AFTER THE ARREST: THE CHARGING DECISION IN PRAIRIE CITY

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AUTHOR'S NOTE: *I wish to thank the following people for their helpful critiques of an earlier version of this paper. In particular, Stuart Nagel, David Bordua, Stephen Douglas, and Fred Coombs of the University of Illinois and Thomas Henderson of Georgia State University heard out my ideas and made helpful suggestions. I also wish to acknowledge financial assistance from the Department of Political Science at the University of Illinois, which helped to defray the costs of the field research, and the computing centers of the University of Illinois and the University of Florida for providing computer funds. Finally, I gratefully acknowledge the research support of the Social Sciences Institute of the University of Florida.*

The police have taken a suspect into custody and booked him. After the arrest, what next? At first glance, this rather simple question seems to imply an equally simple answer — the arrestee will be formally charged with a crime. Inattention to post-arrest proceedings has reinforced the assumption that judicial proceedings follow an arrest. But being booked in the police station is not the same as being charged in court. Despite the swelling of interest in the police and their use of the arrest power, there has been relatively little interest in or concern with what happens to the suspect after the arrest.

The decision to charge a suspect is interesting from several perspectives. The filing of criminal charges is an exercise of state power. To borrow a phrase from Klonoski and Mendelsohn (1970: 3), it is an "allocation of justice." It is important, therefore, to know who can invoke this state power and under what conditions it is exercised. The charging decision is also important because it raises basic problems of protecting a suspect's rights. A suspect charged with a crime faces a number of liabilities. Unless he can post bail, for instance, he will be held in jail. In March 1970, 56,000 persons were in jail awaiting trial (U.S., L.E.A.A., 1971: 10). A suspect may also have to raise money to hire a lawyer. Intangible penalties may also arise. Damage to the reputation of a person accused of even a minor crime or harm to the social standing of a person charged with an emotion laden offense (sexual misconduct, for example) are not likely to be undone by an acquittal.

Finally, the filing of charges deserves attention because it is an important stage in the criminal justice process. In the

charging decision, the police come into contact with the criminal court for the first time in the history of the case. These contacts are often tense because judges and prosecutors view the criminal law differently from the police (Milner, 1971: 88). The conflicting perspectives on the criminal law are suggested in Table 1. Of those arrested in January 1970 in Prairie City, the prosecutor filed charges that differed from the justification for arrest one-third of the time. Thus whether we view the charging decision from the vantage point of jurisprudence, approach it through the eyes of the defendant, or assess it as a decision-making stage in the criminal justice system, the charging decision is an important aspect of the administration of criminal justice.

This article examines the participants in the charging decision in Prairie City, the standards used in evaluating cases for possible prosecution, and the impact of these arrangements. The first section describes significant features of the charging process in Prairie City, especially the absence of police, victim and judicial participation. The second section treats Prairie City as a deviant case and advances a set of sufficient political conditions associated with prosecutorial dominance of the charging process. The third section examines the standards used by prosecutors in evaluating cases; in particular, the standard of the prosecutable case, informal office policies, and the relative absence of discretion are discussed. The fourth section explores the policy impact of the charging decision. It assesses the types of cases that are prosecuted (and not prosecuted) as well as the affects of pre-charge screening of cases on subsequent stages of the criminal justice process. The conclusion considers the implications of the findings for future research.

The Research and the Research Site

Prairie City is a medium-sized Illinois community, with a population between 100,000 and 150,000 (U.S. Bureau of the Census, 1971), having a police force of about 100. Although most arrests take place in the city, they are prosecuted in county courts. ("Prairie City," is used collectively, referring to both the city and the county.) The community has a diversified economy based on both retail sales and manufacturing. Compared to cities of similar size, Prairie City has a medium level of crime reported to the police (F.B.I., 1971). It has the full range of street crimes (burglary, theft, battery, armed robbery, etc.), but it has few vice crimes or vice arrests. This is a significant difference in comparing Prairie City to cities studied in earlier research (Skolnick, 1965; Cole, 1970; Miller, 1969). These studies

have drawn heavily on vice offenses for their examples and analysis. Vice crimes, however, entail special problems which are absent in Prairie City.[1]

The charging decision was studied as part of a larger investigation of the criminal justice process in Prairie City (Neubauer, 1974). Three types of data provide the foundation for the analysis. Structured and unstructured interviews were conducted with the prosecutors, defense attorneys, judges and detectives. In addition, six months were spent observing the process. The field research was supplemented with statistical data gathered from court records and the prosecutor's working files. All police arrests for January, 1970 were recorded. The court records were then examined to see what, if any, charges were filed by the prosecutor.

