FACTORS INFLUENCING GAME WARDENS IN THEIR INTERACTION WITH POACHERS:
THE USE OF DISCRETION
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ABSTRACT
This research focuses on the use of discretion among game wardens in their interactions with poachers. Data were obtained from interviews with 31 game wardens. Seriousness of the offense, demeanor of the offender, social class, a prior criminal record, and the reason the offense was committed were all found to influence discretion. Extensive quotes from interviews with game wardens are presented.

INTRODUCTION
Journalists and scholars, while giving crime and police a great deal of deserved attention, have devoted little media/research to a sub-area of police and crime, game wardens and poachers (Calkins 1971; Curcione 1992; Green 1990; Palmer 1977; Palmer, Bryant 1985; Reisner 1991; Wilson 1990). But as Palmer and Bryant found in their extensive study of game wardens, wardens are very similar to urban police officers.

...game wardens are strikingly similar in attitudes, demeanor, and dramaturgical skills to city police officers. Comparing...[them] finds similar people...who are attracted to their respective jobs for similar reasons. Both realize that they do some of society’s dirty tasks....Both wardens and cops have ideas of what constitutes real police work, real violators and a good bust. Topically, these may be different but in generic context they are similar. [Both]...become proficient...at a myriad of dramaturgical devices aimed at maintaining the edge and in controlling, situationally, the people they encounter. Wardens and cops are similar... (1985 133-134)

The neglect of game wardens and poachers is due to the rural setting of this activity. Rural crime has received scant attention from criminologists (Bankston, Jenkins 1982). It is therefore not viewed as being important.

The predecessor to the modern day game warden in the United States was the “Keeper of the King’s Deer” in Europe (Palmer, Bryant 1985 111). The occupations of state and federal game warden evolved in response to the idea that wild game was the property of the public. Accordingly, the hunting of game became regulated by the state and federal government.

This research is a descriptive analysis of one of the most important aspects of any police officer’s job, the exercise of discretion. The focus of this paper is on the use of discretion among game wardens in their interactions with poachers. The poachers, in this research, were primarily involved in out of season hunting and/or the unlawful killing of endangered species. These poachers were hunters of alligators, deer and water fowl.

THE USE OF DISCRETION
Research on police and crime has given a lot of attention to the use of discretion (Alpert, Dunham 1992; Black 1980; Brooks 1989; Cole 1992; Morash 1984; Skolnick 1975). Police discretion has been recognized as a crucial element in all law enforcement. Police officers must constantly use their judgment in choosing between different courses of action in different “circumstances.” The police must constantly exercise discretion in deciding who to ignore and who to arrest. Some see this as a positive function, as the system would otherwise quickly be overburdened with minor cases and hence unable to deal with more serious crime. The consequence of this is that police officers must informally judge and settle many more cases than they handle in a formal manner (Cicourel 1968; Goldstein 1960). But as most research has shown the use of discretion is uneven and allows bias to enter the criminal justice process (Chambliss, Seidman 1971; Holman, Quinn 1992).

Several variables relating to the legal and extra-legal characteristics of offenders and the offenses they commit are thought to influence the decisions police officers must make regarding how to best handle offenses committed in particular circumstances. There is a great deal of research suggesting that those who commit serious crime stand the greatest chance of being arrested. Police are much more likely to investigate such offenses and the public is more likely to summon them. Usually there is a positive relationship between the seriousness of a crime and the decision to arrest (Black 1980; Chambliss, Seidman 1971; Conklin 1989; Morash 1984; Siegel 1986; Skolnick 1975). The number of previous contacts with police, whether informal or official, play an important role in police discretion (Black, Reiss 1970; Cicourel...
Table 1: Factors Identified as Influencing Game Warden Decision Making in Determining How to Best Handle a Poacher in a Particular Circumstance

1. The seriousness of the offense. Killing an endangered species is considered the most serious offense.

2. The reason the crime was committed. If the poacher is perceived to be getting high rewards from illegal activity (making a lot of money), he is more likely to have contact with game wardens. Someone hunting to survive has less chance of contact.

