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Cascading Constraint and Subsidiary Discretion: Perspectives on Police Discretion From Police-Led Drug Diversion and Stop and Search in England

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This article explores how discretion is managed and exercised across senior, middle, and street levels of policing. It uses qualitative data from two studies in England. The first, a study across three police force areas, involved interviews and focus groups with 221 people who were designers, deliverers, and recipients of police-led drug diversion. The second study used 354 hours of ethnographic observation and 21 interviews to examine stop-and-search practices in one other police force. Rather than a simply expanding scope of discretion at lower levels of the hierarchy, the findings reveal a multi-level process of cascading constraints and subsidiary discretion. At each level, we observe the exercise of occupational professionalism and autonomous judgement, but higher-level constraints shape how discretion is applied in pursuit of organizational professionalism.

KEY WORDS: policing, stop and search, diversion, discretion, professionalization

INTRODUCTION

Policing ‘has the special property ... that within it discretion increases as one moves *down* the hierarchy’. (Wilson, 1968, p. 7, italics in original)

This statement by James Q. Wilson long since gained the status of a truism in the study of policing (Jones *et al.* 2023). It reflects the fact that much police work is done away from the direct gaze of supervisors and that officers have myriad options to choose from when dealing with the incidents they attend (Groeneveld 2005). Lipsky (1980) also used policing as a prime example of how lower-level officials can use their discretion to influence the operation of state bureaucracies. The breadth of police discretion has been considered problematic, especially in terms of the absence of accountability that it entails (Davis 1975).

Police discretion has recently been described as a ‘ubiquitous yet ambiguous and amorphous concept, both taken-for-granted and imprecise’ (Turner and Mike Rowe 2024: 1).¹ This is a problem that goes back at least 60 years. Although the observation of expansive discretion at the lower levels of policing is now most commonly cited to Wilson (1968), this is an insight that he found in the earlier work of Goldstein (1960). Goldstein exposed the myth of ‘full enforcement’ of the criminal law and referred specifically to discretion as the freedom of police officers ‘not to invoke the criminal process’. More recent discussions of police discretion tend to take a broader view of it, for example, by defining discretion as ‘the availability of a choice of options or actions one can take in a situation’ (Dempsey and Forst, 2012: 140). This is the definition used by Angelo Constantinou in his study of stop-and-search practices in Cyprus. In this form of policing, discretion is not just about whether to respond to a known criminal act by invoking the law, but about when and how to deploy police powers to detect and deter offending (Agnew-Pauley *et al.* 2025). It is this broader understanding of discretion—the freedom to act as well as not to act—that we use in this article.

Presenting discretion as involving choice may give the impression that police officers are free, individual agents in deciding how to enforce the law. This is certainly the implication of Wilson’s (1968: 83–4) belief that ‘the patrolman’s decision ... depends on his evaluation of the costs and benefits of various kinds of action.’ This is an individualistic, rational choice theory of police discretion. However, as valuably discussed by Elizabeth Turner and Mike Rowe (2024), the police officer’s freedom to choose is shaped by the cultural contexts of policing, as well as the police officer’s individual interpretation of the law.

The concept of police culture refers to the ensemble of values, beliefs, norms and practices that are shared by police officers. It is ‘structurally rooted in the nature, stresses, and strains of police work in different contexts, interpreted variously by officers as they navigate the pressures and mandates of their roles’ (Bowling *et al.* 2019: 167). Police culture has also been described as ‘the basic reservoir of knowledge about police work’ (Holdaway 1983: 2). This reservoir may have different pools. In her study of policing in New York City, Elizabeth Reuss-Ianni (1983: 6) found two different forms of police culture. ‘Management cop culture’ finds ‘its salience and meaning not in the traditions of the job, but rather in theories and practices of scientific management and public administration’. ‘Street cop culture’, in contrast, highlights the notion of the officers using their own discretion as the basis for making decisions for each interaction.

So managerial efforts to limit the scope of police discretion at street level are not new. Davis (1975) pointed out that discretion is typically structured or ‘fettered’ by policies or guidelines. Previous English research on deliberate attempts to limit the use of discretion—for example, by directing officers to intervene proactively through a ‘positive arrest policy’ for domestic violence—has shown some of the difficulties involved (Rowe, 2007). This study observed, among some officers, a ‘cynical dismissal of initiatives introduced by senior ranks or by policy-makers who did not properly appreciate, it was argued, the reality of police work “on the street”’ (Ibid: 287), as well as an insistence on the use of street-level officers’ ‘professional competence to apply their own judgement in circumstances where no two cases were the same’ (Ibid: 288).

1 This article refers to work by two different criminologists who share the name Michael Rowe. To distinguish them, we use their preferred forenames, as indicated in their jointly authored article (Mike Rowe and Michael Rowe 2021).

This calls into question what it means for policing to be ‘professional’. Lord Scarman (1981) stated that the professional judgement of a police officer should be ‘as independent’ as that of a doctor or lawyer (Grace *et al.* 2025). Equipping police officers with the skills to make better decisions is a key part of the ‘police professionalization agenda’ (Tong and Hallenberg 2017; Cockcroft 2020). But, as Fournier (1999) suggested, moves towards professionalizing occupations that were previously considered to be non-professional can result in power being exercised over their members, rather than their empowerment.

