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Nonarrest Decision Making in Police–Citizen Encounters

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While early arrest studies tended to be more qualitative in nature and focus on the nonarrest process, more recent quantitative research has centered on the factors most likely to predict arrest. Using observational data, the current study draws on both lines of inquiry by examining incidents of nonarrest where there was a threshold of evidence that would support an arrest. A multivariate model of nonarrest decision making is presented, and qualitative narratives are analyzed to disentangle actions that police took in lieu of arrest, as well as reasons for alternate actions. The findings indicate that nonarrest behavior is much more prevalent than arrest, irrespective of evidence strength, and that several situational factors are statistically related to nonarrest decisions. The findings also show that alternative arrest actions are not demonstrably different than those noted by descriptive studies some 40 years ago, although the reasons for nonarrest behavior are substantially more varied.

Keywords: *police; nonarrest; arrest; discretion; police–citizen encounters*

The discretionary decisions that police make have long been a focus of researchers (Ohlin, 1993; Walker, 1992). The arrest decision, in particular, has garnered much attention over the years. Early research generally focused on the pervasiveness and appropriateness of discretion, especially as it related to nonarrest decision making (Davis, 1969, 1975; Goldstein, 1960; Kadish & Kadish, 1973; LaFave, 1962a, 1962b). Additional research identified some of the actions officers take in lieu of arrest (e.g., citing for a less serious offense; releasing an individual to a third party; separating or mediating a dispute; gathering information; and a host of verbal actions including warning, advising, counseling, persuading, and threatening), as well as potential reasons why officers decide not to invoke their formal arrest powers (e.g., legislature may not desire enforcement, limited resources, individual/organizational philosophy)

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(Bayley & Bittner, 1984; Brown, 1981; LaFave, 1965; Piliavin & Briar, 1964; Sherman & Berk, 1984; Sykes & Brent, 1983; Whitaker, 1982).

Despite the emphasis placed on nonarrest initially, researchers soon began to shift their attention toward arrest decision making (e.g., Berk & Loseke, 1980-1981; Lundman, 1979; Smith, 1984, 1986, 1987; Smith & Klein, 1983, 1984; Smith & Visher, 1981; Worden, 1989). This development seems reasonable on several fronts. First, the decision to arrest serves as the entry point for the criminal justice process. Second, the decision-making process post non-arrest is difficult to capture as an official record is not documented. In addition, it may be argued that emphasizing arrest over nonarrest was a subtle change because the decision-making "point" remained the same. The corresponding benefits of this line of inquiry have resulted in an impressive body of literature identifying those factors affecting the decision to bring a suspect into the criminal justice system (e.g., officer response type, suspect characteristics and behaviors, offense seriousness, available evidence) (Riksheim & Chermak, 1993; Sherman, 1980).

Whereas the advantage of a developed knowledge base regarding arrest decision making is immeasurable, the downside has been a lack of consistent systematic inquiry regarding the resulting end of a decision that occurs with much greater frequency—nonarrest. Essentially, whereas we have learned much about the "in" decision (i.e., arrest) over the past several decades, inquiries focusing on the "out" decision (i.e., nonarrest) have waned considerably. That the arrest/nonarrest decision is one and the same, as a decision-making point, is to some degree overly simplistic. The process of nonarrest behavior opens the door to a second level of decision making regarding what officers do in lieu of arrest and why. Understanding officer behavior within the nonarrest decision-making process becomes even more salient when placed within the context of contemporary policing and community policing initiatives. Whereas constraining police discretion was once central to the police mandate (Kelling & Moore, 1996), more contemporary police strategies call for officers to apply their discretionary powers as they seek alternatives to arrest in coming up with solutions to various neighborhood problems (Mastrofski, Worden, & Snipes, 1995). As such, we are beyond the simple fascination with the abundance of discretion and now ask officers to utilize their discretionary power. Yet the extent and nature of nonarrest decision making remains relatively unknown during a time when officer discretion is generally encouraged.

The present inquiry seeks to fill this empirical void by revisiting the nonarrest decision among contemporary police officers working within the community era. Using data collected as part of the Project on Policing Neighborhoods (POPEN), a large-scale systematic social observation study, we divide our focus into two distinct parts. First, we statistically model the arrest/nonarrest decision-making process across 729 police-citizen encounters relying on a host of theoretically relevant situational predictors. The second part of the study focuses on descriptively detailing alternate actions that police utilize in lieu of arrest, as well as potential explanations

for such behavior. Taken together, the current study combines the two approaches of past researchers in an attempt to shed light on this most crucial decision-making point within the criminal justice system.

We begin with an overview of police discretion and research on the arrest decision. Next, we provide an explanation of how the current study draws from both lines of previous arrest/nonarrest inquiries with a contemporary focus. This section is followed by the method, including the data source used along with the variable codings and descriptions. We then present analyses of police–citizen encounters in an effort to explain the factors that influence the decision not to arrest and the types of (and reasons for) alternate actions. Finally, the implications of these findings for police research and practice are discussed.

Police Discretion and the Arrest Decision

The “discovery” of police discretion can be traced back to the American Bar Foundation’s (ABF’s) seminal study of criminal justice in the mid-1950s (Walker, 1992). Before this large-scale investigation, it was largely assumed that police officer behavior was simply a result of administrative policy or legal statutes (Goldstein, 1993). Unlike previous findings from national examinations of the police (i.e., The Wickersham Commission in 1929), the ABF study illuminated the pervasiveness (over the abuse) of police discretion (Walker, 1992). The fascination with the various discretionary choices that police make has driven police research for more than 50 years. The bulk of this research centers around discretionary behaviors associated with the primary roles of policing in American society (i.e., law enforcement, order maintenance, and service; Wilson, 1968).

Because it is the entry point for the criminal justice process and one of the most punitive official actions that a police officer can perform, arrest has been the focal point of much of the research conducted on police discretion. The start of this research dates to Joseph Goldstein’s (1960) study based on the ABF data. In rich qualitative detail, Goldstein (pp. 554-562) worked to shed light on the range of enforcement options at officers’ disposal, from total enforcement (i.e., enforce all violations of the law irrespective of procedure), to full enforcement (i.e., enforce all laws within the parameters of procedure), to no enforcement (i.e., power to enforce the law is not granted to police), to actual enforcement (i.e., the amount of laws police actually enforce). Goldstein’s work was vital in terms of describing the process of the police decision “not to invoke the law” when it was largely assumed, prior to the ABF study, that if the elements to enforce the law were available (i.e., probable cause) an arrest would be made. This research served to generate scholarly thought about selective enforcement of the law by police, some of which was merely descriptive (Brown, 1981; Kadish & Kadish, 1973; LaFave, 1962a, 1962b, 1965) and some of

which called for changes in legislation to limit the amount of discretion available (Davis, 1969, 1975; Goldstein, 1960).

