971). The social organization of arrest. *Stanford Law Review,* 23: 63-77.

Black, D. J., & Reiss Jr, A. J. (1970). Police control of juveniles. *American Sociological Review*, 63-77.

Blueprints for Healthy Youth Development. (n.d.). Retrieved January 15, 2019, from https://www.blueprintsprograms.org/.

Bolger, P. C. (2015). Just following orders: a meta-analysis of the correlates of American police officer use of force decisions. *American Journal of Criminal Justice*, 40(3), 466-492.

Bonnefon, J. F., Dubois, D., Fargier, H., & Leblois, S. (2008). Qualitative heuristics for balancing the pros and cons. *Theory and Decision*, 65(1), 71-95.

Bonta, J., & Andrews, D. (2018). *The Psychology of Criminal Conduct*, 6th Ed. Routledge

Braman, D., & Wood, J. (2003). From one generation to the next: How criminal sanctions are reshaping family life in urban America. *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities*, 157-188.

Breci, M. G. (1989). The effect of training on police attitudes toward family violence: where does mandatory arrest fit in? *Journal of Crime and Justice*, 12(1), 35-49.

Bridges, G. S., & Steen, S. (1998). Racial disparities in official assessments of juvenile offenders: Attributional stereotypes as mediating mechanisms. *American Sociological Review,* 554-570.

Brown, M. K. (1981). Working the Street: Police Discretion and the Dilemmas of Reform. Russell Sage Foundation.

Brown, R. A., & Frank, J. (2006). Race and officer decision making: Examining differences in arrest outcomes between black and white officers. *Justice Quarterly*, *23*(1), 96-126.

Brown, R. A., Novak, K. J., & Frank, J. (2009). Identifying variation in police officer behavior between juveniles and adults. *Journal of Criminal Justice*, 37(2), 200-208.

Campbell, B. A., Menaker, T. A., & King, W. R. (2015). The determination of victim credibility by adult and juvenile sexual assault investigators. *Journal of Criminal Justice*, 43(1), 29-39.

Christopher, W. (Ed.). (1991). *Report of the independent commission on the Los Angeles Police Department*. Diane Publishing.

Chugh, D. (2003). Societal and managerial implications of implicit social cognition: Why milliseconds matter. *Social Justice Research*, 17(2), 203–222.

Cochran, J. K., & Bromley, M. L. (2003). The myth (?) of the police subculture. *Policing: An international Journal of Police Strategies & Management*, 26(1), 88-117.

Cochran, J. K., Boots, D. P., & Heide, K. M. (2003). Attribution styles and attitudes toward capital punishment for juveniles, the mentally incompetent, and the mentally retarded. *Justice Quarterly*, 20, 65–93.

Committee to Review Research on Police Policy and Practices. 2003. *Fairness and effectiveness in policing: The evidence*. Washington, DC: The National Academies Press.

Correll, J., Park, B., Judd, C. M., Wittenbrink, B., Sadler, M. S., & Keesee, T. (2007). Across the thin blue line: police officers and racial bias in the decision to shoot. *Journal of Personality and Social Psychology*, 92(6), 1006.

Crespi, I. (1971). What kinds of attitude measures are predictive of behavior? *Public Opinion Quarterly*, 35(3), 327-334.

Crow, M. S., & Adrion, B. (2011). Focal concerns and police use of force: Examining the factors associated with Taser use. *Police Quarterly*, 14(4), 366-387.

Cullen, F. T., Fisher, B. S., & Applegate, B. K. (2000). Public opinion about punishment and corrections. *Crime and Justice*, *27*, 1-79.

Dai, M., & Nation, D. (2009). Understanding non-coercive, procedurally fair behavior by the police during encounters. *International Journal of Law, Crime and Justice*, 37(4), 170-181.

Dawson, M., & Hotton, T. (2014). Police charging practices for incidents of intimate partner violence in Canada. *Journal of Research in Crime and Delinquency*, 51(5), 655-683.