3. Social class. The lower the social class of the poacher the higher the probability that the individual will be seen as a suspect. Hence the higher the social class of the poacher, the less likely they are to have an encounter with game wardens.


5. Demeanor of the offender. Those who fail to show proper respect to game wardens are more likely to be arrested.

6. Prior record and/or contact. The number of previous contacts with game wardens plays an important role in discretion. If the poacher has a "non-poaching" criminal record is also an important factor in discretion.

METHODOLOGY

Data for this project were gathered from both current and retired game wardens. A total of 31 game wardens were interviewed. All of the game wardens in the sample were males. These interviews ranged from one to three hours. Three of the respondents were retired Louisiana state game wardens. The remaining 28 were currently employed as state game wardens in Louisiana. There are approximately 240 currently employed state game wardens in Louisiana. They were identified through the personal contacts of the author. Respondents were interviewed in their homes. An interview guide was used to generate responses from each game warden. Questions were intended to facilitate discussion rather than elicit specific responses about poachers and/or game wardens. Each game warden was asked questions regarding the use of discretion in their interactions with poachers. The game wardens for this research represent an available sample. Although some researchers have cautioned about generalizing from such samples, the results of this research were consistent with those of an earlier more extensive study of game wardens in Virginia (Palmer, Bryant 1985). All data for this project were collected over an 18 month period, between January 1991 and June 1992.

FINDINGS

As indicated in Table 1, the game warden uses discretion in much the same manner as the urban police officer. Below are statements which were typical of the responses from game wardens. Each response has been

1968; Conklin 1989; Goldstein 1960; Hollinger 1984; Holman, Quinn 1992; Johnson 1983; Smith, Visher 1981). Some researchers have suggested that offenders who fail to show proper respect to police are more likely to be arrested than reasonably respectful offenders. Indeed, the officer’s perception of the offender’s attitude toward the police may be the most important factor in the decision to release or fully process (Hollinger 1984; Thornton, Voigt 1992). Research generally indicates that the lower the social class of the individual, the higher the probability that the individual will have an encounter with the police. Furthermore, when there is police contact with middle class individuals, they are less likely to be seen as suspects than are working or lower class individuals. Some research purports that the over representation of blacks in arrest statistics is because of their over representation in the lower economic classes rather than racial background (Braithwaite 1981; Hindelang 1983; Hollinger 1984; Thornton, Voigt 1992). Both the elderly and very young juveniles are treated more leniently than those between these age ranges (Forsyth, Shover 1986; Forsyth, Gramling 1988). Females are also treated more leniently, but similar to the age and crime debate there is disagreement (Schur 1984). Since most poachers apprehended by this sample of game wardens were white males, two of the above variables, sex and race, have little relevance in explaining the use of discretion among them.
placed in the category of discretion of which it is most reflective. The author realizes there may be more than one category of discretion expressed.

**Prior Record or Contact**
The real goal of any game warden is the habitual offender that has a long record of offenses. I keep my eye on those guys. Unfortunately, these are hard to catch because they know the ropes.

Your career criminal is the one who is focused on. I don’t give them any slack.

You usually get fines ranging from $50–$1000 depending on what you trapped/killed and according to your past criminal history.

Some men who have a long history of other types of criminal activity are also targets of the game wardens. But these men are easily caught when they decide to engage in poaching. Although experienced at criminal activity, these men are usually novices at poaching; indeed, their inexperience combined with high visibility, in small rural communities where they are well known, renders them an easy catch for the game warden.

Career criminals are caught a lot...everyone in the local area knows he is doing something to go back [go back to prison]...he will be watched closely...he goes out poaching...I guess it is the only job he can get...It must be a popular way to go back to prison, because I have been with this department for 13 years and I have seen nine go back to prison.

**Demeanor of the Offender**
Manners and attitudes, it may sound funny but I feel if the criminal is good hearted and kind he should have another chance. Don’t take the wrong attitude with me because then you will live to regret it.

...people with an attitude problem and bad personality will get the book.

**Social Class**
Some commercial fishermen have too much money invested in their rigs to take such a risk. Sometimes they may kill a deer or a heron between seasons. They are generally good people and I don’t bother them.

I always give the honest, working...people the benefit of doubt.