Aside from Goldstein's (1960) contribution to the police literature in terms of pointing out the opportunities for selective enforcement of the law, he also delineated the reasons why no one was privy to such information before the ABF study. In his explanation, Goldstein noted that police officer decision making is a low-visibility phenomenon, and thus not generally open for study. The next wave of police research focused on examining the low-visibility decision making of police through a series of observational studies (i.e., Black & Reiss in 1966; Sykes & Brent in 1970; Ostrom, Parks, & Whitaker in 1977). Cumulatively, research based on these studies noted that the prevalence of arrest in police citizen encounters was infrequent (Black, 1980; Sykes, Fox, & Clark, 1976), whereas the threat of arrest was much more common (Whitaker, 1982).¹

Over the years, the literature on police decision making has identified a variety of behaviors that police perform in encounters with citizens that fall short of arrest.² Alternate decisions to arrest, beyond simply doing nothing (Brown, 1981), include releasing the individual but filing some official paperwork (Bayley & Bittner, 1984), citing for a less serious offense (Piliavin & Briar, 1964), releasing the individual to the custody of someone else (e.g., family or friend; Bayley & Bittner), separating or forcing the person to leave the scene (Sherman & Berk, 1984), transferring the person to an "official" third party (e.g., medical, psychiatric; Bayley & Bittner), gathering information (e.g., a drug informant; Goldstein, 1960), arbitrating (Sykes & Brent, 1983), and a host of verbal actions (e.g., warn, advise, counsel, mediate, persuade, threaten; Bayley & Bittner, 1984; Brown, 1981; Maguire, 2003; Sherman & Berk; Sykes & Brent; Whitaker, 1982). What has yet to be part of empirical inquiries of police is the frequency at which these behaviors are utilized in situations where an arrest was a viable option.

In addition to investigating what police officers do in lieu of arrest, researchers have also attempted to determine why officers choose not to invoke the law even in instances where there is a sufficient legal basis (i.e., probable cause). The most comprehensive examination was conducted by LaFave (1965) more than 40 years ago. Using data collected from the ABF study, LaFave detailed the following broad categories for decisions to not enforce the law: *legislature may not desire enforcement* (i.e., laws on the books are a backup in the event that police or the community desire to have them enforced), *limited enforcement resources* (i.e., efforts to conserve police resources for more serious offenses or for instances they are sure to receive citizen cooperation), and *other reasons* (i.e., enforcement tied to individual and organizational philosophical issues regarding appropriateness of taking formal action).

LaFave's (1965) work provided a foundation for a variety of subsequent police research and writing on why police do not invoke the law (Brown, 1981; Davis, 1969; Finckenaue, 1976; Gottfredson & Gottfredson, 1988; Kadish & Kadish,

1973; Piliavin & Briar, 1964; Sykes, Fox, & Clark, 1976). To date, however, Sykes, Fox, and Clark is the only study that has quantitatively examined decisions not to arrest where an arrest was a viable option (i.e., information provided to, or witnessed by, officers that a legal violation occurred). Based on an analysis of 374 police–citizen encounters collected from an observational study in three Midwest communities, the authors concluded that the decision to arrest is guided less by individual officer discretion and more so from the legal statutes and/or organizational policy. Sykes, Fox, and Clark explain “a substantial proportion of encounters involve either discretion without arrest option or discretion limited to arrest” (p. 180). Although their quantitative analysis largely involved bivariate examinations and was based on fewer than 400 cases, the authors addressed an important empirical void at the time when the dominant philosophy of policing was centered on the crime fighter image (Kelling & Moore, 1996).

Interestingly, the realization that police do not enforce the law formally in all possible instances tended to shift the empirical focus toward explaining reasons why police *do* arrest. As such, researchers have devoted a considerable amount of time to constructing and analyzing multivariate statistical models in an effort to explain the arrest decision (e.g., Berk & Loseke, 1980–1981; Lundman, 1979; Smith, 1984, 1986, 1987; Smith & Klein, 1983, 1984; Smith & Visser, 1981; Worden, 1989). In a review of the quantitative research on police behavior in the 1980s, Riksheim and Chermak (1993), in building on Sherman’s (1980) prior review, outlined those factors used to explain police discretionary behavior within four main categories, including (1) individual (i.e., officer-level attributes), (2) organizational (i.e., department- or agency-level attributes), (3) community (i.e., neighborhood- or beat-level attributes), and (4) situational correlates (i.e., incident-level attributes). Examinations of these classifications have provided a deductive theory of behavior that is utilized by many current researchers of the police (Worden, 1989). However, unlike prior studies of nonarrest that identified the resulting alternatives to arrest and provided qualitative detail on reasons why arrest did not occur, the newest wave of research has concentrated on explaining the most variance in the arrest decision and the independent effect of a wide array of theoretically relevant factors.

As with many police discretionary decisions, the most powerful statistical predictors of arrest are found within the situational components of the encounter (e.g., officer response type, suspect characteristics and behaviors, offense seriousness, available evidence), much of which were outlined in Black’s (1971) classic *The Social Organization of Arrest*. In fact, arrest studies after Riksheim and Chermak’s (1993) comprehensive review of the quantitative literature have for the most part been dominated by the scholarly debate regarding the role of suspect demeanor (a situational characteristic) as a predictor of arrest (e.g., Engel, Sobol, & Worden, 2000; Klinger, 1994, 1996; Lundman, 1994, 1996, 1998; Worden & Shepard, 1996).

The Current Inquiry

Researchers are still committed to examining a wide variety of discretionary choices in explaining why certain actions are or are not taken by police officers. In a recent study of traffic enforcement leniency, Schafer and Mastrofski (2005, p. 236) advise: "Scholars must continue to look at a broader range of discretionary choices in greater depth to understand the true complexity of police decision making choices." The present empirical inquiry heeds this call by examining the factors that explain, as well as detailing the alternate actions made by officers for a discretionary choice that was a central finding of the ABF study (but largely ignored since)—the decision *not* to invoke the law."