Decker, S. H., Ortiz, N., Spohn, C., & Hedberg, E. (2015). Criminal stigma, race, and ethnicity: The consequences of imprisonment for employment. *Journal of Criminal Justice*, 43(2), 108-121.

DeJong, C., Mastrofski, S., & Parks, R. B. (2001). Patrol officers and problem solving: An application of expectancy theory. *Justice Quarterly* 18:31-61.

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

Eifler, S. (2007). Evaluating the validity of self-reported deviant behavior using vignette analyses. *Quality & Quantity*, 41(2), 303-318.

Ellman, I. M., Braver, S. L., & MacCoun, R. J. (2012). Abstract principles and concrete cases in intuitive lawmaking. *Law and Human Behavior*, 36(2), 96.

Engel, R. S. (2003). Explaining suspects' resistance and disrespect toward police. *Journal of Criminal Justice*, 31(5), 475-492.

Engel, R. S., & Worden, R. E. (2003). Police officers' attitudes, behavior, and supervisory influences: an analysis of problem solving. *Criminology*, 41(1), 131-166.

Engel, R. S., Calnon, J. M., & Bernard, T. J. (2002). Theory and racial profiling: Shortcomings and future directions in research. *Justice Quarterly*, 19(2), 249-273.

Engel, R. S., Sobol, J. J., & Worden, R. E. (2000). Further exploration of the demeanor hypothesis: The interaction effects of suspects' characteristics and demeanor on police behavior. *Justice Quarterly*, 17, 236-258.

Engel, R. S., Tillyer, R., Klahm IV, C. F., & Frank, J. (2012). From the officer's perspective: A multilevel examination of citizens' demeanor during traffic stops. *Justice Quarterly*, 29(5), 650-683.

Ericson, R. V. (1982). *Reproducing Order: A Study of Police Patrol Work* (Vol. 5). University of Toronto Press.

Eterno, J. (2003). *Policing within the law: A case study of the New York City Police Department*. ABC-CLIO.

Evans, R., & Wilkinson, C. (1990). Variations in police cautioning policy and practice in England and Wales. *The Howard Journal of Criminal Justice*, 29(3), 155-176.

Fagan, J., & Davies, G. (2000). Street stops and broken windows: Terry, race, and disorder in New York City. *Fordham Urban Law Journal* 28, 457.

Feeley, M. M. (1973). Two Models of the Criminal Justice System: An Organizational Perspective. *Law & Society Review,* 7:407-25.

Figueiras, M. J., Maroco, J., Monteiro, R., Caeiro, R., & Neto, D. D. (2017). Discerning the impact of personal and situational variables in risk perception of coronary heart disease. *Journal of Health Psychology*, 22(4), 483-492.

Finckenauer, J.O. (1976). Some factors in police discretion and decision making. *Journal of Criminal Justice,* 4(1), 29-46.

Finn, M. A., & Stalin, L. J. (1995). Police referrals to shelters and mental health treatment: Examining their decisions in domestic assault cases. *Crime & Delinquency,* 41(4), 467-480.

Fisher, C. D., Minbashian, A., Beckmann, N., & Wood, R. E. (2013). Task appraisals, emotions, and performance goal orientation. *Journal of Applied Psychology*, 98(2), 364.

Fleury-Steiner, B. (2002). Narratives of the death sentence: Toward a theory of legal narrativity. *Law and Society Review*, 549-576.

Friday, P. C., Metzgar, S., & Walters, D. (1991). Policing domestic violence: Perceptions, experience, and reality. *Criminal Justice Review*, *16*(2), 198-213.

Galperin, A., Fessler, D. M., Johnson, K. L., & Haselton, M. G. (2013). Seeing storms behind the clouds: Biases in the attribution of anger. *Evolution and Human Behavior*, 34(5), 358-365.

Garner, J. H., Maxwell, C. D., & Heraux, C. G. (2002). Characteristics associated with the prevalence and severity of force used by the police. *Justice Quarterly*, 19(4), 705-746.