Control of the Charging Decision

Four actors, potentially, have a voice in the charging decision: police, prosecutor, complainant and judge. Because state statutes do not specify which is responsible for filing criminal charges, communities have informally developed varying practices. These practices are of interest, for variations in patterns of influence in the charging decision affects the results of the criminal process. If the police control, they are likely to employ different standards than a prosecutor or a judge. If, on the other hand, the complainant is allowed a major role, it is possible that the criminal courts may be used as a forum for personal vendettas or family fights. Viewed from this perspective, to ask who controls the charging decision is to ask who is the "gatekeeper" (Goldman and Jahnige, 1971: 114) of the criminal courts, that is, who regulates inputs into the courts.

In Prairie City the prosecutor dominates the filing of criminal charges. His dominance is reflected in the administrative procedures used in the office for processing requests for criminal charges. Every weekday morning the State's Attorney's Office (six lawyers and one investigator) receives a list of those arrested the previous day.[2] An assistant prosecutor then reviews the police arrest report and decides what, if any, charges will be filed. This examination is an independent one; other actors are not allowed to influence the decision. The prosecutor's office isolates itself from contact with the victim, whose wishes are not considered relevant. The prosecutor does not solicit the police opinion of the case; the State's Attorney limits the police role solely to providing a report of the incident. The judge is not a participant in the process; he defers to the decisions made by

the prosecutors. A comparison of the role of the complainant, the police and the judge in Prairie City with their roles in other communities highlights important features of the prosecutorial dominance of the charging decision.

Complainant. The degree to which complainants can influence the filing of criminal charges varies among communities. In some (particularly those with Justice of the Peace Courts) the citizen can file charges directly. He must only convince a JP or magistrate that an arrest warrant should be issued. Such direct access to JP's, magistrates or prosecutors means that the complainant has some influence in the charging decision. Increasingly, however, citizen requests for prosecution are mediated by officials. The citizen must state his case to the prosecutor, who decides if an arrest warrant should be issued. In St. Louis City, for example, the decision to file charges is made during a conference including the victim, the arresting officer and the prosecutor.

In Prairie City, by contrast, the prosecutor has adopted procedures which insulate the office from contacts with the complainant. A victim is not allowed to file charges in court directly, nor is he usually permitted to talk to the prosecutor. Instead, the victim must first contact the police; the prosecutor will consider the case only if the police make an arrest. The Prairie City prosecutor's insulation from the complainant reflects his belief that the wishes and desires of the victim are not relevant to the charging decision. An information will be filed if the case is strong enough to warrant prosecution, not because the victim demands it.

A victim's requests are honored only when the victim declines prosecution. Because the cooperation and testimony of the victim are normally essential for conviction (LaFave, 1965: 122), the Prairie City prosecutor will not file charges without cooperation.

Police. In most communities the police are the most important actors in deciding who is to be charged with a crime. In some places the police actually file the charges. In Chicago, for example, the police prepare the charges; the prosecutor learns about the case only at the preliminary hearing (McIntyre, 1968: 470). Similarly, in Milwaukee, "[i]n many cases the prosecutor agrees with the police assessment, but in others they simply defer to it" (Miller, 1969: 338). In these communities the police file criminal charges with minimal supervision by the prosecutor. In others, the prosecutor retains the formal authority to file

charges, but the police influence the prosecutor's decision. Studies of Oakland, (Skolnick, 1966: 199-202), Seattle (Cole, 1970: 334-37), and of Assistant United States Attorneys (Eisenstein, 1968: 8-9) indicate that the police and prosecutor jointly discuss cases before charges are filed. The influence of the police in such an interchange is highlighted by Skolnick's (1966: 199-200) finding that police pressure resulted in suspects being charged on the basis of weak evidence or being initially overcharged. The police can influence the prosecutor because, as one former prosecutor phrased it, "it is hard to say no to a cop."