The current study builds on the work of previous researchers that have examined arrest/nonarrest decision making, with a focus on the latter. As outlined by Black (1980, p. 88) more than 25 years ago, an arrest is usually a "situational impossibility" in the course of police patrol work. Thus, we begin by examining the extent of evidence present in each case and select only those where an arrest was a "situational possibility." This is a crucial step if we wish to examine the alternative of arrest behavior. From a legal standpoint, in order for an officer to make a choice *not* to arrest, he or she must have the *option* of arrest. Using evidence (i.e., probable cause) as a threshold for framing the analyses, we then employ a multivariate logistic regression model to explain the decision not to arrest. Following this, we explore the alternative choices that contemporary officers make in lieu of arrest and attempt to better understand what might be driving such behavior. In effect, we examine what officers do when the "out" decision is made. In this respect, we are able to draw on the strength of observational data and directly examine one of the primary "low visibility" decisions highlighted by Goldstein (1960) more than 40 years ago within the context of contemporary policing.

Method

Data

The present analyses draw from the observational data set of the POPN, which examined police patrol practices in Indianapolis, Indiana, and St. Petersburg, Florida. Patrol observation was conducted in 12 beats in each city with the sample of beats matched as closely as possible across the two sites according to the degree of socioeconomic distress. Socioeconomic distress was measured as the sum of the percentages of families with children headed by a single female, the adult population that is unemployed, and the population below 50% of the poverty level—an index similar to one used by Sampson, Raudenbush, and Earls (1997). Following in the tradition of prior observational studies (e.g., the Black & Reiss data of the 1960s and the Police Services Study by Ostrom, Parks, & Whitaker of the 1970s), the sample excluded

those beats with the lowest socioeconomic distress (i.e., the most affluent areas); observations concentrate in areas where police–citizen interactions are most frequent.

Prior to beginning fieldwork, a team of observers (field researchers) underwent an intensive 4-month training program. As part of the program, observers were trained extensively on Systematic Social Observation (SSO) (see Mastrofski et al., 1998, for a detailed description). Observers were a combination of undergraduate and graduate students from Michigan State University and the State University of New York at Albany who took a semester-long class specifically on SSO. Observers also pretested the protocol in the field while conducting five training rides with a local department willing to permit observation. In addition to the training received at the home universities, observers conducted a training ride on-site to acclimate them to the city, beat boundaries, and the organizational structure of the department.

Indianapolis data collection was conducted in 1996, and St. Petersburg data collection was conducted in 1997, according to SSO protocol. Field researchers accompanied officers throughout a matched sample of work shifts in each of the selected beats for a total of approximately 240 hrs per beat. Busier times of the day (evening) and week (weekends) were oversampled. The observers were assigned to officers covering these beats, as opposed to specific officers.

Field observers accompanied their assigned officer during all activities and encounters with the public during the shift. An encounter was a face-to-face communication between officers and citizens that was more than a passing greeting. While on patrol, observers took brief field notes describing when various encounters occurred, who was involved, and what happened. The observer's function was to document what happened during the observation session and to note how the officer interpreted situations he or she encountered. The day following a ride, observers transcribed their notes into detailed narrative accounts and coded them according to a predefined protocol into an SPSS datafile.³ Officer decision-making rationale was queried as part of a “debriefing” session where the observer would probe officers regarding their approaches and reasons for handling the police–citizen encounter (see Mastrofski & Parks, 1990, for explicit protocol on this technique).

In total, the observers recorded contact with approximately 6,500 citizens in Indianapolis and 5,500 citizens in St. Petersburg, with events ranging from less than 1 min to several hours. The selection criteria used for the present analysis is based on nontraffic encounters with people whom police or other citizens present placed in the role of suspect (wrongdoers, peace disturbers, or persons for whom complaints were received).⁴ In total, field observers recorded 2,472 such encounters.

The data were narrowed further based on the notion that not all police–suspect interactions offer the opportunity for an arrest (Black, 1980), depending on the nature of evidence present. In deciding which encounters could have resulted in an arrest, we utilize selection criteria indicating the level of evidence (i.e., probable cause) at the officer's disposal, a key situational factor that would legally satisfy an arrest decision. Field researchers captured the degree of evidence present during each police–suspect

encounter.⁵ This information formed the basis for the creation of a summative index ranging from 0 to 8, with greater weight assigned based on the strength of evidence present. Points were assigned for each factor present and summed according to the following: officer observed the suspect perform an illegal act (3), officer heard the suspect confess (2), officer observed physical evidence implicating the suspect (1), officer heard testimonial claims implicating the suspect (1), officer observed circumstantial evidence implicating the suspect (1). Based on this classification scheme, we take a conservative approach and select only those cases scoring higher than 1 on the index, representing a plausible assumption that an officer had sufficient evidence present to make an arrest. Thus, those cases where the officer observed the suspect engage in an illegal act, as well as those when the suspect confessed to an offense, are included. If neither of these factors were present, then at least two other pieces of evidence (physical, testimonial, circumstantial) were required for inclusion.⁶ Applying this threshold resulted in a datafile consisting of 729 cases.

Variables

Table 1 provides an overview of variable descriptions and hypothesized relationships to nonarrest. The dependent variable is the arrest decision, with an arrest defined as taking a citizen into custody for the purpose of charging him or her with a criminal offense. The independent variables include a series of situational factors that have been shown to predict the arrest decision in prior work. As outlined in Table 1, however, such factors are hypothesized to have the opposite effect in the present inquiry given the prediction of nonarrest behavior.

As previously discussed, evidence is a summative index measure. For purposes of the multivariate modeling, only those cases in which there is a reasonable amount of evidence present (i.e., a score of more than 1 on the evidence index) are included. This measure is included in the model to account for the strength of evidence (ranging from 2 to 8). The problem variable (i.e., alleged crime type) captures the seriousness of the incident (1 = *nonserious*, 0 = *serious*). Victim request indicates whether the victim specifically requested that the police “not” arrest the suspect (1 = *victim requests nonarrest*, 0 = *other*), the reverse of what traditional arrest inquiries examine (i.e., victim request to arrest). The reactive variable accounts for whether the officer responded to the incident based on a citizen request or whether the officer intervened on his or her own (1 = *reactive*, 0 = *proactive*). The site variable simply captures the city in which the incident occurred (1 = *St. Petersburg*, 0 = *Indianapolis*). Indianapolis management espoused a form of community policing, which resembles the “broken windows” model and was interpreted by street-level officers as directed, aggressive patrol. St. Petersburg, on the other hand, took a less aggressive approach that emphasized problem solving and community organizing. As a result, it is expected that St. Petersburg officers will be less likely to arrest when all else is equal.