2024). The impetus for the development of such schemes came from awareness within policing (e.g. from some senior and middle police managers and some PCCs) that repetitively arresting and punishing people for low-level drug offences was costly and ineffective and that diversion may lead to better and more sustained outcomes (Jones and Twomey 2023; Spyt and Kew 2023). PDD schemes are alternatives to criminalization that provide people suspected of minor drug-related offences with an educative or therapeutic intervention, instead of being processed through the criminal justice system (Stevens *et al.* 2023). PDD provides officers with the discretionary space to decide how to deal with low-level offences,² just as S&S relies on officers using discretion to stop or not to stop members of the public.

In order to deepen understanding of contemporary patterns of policing, we present here the findings of qualitative research on how various modes of constraint and discretion operate in two important and related areas of policing—S&S and PDD—at the various levels of police hierarchies.

STUDY SETTINGS, METHODS, ANALYSIS, AND ETHICS

This article uses data from two research projects in England. Both of the studies used a realist approach to research design, data collection and analysis (Danermark *et al.* 2019). One of them was an ethnographic study of S&S in one English police force, and full details of the methods used are available in the thesis (Agnew-Pauley 2025) or by request to the authors. This followed on from a realist review of the international evidence on S&S (Agnew-Pauley *et al.* 2025).³ The other study was an evaluation of PDD in three other English police force areas. This was informed by a previous realist review of alternatives to criminalization for drug possession, including diversion (Stevens *et al.* 2022). The full protocol of the PDD study describes the multiple methods it used (Stevens *et al.* 2023). Here, we present some of the findings from the qualitative process evaluation.

The two studies were conceived and carried out separately. This article presents findings on common themes related to discretion and constraint that were found in both studies. The opportunity to draw on both these studies for this article results from a happy accident of timing and personnel (i.e. the simultaneous involvement of the lead author in both projects). This provided richer and more diverse data for the analysis of police discretion, but it also caused some challenges in bringing together two different datasets, based on different methods, which used different coding frameworks. The fact that both studies adopted a realist approach with abductive coding helped us here. It meant that both studies had clear, theoretically informed coding frameworks through which we could analyse the data for relevant concepts in both datasets.

For the ethnography of S&S, research on police practice was carried out between October 2021 and February 2022 in over 354 hours of observation in the field. This was mostly with the community policing teams who did most of the S&S in the area. This involved accompanying police officers as they went about their daily tasks. These observations were targeted on shifts (e.g. nights and weekends) when S&S was most likely to occur. A valuable feature of this ethnographic work was that it enabled multiple informal discussions with police officers about their work, and how it is managed. Eleven semi-structured interviews were also conducted with officers during the ethnographic fieldwork, in what we describe here as ‘fieldwork interviews’. In

2 Discretion is particularly important in jurisdictions—such as England and Wales—where alternatives to criminalization are used as *de facto* implementation of police and prosecutorial practice, rather than those where they are written *de jure* into law, as in some parts of Australia (Hughes *et al.* 2019; Stevens *et al.* 2022).

3 A realist review is a review of existing literature that seeks to ‘combine theoretical understanding and empirical evidence, and focus on explaining the relationship between the context in which the intervention is applied, the mechanisms by which it works and the outcomes which are produced’ (Pawson *et al.* 2005: 21).

addition, 10 semi-structured interviews were carried out with stakeholders in policing, which we describe as ‘stakeholder interviews’. These interviewees included representatives from the CoP, the Home Office, HMICFRS and the NPCC, as well as from non-government/community organizations who worked with people impacted by S&S (see breakdown in [Table 1](#)). This provided a wider range of viewpoints and experiences of S&S to supplement the ethnographic observations of S&S in practice.

For the evaluation of PDD, fieldwork took place between April 2023 and May 2024. Data were gathered in semi-structured interviews with people who were involved in the design, management or delivery of PDD—including police, diversion leads and service providers (see [Table 2](#)). This was in addition to semi-structured interviews with people who had been diverted into PDD schemes. We also carried out six focus groups: three with police officers and PDD practitioners and three with people who had been diverted. Our interviewees included people from each of the levels of the police hierarchy which [Strang et al. \(2024\)](#) identified as being directly involved in making decisions on the use of PDD, as well as more senior officers who set the policies for these practices.

We carried out abductive analysis of these data, using the Nvivo software package for computer-assisted qualitative data analysis, in a similar way to that described by [Dalkin et al. \(2021\)](#). Abductive analysis involved an iterative dialogue between pre-existing knowledge and our

Table 1. Stop and search interviewees

	Role	Count
Fieldwork interviews	Constable	7
	Sergeant	2
	Inspector	1
	Chief Inspector	1
	Total	11
Stakeholder interviews	Community/non-government organizations	3
	CoP	3
	Home Office	2
	NPCC	1
	HMICFRS	1
	Total	10
Total		21

Table 2. PDD interviewees and focus group participants

Role	Count
Police sergeants and middle managers	41
Police constables	32
Diversion leads and staff	28
Service users	103
Other drug treatment providers, Office of Police and Crime Commissioner, probation, public health leads	17
Total	221

identification of new concepts in the data through repeated reading and discussion of the field-notes and transcripts (Danermark *et al.* 2019).

The S&S study was given ethical approval by the research ethics committee of Flinders University. The PDD project was given ethical approval through the research ethics process of the University of Kent. To protect the anonymity of research participants, all those who are quoted below have been given a pseudonym or code number. The identity of the police forces has also been blurred by giving them pseudonyms A, B and C for the three forces that used PDD, and D for the force in which we studied S&S. To distinguish between quotes that come from written texts and those that come from spoken interactions, we use single inverted commas for the former and double quotation marks for the latter.

