



Police record-discretion as misconduct in South Korea

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Abstract

Despite a substantial number of police corruption studies founded on Klockars and colleagues' scenario-based vignette survey (2004), little attention has been paid to record-discretion as a type of police misconduct. Goldstein (1977) notes that police corruption is sometimes manifested in insidious forms. Record-discretion is worth investigating because despite its low visibility it potentially affects public confidence in the entire criminal justice system. Using data from South Korean police officers with investigative assignments, we examine the etiology of record-discretion among detectives by focusing on both individual officer characteristics and his/her perceptions of organizational correlates. Significant predictors included investigators' levels of expertise and prior injury experience, prosecutor supervision, media attention, and rule effectiveness. These relationships, however, vary across types of assignment, supporting evidence for the existence of two cultures in policing.

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1. Introduction

It cannot be emphasized enough that the police play a crucial role in initial case screening in criminal justice system processing (Walker, 1993). This is why controlling for the impact of police decision making is regarded as an essential prerequisite for examining the effects of

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other factors on criminal justice outcomes (see [Myers and Talarico, 1986](#)). The concept of police discretionary decision-making is broadly divided into full-enforcement and non-enforcement (e.g., [Goldstein, 1960](#); [Kadish, 1961](#)). Both categories are potential sources of police misconduct. [Goldstein \(1977, p. 194\)](#) argued that for a police officer “to drop an investigation prematurely by not pursuing leads which would produce evidence supporting a criminal charge” is a major source of corruption vulnerability.

Although the concept of “police discretion not to invoke the criminal process” (record-discretion) was captured in the literature more than fifty years ago ([Goldstein, 1960](#)), little attention has been paid to the issue as a type of police misconduct. A primary reason is that case suspension is a legitimate form of discretion common in many countries, including the U.S., Canada, and many European nations. However elsewhere record-discretion requires prosecutor approval, and is a form of police misbehavior rather than legitimate discretionary decision-making. South Korea is one such example; the South Korean Criminal Procedural Code (2013) prescribes a police duty to initiate an investigation when they recognize crime-related leads. Given that a significant number of cases are legitimately not dealt with in a meaningful way due to police discretion (see [Walker, 1993](#)), there is considerable potential for abuse. This type of police misconduct entails “inequality, arbitrariness, and abuse” ([Kadish, 1961, p. 913](#)), and is often connected with bribe taking ([Kane and White, 2009](#)).

Most previous studies used police official data (e.g., calls for service (CFS) and crime incident data) to examine record-discretion (see e.g., [Boivin and Cordeau, 2011](#); [Tasca et al., 2012](#); [Varano et al., 2009](#); [Warner, 1997](#); see also [Nickels, 2007](#)). This approach could not include individual- and organizational-level situational variables due to data constraints. An empirical approach using police survey data is necessary to fully understand the causes of record-discretion. In the current study, we explore the etiology of record-discretion as a type of police corruption ([Goldstein, 1960, 1977](#)), utilizing South Korean police data generated by a 2007 survey. The relationships among individual officer characteristics, organizational correlates and record-discretion are explored, including the variance of these relationships across types of assignment.

2. Record-discretion

Despite the import of record-discretion articulated by [Goldstein \(1960\)](#) (see also [Kadish's \(1961\)](#) ‘discretionary police non-enforcement’), the phenomenon has drawn relatively limited research attention compared to other types of discretionary decisions. One of the reasons can be found in the ambiguous classification of record-discretion. On the one hand, from the perspective of organization theory, it can be classified as avoidant decision-making ([Scott and Bruce, 1995](#)). A police officer's determination not to proceed can be analyzed as just one of many exclusionary filters in the criminal justice process ([Kane and White, 2009](#); see also [Walker \(1993\)](#)). In practice, a number of cases do not reach the end of the criminal justice system in the name of “interest of justice” ([Walker, 2011, p. 61](#)), “discernment,” or “good judgment” ([Fletcher, 1984, p. 270](#)) especially when the degree of victimization (or offending) is miniscule, there exists an intimate relationship between the victim and the offender, or the offender has already compensated the victim for damage. At the other extreme, record-discretion can be classified as a form of police corruption. [Goldstein \(1977, p. 194\)](#) described this concept as “agreeing to drop an investigation prematurely by not pursuing leads which would produce evidence supporting a criminal charge.” Since the concept of corruption includes abuse of power or authority ([Kane and White, 2009](#); [Punch, 2000](#)), corrupt practices are not be limited to payoffs. A practice may be corrupt whether or not a police officer's non-enforcement decision is connected with bribe-taking.

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