The police in Prairie City, however, do not discuss cases with the prosecutors. Indeed, the prosecutor believes the police should not have a voice in the decision. A phrase often heard in the office was "the police book and we charge." This view limits the police to providing reports on the event. The police officer's assessment of the case or his evaluation of the suspect is not only not solicited but would be rejected if it were offered. The police and prosecutor are viewed as distinct organizations: the duty of the police is to investigate and arrest; the task of the prosecutor is to evaluate the case. The distinction in the tasks and duties of the two organizations is reinforced by physical separation. The lack of personal contact between police and prosecutor means that the police cannot influence the prosecutor beyond the reporting of the facts in the police report. It also means that the arresting officer is not told why charges were not filed.

Judges. Although in a majority of cities the police, the prosecutor or both are responsible for the review of cases, in a few the judge performs this function. In Chicago and Brooklyn, the preliminary hearing is used to screen cases (McIntyre and Lippman, 1970: 1156-57). Because the prosecutor has not reviewed the cases, the judge must separate the strong cases from the weak ones during the preliminary hearing. In Chicago, this judicial dominance of the charging decision results in over half of the felony cases being dismissed or reduced to misdemeanors (McIntyre, 1968: 475). In Prairie City, judges do not perform such a winnowing function. Because the prosecutor has already reviewed the cases, the arraigning magistrate defers to his decision. As an arraigning magistrate phrased it, "the prosecutor should be the one to decide which cases he wishes to prosecute."

Prosecutorial Dominance

While in other communities the complainant, the police, the judge or some combination of them often have a major voice

in the charging decision, in Prairie City the prosecutor dominates. Studies of Wisconsin (Milner, 1971) Los Angeles, Detroit and Houston (McIntyre and Lippman, 1970: 1156-57) report such a pattern. This section explores why Prairie City deviates from the modal pattern.[3] An examination of Prairie City suggests "sufficient political conditions" for prosecutors to control the filing of charges. In Prairie City the State's Attorney's dominance of the charging decision is directly tied to his role orientation. We can summarize the major dimensions of the Prairie City prosecutor's role orientation and, at the same time, show how it relates to the charging decision by concentrating on three elements: the prosecutor's view of the public; his relationship with the police; and his view of the major goals of the office.[4]

Views of the Public. In Illinois, as in many states, the prosecutor is an elected official. As an elected official he is subject to demands from the public which may conflict with professional considerations (Richardson and Vines, 1970: 8-10). Given such conflicting pressures, some prosecutors emphasize their elected position, choosing to reflect their perceptions of community opinion (LaFave, 1965: 515). Others, however, emphasize the professional components of their role. The Prairie City prosecutor is one of the latter. He places little stress on the elective nature of his office, nor does he seek to reflect community opinion. He believes that the public is too uninformed to guide the work of the office. This Burkean view rejects as irrelevant uninformed public demands upon the official. It proceeds instead upon the assumption that the office holder's beliefs are the best guides to action.[5] In terms of the charging decision this philosophy means that the Prairie City prosecutor sees input from the victim as irrelevant. Only a professional — a lawyer — can evaluate the merits of a case. This negative perception of the significance of public opinion, in addition to an emphasis upon professional standards, account for the Prairie City prosecutor's rejection of citizen demands for prosecution.

Relationships with the Police. Although police and prosecutor are popularly perceived as having identical interests in fighting crime, a closer examination shows that there is often tension between them (Reiss and Bordua, 1967). Not all prosecutors are equally deferential to the police. While some work closely with the police (LaFave, 1965: 515), others maintain an arms-length relationship, acting in a quasi-magisterial role (Skolnick, 1966: 199). The Prairie City prosecutor maintains a

great distance from the police department. For example, the office makes no attempt to discuss mutual problems with police officials and infrequently provides legal advice to the department. This general stance vis-á-vis the police department is directly reflected in the charging process. The rejection of police input into the charging decision and the denial that the police have a legitimate stake in the process arise from the same factor accounting for the absence of citizen input—professional standards. The prosecutor believes that the only relevant factors in evaluating a case are its legal dimensions and only lawyers have the training to determine these.

