

Exam Notes

Criminology

(All Topics)

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Topic 1 – Notes

The 'Funneling Effect'

1. Crime occurs
 2. Detected by/reported to police
 3. Offender(s) identified
 4. Arrested charged
 5. Court
- At each stage of the criminal process the number of cases involved in the CJS becomes smaller and smaller
 - This is a result of a number of discretionary decisions on the part of the police, the prosecutors and the courts

Key Concepts

Justice

- What is justice? Who defines what is just?
- Can we achieve justice for all parties involved?

Rule of Law

The law should be:

- Transparent, reliable, consistent
- Consistently and fairly applied
- Appropriately scrutinized
- Independent from government

Due Process

- Rights of those who are brought before the law
- The checks and balances of the CJS
- Justice is fair and accessible for all regardless of race, religion, general age and financial means
- At all levels of the CJS, due process must be upheld

The Right to Silence

- Relevant to the investigative, pre-trial and trial stage of the CJS Balances the rights of the accused and the interests of the police
- The police cannot compel a suspect to answer questions
- In most jurisdictions, no negative inference may be drawn if a suspect exercises the right to silence
- But NSW recently amended their evidence act to ensure that police caution people that exercising this right may be taken into account in court

A suspect may remain silent because of:

- Knowing their rights
- Fear of consequences (such as their words being distorted or used against them)
- Mistrust of the police
- The desire to protect family or friends
- Fear of reprisal from other possible offenders
- The desire to hide legal but embarrassing behaviour

Other Rights

Onus of Proof

- Presumption of innocence until proven guilty
- Limited defence disclosure
- Full prosecutorial disclosure

Access to Legal Representation

- Quality of legal representation can impact significantly on outcomes
- Adversarial system: contest between two sides, one winner

Others: Trial by Jury; Avenues for Appeal.

Discretion

Police

- Decision by victim to report offence or not
- Decision by police to investigate or not, to arrest or not, to give a charge or warning, to use force or not

Courts

- OPP decides whether to run a case, which charges to bring
- Defendant decides whether to plead guilty or not guilty
- Defendant decides whether to give evidence at trial or not
- Judges decide what sentence to impose

Corrections

- Risk assessments
- Classification of prisoner (maximum or minimum security)
- Decision to release on parole
- Decision to 'breach' an offender on a community order

Accountability

Police

- Often unaccountable as much police work is unobserved
- Internal oversight (Professional Standards Command)
- External oversight (Independent Broad-based Anti-corruption)
- Commission
- Media

Courts

- Accountability achieved through appeal
- Public and open justice (open courtrooms)
- But decisions of juries cannot be scrutinized

Corrections

- Challenging to achieve accountability within the closed walls of a prison
- Privatization of prisons = problematic for public accountability
- Mainly carried out by the Office of Correctional Services Review (OCSR)

Topic 2 – Notes

Police and Law Enforcement

- 'Police' refers to a particular institution, while 'policing' implies a set of processes with specific social functions (Reiner 2000:1)
- But policing and law enforcement can be carried out by a wide variety of other agencies:

National

- Australian Federal Police (AFP)
- Australian Crime Commission (ACC) (national criminal investigation of serious and organized crime)
- The Department of Immigration and Border Protection (immigration and border protection recently merged)

Local

- Council rangers enforce council by-laws around litter, animals (fishing, dog registration), parking etc

History of Police in Australia

- UK (1829) Home Secretary Sir Robert Peel introduced the London Metropolitan Police ('peelers', 'bobbies')
- Australia: Not just policy transfer from UK. Policing initially performed by a range of groups including the military, convict night-watchmen, indigenous 'native police'
- Many ex Irish and some British police migrated to perform the task
- Early problems with misbehavior
- Control was quite localized up until centralization of power over police
- Sydney Police Act 1833 (first professional city force)
- Other states followed in succession

Snapshot of Police in Australia

- State based policing services cost approximately \$10.2 billion (or \$437 per person) in 2013-14
- State based police employed about 63,000 operational (or sworn) and over 6,000 unsworn staff in 2013-14
- Nationally, on average, there were 270 operational police staff per 100,000 people 2013-14 (NT 721 per 100,000)
- Nationally, 32.2% of all police staff were female in 2013-14 (in Victoria, 24.7% of sworn officers female 2012-13)
- Policing is not always proportionally reflective of cultural diversity; many from Anglo-Australian or English-speaking backgrounds
- Traditionally dominated by white, Anglo-Saxon, heterosexual males (WASHMs)

What do Police do?

- TV often displays police as 'crime fighters' and 'high action'
- Detection & criminal investigated (often undertaken by Detectives)

But operational police work is varied (and sometimes even mundane):

- Patrol
- Road safety (including alcohol and drug buses)
- Community engagement
- Paperwork
- Maintain public order
- Respond to critical incidents

How well do Police carry out their job?

Clearance rates demonstrated the number of cases that are 'solved' annually:

- Offender(s) processed
- No offence found to have occurred
- Complaint withdrawn
- Perpetrator known but not charged (deceased or under-age)

What works in policing?

- Research on increased numbers is inconclusive
- Drive-by random patrolling does not work, but targeting hot-spots can
- Community contact, contact with young (no evidence/ineffective)
- Can police prevent crime (certainly not) (just certain types of crime some of the time)

Force or Service?

- Police have permission to use reasonable, proportionate levels of force but also provide a wide range of services
- Where does the balance lie?

Police Culture

Definition: Informal occupational norms and values, accepted practices, rules and principles of behaviour.

- Sense of "mission"
- Action-orientation
- Siege mentality
- Isolated social life
- Solidarity

Note: Linked to racism; brutality; poor treatment of young people, women and minorities; corruption.

Key Theme: Accountability

Culture and policing and the code of solidarity:

- Demands for loyalty
- Minimal criticism of other police
- Limited scrutiny of police actions and lack of policing the police (although changing with rise of portable technology)
- Ostracism of those who breach code (i.e. whilst-blowers)

Police members more frequently exposed to criminal opportunities:

- Drug dealing
- Misuse of information
- Abuse of force

Responsibilities/Controls

- Internal taskforces and reviews
- Professional Standards Command
- Lower tolerance for misbehavior (education/deterrence)
- Some external and independent accountability through Royal Commissions and in Victoria the independent Broad-based Anti-corruption Commission (IBAC)
- Coronial oversight

Key Theme: Discretion

Definition: Freedom to choose amongst alternatives. Decisions to investigate or not, to arrest or not, to give a charge or warning, to use force or not.

- Racial Profiling: Africans in Flemington/North Melbourne area 2.5 times more likely to be stopped by police despite lower crime rate
- In response 'receipting' currently being trialled
- Excessive force is hard to define but generally refers to the extent that the force was excessive to the required operational needs

Examples:

- Body cameras
- Scrutiny of reporting
- Close monitoring of trends
- Reporting encouraged
- Training focused on mental health response and conflict resolution rather than solely on weapons use