FINDINGS

In the following sections, we discuss how constraint cascades down the hierarchy of policing, from government ministers and senior officers, to middle managers, to street-level police officers. In each section, we also present findings on the exercise of discretion at each level. We then explain why we suggest that Wilson's (1968) dictum no longer applies. Rather, we suggest that the policing practices we observed can be understood as a mixture of cascading constraint and subsidiary discretion. This has implications for the balance that is to be drawn between organizational and occupational professionalism in policing.

The exercise of discretion by government ministers and senior police officers

There is a long-standing pattern of politicians, Home Office officials, senior officers and staff in national and local police organizations (like the CoP and HMICFRS) attempting, variously, to widen or limit the scope of discretion in street-level policing. One of the reasons that politicians and senior police officers may wish to constrain the street-level activities of front line officers is to address public concerns. Interviewees in the S&S study were highly aware of historical issues about inappropriate and unjustified use of discretion, particularly for targeting Black and minority ethnic populations. Those who saw themselves as representatives of Black people referred particularly to the history of the 'sus' law (a colloquial term for the use of the Vagrancy Act 1824 to search suspects without needing reasonable grounds), which Scarman (1981) saw as a cause of the 1981 Brixton riots. Interviewees talked of reforms such as the then-Home Secretary, Leon Brittain's introduction of the Police and Criminal Evidence (PACE) Act 1984, which is still a guiding document for restraint on police action.⁴ One stakeholder interviewee noted that, 'the new powers were seen to be a lot more restrictive [of the police], which they were' (S4a, stakeholder interviewee, S&S study).

In response to such ongoing concerns, efforts have continued to limit the scope of police discretion in the use of S&S. These have included the introduction—by then-Home Secretary Theresa May—of the Best Use of Stop and Search Scheme (BUSSS). This attempted to place limits on police officers' use of S&S, including a higher threshold for when officers could be authorized to carry out 'suspicion-less' searches under Section 60 of the Criminal Justice and Public Order Act 1994 (Home Office and CoP 2014). Shortly after, the CoP introduced a new national training programme and related guidance (CoP 2016; Miller *et al.* 2020) that told officers the 'smell of cannabis', on its own, would not ordinarily constitute reasonable

4 PACE was introduced in response to a broad range of concerns across the criminal justice process, but it had particular effects on the exercise of S&S (Zander 2011).

grounds for S&S⁵. This change followed an inspection report that found that the smell of cannabis was the sole reason given by police officers in 7 per cent of the reviewed S&S records (HMICFRS 2017).

May's 2014 endorsement of BUSSS was accompanied with clear messaging that senior politicians wanted police to do less S&S, and the numbers duly fell.

That whole period in around that 2014–15 time when I think Theresa May was quite forceful in her views towards policing about the abuse of stop and search, and then the Best Use of Stop and Search Scheme being introduced. And I think if you look at the figures around that time... the numbers really did plummet. So just sort of demonstrates then that with that, I think political intervention in the introduction of the Best Use of Stop and Search Scheme really had an impact on numbers. (stakeholder interviewee, S4b, S&S study)

By the time of the fieldwork for this article, the message from the top had flipped. In August 2019, then-Home Secretary, Priti Patel, lifted BUSSS restrictions on the use of Section 60 powers (Home Office 2023), in response to what she termed a 'knife crime epidemic' (Home Office 2019). In 2021, ministers launched the *Beating Crime Plan*, which also promised more use of S&S (HM Government 2021a). What followed was an expansion of S&S powers. The Police, Crime, Sentencing and Courts Act 2022 introduced Serious Violence Reduction Orders (under a statutory pilot) and gave the police a new power to search offenders who were subject to these orders without reasonable grounds for suspicion (Hendry 2022); another partial revival of the 'sus' law. In the years from 2017/18 to 2023/24, the annual number of S&S in England and Wales rose from 279,598 to 535,307, having fallen from a high of 1,223,860 in 2007/8 (Home Office 2024). Politicians exercise their discretion, and this has effects on street-level policing.

There are also efforts to exercise discretion at senior levels inside police forces, within the scope that is allowed by the law and government ministers. PDD in the three areas we researched is an example of such senior discretion. The earliest of these schemes—in Force A—was set up in response to what senior officers described as a 'vacuum for lower-level offenders' that had been created by central government's shift of focus to the most persistent and problematic offenders through the Integrated Offender Management programme (Weir *et al.* 2019). In Force A, PDD was not implemented following direction by central government. Rather, our interviewees reported that the scheme was developed by senior officers, for the most part, with the support of the local PCC, and that its implementation and maintenance was heavily dependent on the commitment of a very senior officer. One of the interviewees said, 'I think it was down to [senior officer] being kind of like open minded' (Nadia, PDD practitioners in police force area A).

The development of PDD schemes in England and Wales happened despite rather than because of the government of the day's position on diversion. The government's drug strategies of 2010 and 2017 barely mentioned diversion, and only in the context of children or the NHS Liaison and Diversion Schemes (HM Government 2010, 2017). Police forces in our research sites adopted a much broader approach to diversion. The most recent drug strategy did mention diversion (HM Government 2021b). Diversion is also the first D in the acronym for Project ADDER (Addiction, Diversion, Disruption, Enforcement, Recovery) (Home Office 2023). But the aims of diversion as stated in these policies differed markedly from the aims expressed by many of the people involved in developing and delivering the PDD schemes we evaluated.