Table 1
Description of Variables Predicting Nonarrest

Variable	Effect	Description
Encounter		
Evidence	-	Summative index (0-8); points assigned for each factor present: officer observed illegal act (3); confession (2); physical (1); circumstantial (1); testimonial (1)
Problem	+	1 = other; 0 = homicide, robbery, aggravated assault, sexual attack
Victim request	+	1 = victim request nonarrest; 0 = other
Reactive	-	1 = reactive encounter; 0 = other
Site	+	1 = St. Petersburg; 0 = Indianapolis
Suspect		
Weapon	+	1 = suspect has no weapon; 0 = other
Conflict	-	Suspect in conflict with another citizen on scene: 1 = none; 2 = calm verbal; 3 = agitated verbal; 4 = threaten assault; 5 = assault
Resistance	-	Level of suspect resistance: 1 = none; 2 = passive; 3 = verbal; 4 = defensive; 5 = active
Disrespect	+	1 = suspect not disrespectful to police in language or gesture; 0 = other
Drug/alcohol	+	1 = suspect does not show behavioral effects of drug/alcohol; 0 = other
Female	+	1 = female; 0 = male
White	+	1 = White; 0 = non-White
Age	+	1 = 0-5 yrs; 2 = 6-12 yrs; 3 = 13-17 yrs; 4 = 18-20 yrs; 5 = 21-29 yrs; 6 = 30-44 yrs; 7 = 45-59 yrs; 8 = 60+
Wealth	+	1 = chronic poverty; 2 = low; 3 = middle; 4 = above middle

The weapon variable signifies the presence of a weapon (1 = *no weapon*, 0 = *weapon*), whereas the conflict variable (ordinal measure ranging from 1 to 5) captures instances when the suspect was in conflict with another citizen on the scene. Suspect resistance was measured according to the severity of defiance posed to police (ordinal measure ranging from 1 to 5). Resistance was defined as acts that thwart, obstruct, or impede an officer's attempt to elicit information; failure to respond or responding negatively to an officer's commands or threats; and any physical act, proactive or reactive, against an officer's attempt to control the suspect. Disrespect (1 = *no*, 0 = *yes*) involves the suspect doing something that showed disrespect to the individual or authority of the police officer.⁷ The alcohol and drug measure (1 = *no*, 0 = *yes*) includes any indication of use, including the smell of alcohol on the breath, slurred speech, impaired motor skills, or unconsciousness. Finally, a number of suspect characteristics are included in the model. Gender (1 = *female*, 0 = *male*) and race

Table 2
Distribution of Nonarrest/Arrest by Evidence (N = 2,472)

Arrest	Evidence (n, %)								
	0	1	2	3	4	5	6	7	8
No	1,238, 98.8	435, 88.8	135, 73.8	188, 70.4	95, 73.1	75, 73.5	28, 82.4	8, 80.0	2, 66.7
Yes	15, 1.2	55, 11.2	48, 26.2	79, 29.6	35, 26.9	27, 26.5	6, 17.6	2, 20.0	1, 33.3
Totals	1,253	490	183	267	130	102	34	10	3

(1 = *White*, 0 = *non-White*) are both dichotomous measures, whereas age and wealth are both ordinal measures (ranging from 1 to 8 and from 1 to 4, respectively).⁸

Findings

We begin by examining all of the 2,472 police–suspect nontraffic/nonwarrant cases. Of these, officers failed to make an arrest in nearly 90% of the cases ($n = 2,204$). Table 2 offers a clearer picture of how this decision breaks down according to the amount of evidence present. As shown, in more than 50% (1,253) of all encounters, observers were unable to detect any signs of evidence. Thus, whereas one cannot definitively rule out the possibility of arrest in such cases (in fact, officers still arrested in 15 instances), the probability of such is greatly diminished (1.2%) given the lack of an observable legal basis. In another 490 cases, only one piece of evidence was detected. The probability of arrest is also low in these cases (11.2%). Once moving beyond the first level of evidence, though, the percentage of arrests increases. Nonetheless, despite an increased frequency of arrests in relation to the strength of evidence, officers are still much more likely not to arrest. Of the 729 cases that scored at least a 2 on the evidence scale, officers ended up arresting in roughly one of every four (27.2%). If we constrain the data even further and look at the top four evidence categories (ranging from 5 to 8), of these 149 encounters, only 36 resulted in an arrest (24.2%). This clearly suggests that, even in the most serious of cases as indicated by the amount of evidence present, officers were unlikely to make an arrest.

Next we examine the effects of our situational variables on the decision not to arrest. To do so we employed a logistic regression model, which is the appropriate method for use with a dichotomous outcome variable (Liao, 1994). At this stage, we restrict the data to only those cases scoring at least a 2 on the evidence scale to ensure that officers had adequate legal cause to make an arrest. Table 3 provides descriptive statistics for the dependent and each of the independent variables. Table 4 presents the estimates from the logistic regression. As shown, the chi-square statistic indicates that the overall model is significant, whereas the pseudo R -squared indicates that just over 22% of the variance is explained.

Table 3
Descriptive Statistics of Model Variables (N = 729)

Variable	Range	Mean	SD
Dependent			
Nonarrest	0-1	.728	.445
Encounter			
Evidence	2-8	3.422	1.246
Problem	0-1	.942	.219
Victim request	0-1	.020	.142
Reactive	0-1	.600	.490
Site	0-1	.546	.498
Suspect			
Weapon	0-1	.968	.174
Conflict	1-5	1.175	.694
Resistance	1-5	1.454	.929
Disrespect	0-1	.743	.437
Drug/alcohol	0-1	.652	.476
Female	0-1	.253	.435
White	0-1	.384	.486
Age	1-8	4.919	1.542
Wealth	1-4	2.256	.591

Table 4
Logistic Regression Results for Nonarrest (N = 729)

Variable	B	SE	Odds Ratio
Encounter			
Evidence	-.033	.076	.967
Problem	1.336**	.385	3.802
Victim request	.276	.642	1.318
Reactive	-.487*	.197	.614
Site	1.113**	.192	3.045
Suspect			
Weapon	-.190	.533	.827
Conflict	.069	.127	1.071
Resistance	-.424**	.106	.655
Disrespect	.688**	.230	1.990
Drug/alcohol	.605**	.209	1.832
Female	.264	.225	1.302
White	.042	.195	1.043
Age	.062	.066	1.064
Wealth	-.104	.162	.901
Constant	-.655	.997	.520

Note: Pseudo $R^2 = .222$. Model chi-square = 120.838, $p < .001$.

