

A Comparative Perspective on the Code of Silence and the Related Factors

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Talk Overview

- **Introduction**
- **The code of silence**
- **Factors related to the code**
- **The code and disciplinary fairness**
- **Methodology**
 - ◆ **Questionnaire**
 - ◆ **Respondents**
- **Results**
 - ◆ **The extent of the code**
 - ◆ **Factors related to the code of silence**
- **Conclusion**



Source: https://www.huffpost.com/entry/its-time-for-cops-to-brea_b_12173778

Introduction

■ Rodney King incident (1991):

- ◆ 56 baton blows by the LAPD police officers
- ◆ Federal criminal case: 2 police officers found guilty
- ◆ Federal civil case: \$3.8 million in damages
- ◆ 23 police officers at the scene from 2 different police agencies → Nobody reported the incident



Source:
https://en.wikipedia.org/wiki/Rodney_King

Introduction Cont.

■ George Floyd's death (2020):

- ◆ Derek Chauvin knelt on Floyd's neck for 9 minutes while Floyd was handcuffed calling out "I can't breathe"
- ◆ Chauvin convicted of murder and manslaughter in 2021
- ◆ Minneapolis Police Chief Arradondo, Inspector Blackwell, and Sgt. Pleoger testified, condemning Chauvin's conduct



Source:

<https://www.newyorker.com/news/our-columnists/after-the-killing-of-george-floyd-fury-at-america-and-its-values-spreads-globally>

Introduction Cont.

■ King's case vs. Floyd's case:

- ◆ Both cases examples of the use of excessive force
- ◆ The code of silence was strong in King's case, but was pierced in the Chauvin's case:

"It is unprecedented," Baltimore City State's Attorney Marilyn Mosby said. "You have police officers. You have training officers. You have the police chief who is willing to testify in direct opposition to Chauvin's extensive use of force. That does not happen every day" (Sanchez et al., 2021)

Source: <https://www.cnn.com/2021/04/10/us/derek-chauvin-george-floyd-trial-testimony/index.html>

Introduction Cont.

■ This presentation:

- ◆ Explores the contours of the code of silence with respect to the use of excessive force
- ◆ Examines the factors associated with the code of silence
- ◆ Tests the relationship between the code of silence and disciplinary fairness



Source: <https://www.forbes.com/sites/juliawuench/2021/08/02/give-your-female-colleagues-credit-for-their-ideas/?sh=4d1dcdc4ef05>

Code of Silence

■ Code of silence/blue curtain/blue wall of silence:

- ◆ **Informal prohibition of reporting misconduct of fellow police officers**

The code is described as "a non-written rule that you do not roll over, tell on your partner" (A police officer testifying before the Christopher Commission, 1991)

"Cops don't tell on cops" (Bernard Cawley testifying before the Mollen Commission, 1994)

- ◆ **Part of occupational culture of policing (e.g., Klockars et al., 2000)**

Code of Silence Cont.

■ Reports about the extent of the code of silence:

- ◆ Mollen Commission (1994) on the NYPD: “the pervasiveness of the code of silence is itself alarming”
- ◆ Chicago Mayor’s Police Accountability Task Force (2016): the code “is institutionalized and reinforced by the CPD rules and policies”

■ Empirical studies about the extent of the code of silence:

- ◆ Weisburd and Greenspan’s study (2000): about 2/3 of police officers in the study said that police officers do not always report even serious instances of police misconduct
- ◆ Trautman (2000): 8 out of 10 recruits agreed that the code is fairly common across the nation

Code of Silence Cont.

■ Consequences of the code of silence:

- ◆ **Punch (1985, Amsterdam, London, New York):** allows police misconduct to exist
- ◆ **Chin and Wells (1998, Australia):** prohibits testifying truthfully if it would implicate misconduct by others
- ◆ **Christopher Commission (1991):** “potentially the greatest single barrier to the effective investigation and adjudication of complaints”
- ◆ **Mollen Commission (1994):** “the greatest barrier to effective corruption control”
- ◆ **Wood Royal Commission (1997, Australia):** a serious impediment to investigating police misconduct
- ◆ **Fitzgerald Inquiry (1989, Australia):** a critical factor in the deterioration of the police

Factors Related to the Code

- **The contours of the code of silence vary:**

- ◆ **Within police agencies** (e.g., Greene et al., 2004; Kutnjak Ivkovich et al., 2016)
- ◆ **Across police agencies** (e.g., Klockars et al., 2000; 2006; Marche, 2009; Micuccui and Gomme, 2005; Rothwell and Baldwin, 2007a, 2007b; Schafer and Martinelli, 2008; Wolfe and Piquero, 2011)
- ◆ **Across countries** (e.g., Klockars et al., 2004; Kutnjak Ivkovich and Haberfeld, 2015; Kutnjak Ivkovich et al., 2019)

Factors Related to the Code Cont.

■ The contours of the code of silence vary:

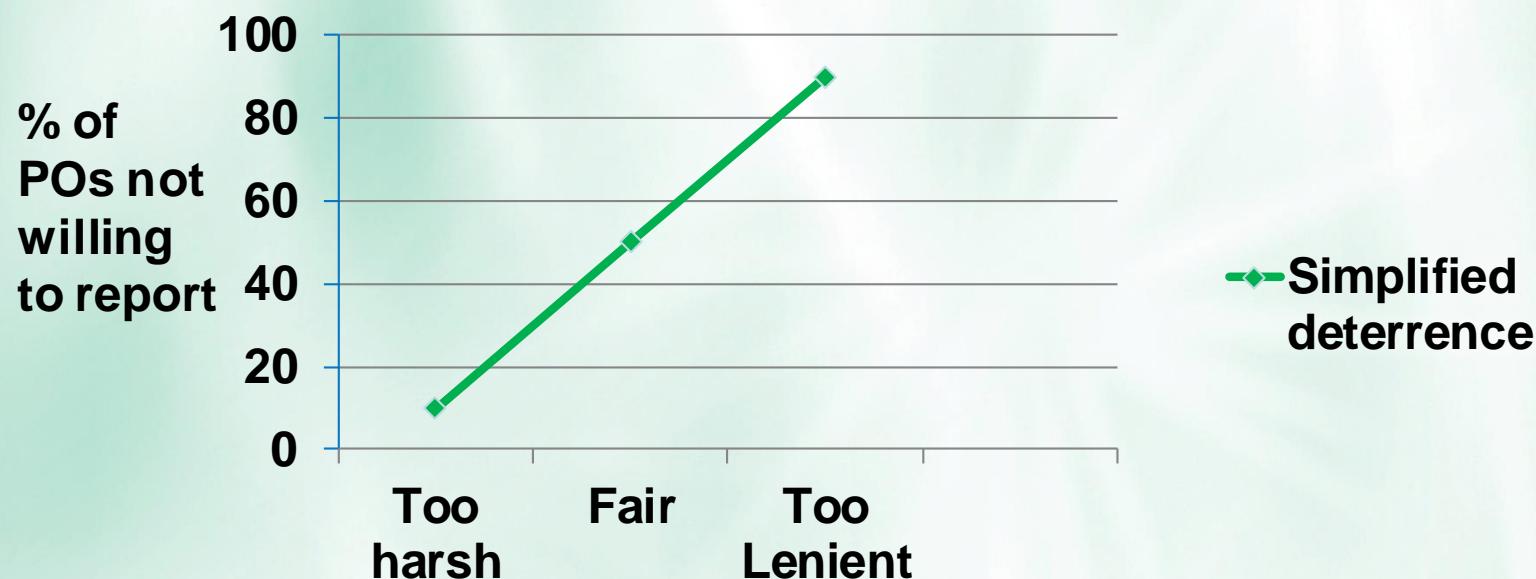
- ◆ **Based on the familiarity with official rules** (e.g., Kutnjak Ivković et al., 2018, Peacock et al., 2020, Van Droogenbroeck et al., 2019)
- ◆ **Evaluations of misconduct seriousness** (e.g., Klockars et al., 2000; Kutnjak Ivković and Haberfeld, 2015; Peacock et al., 2020; Wu and Making, 2019)
- ◆ **Severity of expected discipline** (e.g., Kutnjak Ivković and Shelley, 2008, Kutnjak Ivković, Haberfeld, and Peacock, 2018, Kutnjak Ivković et al., 2019, Lim and Sloan, 2016, Peacock et al., 2020, Wolfe and Piquero, 2011)
- ◆ **By rank/supervisory status** (e.g., Klockars et al., 2006; Kremer, 2000; Kutnjak Ivković and Klockars, 1998; Kutnjak Ivković and Shelley, 2008; Pagon and Lobnikar, 2000)

The Code & Disciplinary Fairness

- Theoretical approaches (Kutnjak Ivkovich and Klockars, 1998):

Model 1: *Simplified deterrence model*

- ◆ The more severe the discipline, the narrower the code

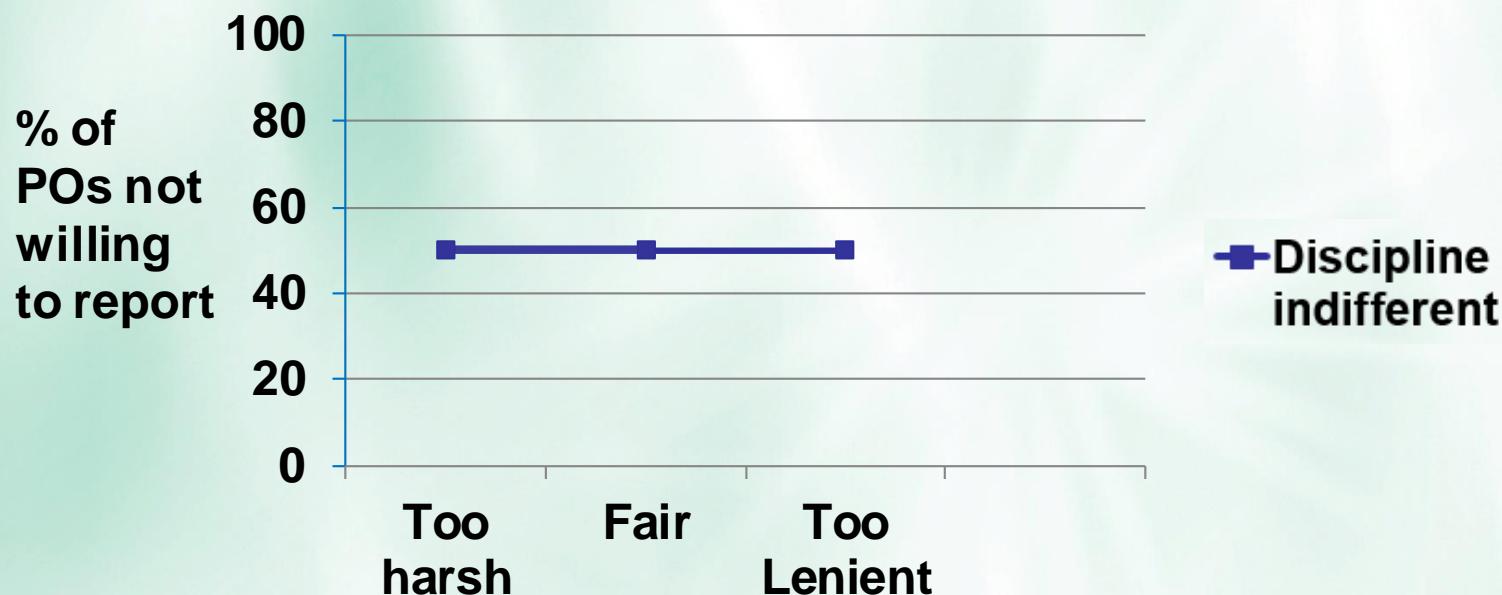


The Code & Disciplinary Fairness

- Theoretical approaches (Kutnjak Ivkovich and Klockars, 1998):