5 The wording of this advice had to be softened in 2018 following concerns that the CoP had gone beyond the statutory requirements of the PACE Code of Practice A in its attempts to regulate officer discretion. The revised guidance said it was 'not good practice' to base the grounds for search on a single factor, such as the smell of cannabis (CoP 2018).

HM Government (2021b: 54) considered diversion to be a tool for moving people ‘away from offending’, not away from criminalization. The 2021 drug strategy places diversion in the context of the ‘tough policing’ that Project ADDER would provide. This was in contrast to the aspirations of most of our interviewees, and the programme theory we developed from the existing research (Stevens *et al.* 2022, 2023). These present diversion as an opportunity to reduce the harms of criminalization, rather than as an example of ‘tough’ policing (see also Bacon 2024). Several police officers we spoke to presented PDD in terms of supportive compassion, not tough enforcement. For example:

we have 15 to 20 minutes with people to have a positive experience with them. We’re coming to a place and we’re stop/searching them so this is in a way to say ‘look we are not criminalising you, we’re trying to help you.’ We’re not going to change everything but it’s planting the seed in some of these people and saying there is hope out there for you. (police officer, focus group in police force area B)

Occasionally, central government’s efforts to steer police action can facilitate innovation at a local level in ways that the centre may not have intended. One of the PDD stakeholders we interviewed told us about this paradoxical effect of the Conservative government’s never-implemented White Paper on ‘swift, certain and tough’ response to drug possession (Home Office, 2022). This promised that—in contrast to practice in the three PDD schemes we evaluated—repeat drug possession offences would lead to an escalating scale of fines and criminal sanctions, as well as diversion to education sessions. Our interviewee told us that he did not like the tough language of the drug strategy and the White Paper but that it had helped him expand more health-focussed forms of diversion:

even though I have major issues with how that policy is looking to be implemented from the centre, [it] has enabled me to have conversations with people around an issue where before that had been like ‘no way, we’re not doing it, it’s not government policy’. Now diversion is being talked about more readily. (Ross, stakeholder in the PDD scheme in police force area C)

Senior police managers also exercise discretion in how they reinterpret and adapt national stop and search policies and directives. One example is the modification of the GOWISLEY⁶ mnemonic, which outlines the key elements officers must communicate during a stop and search, as set out in national guidance from the CoP (2016). Senior management introduced an additional component (and accompanying letter) instructing officers to conclude S&S interactions respectfully, particularly when nothing was found during the search. This change was communicated to all officers through mandated training and included in updated recruit training materials. This change stemmed from senior officers’ viewing of video footage of S&S interactions, where they noted that—in this remote supervision of officers’ street-level practice—while officers complied with legal requirements, interactions lacked compassion. As one senior officer explained;

What I saw from the body worn video at times has been, you know, we close down the stop search interaction and we’ve been through GOWISLEY. So we’ve done our legal duty, if you like, but, we’ve missed the human touch to it, you know, this opportunity to say to someone ... apologise if necessary, if it’s appropriate, and it’s not always appropriate. But just to explain again in simple terms, why we use stop and search. (senior police officer in police force area D)

6 The GOWISLEY mnemonic stands for: grounds, object, warrant, identity, station, entitlement, legal and you (CoP 2016).

This change in the mnemonic provides another example of how senior officers can shape S&S practices beyond national policy, adapting policies to suit local circumstances, based on the surveillance of street-level practice, as enabled by new technologies.

These examples suggest a wider scope of discretion at the highest levels of the policing hierarchy than Wilson's (1968) dictum would predict. This level of policing is indeed constrained, for example, by laws and accountability to Parliament (as expressed through official inquiries like those led by Lord Scarman). But ministers can introduce laws, as they did with PACE and Section 60. They can also effect change in working practices, as they did with May's introduction of BUSSS and Patel's reversal of it. This 'pushmi-pullyu'⁷ policy of first shrinking and then growing the number of S&S shows that ministers at the top of the policing tree have wide scope to affect street-level policing, both by changing the law, and also by sending messages about what type of actions they want the police to pursue. Senior police leaders can also use their own professional judgement, as seen in their development of PDD schemes that were different to the model of diversion that was publicly propounded by ministers, and in their adaptation of national S&S directives to address concerns observed in local practice.

Constrained discretion and the pursuit of organizational professionalism by police middle managers

In this section, we explore the role of police middle managers in exercising their own discretion, and constraining (or not) the discretion of people below them in the hierarchy. Formally, 'mid-level leaders' in English policing are officers with the rank of inspector or chief inspector, who manage multiple teams (CoP 2023). In the context of S&S, we were told that the preferences of managers at this level can make a big difference:

You'll have some [chief inspectors] who are very overtly enforcers, they will kind of talk up the need to use stop and search reactively and proactively to deal with crime problems. And they will often get wrapped up in sort of almost like a zero-tolerance approach to drug possession. And be very supportive of the frontline. Whereas others will sort of send out slightly different messages, which emphasise the need to use search powers more proportionately and with necessity, and will emphasise issues of legitimacy. (Stakeholder interview S5, S&S study)

Most of the day-to-day management of police constables is done by their sergeants ('first-line leaders' in CoP [2023] parlance) who report to inspectors. We observed that some sergeants also spend some of their time working on the street with their constables. This gave them an opportunity directly to influence how their constables used their powers. This did not apply to those who had been assigned to the role of custody sergeant. These officers are responsible, under PACE, for deciding who will and who will not be taken into custody at the police station (Home Office 2022), for example, following the detection of drug or weapon possession by S&S.