The charging decision involves an inherent tension between the police and prosecutor. As Milner (1971: 88) writes, there is often "a conflict between the 'police perspective's' emphasis on prosecuting all those arrested and the 'legal perspective's' emphasis on the necessity for building a good case. . . ." Prosecutors who screen cases will necessarily refuse to prosecute some arrests, a decision the police are not likely to favor. We may hypothesize that prosecutors who do not value working closely with the police (Prairie City, for example) are more likely to control the filing of charges.[6] On the other hand, allowing the police to decide what arrests should be prosecuted minimizes conflict with the police.

Goals of the Office. The goals of the Prairie City prosecutor's office are a third factor accounting for prosecutorial dominance in the charging decision. James Eisenstein (1968: 8-9) has suggested that prosecutors view their principle responsibilities in either of two ways: as a "law enforcement official" who stresses the protection of society from crime; or as an "officer of the court" who emphasizes seeing that justice is done (compare Packer, 1968: Ch. 8). The Prairie City prosecutor combines elements of both the "law enforcement official" and the "officer of the court." The major goal of his office is securing felony convictions, an objective which falls somewhere between Eisenstein's ideal types. Emphasis on the number of convictions is not equivalent to "fighting crime" as we would expect of the "law enforcement" prosecutor, nor does it stress due process as we would expect of the "officer of the court."

The goal of securing felony convictions has an important corollary in Prairie City: efficient processing of cases. This is most graphically seen in the charging process. The office believes that reviewing arrests prior to filing charges is the most efficient way to operate the office. Review eleminates

weak cases, allowing the office to devote more time to prosecuting the strong ones. We may hypothesize that prosecutors who stress the procedural aspects of the office (efficient processing of the work load) are more likely to dominate the charging decision.

Standards: The Prosecutable Case

Having identified the prosecutor as the dominant official in the charging decision, we now inquire into the standards employed in making that decision. The basic criterion is the legal strength of the case. George Cole's (1970: 334) study of Seattle treated this "question of evidence" as one of several factors involved in the prosecutor's charging decision; in Prairie City, it is the dominant factor.

When presented with a case, the prosecutor asks: "Is this case prosecutable?" One assistant commented, "When I examine the police report I have to feel that I could go to trial with the case tomorrow. All the elements of prosecution must be present before I file charges." A prosecutable case differs from one that satisfies probable cause. For example, at the preliminary hearing the judge determines whether there is probable cause, that is, that a crime has been committed and there are grounds to believe that the suspect, more probably than not, committed the offense. From the prosecutor's perspective, however, probable cause is too gross a yardstick; even though it is present, a case may still be legally weak. Thus, a prosecutable case is not one merely satisfying probable cause — a standard required of police in making an arrest and used by the judge in the administration of the preliminary hearing. Rather, it is a case which meets the standards of proof necessary to convict. The State's Attorney's Office in Prairie City sees no advantage in filing charges in a weak case which will survive a preliminary hearing but fail at trial.

An emphasis upon conviction rates produces an important change in the nature of the case. In a similar observation, Skolnick (1966: 182) distinguishes between factual and legal guilt. Those prosecutors who emphasize "factual guilt" focus on the suspect's actions — did he do it? In contrast, those who decide upon the basis of "legal guilt" look at what can be proved about the suspect's activities.[7]

To what extent do prosecutors assess the prosecutable case? Obviously they employ varying standards in judging the desirability of prosecution. A former State's Attorney from another county commented: "[I]f a prosecutor is not objective, he devel-

ops what I call a 'police complex' — that is, he ignores the legal aspects of what makes a case." In terms of Skolnick's distinction between factual and legal guilt, the prosecutor comes to use the former as a standard. This observation finds support in a study of deputy prosecutors in Los Angeles. Of those interviewed, twenty percent felt prosecutors should file charges even if the case "will probably not get past the preliminary hearing stage." Thirty percent stated charges should be filed if the case would survive the preliminary hearing but probably lose at trial. Only one-half agreed with the Prairie City practice of filing charges only "if the case will probably win at trial" (Southern California Law Review, 1969: 526). Obviously prosecutors employ varying standards in judging the desirability of prosecution. The consequences of these varying standards require greater study.