Model 2: Discipline indifference model

- ◆ No relation between the code and disciplinary fairness

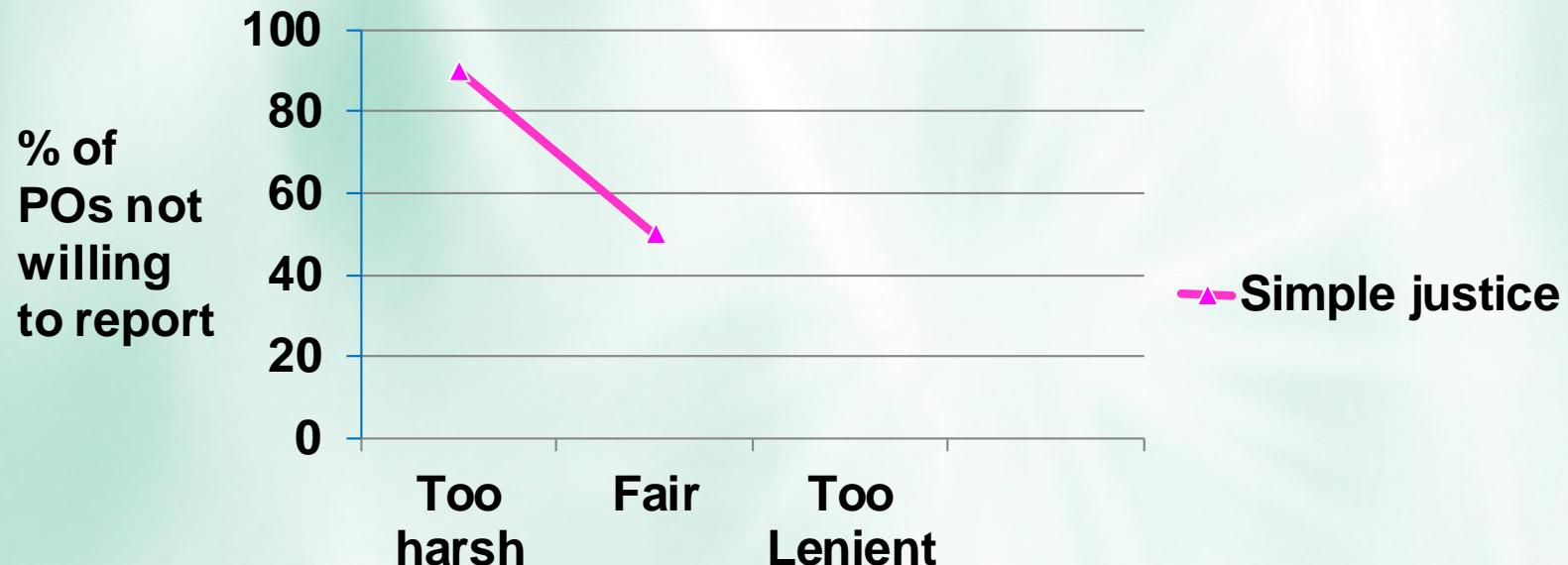


The Code & Disciplinary Fairness

- Theoretical approaches (Kutnjak Ivkovich and Klockars, 1998):

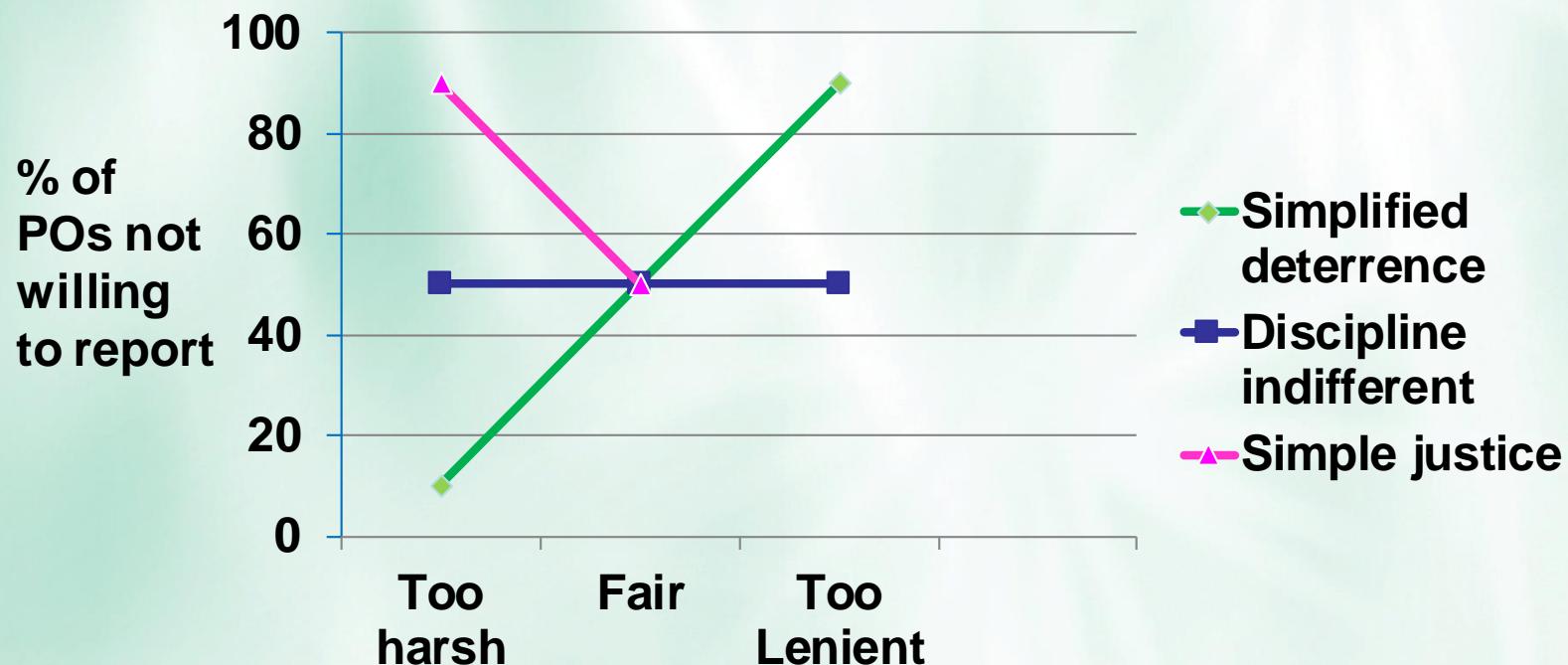
Model 3: *Simple justice model*

- ◆ The fairer the discipline, the narrower the code



The Code & Disciplinary Fairness

- Theoretical approaches (Kutnjak Ivkovich and Klockars, 1998):