Custody sergeants may also play a crucial role in PDD decision-making. One of the PDD practitioners we interviewed in police force area A told us that 'the custody sergeant really has the ultimate [say]. He will say, like "I think it's suitable for [PDD] or not"'. According to this report, discretion ultimately lies with the sergeants at the police station, rather than the constables on the street. In the other two PDD areas, custody sergeants were less involved, as the process of diversion was done on the street, rather than at the station. But street-level officers in these areas still reported that they were beholden to decisions made by sergeants, who could tell them to make different decisions.

7 The pushmi-pullyu is a fictional creature, imagined by Hugh Lofting for his *Dr Dolittle* stories. It has a head at both ends.

Even at the mid-level of police management, there is space for significant innovation (Bacon forthcoming). The person who led the development of PDD in police force B held the rank of chief inspector. He was able to use the discretion that his role provided to develop a new way of working with drug-involved suspects, which was then picked up and adapted for use by police managers in police force C. These quite substantial changes to police practice were not imposed from Westminster, or even by the local chief constable, PCC or mayor. Rather, they show the space that exists for middle managers to exercise their own occupational professional judgement.

For S&S, each police force had a S&S tactical lead at chief inspector rank. In police force D, the tactical lead took an active role in overseeing how the force implemented S&S. For example, around the time of the fieldwork, the chief inspector introduced a body-worn video (BWV) review panel for each of the districts in that area. This was in line with—voluntary—guidance issued by the CoP (2016), which was implemented in some forces, but not others. Every month, ten random BWV clips of S&S were reviewed. The panel was set up to increase transparency around S&S and also to give feedback directly to sergeants and front line officers where poor practice was identified. Sergeants and inspectors also conducted ‘dip-checks’ of BWV of S&S. This shows how middle managers exercise their own—organizationally professionally guided—discretion to oversee and constrain the discretion of lower ranks; in this case, through the use of new technology. Street-level officers reported that reviews of BWV of S&S encounters ‘definitely makes me think twice when doing a stop/search’ (Fieldnotes, police constable in Force D).

The exercise of discretion at the mid-level can lead directly to constraint at lower levels. One police manager told us that the way that the PDD scheme had been introduced had deliberately reduced police constables’ discretion. Prior to the PDD scheme, it had been down to individual officers to decide whether to use non-criminalizing disposals (including community resolutions⁸) for drug possession.

By creating a blanket referral policy for drug possession, [our police force] have tried to rein in officers’ discretion, because we consider diversion to be the most effective outcome for reducing reoffending and therefore we have decided that reducing reoffending should be prioritised over punishment. (Tamsin, middle manager, Force C)

The ‘we’ here is particularly interesting. It could refer to either the cadre of professionals at the middle level of police management, or even to the whole police force believing—in contrast to government ministers of the time—that punishing people for drug possession was less of a priority than engaging them in diversion schemes.

Yet, we also heard reports of significant discretion still being exercised at the next level down in the same police force. Nicolas was a police sergeant with significant experience and an important role in deciding which of the suspects his constables encountered would be diverted to PDD. We had been told by senior officers in his area that the scheme could be used multiple times, as long as the person attended the diversionary course. For Nicolas, this conflicted with what he described as his ‘professional judgement’. He told us:

you can’t have someone who you’ve given four or five referrals to, and they’re still being found in possession of Class A drugs, because what are we achieving? We’ve tried it, it’s clearly not working, we’re going to have to try something else a bit more forceful and see what we can do that way. (Nicolas, police sergeant in Force C)

8 Community resolutions are out-of-court resolutions that police officers can use to resolve a case without a formal caution, charge or conviction.

Similar instances of sergeants constraining front-line officers' discretion were observed in the management of S&S. In police force D, there was no formal PDD programme in place. However, people who were found with small quantities of cannabis for personal use during S&S were rarely charged with a possession offence. Officers instead would issue a community resolution. These had to be authorized by a sergeant, who had the discretion as to whether this was a suitable outcome. An example of this was observed during the fieldwork:

Outside the police station, PC Liam approaches two males, explaining that one was seen on CCTV in a suspected drug deal, forming grounds for a search. A small amount of cannabis is found in his backpack. PC Liam proposes issuing a community resolution (CR) but radios the sergeant for approval. The sergeant authorises the CR and PC Liam explains the conditions of the CR to the male, being that he agrees to hand over the drugs, and to not be caught for possession again. If he is, he won't be offered a CR a second time. (Fieldnotes, police force D)

As above with PDD, sergeants could therefore constrain the outcomes of S&S based on their professional judgement. As one sergeant explained, 'if they are repeatedly being found with drugs on them, then we can't keep on giving them community resolutions, because it's not doing anything' (Fieldwork interview F10, police sergeant in Force D). Different sergeants had different approaches to offering repeated community resolutions, with some being more strict than others:

When you do get someone with cannabis especially... I'm quite strict as to if they've had a community resolution, they shouldn't be getting another one, two weeks later... then there's a natural escalation of disposal options. So could be a CR, then a conditional caution, then looking at charging essentially... That is a sergeant's responsibility to oversee that. We sign through all these jobs. So yeah, I know my team has done more cautions for cannabis possession based on the fact that they've had previous CRs than probably any other team here. But I think that's the right thing to do. (Fieldwork interview F9, police sergeant in police force D)

These observations suggest that middle managers in police are not just passing down instructions from on high. They have opportunities to innovate and to exercise their own professional judgement. They also play important roles in constraining the discretion of street-level officers. This shows the complex balance between middle managers exercising their occupational professionalism, partly by creating space for themselves to innovate, and partly by constraining the discretion of more junior officers.