Giller, H., & Tutt, N. (1987). Police cautioning of juveniles: the continuing practice of diversity. *Criminal Law Review*, 367-374.

Goldstein, H. (1963). Police discretion: The ideal versus the real. *Public Administration Review*, 140-148.

Goldstein, H. (1990). *Problem-Oriented Policing*. New York: McGraw-Hill.

Goldstein, J. (1960). Police discretion not to invoke the criminal process: Low-visibility decisions in the administration of justice. *Yale Law Journal*, 69, 543-594.

Gottfredson, M. R. & D. M. Gottfredson. (1988). *Decision Making in Criminal Justice: Toward the Rational Exercise of Discretion.* (2nd ed.). New York: Plenum.

Goubert, L., Vervoort, T., De Ruddere, L., & Crombez, G. (2012). The impact of parental gender, catastrophizing and situational threat upon parental behaviour to child pain: a vignette study. *European Journal of Pain*, 16(8), 1176-1184.

Greene, J. R., Alpert, G. P., & Styles, P. (1992). Values and culture in two American police departments: Lessons from King Arthur. *Journal of Contemporary Criminal Justice*, 8(3), 183-207.

Harris, A. (2009). Attributions and institutional processing: How focal concerns guide decision-making in the juvenile court. *Race and Social Problems*, 1(4), 243-256.

Hastie, R., & Dawes, R. M. (2010). *Rational Choice in an Uncertain World: The Psychology of Judgment and Decision Making*. Sage.

Higgins, G. E., Vito, G. F., & Grossi, E. L. (2012). The impact of race on the police decision to search during a traffic stop: A focal concerns theory perspective. *Journal of Contemporary Criminal Justice*, 28(2), 166-183.

Hobday, J. (2014). *Targeting Reasons for Rejection Random Assignment in an RCT*. Thesis, Cambridge Institute of Criminology.

Holleran, D., Beichner, D., & Spohn, C. (2010). Examining charging agreement between police and prosecutors in rape cases. *Crime & Delinquency*, 56(3), 385-413.

Homans, G. C. (1974). *Social behavior: Its elementary forms.* New York.

Hox, J. J. (2013). Multilevel regression and multilevel structural equation modeling. *The Oxford Handbook of Quantitative Methods*, 2(1), 281-294.

Ingram, J. R., Paoline III, E. A., & Terrill, W. (2013). A multilevel framework for understanding police culture: The role of the workgroup. *Criminology*, 51(2), 365-397.

Ishoy, G. (2015). *Applying Focal Concerns and the Theory of Planned Behavior to the Decision-Making Process in Policing*. Dissertation, Georgia State University.

Ishoy, G. A., & Dabney, D. A. (2018). Policing and the focal concerns framework: Exploring how its core components apply to the discretionary enforcement decisions of police officers. *Deviant Behavior*, 39(7), 878-895.

Johnson, R. R. (2011). Officer attitudes and management influences on police work productivity. *American Journal of Criminal Justice*, *36*(4), 293-306.

Johnson, R. R., & Dai, M. (2016). Police enforcement of domestic violence laws: supervisory control or officer prerogatives? *Justice Quarterly*, 33(2), 185-208.

Johnson, R. R., Klahm, C. F., & Maddox, H. G. (2015). An Exploratory Analysis of Time Lapses in Serving Arrest Warrants: A Focal Concerns and Disproportionate Contact Approach. *Criminal Justice Review*, 40(4), 470-487.

Kadish, S. H. (1962). Legal norm and discretion in the police and sentencing processes. *Harvard Law Review*, 904, 931.

Kahneman, D. (2011). *Thinking, Fast and Slow*. New York, NY, US: Farrar, Straus and Giroux.

Kahneman, D., & Tversky, A. (1979). Prospect theory: An analysis of decision under risk. *Econometrica*, 47(2): 263–291.

Kahneman, D., & Tversky, A. (1972). Subjective probability: A judgment of representativeness. *Cognitive Psychology*, 3(3), 430-454.