Methodology: The Questionnaire

■ Police integrity questionnaire:

- ◆ **Klockars and Kutnjak Ivković (1995):**
first questionnaire measuring police integrity (version 1)
- ◆ **Klockars, Kutnjak Ivković, and Haberfeld (1998):**
the second questionnaire (version 2)

■ Questionnaire version 2:

- ◆ Non-threatening questions of fact and opinion
- ◆ 11 hypothetical scenarios:
 - Corruption (S 1, 3, 5, 8, and 9)
 - **Excessive force (S 4, 6, 7, and 11)**
 - Other forms (S 2 and 10)



Source:
<https://www.ipsos.com/en/ipsos-encyclopedia-questionnaire>

Scenario 7: A police officer stops a motorist for speeding. As the officer approaches the vehicle, the driver yells, "What the hell are you stopping me for?" The officer replies, "Because today is 'Arrest an Asshole Day.'"

VERBAL ABUSE

Scenario 6: In responding with her male partner to a fight in a bar, a young, female officer receives a black eye from one of the male combatants. The man is arrested, handcuffed, and, as he is led into the cells, the male member of the team punches him very hard in the kidney area saying, "Hurts, doesn't it."

BEATING A SUSPECT

Scenario 11: A police sergeant, without intervening, watches officers under his supervision repeatedly strike and kick a man arrested for child abuse. The man has previous child abuse arrests. Evaluate the SERGEANT'S behavior.

SUPERVISOR

Scenario 4: An officer, who was severely beaten by a person resisting arrest, has just returned to duty. On patrol, the officer approaches a person standing in a dimly lit alley. Suddenly, the person throws a gym bag at the officer and begins to run away. The officer fatally shoots the person, striking him in the back. It was later determined that the person was unarmed.

DEADLY FORCE

The Questionnaire Cont.

- Each scenario followed by questions about:
 - ◆ Misconduct seriousness
 - ◆ Violation of official rules
 - ◆ Appropriate discipline
 - ◆ Expected discipline
 - ◆ Willingness to report misconduct
- Limited number of demographic questions:
 - ◆ Length of service
 - ◆ Supervisory status
 - ◆ Assignment



Source:
<http://www.middlebury.edu/system/files/media/question-mark.jpg>

The Questionnaire Cont.

- **Scales for appropriate discipline & expected discipline:**

- 1) No discipline
- 2) Verbal reprimand
- 3) Written reprimand
- 4) Suspension
- 5) Demotion
- 6) Dismissal

- **Scales dependent upon the country's legal rules**



Source: <https://medium.com/@jojofree/title-wrongful-dismissal-vs-constructive-dismissal-559d1fba16fc>

The Questionnaire Cont.

■ Disciplinary fairness:

DF = Appropriate discipline – Expected discipline

| Value | Result | Meaning |
|----------|----------|------------------------------------|
| 0 | Zero | Expected discipline is fair |
| +1 to +5 | Positive | Expected discipline is too lenient |
| -1 to -5 | Negative | Expected discipline is too harsh |

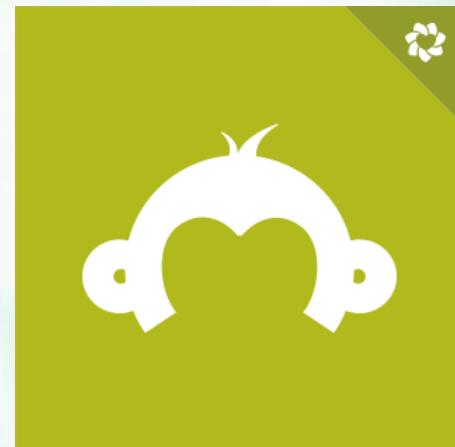
■ Willingness to report:

1 = definitely would not to 5 = definitely would report

Methodology: Respondents Cont.

■ U.S. sample:

- ◆ Data collected in 2013-2014
- ◆ Electronic survey
- ◆ Response rate: 37% (N = 604)
- ◆ Sample of 11 police agencies from the Midwest and the East Coast
 - Large and small municipal agencies
 - Sheriff's departments
- ◆ Our convenience sample generally reflects the characteristics of police officers working in large, medium, and small cities in the U.S.A. (2011 BJS survey of local police agencies)



Source: SurveyMonkey.com

Methodology: Respondents Cont.

■ Supervisory status:

- ◆ 72% line officers

■ Police experience:

- ◆ 12% fewer than 5 years
- ◆ 42% had 6-15 years
- ◆ 45% had over 15 years

■ Assignment:

- ◆ 55% in patrol
- ◆ 17% in investigation



Source:

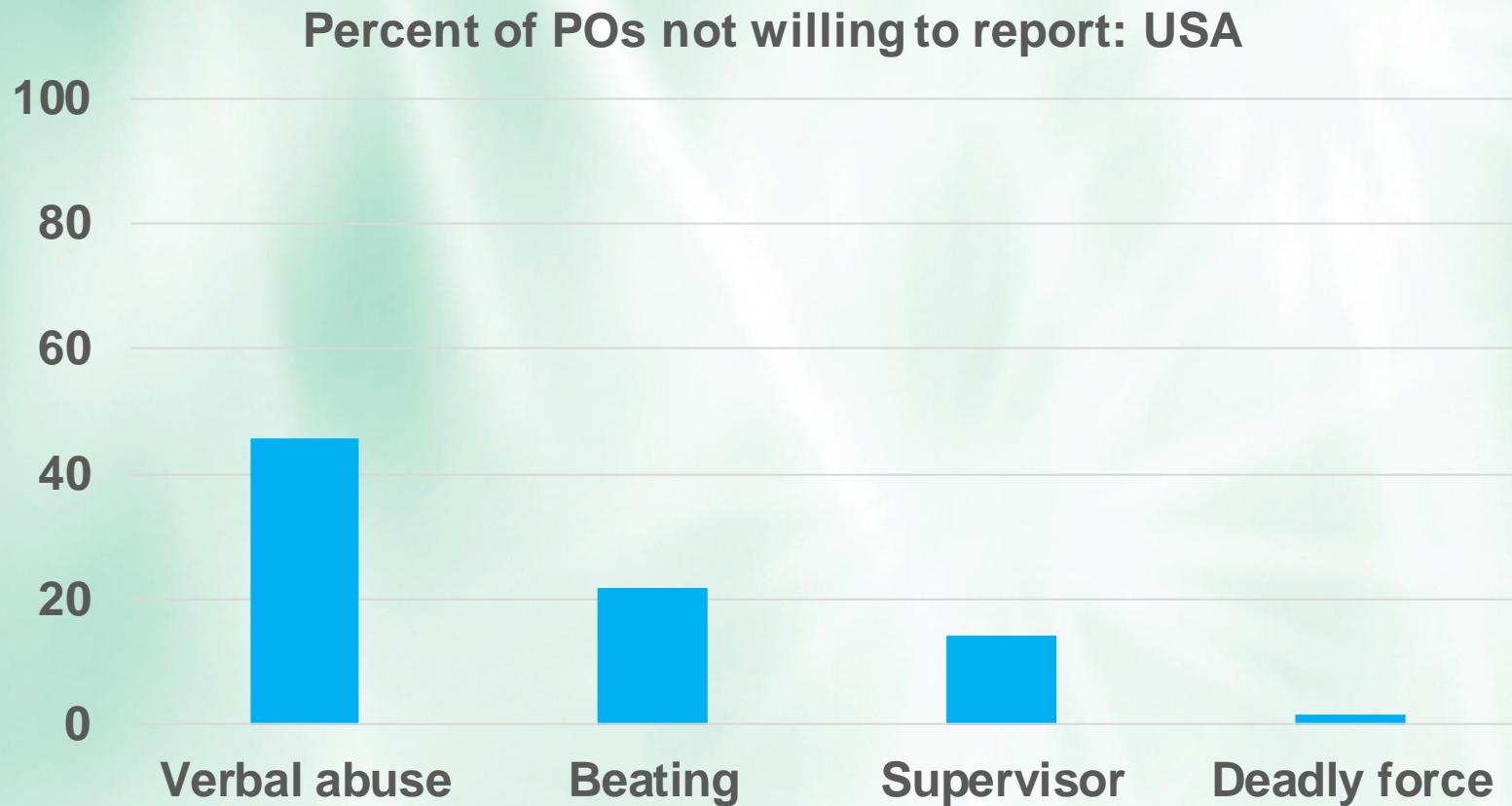
<https://www.rasmussen.edu/degrees/justice-studies/blog/why-become-a-police-officer/>

Methodology: Respondents Cont.

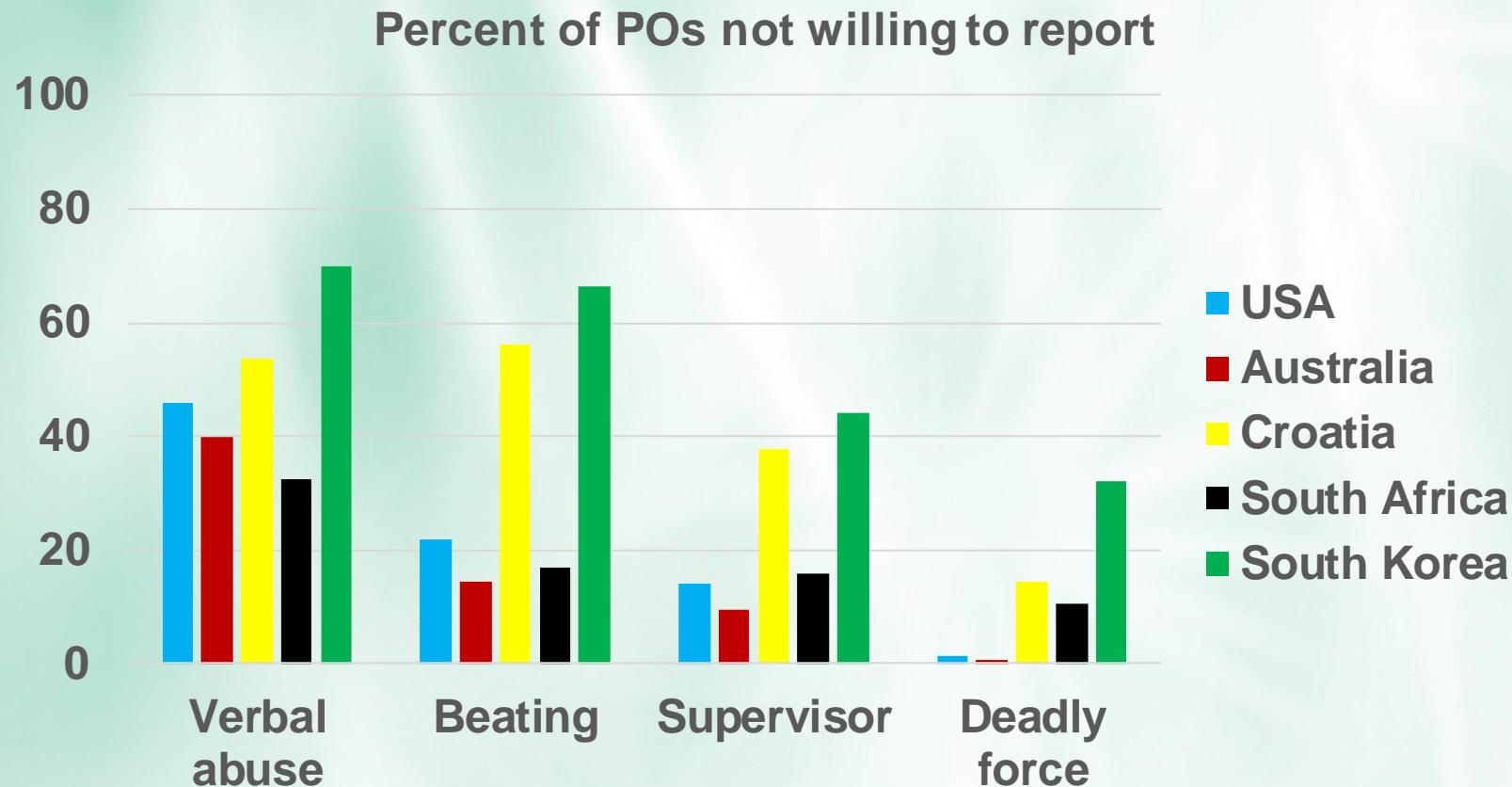
■ Comparative samples:

- ◆ **Australia (2013): 856 police officers**
(e.g., Porter et al., 2015)
- ◆ **Croatia (2009): 1,130 police officers**
(e.g., Kutnjak Ivkovich et al., 2020)
- ◆ **South Africa (2013): 871 police officers**
(e.g., Sauerman et al., 2015)
- ◆ **South Korea (2009): 380 police officers**
(e.g., Kang and Kutnjak Ivkovich, 2015)

Contours of the Code



Contours of the Code Cont.



Factors Affecting the Code (USA)

| Logistic regression of reporting | Beating | | |
|-------------------------------------|-----------|-------|--------|
| | B | s.e. | Odds |
| Supervisory status | 2.178*** | .548 | 8.826 |
| Own seriousness | 1.668** | .490 | 5.303 |
| Knowledge of law | .662 | .588 | 1.939 |
| Expected discipline | | | |
| Some discipline | .153 | .741 | 1.166 |
| Dismissal | .748 | 1.090 | 2.112 |
| Discipline fairness | | | |
| Too harsh | -1.984*** | .495 | .138 |
| Too lenient | .932 | .798 | 2.539 |
| Others' reporting | 4.566*** | .466 | 96.162 |
| Constant | -2.869 | .859 | .057 |
| Nagelkerke R Squared | | .772 | |

Factors Affecting the Code Cont.

| Logistic regression of reporting | Verbal abuse | Beating | Supervisor | Deadly force |
|----------------------------------|--------------|---------|------------|--------------|
| Supervisory status | + | + | NS | NS |
| Own seriousness | + | + | + | + |
| Familiarity with rules | NS | NS | NS | NS |
| Expected discipline | NS | NS | NS | NS |
| Discipline fairness | | | | |
| Too harsh | - | - | - | NS |
| Too lenient | NS | NS | NS | + |
| Others' reporting | + | + | + | + |