Constraining discretion at street level: occupational professionalism and 'gut feeling'

Previous research on police discretion has focussed on the decisions that officers take at street level. [Geoff Pearson and Mike Rowe \(2020: 57\)](#), for example, found that officers 'have a multitude of ways of avoiding work they do not want to do, and creating space for the type of policing jobs they prefer'.⁹ They also noted that police discretion relates not just to officers' choices on whether to use their legal powers, but also on what jobs to respond to, where and when to patrol, and with which members of the public to engage. Police managers are well aware of the potential breadth of constables' discretion, and so use—in their turn—multiple methods to limit constabulary discretion so that front line officers act in line with their superiors' view of what constitutes organizational professionalism.

9 [Pearson and Mike Rowe \(2020\)](#) give the example of what they call 'Airwave discretion', in which officers can selectively ignore calls for service that come over the radio ('Airwave') if they relate to work that they do not want to do, such as responding to domestic violence, or 'proper jobs' that come in towards the end of a shift.

The previous sections gave examples of the influence of sergeants on constables' decision-making. It is, however, not just sergeants who have such influence. In one of the PDD schemes, the process gave the manager of the internal team which delivered the diversion intervention the power to reverse decisions taken by both constables and sergeants in that force. She said,

I check all the referrals that come in. So, kind of gatekeep those to make sure that they fit our eligibility criteria. If they don't they go back to the cops. I look at the notes and do supervisor reviews to make sure that we're compliant. (Claire, diversion manager in police force A)

Within the limits set by the law and by their bosses, police officers do exercise discretion, but it is not unfettered. Even when discretion is permitted, it is not absolute and is situationally constrained. One street-level officer told us of how decisions to offer diversion are made. 'It's kind of officer discretion really. You could arrest them and charge for possession but it depends on the individual and their history' (Danny, constable, Force B). Another told us that 'there is structure to it' (Finley, constable, Force B). Finley then talked about the range of options that he could choose from, including 'no further action' as well as diversion, when he found people in possession of drugs. These officers had the discretion to use their professional judgement to choose from a limited range of options that had been set by their managers. In the same areas, a chief inspector told us that they were in the process of centralizing such decisions. 'That's the whole point of the new model, and the central team, is that we're taking everything, as much as we can, away from the front line' (Harriet, chief inspector in police force B).

People at the lower levels of policing were aware of the intentions of people at higher levels. As one officer described, these pressures from upper management to, for example, increase numbers of S&S, cascaded down the ranks like a 'snowball effect ... because they'll have the chief constable saying, oh, we've only had X amount of searches. He will then feed it out to the chief supers for the areas and they'll feed it down. Then, the sergeant will be like right ... it's then left to us [constables]' (Fieldwork interview, F4, constable in police force D).

Street-level officers might not respond directly to these pressures, but they did report more subtle changes in behaviour in response to them. One sergeant said:

the chief inspector and inspector level, they want an increase in it [S&S]. I wouldn't go out to stop/search people just because I've been told I need to get some more stop/searches by [the inspector]. And none of my officers would. But what they might do is put themselves in a situation where they can do more stop/searches. So if they can go out and about and be a bit proactive, or put themselves in a known drugs area, they're gonna get some. (Fieldwork interview, F9, police sergeant in police force force D)

Here, we see an example of an officer who is at the border between management and street level. He is well aware of the desires of his superiors, but is also able to use his professional knowledge to implement their wishes in particular ways. Such savvy use of local knowledge to meet managers' requirements combined with their discretionary exercise of 'gut feeling' to form a particular kind of occupational knowledge. This is not the professional knowledge of the engineer, lawyer or doctor; learnt in a lecture theatre before being practised in the field. Rather, this was craft knowledge that was learnt on the job (Mike Rowe *et al.* 2016). Of several similar quotes, from police officers involved in both S&S and PDD, this is perhaps the most succinct. 'You get that gut feeling sometimes ... a lot of it is down to with [redacted] years' experience I know when I see something, I need to pull that car' (Officer H, Team A, fieldnote, police force D). This concisely expresses the confidence that some police officers develop in their ability to

know, in their gut, who is worth an intervention; a confidence that comes from experience on the job, not from training.

In his description of the process by which he decided whether suspects should get diversion or criminal sanctions, police sergeant Nicolas also used ‘gut feeling’ as if it were almost a synonym for ‘professional judgement’. When asked how he distinguished between people who use drugs (who would qualify for diversion) and dealers (who, in his eyes, would not), he said:

You know, all the sort of tell-tale signs of dealing. And also you can kind of get a feeling by looking at them as well... you’d look at them and go, ‘you’re not a dealer. You’re a user.’ It’s that gut feeling that you just get from experience and being out there and dealing with people. So yeah that, that for me is how you make that assessment. It is a judgement call. (Nicolas, police sergeant in police force C)

For both S&S and PDD, we found training to be an important mechanism through which police managers seek to both empower and constrain street-level officers. In the PDD schemes, this involved equipping them to use the relatively novel diversionary option, rather than reverting to their previous practice. A manager of the PDD scheme in police force A told us of the continual need to train new entrants as the older officers left the force. But even the older officers need training on new practices: ‘you get, obviously the police officers who maybe haven’t referred, who just think, “oh, I’ll just give them a caution. I know how to do that.” So, again, it’s all about that training and that linking together’ (Claire, PDD scheme supervisor in police force A).