Kerstetter, W. A. (1990). Gateway to justice: Police and prosecutorial response to sexual assaults against women. *Journal of Criminal Law & Criminology*, 81, 267.

Klinger, D. A. (1994). Quantifying law in police-citizen encounters. *Journal of Quantitative Criminology*, 12(4), 391-415.

Kochel, T. R., Wilson, D. B., & Mastrofski, S. D. (2011). Effect of suspect race on officers' arrest decisions. *Criminology*, 49(2), 473-512.

La Fave, Wayne. (1965). *Arrest: The Decision to Take a Suspect Into Custody*. Boston: Little Brown & Company. Pp. xxxiv, 540.

LaBrec, D. (1982). *Risk Management: Preventive Law Practice and Practical Risk Management Methods for the 1980s.* Paper presented to the Annual Meeting of the National Institute of Municipal Law Officers, Miami, FL.

LaFave, W. R. (1962). The Police and Nonenforcement of the Law-Part I. *Wisconsin Law Review*, 104.

LaFree, G. D. (1981). Official reactions to social problems: Police decisions in sexual assault cases. *Social Problems*, 28(5), 582-594.

Laycock, G., & Tarling, R. (1985). Police force cautioning: Policy and practice. *The Howard Journal of Criminal Justice*, 24(2), 81-92.

Lundman, R. J., & Kaufman, R. L. (2003). Driving while black: Effects of race, ethnicity, and gender on citizen self-reports of traffic stops and police actions. *Criminology*, 41(1), 195-220.

Mastrofski, S. D. (2004). Controlling street-level police discretion. *The Annals of the American Academy of Political and Social Science*, 593(1), 100-118.

Mastrofski, S. D., Ritti, R. R., & Hoffmaster, D. (1987). Organizational determinants of police discretion: The case of drinking-driving. *Journal of Criminal Justice*, 15(5), 387-402.

Mastrofski, S. D., Worden, R. E., & Snipes, J. B. (1995). Law enforcement in a time of community policing. *Criminology*, 33(4), 539-563.

Mastrofski, S., Snipes, J., & Supina, A. (1996). Compliance on demand: the public's response to specific police requests. *Journal of Research in Crime & Delinquency*, 33, 269–305.

McCluskey, J. D., Mastrofski, S. D., & Parks, R. B. (1999). To acquiesce or rebel: Predicting citizen compliance with police requests. *Police Quarterly*, 2(4), 389-416.

McCluskey, J. D., Mastrofski, S. D., & Parks, R. B. (1999). To acquiesce or rebel: Predicting citizen compliance with police requests. *Police Quarterly*, 2(4), 389-416.

Melvin, K. B., Gramling, L. K., & Gardner, W. M. (1985). A scale to measure attitudes toward prisoners. *Criminal Justice and Behavior*, *12*(2), 241-253.

Muir, W. K. (1977). *Police: Street Corner Politicians.* Chicago: University of Chicago Press.

Nagin, D. S., Cullen, F. T., & Jonson, C. L. (2009). Imprisonment and reoffending. *Crime and Justice*, 38(1), 115-200.

Neyroud, P., Slothower, M. & Sherman, L. (Forthcoming). *The Birmingham Turning Point Experiment.* Unpublished manuscript.

Novak, K. J., & Chamlin, M. B. (2012). Racial threat, suspicion, and police behavior: The impact of race and place in traffic enforcement. *Crime & Delinquency*, 58(2), 275-300.

Novak, K. J., & Engel, R. S. (2005). Disentangling the influence of suspects' demeanor and mental disorder on arrest. *Policing: An International Journal of Police Strategies & Management*, 28(3), 493-512.

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

Orth, U. (2002). Secondary victimization of crime victims by criminal proceedings. *Social Justice Research*, 15(4), 313-325.

Packer, H. L. (1964). Two models of the criminal process. *University of Pa. Law Review*, 113, 1.

Paik, F. J. L. B., Fleiss, J. L., & Levin, B. R. (2003). *Statistical methods for rates and proportions.* Hoboken. NJ: J. Wiley-Interscience, 203, 151.