I have caught doctors, attorneys, schoolteachers, and even a president of the wildlife federation. He was hunting doves over bait. I have caught presidents of hunting clubs. So anybody can be a violator of conservation laws. But these people are not a problem and you should not treat them like they are.

**Seriousness of the Offense**
Endangered species is another subject...We have to make sure that any time an endangered species is killed, trapped, or poached someone will have to pay dearly for that loss. Some do it for the sport, others do it as a form of survival...those doing it for survival I give some slack with one exception, if you are trapping endangered species for survival then that is different, you get the book.

Endangered species is something that should not be taken lightly. Everyone frowns upon some- one who screws around with an endangered species. Poachers are treated completely different if they mess around with an endangered species.

Endangered species is a particular soft spot. This is something that is taken very serious by Congress and at the state capitol. You kill an endangered species I feel you should be punished for your entire life.

...if you kill an endangered species the fine can be upwards of $10,000 plus ten years in jail.

Hardly anyone uses discretion when it comes to endangered species being poached.

Endangered species are handled differently, because everyone hates someone who would trap, kill, or poach an endangered species. They definitely have the book thrown at them...

One day we got word of some people trapping some brown pelicans on [a Federal wildlife refuge]. We found five dead brown pelicans...he got what he deserved and more...$8,000 fine for each pelican plus one year jail term for each pelican to be served at Angola state penitentiary, plus no benefit of parole and once he is out 350 hours of community service on the national wetlands property. We still laugh about that one.

Trapping/killing of endangered species is
something that is not taken lightly. We bring in the federal government when an endangered species is the victim of an attack. Their penalties are twice as tough.

Endangered species don't know what discretion is and neither will the agent. This is when we hit you with everything we can possibly find and then some.

Age
I don't really go after old timers who are doing it for survival. We don't need to mess with them they are not really hurting anyone and without this they could not survive.

That old man on the edge of the swamp. We cannot catch him. I have tried several times.

...he is in his seventies. He has this outfit of about seven poachers who do his dirty work for him. We have searched his house ten times when we thought he had some important evidence that he was holding. Now after five years we are finally going to get some help from the Federal government. He is going to go down soon, but the question is when.

Another factor found, but which was not addressed by the literature, was the reason the person was committing the crime.

The Reason People Poach
People poach for a number of reasons; some for drugs,...money,...greedy,...power, and some for survival. Those who do it for survival I handle completely different from those who do it out of greed. Some agents will use no discretion and say a law has been broken, period. That does not apply to all of the agents just a few. I use as much discretion as needed.

Some do it for survival and in that case it is alright, but it is not alright in the case of poachers doing it to get big money...These should be treated like criminals.

Those people who are doing it for the hell of it... we put the boom on them.

Poaching is done for various reasons. Some doing it for the thrill it gives them, while some to it to survive. Survival off of poaching is a hard way to live, but at least you are able to live. They are ok guys. When you do it for survival I cut you a certain amount of slack.

People poach for many different reasons. Some do it for sport. Most do it for money to support their extensive drug habits. Those I go after. And a small portion actually do it as a form of survival or for putting food on the table. Those I let go.

Most poachers do it to be greedy. If it is a form of survival then that is different. But there are not many who do it for survival. A lot of them do it for drug money or money to spend on luxury items.

People poach because they need money, drugs, food, or excitement. Discretion is used when it is for survival. Besides that, I use no discretion.

People poach because of their need for certain items...greed, money, authority, power, drugs and excitement. They normally don't do it as a form of survival.

Mainly poaching is done because the benefits out weigh the risk. This means that poaching is very profitable. That means the penalty has to be stiff.

As with any pattern of interaction, there are personal differences. As indicated in the following interviews, some game wardens apparently use little discretion.

If I catch you poaching you are breaking the law and you are going to pay. That is it. I do not give poachers any slack. Some wardens do...not me.

I don't let people off.

Regulations are there to be followed.

You...have to follow the rules of the book.

We must follow strict guidelines set out for law enforcement agencies.

...poachers are breaking the law...No question about it....they should be punished.