The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness: USA



The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness: USA

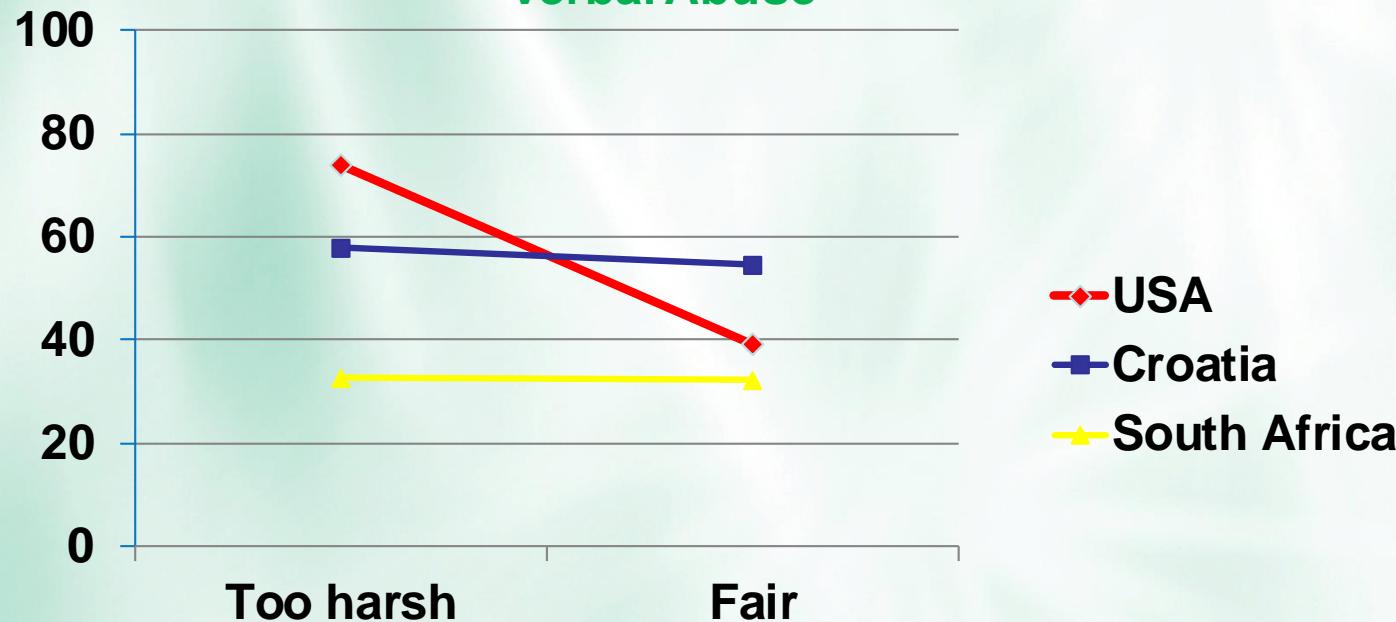


Model 3: Simple justice model

- ◆ The fairer the discipline, the narrower the code

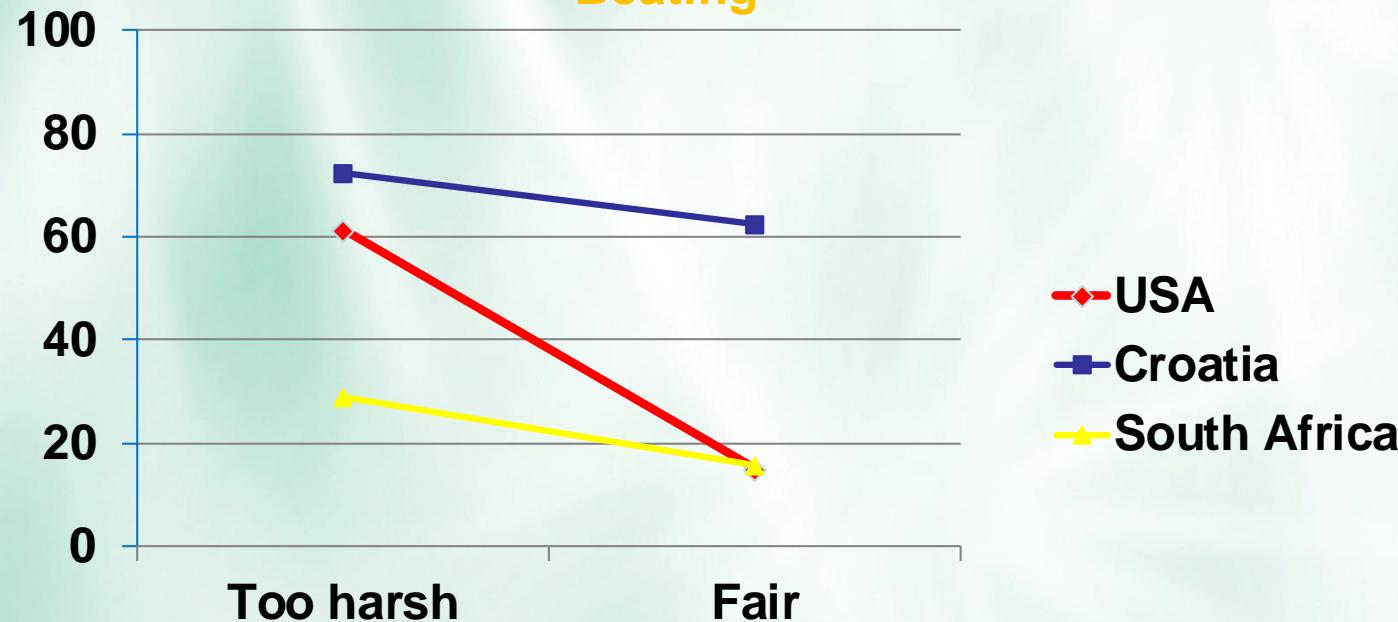
The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness:
Verbal Abuse



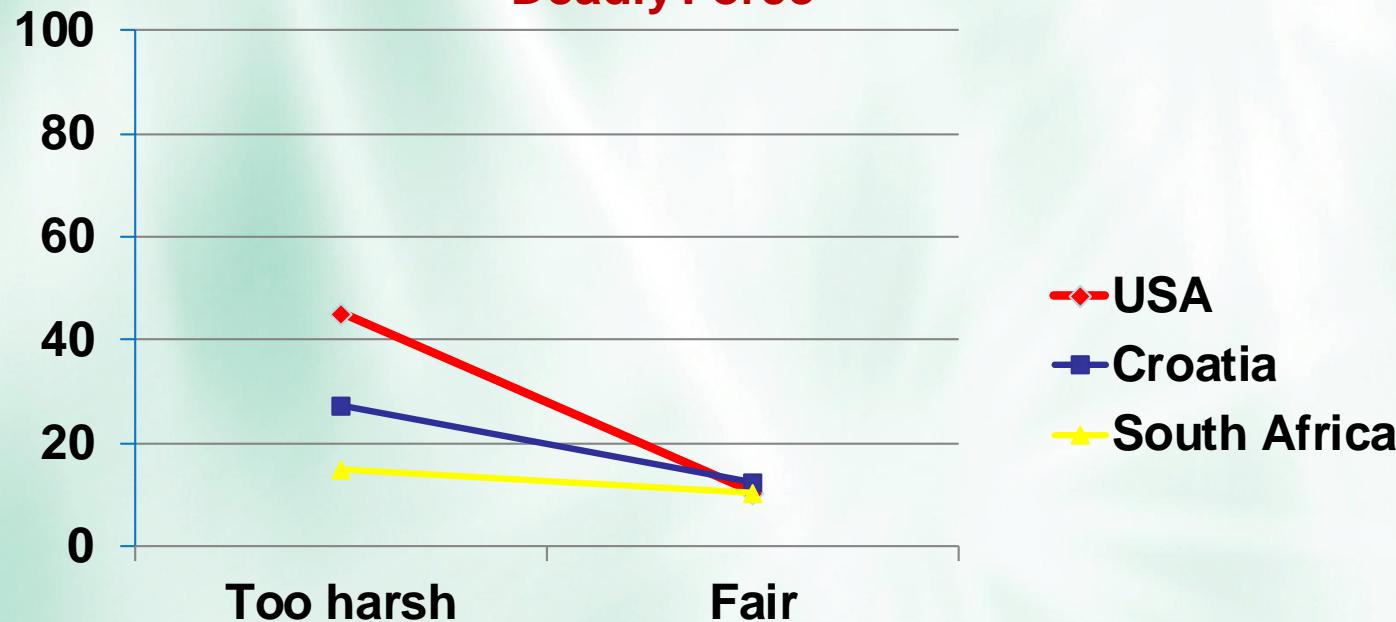
The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness:
Beating