This quote hints at the dual role of training; to equip officers with the necessary knowledge to do their job well, but also to encourage them to conform with what managers expect of them. This was also evident in comments made by some of the officers who were observed in police force D. They said that trainers warned them against the use of the embodied knowledge that comes with police experience. ‘We were told explicitly that someone that “looks dodgy” is not enough. You can’t just search someone because you think they look a bit suspicious’ (police officer, fieldnote, Force D). Another officer in the same force had been trained ‘to make sure that we can justify why we’re doing... you have to be able to answer the question, “what made you think they had X on them?”’. As we have seen, this is not always what happened on the ground, with some sergeants also encouraging officers to use their own professional judgement. In field observations, it was common for junior officers to be told to forget what they had learnt in training and to be guided by the wisdom of more experienced colleagues.

As [Barton and Johns \(2013\)](#) reminded us in their work on attempts to achieve ‘equal opportunity’ in policing, providing training to police officers was one of the [Scarman \(1981\)](#) report’s main recommendations. It was hoped that training could shift officers away from racist practices.¹⁰ In these more recent examples of PDD and S&S, we see continuing use of training to move officers away from the discretionary application of ‘gut feeling’ in an attempt to keep their decisions within the bounds of organizational professionalism.

DISCUSSION: CASCADING CONSTRAINT AND SUBSIDIARY DISCRETION

From his research on eight police departments in New York State, [Wilson \(1968\)](#) derived various reasons why he thought discretion was broad for ‘patrolmen’ but narrow for ‘police

¹⁰ We make no comment here on the effectiveness of training police officers as a means of reducing racist policing. The impact of stop-and-search training has been subject to evaluation elsewhere (see [Miller et al. 2020](#)). For this article, we simply note the attempt to use training to trammel officers’ actions.

administrators'. From our research with four police forces in England, we challenge whether any of these reasons apply to contemporary British policing.

One reason Wilson thought police discretion was broad at street level was that police officers have a wide range of powers from which to choose. Another reason for broad discretion at the bottom of policing was the lack of direct supervision. When a complaint was made against a patrolman, it was just the complainant's word against that of the officer. Wilson contrasted the patrolman to the insurance agent, who also worked away from the office. In selling insurance (or not), the insurance agent created information that could be used to manage his work. For Wilson, this did not apply to the patrolman. Far from using data to manage policing, the police departments he observed were using data 'the way the telephone company gathers phone numbers ... to be filed alphabetically and consulted only when somebody needs to "look something up"' (Ibid: 63). For these reasons, Wilson (1968: 8) suggested that the 'patrolman is almost solely in charge of policing those laws that are the least precise'. And the range of possible actions was even broader than this. 'To the patrolman the law is one resource among many that he may use in "handling the situation"' (Ibid: 31). The law may be a constraint on police action, but it 'does not provide to the patrolman a set of rules to be applied' (Ibid: 31).

This is not true of contemporary English policing. There is a specific law that sets out a set of rules to be applied—PACE and its statutory codes of practice—along with the guidance offered by the CoP, by BUSSS and by the local forces' standing operating procedures for PDD. The data processes that were nascent in Wilson's day¹¹ are now deeply embedded into police management and accountability. Police officers carry digital devices that track their location and incidents. These are not just stored to look up incidents one-by-one, but spatially visualized to guide the managers' deployment of their officers. Now, officers' actions and transactions—like those of Wilson's insurance agent—are closely monitored by their superiors. Monthly numbers of arrests, S&S and diversions are available for managers to use for each officer. When a complaint is made, the manager can view the footage from the officer's body-worn camera and reprimand or advise as necessary. Such technological developments enable managers to expand their supervision of officers' actions beyond the station to the street (Lum *et al.* 2019). The range of options now available to British police officers may even be wider than Wilson's patrolmen had to choose from, as politicians have multiplied the powers available to them, and managers have created all kinds of initiatives—with accompanying 'slogans and spreadsheets'—to deal with suspects in various ways, to the extent that Baroness Casey (2023: 14) accused the Metropolitan Police of 'initiative-itis'. But the fact that these additional options and initiatives have been created by politicians and managers shows that the breadth of choice of whether and how to deal with incidents is not unique to the lowest levels of policing. There is choice and agency throughout.

Wilson (1968) also gave reasons why he thought that the scope of discretion was narrow for police administrators. One is the 'very limited information' that they had on the performance of their patrolmen (Ibid: 57). Without knowing how many crimes have been committed in his area, or how effective different courses of police action may be in preventing them, the administrator was left with 'only the most rudimentary knowledge of how well his patrolmen are preventing crime, apprehending criminals, and maintaining order' (Ibid: 58). So, Wilson suggested, because police administrators know that they 'cannot get reliable figures', they 'show little interest in "planning" the deployment of their manpower and equipment' (Ibid: 60).

The disabling ignorance that Wilson observed among police administrators has changed in character, if it exists at all. English police managers are provided with mountains of data, from within their force, and from various bodies in the 'multi-centred' governance system', on what is

11 Wilson (1968: 62) wrote about the use of 'IBM machines, punched cards, computer tabulation and the like'.

happening in their force or borough, and on what they should do about it. Some contemporary criminologists may agree with Wilson that crime reports are not an adequate measure of real underlying crime patterns (Young 2004). They may share Wilson's belief that more research needs to be done on 'what works' in policing (Sherman *et al.* 1997). But we observed that it is no longer the case that police managers are operating with 'very limited information' (in terms of quantity, at least). Far from having 'little interest' in planning, contemporary British police managers are called on to produce myriad plans, and then to hold their officers accountable for implementing them.