The easiest poacher to catch has to be the time I caught my own dumb brother. We were out fishing up by...when all of a sudden we saw a doe about twenty yards south of us. Without any hesitation my brother whips out his Ruger nine millimeter and kills it right before my eyes. And this is in the middle of the summer. So I had to give a ticket and bring him to jail until he could post bail for himself. He still hates me for doing it to him, but I say he did it to himself.
Another form of discretion which was not discussed is when to use deadly force.

I would not shoot at a fleeing poacher myself, I would try to be clever and surprise them where they can’t get away. I have been with Federal agents who have shot over the heads of violators with fully automatic weapons, I thought they had killed somebody. Talk about scatter a bunch of hunters in a hurry. We usually set up an ambush and holler “halt police” with guns drawn.

A factor which effectively alters the discretionary actions of the game wardens is organizational deviance. The use of political influence to avoid prosecution is well documented (Alpert, Dunham 1992; Sherman 1978; Skolnick 1975).

People with political ties are the fun ones to catch, but it seems they always get off scot free. You pick them up for hunting deer without a license and two days later you will have a piece of paper telling you not to count that particular incident on your monthly report. These type of people will never be caught.

This one guy was hard to catch only because he had help. He poached where his grandfather was sheriff. Everytime one of us would catch him, his grandfather would call in a favor and have him released without paying a fine or anything. This went on for about three years. I bet we picked him up 45 times.

Like ploys encountered in other forms of policing, using political connections is a common obstacle faced by the game warden.

DISCUSSION

Although there is disagreement on some of the above areas of discretion there is one issue on which no variation was found, the protection of endangered species. For all game wardens this was considered the most serious offense, consequently no discretion was used. Even the poacher doing it to survive finds endangered species off limits. Every game warden expressed contempt for these poachers. These findings are similar to most research on the use of discretion among police. The more serious the crime committed the less the discretion used.

Whether the poacher has a prior record of poaching or has a criminal record outside of poaching becomes an important factor in discretion. Once someone is labeled as a “troublemaker” by game wardens they are monitored more and are also more likely to get harsh penalties when caught. This is very supportive of Lemert’s (1951) concept of secondary deviance. Efforts to control sanction the “ex-offender” locks him into a deviant role.

Age did not seem to be a factor in the treatment of poachers. Apparently those who do it to survive are more likely to be older. In some cases “old timers” were handled more harshly than newcomers. Wardens appear to suffer a loss of self-esteem in being outwitted by the poachers for a long period of time, hence when they are caught, wardens get even. All things being equal, age was not a factor in the use of discretion, older poachers were handled the same as younger offenders. Hence any relationship which existed between age and discretion was spurious. Those who fail to show proper respect to game wardens are more likely to be officially handled. These findings were typical of other research on wardens (Palmer, Bryant 1985).

The reason people poach greatly affects whether or not the poacher is arrested, warned or the level of fine given, if any. Those who do it for survival are selectively ignored by many of the wardens. Consequently, they are less likely to be “officially handled” or they may be avoided all together. The notion of a poacher/hunter/provider may explain why certain old timers poach with apparent immunity. Isolated rural settings with low standards of living are more likely to produce this type of behavior. This factor had the greatest margin of disagreement among the wardens. Thirteen of the wardens were lenient in their handling of the poacher/provider, ten of the respondents were less likely to use discretion in such circumstances and eight said they used little if any discretion in their treatment of those poaching to survive.

The social class of the individual is also a factor which affects the discretion of the officer. The higher the social class of the poacher, the less likely they are to be officially processed, and they were also perceived to be involved in less serious offenses. But when the factor that those poaching to survive are very likely to be lower class is considered, the effect of social class is unclear.

According to this data there are several factors which determine the use of discretion among game wardens; seriousness of the
offense, prior record, demeanor of the offender, social class and the reason that poachers are committing the crime. The police or other duly authorized agents of the police are not generally regulated in their daily procedures. The selective enforcement of the law by some of these police has always been a focus of both scholars and the media. Recent events, such as the Rodney King incident, have ensured that this focus will expand.