* $p < .05$. ** $p < .01$.

An examination of the effects of the individual measures reveals several significant predictors. The strongest effect uncovered was the type of problem the officer investigated. Not surprisingly, nonserious problems (i.e., those not involving a homicide, robbery, aggravated assault, or sexual crime) were nearly four times more likely to result in a nonarrest compared to serious ones. Another fairly robust factor was observation site. Encounters handled by St. Petersburg officers were more than three times more likely to end in a nonarrest than those occurring in Indianapolis. Given St. Petersburg's emphasis on problem solving and community organizing, contrasted with the Indianapolis aggressive order maintenance community policing approach, this finding also conforms to our expectations.

Additional statistically significant predictors include reactive encounters and those involving greater levels of suspect resistance, both of which were less likely to result in a nonarrest. With respect to the former, perhaps officers who are called on by citizens to handle a given situation may feel more of a need to make an arrest, particularly when there is probable cause implicating the suspect. Conversely, when officers intervene on their own, they may feel their legitimacy is lower than when invited or called on (Reiss, 1971), and they are subsequently less likely to assert their formal authority in the form of an arrest. In terms of suspect resistance, one might expect officers to be more punitive when faced with resistance, irrespective of the degree of evidence presented.

Two additional factors were significantly related to nonarrests. Suspects who treated officers with respect were more likely not to be arrested, compared to those who displayed some form of disrespectful demeanor. In addition, suspects who showed no signs of alcohol or drug use were also more likely to avoid an arrest by the officer. Once again, neither of these two findings are particularly surprising given previous research findings showing disrespect and alcohol/drug use as fairly consistent predictors of arrest.

To some degree it is interesting, if not overly surprising given the bivariate examination outlined in Table 2, that the evidence measure failed to reach statistical significance. This indicates that strength of evidence does not matter with respect to the arrest/nonarrest decision. In other words, officers treat cases with little probable cause the same as those with a great deal of probable cause. To explore this further, we ran an additional logistic regression model (see appendix) that included those cases where any evidence was observed (i.e., cases meeting the level 1 threshold and above, as outlined in Table 2). The results showed evidence to be a significant predictor in this model with no changes in other variable effects in terms of sign or significance. Hence, whereas officers clearly take into account the *presence* of evidence in their decision making, there is no effect in terms of the *strength* of evidence. In short, counter to the conservative selection criteria approach we originally posited, officers generally treated evidence such as secondhand testimonial claims (i.e., a witness saying the suspect did it) no differently than firsthand observational evidence (i.e., the officer observing the illegal act) or suspect confessions. This finding is in direct

Table 5
Officer Behavior in Nonarrest Cases (*N* = 531)

Action	<i>N</i>	%
Threaten/warn	172	32.4
Cease behavior	91	17.1
Cite	43	8.1
Third party—official	39	7.3
Third party—nonofficial	27	5.1
Mediate/information	51	9.6
Separate	23	4.3
Do nothing	58	10.9
Other	27	5.1

opposition to what Black (1971) noted in his seminal study of arrest, as he found that third-party information was less likely to result in an arrest compared to an officer observing an illegal act.

Alternatives to Arrest: Second-Level Decision Making

Actions. Whereas the preceding analysis permits an understanding concerning the factors predicting the nonarrest decision, it fails to shed light on a second level of decision making—what officers do “in lieu of arrest.” Uncovering alternate officer actions in place of arresting offenders is particularly relevant in the context of contemporary policing whereby officers are provided wide discretionary latitude to engage in a variety of behaviors in the course of their daily work routines. Within this context, we examine the varying types of actions officers performed in those cases where they could have arrested but did not ($n = 531$). This approach required drawing on the detailed narrative accounts provided by field observers so as to fully tap into the qualitative richness of the data.⁹Hence, each individual narrative description of the encounter was read and coded to capture the actions taken by officers when they chose not to arrest.

As displayed in Table 5, officer actions were classified into nine different categories. Similar to that uncovered by Whitaker’s (1982) study of patrol work, the most frequent alternative response was to threaten suspects with an arrest (e.g., “if I have to come back here again, you are going to jail”), which occurred in about one third of the encounters (32.4%). The next most frequent action (17.1%) involved the officer commanding a suspect to do something, such as instructing a suspect drinking alcohol on a street corner to move along. These two actions (threats and commands) account for nearly one half (49.5%) of all the nonarrest cases. If issuing a citation is included (8.1%) for such things as trespassing or soliciting, officers resorted to some underlying coercive act short of arrest in 57.6% of the cases.

Another set of actions taken by police involved the use of third parties. We split these cases into two separate categories. One approach involved the release of a suspect to some sort of official entity such as a probation officer or mental health facility. This type of response occurred in just over 7% of the cases. A second third-party action was the transfer of responsibility to a nonofficial party such as family or friends (e.g., releasing a juvenile caught spraying graffiti on a building to a parent, or having a suspect's wife come pick him up at a bar after a fight). This type of action occurred in 5% of the encounters. In total, officers relied on a third party in 12.4% of nonarrest encounters.

Yet another type of action used by officers involved some form of mediation or information offering related to the issue at hand (e.g., an officer providing two disputants information on an anger management workshop, a burglary suspect the phone number of a work program, or a homeless person a list of nearby shelters, etc.). These types of actions occurred in just under 10% of the encounters. A less frequently occurring action involved separating a suspect from another person on the scene. This outcome occurred in just over 4% of the encounters.

In 10.9% of the cases, officers simply did nothing. In these cases officers, for a variety of reasons, decided against taking any outward/behavioral action toward the suspect, which resulted in simply letting the suspect go. In the remaining 5% of the encounters, officers took an action that did not fit into any of the other classifications. Some examples include filing a report with the district attorney for further consideration, driving an intoxicated person home, threatening to "beat up" a suspect, threatening to take a suspect's dog to a shelter to be euthanized, and confiscating alcohol from a suspect and dumping it out.