Paoline III, E. A. (2004). Shedding light on police culture: An examination of officers' occupational attitudes. *Police Quarterly*, *7*(2), 205-236.

Paoline III, E. A., Myers, S. M., & Worden, R. E. (2000). Police culture, individualism, and community policing: Evidence from two police departments. *Justice Quarterly*, 17(3), 575-605.

Parkinson, J. (2012). *Managing Police Performance in England and Wales: Intended and Unintended Consequences.* Thesis, Cambridge Institute of Criminology.

Paternoster, R. (2018). Perceptual deterrence theory. In *Deterrence, Choice, and Crime, Volume 23*(pp. 91-116). Routledge.

Petrosino, A. J., Guckenburg, S., & Turpin-Petrosino, C. (2013). *Formal system processing of juveniles: Effects on delinquency* (Vol. 9). Washington, DC: US Department of Justice, Office of Community Oriented Policing Services.

Pew Center on the States. (2008). *One in 100: Behind bars in America 2008,* Pew Charitable Trusts.

Phillips, S. W. (2009). Using a vignette research design to examine traffic stop decision making of police officers: A research note. *Criminal Justice Policy Review*, 20(4), 495-506.

Phillips, S. W., & Sobol, J. J. (2011). Police attitudes about the use of unnecessary force: an ecological examination. *Journal of Police and Criminal Psychology*, 26(1), 47-57.

Phillips, S. W., & Sobol, J. J. (2012). Police decision making: an examination of conflicting theories. *Policing: An International Journal of Police Strategies & Management*, 35(3), 551-565.

Phillips, S. W., & Varano, S. P. (2008). Police criminal charging decisions: An examination of post-arrest decision-making. *Journal of Criminal Justice*, 36(4), 307-315.

Piliavin, I., & Werthman, C. (1967). Gang members and the police. *The Police: Six Sociological Essays. Edited by David J. Bordua.* New York: John Wiley & Sons, 56-98.

Prochaska, J. O., Velicer, W. F., Rossi, J. S., Goldstein, M. G., Marcus, B. H., Rakowski, W., ... & Rossi, S. R. (1994). Stages of change and decisional balance for 12 problem behaviors. *Health Psychology*, 13(1), 39.

Raudenbush, S. W., & Bryk, A. S. (2002). *Hierarchical Linear Models: Applications and Data Analysis Methods* (Vol. 1). Sage.

Reisig, M. D., McCluskey, J. D., Mastrofski, S. D., & Terrill, W. (2004). Suspect disrespect toward the police. *Justice Quarterly*, 21(2), 241-268.

Reiss Jr, A. J., & Bordua, D. J. (1967). Organization and environment: A perspective on the police. *The Police: Six Sociological Essays, edited by David J. Bordua.* New York: Wiley, 28-40.

Reiss, A. J. (1971). *The Police and the Public* (Vol. 39). Yale University Press.

Remington, F. J. (1993). LaFave on Arrest and the Three Decades That Have Followed. *University of Illinois Law Review*, 315.

Remington, F.J. (1965). *Introduction to Arrest: The Decision to Take a Suspect Into Custody by La Fave, Wayne*. Boston: Little Brown & Company. Pp. xxxiv, 540.

Renauer, B. C. (2012). Neighborhood variation in police stops and searches: A test of consensus and conflict perspectives. *Police Quarterly*, *15*(3), 219-240.

Riksheim, E. C., & Chermak, S. M. (1993). Causes of police behavior revisited. *Journal of Criminal Justice*, 21(4), 353-382.

Rooks, G., Raub, W., Selten, R., & Tazelaar, F. (2000). How inter-firm co-operation depends on social embeddedness: A vignette study. *Acta Sociologica*, 43(2), 123-137.

Rojek, J., Rosenfeld, R., & Decker, S. (2004). The influence of driver's race on traffic stops in Missouri. *Police Quarterly*, 7(1), 126-147.

Rojek, J., Rosenfeld, R., & Decker, S. (2012). Policing race: The racial stratification of searches in police traffic stops. *Criminology*, 50(4), 993-1024.