Whether the reason people commit a crime enters into the selective enforcement of the law by police officers is a question that research has neither answered nor properly engaged. The concept of subculture may be used to explain such patterns. A subculture emerges from a combination of work environment, peer pressure and community attitudes and beliefs. The emergent subculture influences the enforcement or nonenforcement of certain laws. Those who desire the friendship and respect of fellow officers will abide by their norms (Siegel 1986). The selective enforcement of obscenity statutes, blue laws, and laws controlling prostitution, gambling and the use of alcohol are all examples of the effect of such subcultures. Patterns of the use of discretion are more likely to emerge when there is wide disagreement in a community regarding the criminality of an act. Poaching is an example of such behavior.

The intent of this research was to add to the existing body of literature on the use of discretion among police and to create an interest for further research in an overlooked type of police officer, the game warden.

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LIMITATIONS OF MATERIALIST AND STRUCTURALIST APPROACHES TO THE STUDY OF NUTRITIONAL BEHAVIOR

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ABSTRACT

This article reviews some of the works in nutritional anthropology and sociology which use the materialist and structuralist perspectives. It is argued that both theoretical perspectives, while contributing much to our understanding of human food habits, suffer from important limitations. It is, therefore, suggested that a theoretical approach which combines both materialist and structuralist approaches would lead to a synthesis of theory and advance the study of human food habits.

INTRODUCTION

Within the past decade the study of human food habits by nutritional sociologists and anthropologists has been characterized by a theoretical division between structuralist and materialist approaches (Murcott 1988). In her review of sociological and anthropological approaches to the study of nutrition, Murcott (1988) identifies the materialist and structuralist perspectives as the most popularly used in academic research by sociologists and anthropologists (in English) during the 1980s. Structuralist approaches, which have been used primarily by social anthropologists, emphasize the role of culture as a basis for explaining human food habits. Materialist approaches, which place emphasis on economic and political factors, have emerged as largely a critique of structuralist approaches to the study of human food habits. By way of a review of the relevant literature, it is being argued here that while both structuralists and materialists have made important contributions to the study of human food habits both perspectives suffer from an important weakness. That is, each approach emphasizes its own set of variables to the almost exclusion of those of the other perspective. It is suggested here that perhaps a theoretical approach which combines both structuralist and materialist approaches, with equal emphasis, would overcome these limitations and lead to a theoretical synthesis. The works under review here are chosen because they emphasize the major concerns of the materialist-structuralist debate (in English) during the last decade. (There is support for this view in Murcott 1988.) Also, the review is merely a sample of some of the important works in the growing fields of nutritional sociology and nutritional anthropology.

REVIEW OF THE LITERATURE

Structuralism

Structuralism identifies culture as the most
human food habits (Murcott 1988). Central
to this theory is the idea that human beings are unique in their ability to "deal in symbols and confer symbolic significance on objects around us" (Murcott 1988). Eating, the perspective argues, is not only a matter of survival, it is also an expression of the significance of various foods within the social milieu. Certain types of foods are indicative of people's status or wealth or religion. Not all foods, however, carry the same significance for everyone everywhere. For example, while the consumption of beef steak may be indicative of a middle class status among Americans, such a habit may be condemned as unclean by Hindus in India or vegetarians in America. Structuralists, therefore, believe that an understanding of the symbolism associated with food consumption can help us to comprehend the rationale for various eating habits in different cultures.

The two leading exponents of the structural perspective are Douglas (1966, 1972, 1976-77, 1984) and Levi-Strauss (1966, 1970, 1973, 1978). Levi-Strauss is concerned, fundamentally, with food and eating; consequently his focus is on cooking. He is struck by the fact that human beings are the only animals to cook food before consuming it. Levi-Strauss (1966, 1970) sees cooking and languages as two similar human universals. He develops a scheme called the culinary triangle which is comprised of a pair of binary opposition. The opposition indicate ways in which both humans and nature transform food from one state to another. As a consequence he ends up with a binary opposition of transformed/normal or marked/unmarked. Levi-Strauss uses his scheme to account for different methods of food preparation and preservation by developing more complex geometrical forms. Murcott (1988) argues that Levi-Strauss' emphasis on the dual character of human beings reminds us that while animals' food choices are governed by instinct that of humans is bounded. Consequence...