In sum, we find that when officers are provided with opportunities to arrest, and they do not, the actions that they utilize are often similar to what researchers in the past have noted as the standard behaviors that fall short of arrest. Whereas some of these behaviors are congruent with initiatives that may fall under the rubric of community policing (e.g., the use of mediation, providing information, third-party involvement), others mirror more "traditional" police actions. Interestingly, the two most prevalent alternative actions that police performed in place of arrest (i.e., verbally threatening/warning the suspect and telling a suspect to stop some form of illegal behavior) are more in line with the latter than the former. Unfortunately, because prior studies simply explained the various police behaviors and not the prevalence of each as it related to alternatives to arrest (when it was a legally viable option), we have no baseline data from which to make comparisons to our findings.

Reasons

Whereas the two prior sets of analyses fall more in line with traditional examinations of police discretion, this next section conforms less to previous research templates and is more exploratory in nature. The aim here was to capture officers'

cognition in the form of stated reasons for nonarrest behavior. For the most part, studies that tap into officer cognition have relied on linking responses to attitudinal surveys with some subsequent behavior at another point in time. Here, we take a different approach by examining reasons officers noted for nonarrest behavior while in the field, utilizing data collected during debriefing sessions. Such information was a part of the narrative accounts detailing police–citizen encounters, whereby observers probed officers regarding their decision-making rationales. Mastrofski and Parks (1990, p. 492) argue that debriefing sessions should be part of studies of police to capture “a more accurate and comprehensive picture of police work” and “enhance explanations of police behavior.” As such, we use this data to offer some insight into the various reasons noted by officers as to why they decided not to arrest. We caution the reader that these should be viewed solely as illustrative examples, rather than generalizable statements that can be attributed to all encounters, as the collection of this data were much less systematic than that captured for the two preceding analyses. What follows is a presentation of stated reasons from patrol officers, as well as some illustrative examples of correspondence based on debriefing data.

In assessing officer rationale for their behavior, we restricted our inquiry to those cases where officers explicitly provided a reason for their alternative arrest action and for which such information was documented by the observer ($n = 298$).¹⁰ Hence, we turned our attention to these cases to determine what might be gleaned from them.

Interestingly, the amount of variation regarding the reasons not to arrest became apparent from the outset. Officers specified many different rationales for why they chose not to arrest. We were able to discern and classify such reasons into eight categories.

One of the reasons ($n = 55$) officers noted for not arresting a suspect involved some degree of *uncertainty regarding illegality*. Such cases involved instances where officers were unsure whether the act in question met an acceptable threshold to merit an offense for arrest consideration. Thus, although there was evidence present of potential wrongdoing, officers were sometimes unclear as to the nature of the legal offense. For instance, in the following example the officer was investigating a trespassing complaint from a transit employee for what appeared to be a homeless man possibly living at a bus stop. Given the difficulty of determining a trespassing charge, the officer instructed the man to move along. The officer described his thought process in the following debriefing session:

The officer stated that he was not sure about the legality of trespassing on public property and that he should check with the state’s attorney on the matter. He noted that because the legality of the suspect being there was in question, that played a factor in why he just decided to run him off rather than taking a more official action.

Another frequent rationale offered by officers revolved around the notion that an *arrest would be too severe* ($n = 33$). The feeling articulated in these cases was that

there was no need to engage in an arrest. For many of these cases, officers decided to threaten or warn the offender instead of arresting him or her. For example, in the following incident the officer felt that a warning was sufficient enough in handling the encounter:

The officer said that he could tell the suspect was really scared. The officer believed that the suspect had a lot to lose by being arrested for solicitation and that his warning would be sufficient “to totally rehabilitate the guy.”

Other incidents involved cases where the officer felt that an *arrest would serve little purpose* ($n = 28$). In contrast to the previous category, officers in these cases were not concerned with whether an arrest was an appropriate outcome, but rather believed that making an arrest would simply do no good. These encounters were often characterized in terms of not wanting to waste resources because an arrest in reality would do little in the end, as illustrated during the following debriefing session:

The officer said he did not arrest the suspect and take him to jail because the bond for a misdemeanor marijuana violation is only \$50. The suspect had \$50 in his pocket and would have been out of jail within a few hours. The officer stated this would have been a waste of time for both the officer and suspect.

Practical ($n = 25$) reasons were also a determining factor in some cases where the officer decided not to arrest. Such reasons ranged from officers not arresting because they were outside their assigned patrol area to cases where the officer engaged in an illegal search and worried about the evidence being inadmissible, to the officer not wanting to fill out the arrest paperwork, to the unavailability of a prisoner transport van, to the following case involving two theft suspects:

The officer said that he could have officially arrested both sisters, but because youth services were shut down he would have had to travel 25 minutes away to have them processed. The officer said that in [all the] years that he has been with the police department he has been able to call a technician into the station to have a juvenile processed. The officer said that they just changed this and he said because of this the sisters will not be arrested.

Officers also considered whether *suspects were nice, cooperative, or honest* ($n = 24$) with them. In some cases, officers felt the suspect was a nice person who simply acted inappropriately in the given instance. In other incidents, officers appreciated the extent to which the suspect cooperated in the investigation. Honesty also paid off for some suspects, as illustrated in the following case involving marijuana possession:

The officer noted that the suspect blurted out that he is out on bond for failure to appear in court for a possession of cocaine charge. The officer said that he appreciated the suspect was honest with him from the start so he didn't want to give him a hard time.

In yet other cases, officers *attached blame to both the suspect and victim* ($n = 23$) who were involved in the incident. Hence, the suspect's deservedness was lessened and an arrest was unwarranted in the officer's view. Such encounters were often part of interpersonal disputes as was the case in the following incident involving an assault:

The officer stated that these cases are difficult because everyone was under the influence of alcohol or drugs. The officer said that it is hard to believe these individuals and mentioned that he could have arrested both parties, but he did not because of the alcohol and drug factor.

Next, there were cases where officers displayed some form of *empathy* ($n = 17$) for the suspect and as a result chose not to arrest. These cases tended to involve suspects placed in difficult situations, including the elderly and younger suspects, as in the following juvenile runaway case:

The officer said he felt bad for the boys and that both boys seemed like really nice kids with good heads on their shoulders. The officer said it was too bad it wasn't working out where they were living and the place didn't want them either. He stated it's sad because really there's nothing the police can do. They can't make people, parents, or caregivers love the children.