Discretion. When the Prairie City State's Attorney's Office examines a police report, it asks itself whether the case is prosecutable. The actual decision process, however, is not as simple as this observation might imply. For example, more intensive investigation might show that a case which originally looked strong, was really quite weak. But, as the State's Attorneys in the study city acknowledged, discretion has a most important effect.[8]

Let us use the concept of *discretion* only to describe situations: (1) in which an official is free to select his own grounds for a decision from among several permissible standards; or (2) in which there are no standards to guide a decision-maker. *Judgments* on law and evidence (*e.g.*, the prosecutable case standard in Prairie City) are based on fairly clear (if sometimes imprecise) guidelines — statutory and judicial standards. It may be difficult in practice to distinguish between judgments and discretion, but, despite measurement problems, it is helpful and necessary to maintain a conceptual distinction.

The working environment of the prosecutor's office supports maintaining a distinction between judgment and discretion. As the Prairie City prosecutors put it, discretion operates in gray areas where the law fails to provide guidelines or where guidelines are ambiguous. The major use of discretion is in deciding whether a suspect should be charged with a misdemeanor or a felony. As one assistant somewhat overstated, "we could charge as many felonies as misdemeanors if we wanted to." Normally, the decision to file a misdemeanor or a felony is no problem because the applicable law is fairly explicit. Armed robbery, murder, and burglary leave little room for discretion — mainly

judgments are involved. In some areas, however, the law's guidance falters and the prosecutor must decide on a basis other than the formal standards of law and evidence.

While vice offense charges typically involve a high degree of discretion, there are so few reported cases in Prairie City that they are an inappropriate vehicle for discussing discretion. Aggravated battery is the crime that invokes the most prosecutorial discretion in Prairie City. Battery involves bodily harm to the victim. Illinois law (ILL. REV. STAT. ch. 38, §§ 12-3, 12-4 [1969]) provides for two categories of battery: simple battery (a misdemeanor) and aggravated battery (a felony). An offense becomes aggravated battery if it meets one of the following criteria: a deadly weapon is used, a police officer is injured (no matter how slight his injury), or "great bodily harm" results. "Bodily harm," however, is a most ambiguous standard. At either extreme of injury — a victim with a bruise or a victim near death — prosecutors have little difficulty in charging. In the former, the suspect would be charged with simple battery; in the latter, with aggravated battery. Some cases, however, require the prosecutor to make a discretionary decision.

Prosecutors mention two factors which most often influence the exercise of discretion: the characteristics of the defendant and the circumstances of the event. One assistant stated that he tends to charge a misdemeanor if the defendant is down-and-out, somewhat stupid or a first-time offender. The circumstances of the act also play a part. One prosecutor pointed to a recent battery case stemming from a barroom brawl in which the evidence could have established a felony. The office chose, instead, to file a misdemeanor because the victim had provoked the attack. Another example of charging in which the prosecutor particularly examines the circumstances of the act is alleged attacks on police officers. While it is a felony to "cause bodily harm" to a police officer (ILL. REV. STAT. ch. 38, § 12-4 [1969]), the State's Attorney does not invariably invoke this provision: instead, he attempts to determine the facts. Did the defendant take a good swing at the cop, or did he simply struggle a little? Was he too drunk to know what he was doing? As one assistant stated, "[T]he police want an aggravated battery charge every time a drunk lurches at them." But the more dispassionate prosecutor tends to examine the events from a broader perspective.