Turner and Mike Rowe (2024) suggest that discretion covers such a large 'bundle' of different choices, that it is redundant to use the same term to cover them all. We argue, in contrast, that the choices that are made at different levels of policing are the same kind of thing; they are choices on whether and how to use police powers. But such choices—and so police discretion—may take different forms at each level. The choice of whether to introduce a new law is different from the choice to use a new management technique and is also different from the choice of whether or not to stop or divert a suspect on the street. But these are all exercises of discretion.

For these reasons, we propose that a more nuanced way to think about contemporary policing practices—and especially about ongoing efforts to professionalize policing—is through the dual dynamic of cascading constraint and subsidiary discretion. We define the former as the set of practices and rules that each superior level of policing uses to limit the scope of discretion by actors at lower levels. We define the latter as the freedom to decide, at each of these levels, whether and how to act in a way that is appropriate to—and so takes different forms at—each level.

Subsidiarity is a principle that was discussed in the Home Office in the run up to its 2008 Green Paper on policing, even though it was not explicitly mentioned in the final document (Home Office 2008; Quinton 2008). To state that discretion in policing is subsidiary is to say that the forms it takes depend on the level of the hierarchy in which they occur. In this way, it echoes the idea of subsidiarity in governance; the principle that decisions should be taken at the lowest appropriate level (European Parliament 2025). But something that is subsidiary also depends on the power that is held at higher levels of the hierarchy. In commerce, a subsidiary company is owned by a parent company. In a bureaucratic hierarchy like a police force, subsidiary discretion takes forms that are shaped by the constraints that are set at more senior levels.

Just as Reuss-Ianni (1983) found different forms of police culture at management and street levels, we find different forms of discretion at different levels of policing. We have provided examples—at senior, middle and street levels of policing—of how actors in policing find ways to exercise their own judgement to pursue their own preferences, while being limited by constraints that cascade down from higher levels. At the top, government ministers are constrained in their actions by previous laws and the judgments of courts. They can use discretion within the law (or by changing the law) to influence what police officers do; for example, by creating new police powers, changing official guidance or exhorting and funding action (or less action). Senior and mid-level police officers have to stay within these constraints, but can still innovate in ways that express their professional judgement; for example, by establishing new working practices like PDD, or using new technology to scrutinize their subordinates' use of S&S.

In order to translate their own vision of organizational professionalism into the practice of street policing, senior leaders have a number of levers to pull, including the setting and enforcing of rules, the management of performance and the actual or threatened exercise of managerial discipline. As also observed by Michael Rowe (2007: 280), the development of managerial and technological modes of constraint 'tend to render visible what has previously been invisible to police managers'. Such cascading constraint means that street-level police officers may not

have as wide a scope for discretion as was observed at this level by [Wilson \(1968\)](#). Street-level officers do still, however, find ways to use the constraints they face in ways that reflect their professional experience and personal preferences. Such constraints are developed and responded to in ways that are influenced by the different cultures as well as incentives that operate at different levels of policing.

Our intent here is not to criticize either the use of discretion or the application of constraint. As [Reine \(2000\)](#) noted, both are necessary parts of policing. We hope this article will inform researchers, policymakers, trainers and managers in policing about contemporary practices of constraint and discretion and help them understand that discretion is not necessarily wider at the lower levels of policing.

CONCLUSION

We have not, as [Turner and Mike Rowe \(2024\)](#) suggest we should, ‘moved beyond’ using the term discretion in studying policing. We think that the term is still useful, as long as we take a more specific and nuanced perspective on the interactions between organizational and occupational professionalism in shaping police behaviour.

[Wilson’s \(1968\)](#) vision of policing as having narrow scope for discretion at the top of the hierarchy but broad discretion at the bottom is not reflected in the cases we observed. By analysing data on two different aspects of policing in four different police force areas using multiple qualitative methods, we hope to have provided a rich understanding of how discretion works in contemporary policing in England. It may not be possible to generalize these findings to other places or other areas of policing, but we are confident that it is possible to use these cases for ‘analytic generalization’ to theoretical understandings of policing ([Yin 2009](#)).

Specifically, we suggest that contemporary policing involves a complex negotiation between efforts to guide the behaviours of police officers at street level. These cascade from the top down, with leaders and managers at each level imposing constraints on the level below. In doing so, they use both managerial and technological tools to limit what [Wilson \(1968\)](#) saw as the wider scope for discretion at the lower levels of the police hierarchy.

However, these efforts to impose constraint from above are met—at each lower level—with continuing efforts to retain autonomy in the practice of policing. These subsidiary forms of discretion enable senior, middle and street-level police officers to continue to use their own professional judgement, within the constraints imposed from above. We observe the exercise of discretion even at the top of policing, and we see increasing efforts to constrain discretion at lower levels.

We are not the first to observe the complexities of discretion in policing. We hope that our contribution of the concepts of cascading constraint and subsidiary discretion can help readers—and particularly those with responsibility for guiding and managing policing—to think through these issues. These concepts have particular implications for ongoing efforts to professionalize policing and so improve its reputation, effectiveness and legitimacy. Such efforts will need to find a delicate balance between the cascading constraint that comes from the top in efforts to improve organizational professionalism, while not eradicating the subsidiary discretion that enables police officers to exercise their occupational professionalism.

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