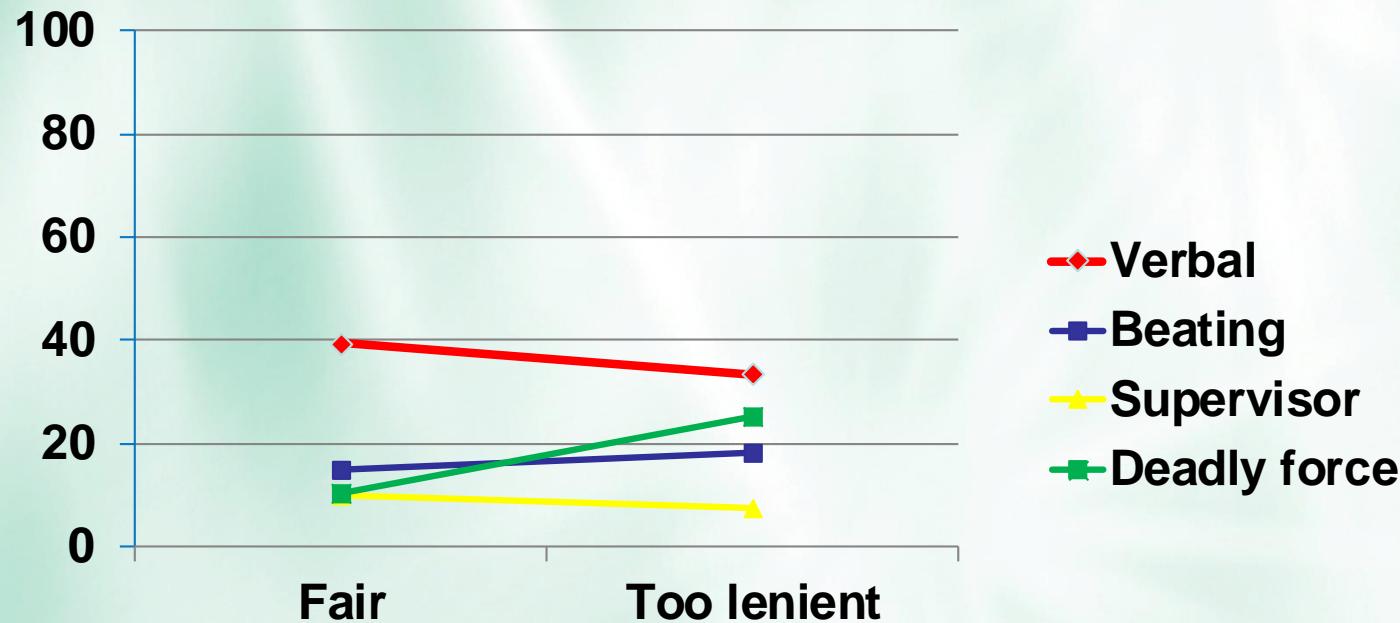
The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness:
Deadly Force



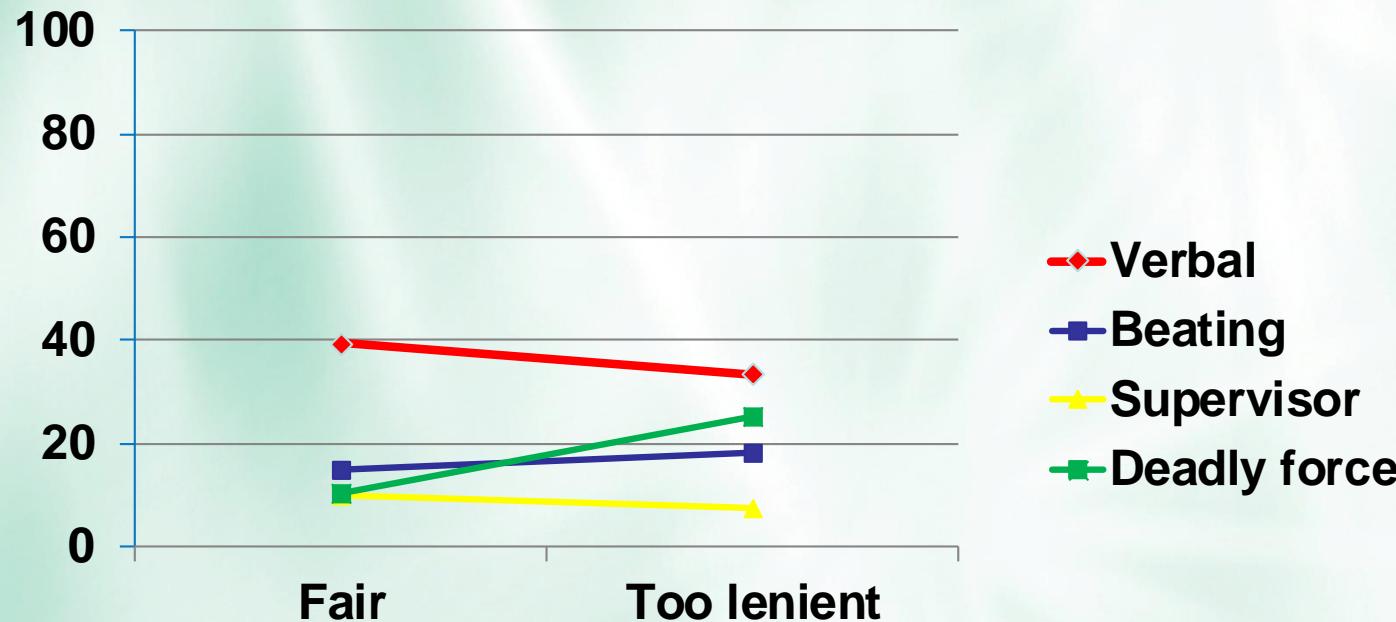
The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness: USA



The Code and Disciplinary Fairness

Percent of POs not willing to report by disciplinary fairness: USA



Model 2: Discipline indifference model

- ◆ No relation between the code and disciplinary fairness
- ◆ Exception: deadly force *Simplified deterrence model*

Conclusion

■ Contours of the code:

- ◆ More likely to cover less serious forms of the use of excessive force
- ◆ *Policy:* Breaking the code easier for more serious forms of the use of excessive force
- ◆ Extent of the code varies across countries



Source: <http://www.sunrisefl.gov/modules/showimage.aspx?imageid=1437>

Conclusion Cont.

■ Factors related to the code:

- ◆ Views that the case is serious
- ◆ Assumptions that other POs would report too
- ◆ Expected discipline evaluated as fair vs. too harsh
- ◆ *Policy:*
 - 1) Teach POs that misconduct is serious & why
 - 2) Discipline consistently POs who engage in misconduct
 - 3) Make sure that discipline is perceived as fair
 - 4) Change police culture to be more supportive of reporting

Questions?

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