It is important to note that some cases require prosecutors to make both judgments on the legal strength of the case and

discretionary decisions on enforcement. For instance, in the barroom brawl illustration, a second factor was involved in the non-enforcement decision — barroom brawls are hard to sell to juries. It is felt that middle class juries, believing both parties are culpable, have little sympathy for victims of drunken fights and tend to acquit. In this case, the assistant prosecutor exercised discretion in examining the victim's activity, as well as making a judgment that the case was weak.

In this discussion of the exercise of discretion in the charging decision in Prairie City, we have employed a more limited definition of discretion than have past studies. We have particularly suggested that, in part, what has been termed "discretion" is better viewed as judgment on evidence. In this limited sense, prosecutors in Prairie City exercise relatively little discretion. This proposition is corroborated by defense attorneys who believe that State's Attorneys fail to exercise discretion when they might.

Effects of Prosecutorial Screening

We have isolated three key characteristics of the charging process in Prairie City: first, the prosecutor dominates; second, the State's Attorney's Office evaluates cases primarily on the basis of whether or not the evidence is sufficient to give the prosecutors a good chance of winning at trial; third, relatively little discretion is involved (although discretion is important in cases like aggravated battery). This section examines the effects of these characteristics.

Studies have shown that the charging decision has major effects on the criminal justice process. Miller (1969) found that cases were not filed; Cole (1970: 333) reported felony arrests reduced to misdemeanor charges, and Skolnick (1965: 200) found that prosecutors tend to overcharge — caused to some extent by police pressure — which results in charge reductions at later stages. Based on interview and observation data, these studies yield valuable information; yet, they are largely impressionistic. Without a sampling of cases, we have no way to test the validity of the insights offered or to judge the representativeness of the examples presented. To provide a sample, this study analyzed all non-traffic arrests of adults in Prairie City for January 1970.

Table 1 shows the impact of prosecutorial screening of cases in Prairie City. In roughly two-thirds of the arrests, the prosecutor agreed with the police report of the offense, filing the

TABLE 1: COMPARISON OF POLICE ARRESTS TO CHARGES FILED, JANUARY 1970

	Misdemeanors	Felonies	Total
Prosecutor filed same charge as police booked	76 (62%)	20 (66%)	95 (63%)
Prosecutor filed less serious charge	12 (10%)	7 (24%)	19 (13%)
Prosecutor filed more serious charge	5 (4%)	0	5 (3 %)
No charges filed	29 (24%)	3 (10%)	32 (21%)
Total Arrests For Month	122 100%	30 100%	151 100%

same charge as that under which the suspect was booked. In 13 percent of the cases, however, the prosecutor filed a less serious charge. This pattern was particularly pronounced in felony cases. Of the 29 felony arrests during the month, the prosecutor filed misdemeanor charges in seven cases, or almost one-fourth (Table 4). Examples include police arrest for grand larceny (theft of over $150) for which the prosecutor charged only petty larceny, a misdemeanor. Another example was aggravated battery, which was discussed above. The data in Table 1 show that the prosecutor had a third option — not filing any charges. In 20 percent of the arrests, no charges were filed, but this was most common in misdemeanor arrests. The prosecutor in five instances filed a more serious charge than the police envisioned. These modifications, however, are neither random nor uniform. They are directly related to (1) the particular police department (county or city) making the arrest and (2) the nature of the case.

Contrast Between the Police and Sheriff. Tables 2 and 3 show the prosecutor's disposition of misdemeanor arrests by the sheriff's department and the city police. A comparison of these tables indicates that the charging decision dramatically altered arrests by the sheriff, but had less of an impact on city police arrests. Prosecutors *agreed* with 75 percent of the decisions of the city police; they *disagreed* 75 percent of the time with the sheriff's arrest designation.

In general, the State's Attorney's Office sees the county sheriff's office as neither efficient nor thorough in investigations. It also considers the sheriff's deputies to be inordinately interested in teenagers. Perhaps because of a generally lesser workload, the deputies seem to pay particular attention to teenagers' choices of beverages and their sexual activities. As the prosecutors portray it, such investigations of suspicious activities rarely reveal significant wrongdoing. The prosecutors' perceptions of the sheriff's department are reflected in the data.