Sanders, A. (1988). The limits to diversion from prosecution. *The British Journal of Criminology*, 28(4), 513-532.

Schlesinger, T. (2005). Racial and ethnic disparity in pretrial criminal processing. *Justice Quarterly*, *22*(2), 170-192.

Schoeneberger, J. A. (2016). The impact of sample size and other factors when estimating multilevel logistic models. *The Journal of Experimental Education*, *84*(2), 373-397.

Schuman, H., & Johnson, M. P. (1976). Attitudes and behavior. *Annual Review of Sociology*, 2(1), 161-207.

Shafir, E., Simonson, I., & Tversky, A. (1993). Reason-based choice. *Cognition*, 49(1-2), 11-36.

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

Sherman, L. W., & Harris, H. M. (2015). Increased death rates of domestic violence victims from arresting vs. warning suspects in the Milwaukee Domestic Violence Experiment (MilDVE). *Journal of Experimental Criminology*, 11(1), 1-20.

Shover, Neal. (1996). *Great Pretenders: Pursuits and Careers of Persistent Thieves*. Boulder, CO: Westview Press.

Simon, H. A. (1957). *Models of Man: Social and Rational*. Oxford, England: Wiley.

Skolnick, Jerome H. (1966). *Justice without Trial: Law Enforcement in Democratic Society.* New York: John Wiley.

Slothower, M. (Forthcoming). *Victim Satisfaction with Diversion to a Police-Led Out-of-Court Disposal: A Randomized Controlled Trial*. Unpublished manuscript.

Smith, B. W., Novak, K. J., Frank, J., & Lowenkamp, C. (2005). Explaining police officer discretionary activity. *Criminal Justice Review*, 30(3), 325-346.

Smith, D. A. (1987). Police response to interpersonal violence: Defining the parameters of legal control. *Social Forces*, 65(3), 767-782.

Snyder, A. I., & Tormala, Z. L. (2017). Valence asymmetries in attitude ambivalence. *Journal of Personality and Social Psychology*, 112(4), 555.

Speilberger, C., Gorsuch, R., & Lushene, R. (1970). *The State-Trait Anxiety Inventory Test Manual*. Palo Alto, California: Consulting Psychologists Press.

Steen, S., Engen, R., & Gainey, R. (2005). Images of danger and culpability: Racial stereotypic, case processing, and criminal sentencing. *Criminology*, 4(2), 435–468.

Steffensmeier, D., & Demuth, S. (2000). Ethnicity and sentencing outcomes in US federal courts: Who is punished more harshly? *American Sociological Review*, 705-729.

Steffensmeier, D., & Demuth, S. (2001). Ethnicity and judges' sentencing decisions: hispanic-black-white comparisons. *Criminology*, 39(1), 145-178.

Steffensmeier, D., Ulmer, J., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology*, 36(4), 763-798.

Stone, M. (1974). Cross-validation and multinomial prediction. *Biometrika*, *61*(3), 509-515.

Sun, I. Y. (2007). Policing domestic violence: Does officer gender matter? *Journal of Criminal Justice*, 35(6), 581-595.

Sun, I. Y., & Payne, B. K. (2004). Racial differences in resolving conflicts: A comparison between Black and White police officers. *Crime & Delinquency*, 50(4), 516-541.

Swatt, M. L. (2002). Demeanor and arrest revisited: Reconsidering the direct effect of demeanor. *Journal of Crime and Justice*, 25(1), 23-39.

Tatum, K. M., & Pence, R. (2015). Factors that affect the arrest decision in domestic violence cases. *Policing: An International Journal of Police Strategies & Management,* 38(1), 56-70.

Terrill, W., & Mastrofski, S. D. (2002). Situational and officer-based determinants of police coercion. *Justice Quarterly*, 19(2), 215-248.

Thaler, R. H. 1988. Anomalies: The Ultimatum Game. *Journal of Economic Perspectives*, 2(4): 195-206.