A final category of cases was so diverse that attempting to classify them under a reasonable number of categories became unwieldy, and thus they are classified as "*other*" ($n = 93$). Included in this group were rationales ranging from officers believing the situation was already under control, to simply wanting to give the suspect a break, to the suspect performing in the role of a confidential informant, to not being interested in the initial reason for the encounter (e.g., public drinking) but rather looking for more serious law breaking (e.g., drug dealing). The following debriefing excerpt is an example of the latter:

The officer stated that in this case he could search the citizen even if he did not consent because he could technically be arrested for drinking an alcoholic beverage in a public place. The officer said that he was surprised that the suspect did not have any "crack" on him. He stated that he had arrested the suspect in the past for crack and that he will probably arrest him again in the future.

In sum, the debriefing sessions following encounters between police and suspects revealed a variety of reasons as to why the officer chose not to arrest. In comparing our findings with LaFave's (1965) seminal work, we find that in cases where an identifiable reason was explicated to the observer, the choice not to arrest appears to be more of an independent officer determination regarding the individual suspect and their behavioral actions and less a function of "legislative intent" or "resource limitations." Because LaFave's (1965) study focused on the description (over the prevalence) of the various reasons, a direct comparison between this study and his

cannot be done. Nonetheless, it appears as if contemporary officers are utilizing their discretionary powers in a variety of different ways for a variety of reasons.

Discussion

One of the key findings uncovered in the present inquiry, that officers are much more likely *not* to arrest than they are to arrest, is not overly surprising given previous work. Perhaps a little more surprising is that this finding holds despite the prevalence of evidence presented to the officer during the encounter. Even in cases involving a rather overwhelming amount of evidence (e.g., officer observes the illegal act and the suspect confesses to such) officers rarely made an arrest (about one in four). Hence, when presented with opportunities to act as crime fighters, officers do not capitalize on it. In one respect, those who may favor more community policing-oriented initiatives may view this positively if taken in the context that officers should rely less on arrests in the course of their daily duties. We would caution overemphasizing this, however, given prior research indicating the prominence of nonarrest behavior dating back to the ABF study, a time period in which many departments took great pride in selling themselves as premier crime fighters with an emphasis *on* arrest.

Our multivariate analysis of nonarrest behavior also falls in line, albeit turned upside down and with an added a threshold of evidence, with much of the previous research on the arrest decision. For instance, we found that offense seriousness affects arrest decision making, as does suspect demeanor. We also found that St. Petersburg officers were significantly more likely to refrain from making arrests, which was in line with their organizational philosophy, suggesting that street-level officers may take into account the broader organizational mandate coming from top administration as suggested by Wilson (1968), although our closer qualitative examination of narratives failed to reveal this as an “explicit” reason for nonarrest behavior.

Whereas the extent of nonarrest behavior and a multivariate examination offer some insight, much can be gained from examining what officers do in lieu of making an arrest. As the findings illustrate, officers in these two cities during the mid-1990s do many of the same things that officers did in the early part of the century—threaten, warn, order, cite, use third parties, arbitrate, separate, and offer information. However, by examining not only what they do but also accounting for the distribution of these behaviors, we found that officers primarily rely on their coercive nature (in more than half of the encounters) in attempting to resolve incidents, something Bittner (1970) would predict irrespective of the era examined. Those behaviors more congruent with community policing, the use of third parties, mediation, separation, and information offering, are used to a lesser extent. Furthermore, in about 1 of every 10 cases, officers simply did nothing at all. Unfortunately, the lack of baseline data prohibits a

direct comparison across eras. It is quite possible, however, that whereas officers were less likely to rely on more community-oriented types of policing actions (than underlying coercive actions) in this study, it still may be significantly more than 50 years ago. Again, such an interpretation is merely speculative, as there is simply no way to tell given the lack of information from that time period.

Our qualitative examination went one final step beyond looking only at the actions officers took in place of making an arrest. Given the qualitative richness of the data source, we were able to move beyond a quantitative multivariate model in an attempt to glean a greater understanding of why (i.e., reasons and rationales) officers choose not to make an arrest. In some instances, we found congruence with the multivariate model (i.e., demeanor matters), but recall that less than one quarter of the variance was explained in the model. Thus, police officer decision making is clearly more complicated, as illustrated in the debriefing sessions.

Prior research that examined nonarrest decision making by Sykes, Fox, and Clark (1976) downplayed the effect of individual officer discretion in favor of the legality of the situation and organizational policy. Whereas our findings show some support for the latter influences, we find substantial evidence of the former. Drawing on the narrative descriptions illustrates how individually related the arrest/nonarrest decision sometimes is. Similarly, LaFave's (1965) work emphasized three primary reasons for why officers choose not to arrest: (1) legislative intent, (2) resource allocation, and (3) a broad and diverse category labeled "other" (i.e., enforcement tied to individual and organizational philosophical issues regarding appropriateness of taking formal action). Once again, whereas our findings lend some support for the former, a closer qualitative look indicates that a good deal of decision making is based on the latter. That is, officers make judgments about what is best in their minds; decisions based on such divergent factors as whether they believe making an arrest is a just punishment or if it will make a difference in the long run. They also make decisions based on practical reasons such as whether they are in their assigned beat or want to drive to the processing center and filling out paperwork. Moreover, decisions are based on the extent to which the officer attaches blame to the disputing parties, whether they empathize with the suspect, or whether they deem him or her a nice person in general, all irrespective of the evidence of wrongdoing presented. In short, there are various reasons why officers choose not to make an arrest, and individual officers appear to be apt to apply their own framework to this decision-making process.

The current study clearly raises many issues that future researchers may wish to address. For instance, a comprehensive organizational analysis would include several departments consisting of varying organizational philosophies. We were somewhat limited here with just two agencies, albeit ones with divergent organizational philosophies. In this regard we are scratching the surface with an initial look at how arrest/nonarrest discretionary decision making plays out in the community era. As such, we are not testing the overall effect of community policing, but instead framing

our analyses within the community era. Researchers who wish to do so should consider merging the approach taken in the current study with the approaches taken by Mastrofski, Worden, & Snipes (1995) and Novak, Frank, Smith, and Engel (2002), building on their examinations of community policing attitudes and assignments.