TABLE 2: COMPARISON OF MISDEMEANOR ARRESTS TO CHARGES FILED: SHERIFF'S DEPARTMENT, JANUARY 1970

Reason for Arrest	Same Charges Filed	Reduced Charges Filed	No Charges Filed	Total
Order Maintenance				
Disorderly conduct	2	0	0	
	2 (100%)	0	0	2
Property Crimes				
Criminal trespass to a vehicle	1	0	0	
	1	0	0	1
Youth Related				
Contributing to the delinquency of a minor	0	1	2	
Illegal possession of alcohol	3	0	7	
Investigation	0	0	7	
	3	1	16	20
Grand Total	6 (26%)	1 (4%)	16 (70%)	23

TABLE 3: COMPARISON OF MISDEMEANOR ARRESTS TO CHARGES FILED: CITY POLICE DEPARTMENT, JANUARY 1970

Reason for Arrest	Same Charges Filed	Reduced Charges Filed	No Charges Filed	Total
Order Maintenance				
Disorderly conduct	22	0	4	
Criminal damage to property	1	3	0	
Public indecency	1	0	0	
Reckless conduct	0	1	0	
	24 (75%)	4 (12%)	4 (12%)	32
Crime Against Persons				
Battery	12*	3	2	
Resisting arrest or obstructing justice	2	1	1	
Weapons offense	3	1	1	
	17 (65%)	5 (19%)	4 (16%)	26
Property Crimes				
Larceny	16	0	1	
Deceptive practices (bad checks)	3	0	0	
	19 (95%)	0	1 (5%)	20
Youth Related				
Illegal possession of liquor	3	0	3	
Curfew violation	5	0	0	
Contributing to the delinquency of a minor	6	0	0	
	14 (82%)	0	3 (18%)	17
Miscellaneous				
Illegal possession of a drug	1	0	0	
Aiding a fugitive	0	2	1	
	1 (25%)	2 (50%)	1 (25%)	4
Grand Total	75 (75%)	11 (11%)	13 (13%)	99

*Includes the five arrests from Table 1 where the prosecutor filed more serious charges than the police reason for the arrest.

Ninety-one percent of the sheriff's arrests are tied to teenage activity. These "crimes" are dismissed or reduced in 85 percent of the cases.[9] By comparison, Table 3 records the city police department arrests for youth-related activities. The prosecutor *agrees* with the police judgment in roughly 80 percent of the bookings. The prosecutors' bias, then, must be considered only a partial explanation for variations in the exercise of the charging power.

In addition to bias, there are differences between sheriff and police in the internal processing of cases that explain why the prosecutor rejects most of the sheriff's requests for criminal charges. The sheriff's department routinely forwards the results of its investigations to the prosecutor. Because it does not internally evaluate the reports, legally weak cases are often forwarded to the prosecutor's office. On several occasions, a sheriff's department report even included a request that the prosecutor decide if an arrest should be made. In one case, a deputy arrested eight teenagers after a complaint of a noisy party. The lengthy sheriff's report (three single-spaced pages) failed to include any evidence that a crime had been committed. The prosecutor did not file charges.

By contrast, the city police department independently reviews cases.[10] Not all police investigations are routinely forwarded to the prosecutor. After talking with the victim and the suspect, the police determine that some complaints are unfounded, that the suspect had no connection, or that the case could not be proved. The police claim (and the author's observation tends to confirm) that they weed out the obviously weak cases. They do refer borderline cases to the prosecutor for his evaluation, but the obviously weak ones are eliminated. Confirming this observation, the prosecutors report that, when their office first assumed the task of filing charges, some police reports were very weak. Some were merely poorly written, but others failed to provide even minimal evidence to support a charge. Since then, the quality of police reports has improved greatly. Rarely will the prosecutors receive one that lacks minimal justification for further action.

The Nature of the Case. The nature of the case also affects the outcome of the charging decision. Table 3 shows that city police arrests for property crimes are seldom altered by the prosecutor. Of 20 arrests for petty theft or bad checks, only one was not followed by the same charge. The exception was an unusual shoplifting case. The store manager requested that no