Tillyer, R., & Hartley, R. D. (2010). Driving racial profiling research forward: Learning lessons from sentencing research. *Journal of Criminal Justice*, 38(4), 657-665.

Tillyer, R., Klahm IV, C. F., & Engel, R. S. (2012). The discretion to search: A multilevel examination of driver demographics and officer characteristics. *Journal of Contemporary Criminal Justice*, *28*(2), 184-205.

Tversky, A. (1969). Intransitivity of preferences. *Psychological Review*, 76(1), 31.

Tversky, A., & Kahneman, D. (1974). Judgment under uncertainty: Heuristics and biases. *Science*, 185(4157), 1124-1131.

Tversky, A., & Kahneman, D. (1981). The framing of decisions and the psychology of choice. *Science*, 211(4481), 453-458.

Ullman, S. E. (2010). *Talking about sexual assault: Society's response to survivors.* Washington, DC: American Psychological Association.

Varano, S. P., Schafer, J. A., Cancino, J. M., & Swatt, M. L. (2009). Constructing crime: Neighborhood characteristics and police recording behavior. *Journal of Criminal Justice*, *37*(6), 553-563.

Von Neumann, J., & Morgenstern, O. (1947). *Theory of games and economic behavior*, 2nd rev. Princeton, NY: Princeton University Press.

Waaland, P., & Keeley, S. (1985). Police decision making in wife abuse: The impact of legal and extralegal factors. *Law and Human Behavior*, 9(4), 355-366.

Weber, M. (1954) *On Law in Economy and Society*, Rheinstein, M. and Shils, E. Cambridge, MA: Harvard University Press.

Weiner, B. (1974). *Achievement motivation and attribution theory*. Morristown, N.J.: General Learning Press.

Weinstein, N., Przybylski, A. K., & Ryan, R. M. (2012). The index of autonomous functioning: Development of a scale of human autonomy. *Journal of Research in Personality*, 46(4), 397-413.

Weisburd, D., Telep, C. W., Hinkle, J. C., & Eck, J. E. (2010). Is problem-oriented policing effective in reducing crime and disorder? *Criminology & Public Policy*, 9(1), 139-172.

Wentz, E. A. (2014). *Sexual Assault Cases and the Funnel of Justice: An Examination of Police and Prosecutorial Decision-Making*, Doctoral dissertation, North Dakota State University.

Western, B. (2002). The impact of incarceration on wage mobility and inequality. *American Sociological Review,* 526-546.

Wicker, A. W. (1969). Attitudes versus actions: The relationship of verbal and overt behavioral responses to attitude objects. *Journal of Social Issues*, 25(4), 41-78.

Wildeman, C. (2010). Paternal incarceration and children's physically aggressive behaviors: Evidence from the Fragile Families and Child Wellbeing Study. *Social Forces*, 89(1), 285-309.

Wildeman, C., & Muller, C. (2012). Mass imprisonment and inequality in health and family life. *Annual Review of Law and Social Science*, 8, 11-30.

Wilson, J. Q. (1978). *Varieties of Police Behavior*. Harvard University Press.

Winick, B. J. (1997). The jurisprudence of therapeutic jurisprudence. *Psychology, Public Policy, and Law*, 3(1), 184-206.

Wood, A. M., Maltby, J., Stewart, N., Linley, P. A., & Joseph, S. (2008). A social-cognitive model of trait and state levels of gratitude. *Emotion*, 8(2), 281.

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

Worden, R. E. (1995). Police officers' belief systems: A framework for analysis. *American Journal of Police,* 15, 49.

Wortley, R. K. (2003). Measuring police attitudes toward discretion. *Criminal Justice and Behavior*, 30(5), 538-558.

Wright, R., & Decker, S. (1997). Creating the Illusion of Impending death--Armed Robbers in Action. *Harry Frank Guggenheim Review*, 2, 10-18.

Wright, R., & Decker, S. (1994). *Burglars on the Job: Streetlife and Residential Break-Ins*, Boston: Northeastern University Press.