We would also encourage future researchers to continue with an emphasis on the nonarrest decision as opposed to that of arrest. Whereas these may appear to be the same, it differs along the decision-making chain. As illustrated, once officers decide not to make an arrest, a second level of decision making is required concerning what to do (and why to do it) in lieu of arrest. Future research might seek to investigate whether the alternative action taken is somehow more beneficial or appropriate than an arrest. Researchers should also consider not only why (i.e., reason or rationale) officers choose a nonarrest, but why a particular alternative action is selected over another (e.g., why threaten versus offer information or release to a third party?). Moreover, how might training orientations influence the actions taken by officers? This entire area of decision making is virtually untapped from an empirical perspective and can be linked to deeper explorations of community policing initiatives, as well as offering more explicit policy implications for practitioners.

Finally, we would hope that future researchers consider the inherent benefits of drawing on qualitative data. Going from a multivariate model, to descriptive frequencies on the alternatives to arrest, to qualitative depictions of the officer's rationale for nonarrest decision making provides a much more detailed picture, which we believe results in a more comprehensive understanding of police behavior. Refining and systematizing the debriefing process associated with observational work will go a long way in this respect. Unfortunately, time and manpower constraints stymied a systematic debriefing process on POPN, as field observers were not able to debrief during all encounters. Thus, whereas the POPN data have many strengths (i.e., systematically capturing low visibility events such as nonarrests), this was one of the few drawbacks. Future researchers may, however, build a more comprehensive debriefing process into their study.

In conclusion, this study provided insight into nonarrest decision making among contemporary police officers. In doing so, we combined the quantitative and qualitative approaches utilized by previous police researchers. Whereas full-scale comparisons to officers working in the professional era of policing were not readily available, we do find congruence in terms of nonarrest being more prevalent than arrest. We also find a good deal of similarity with respect to alternative courses of action that officers apply in lieu of arrest. Officer reasons for deciding on a nonarrest, however, appear to be somewhat more varied than what prior research has found. Future studies could use the results reported here as a source of baseline data for examining rates of actions/reasons, hopefully with which to add a more systematic debriefing element to detail the cognitive components of police officer decision making.

Appendix
Logistic Regression Results for Nonarrest Given
Any Evidence ($N = 729$)

Variable	<i>B</i>	<i>SE</i>	Odds Ratio
Encounter			
Evidence	-.539**	.042	.538
Problem	1.457**	.260	4.291
Victim request	.206	.646	1.229
Reactive	-.526**	.171	.591
Site	1.033**	.163	2.811
Suspect			
Weapon	-.154	.458	.857
Conflict	.098	.103	1.103
Resistance	-.491**	.086	.612
Disrespect	.848**	.187	2.336
Drug/alcohol	.665**	.170	1.945
Female	.333	.182	1.395
White	.104	.159	1.110
Age	.111	.055	1.117
Wealth	-.035	.135	.965
Constant	.742	.771	2.101

Note: Pseudo $R^2 = .239$. Model chi-square = 202.461, $p < .001$.

** $p < .01$.

Notes

1. Black (1980, p. 90) notes, based on observational data gathered in high-crime precincts in three large cities, that an arrest occurred "in 58% of the felony encounters and in 44% of the misdemeanor encounters." Similar findings were noted for Sykes, Fox, and Clark's (1976, p. 176) analysis of observational data collected in five departments. The authors note "in more than two-thirds of our cases (374) arrest could have been the outcome; but, in fact, arrest was the outcome in only slightly more than one-fourth of those cases (102 of 374)." Furthermore, Whitaker (1977, p. 20) reports that based on analyses of data collected as part of an observational study in 24 police departments, an arrest occurred in roughly 5% of the observed police-citizen encounters.

2. Although researchers have identified the alternate behaviors that police perform, little is known with respect to the actual occurrence of one behavior over another. That is, the extent to which the police are more likely to cite someone versus threaten in situations where an arrest was a viable option.

3. Whereas narrative descriptions sometimes consisted of more than 30 pages of text, on average they were generally around 15 pages and accounted for every minute of the shift. More specifically, observers documented, in detail, every activity and encounter between the police and the public.

4. As noted by Klinger (1994), the exclusion of routine traffic stops is a common practice among police arrest studies.

5. Careful attention was made by the observers to ensure that only the presence of evidence that was available prior to an arrest, when applicable, was coded.

6. It is presumed that an officer witnessing an illegal act and/or securing a suspect confession offer a degree of evidence weighed more heavily than signs of physical evidence, claims of others as to the suspects' wrongdoing, or other circumstantial forms of evidence.

7. This included a variety of verbal statements: calling the officer names, making derogatory statements about the officer or his family, making disparaging or belittling remarks, and slurs (racial, sexual, lifestyle). Ignoring the officer's commands or questions did *not* constitute disrespect, but rather was classified as passive resistance. In addition, certain gestures and actions were coded as disrespect. These included "flipping the bird" (displaying the middle finger in the direction of the police), obscene gestures, and spitting in the presence of an officer (even if not in the direction of the officer).

8. Wealth was determined by the suspect's appearance and dress, property and possessions, as well as information provided by the suspect about his or her possessions (e.g., job, home, other resources). Chronic poverty was defined as the condition of someone who appeared not to have a domicile that could shelter from the elements. Low wealth was defined as someone who has regular food, shelter, and clothing, but can provide these things only at a very modest level or only slightly above subsistence. Middle wealth was defined as someone with a job above minimum wage or otherwise able to support themselves and their families. Above middle was defined as someone whose appearance and possessions suggest the capacity to afford many luxury items. In cases where observers were presented with conflicting information (e.g., shabby appearance but an occupation or home suggesting greater wealth), they were instructed to take the "totality of cues" into account and select the category that best seemed to fit overall.

9. Although POPN field researchers quantitatively coded many different forms of officer behavior throughout each encounter, the behaviors we are interested in here were only partially captured through this initial coding process.

10. In the remaining 233 encounters, officer reasoning was unable to be determined, some of which was because of a lack of explicit detail by the officer whereas in other cases it was a result of lack of probing or documentation by the observer. As part of the POPN protocol, observers were instructed to "debrief" officers following "significant" incidents (e.g., arrests, citations, officer use of force, elevated or emotional encounters, instances where actions seemed out of line with conventional wisdom, ambiguous situations, etc.). Because these are nonarrest encounters and at times less serious in nature, the lack of debriefing data may have been more a function of the encounter and less related to observers' reluctance to engage the officer.

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