



Examining the Responses of Game Wardens to Types of Poachers

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Abstract: This paper examines the responses of game wardens to types of poachers. Based on interviews with 27 game wardens the authors analyzed their accounts of the use of discretion with types of poachers. The literature on the official behavior of law enforcement officers generally and game wardens specifically is reviewed. Extensive quotes from interviews with game wardens are presented.

Keywords: Game Warden, Rural Crime, Poaching

INTRODUCTION

Police discretion has been recognized as a crucial element in all law enforcement (Alpert & Dunham, 1992; Black, 1980; Brooks, 1989; Cole, 1992; Morash, 1984; Skolnick, 1975). The police must constantly exercise discretion in deciding who to arrest and who to ignore. 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). Many see this as a benefit to the criminal justice system; which would otherwise be overburdened with minor offenses and hence unable to deal with more serious crime.

Scholarly interest in the police decision to

release or fully process has focused on a number of topics including: previous contacts with police (Black & Reiss, 1970; Cicourel, 1968; Conklin, 1989; Goldstein, 1960; Hollinger, 1984; Holman & Quinn, 1992; Johnson, 1983; Smith & Visher, 1981), bias in the process (Chambliss & Seidman, 1971; Holman & Quinn, 1992); the influence of legal (prior criminal record) and extra-legal (age, social class, race, gender) characteristics of offenders and seriousness of the crime (Black, 1980; Braithwaite, 1981; Chambliss & Seidman, 1971; Conklin, 1989; Forsyth & Shover, 1986; Forsyth & Gramling, 1988; Hindelang, 1983; Hollinger, 1984; Morash, 1984; Schur, 1984; Siegel, 1986; Skolnick,

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1975; Thornton & Voigt, 1992); and respect shown to police and demeanor (Hollinger, 1984; Thornton & Voigt, 1992). While giving urban crime and police a great deal of deserved attention, less media/research has been devoted to a subarea: game wardens and poachers (Calkins, 1971; Carter, 2004, 2006; Curcione, 1992; Dizard, 2003; Eliason, 2003, 2008; Eliason & Dodder, 1999; Forsyth, 1993a, 1993b, 1994, 2008; Forsyth, Gramling & Wooddell, 1998; Forsyth & Marckese, 1993a, 1993b; Green, 1990; Hampshire, Bell, Wallace, & Stepukonis, 2004; Muth, 1998; Muth & Bowe, 1998; Palmer, 1977; Palmer & Bryant, 1985; Reisner, 1991; Shelley & Crow, 2009). Given the rural location and the fact that the primary protected species are animals rather than humans, this lesser amount of attention is understandable (Ball, 1977; Bankston & Jenkins, 1982; Gibbons, 1972). Obviously, scholarly interest in the use of discretion by game wardens is, indeed, sparse. The purpose of this research was to add to the meager stack of work on this topic.

Carter (2006), Eliason (2003), Forsyth (1993a, 1994), and Forsyth, Gramling and Wooddell (1998) are all studies which focus on the use of discretion by game wardens. Palmer and Bryant (1985), while only partially concerned with discretion, offer insight into the process. All of these authors found game wardens are generally more lenient with traditional hunters than they are with those who are making a living from poaching. Forsyth (1993a) found several factors that influence the game warden: prior record or contact, demeanor of the offender; social class, seriousness of the offense; and the reason people poach. Forsyth, Gramling and Wooddell (1998) studied poaching as a folk crime and the culture conflict which exist among poachers in the Atchafalaya River Basin of south central Louisiana. For at least some wardens, cultural conflict was the most

important factor in the use of discretion. Greater law enforcement effort was expended toward poachers who were motivated by excitement and money. And less effort was targeted toward those who poach because of financial need or who come from a cultural tradition of game taking. The actions of the game wardens in their study reflect an almost micro-sociological understanding of motivations.

Forsyth (1994) differentiated game wardens on the basis of several dimensions: perception of poachers and game wardens; application of the law and arrest procedures; and description of the role of game warden. Forsyth (1994) conceptualized the official behavior of game wardens into two types: Bookers and Peace Makers. Of the 31 game wardens interviewed in that study 18 (58%) were categorized as bookers and the remaining 13 (42%) were characterized as peace makers. These types roughly compared with the types discussed in the literature on police officers, with bookers relatively similar to the strict law enforcement role, watchman style, strategic policing, rule applier, tough cop, and enforcer. Peace makers were compared to the optimist, service style, problem solver, and the crime prevention role. Palmer and Bryant (1985: 115) found similar results in a study of Virginia state game wardens, found thirty-eight (56.7%) of the respondents indicated law enforcement was the main aspect of their job, while the remaining 29 (43.3%) indicated service (conservation, public relations or education) as the chief aspect of the job. The results of Forsyth (1994) research suggest that the official behavior of game wardens follows a pattern (fits a typology) already identified by previous research. Bookers, as indicated by the interview data, supported the law enforcement aspect of their jobs. Peace makers stressed educating poachers as to the environmental consequences of their violations and public relations. Both types of

wardens were very aware of the differences that existed among them on several dimensions of their job. Eliason (2003), similar to Forsyth (1993a, 1994) revealed widespread use of discretion by game wardens, with factors such as serious of offense, prior contact with wardens, reputation as a violator, and intent of the offender. Carter (2006) found the culture of the organization to be an important source for the use and character of discretion.

METHODOLOGY

The data used for this paper is based on intensive interviews with an available sample of 27 current and retired Louisiana State game wardens. Intensive interviewing is defined as a guided conversation. The objective of these intensive interviews was to have the game wardens describe their interactions with other wardens, hunters, fishers, poachers, and the environment, to discover the wardens strategies, circumstances, perceptions, and activities before, during, and after confrontations. The authors used the method of thick description (Geertz, 1973). The technique was to let the responses speak for themselves, presenting the warden/poacher world in full vivid detail, and then to offer both summarization and interpretation. The goal was to elicit rich detailed information from the interviewee that could be used in qualitative analysis (Lofland & Lofland 1984).

These interviews were done in 2007. Interviews with an availability sample of 57 poachers and 35 other game wardens, not part of this paper, but part of an ongoing 17 year project add to the authors' understanding and validation of the present statements (Forsyth, 1993a, 1993b, 1994, 2008; Forsyth & Marckese, 1993a, 1993b; Forsyth, Gramling & Wooddell, 1998). The interviews ranged from one to three hours. Respondents were interviewed in their

homes, office or in the field. All Louisiana State Game Wardens are POST certified. POST (Peace Officer Standards and Training) certified law enforcement officers of the state can enforce all laws within the state. While the emphasis is on wildlife, fisheries, and boating laws, they are regularly tasked with enforcing other laws such as: criminal, traffic, and drugs. Additionally, Louisiana State Game Wardens are Federally commissioned, which allows them to enforce fisheries laws in the United States Territorial Seas, and laws associated with the United States Migratory Bird Treaty Act.

FINDINGS

The comments of wardens are presented regarding the reasons each attributes to poaching and how they respond to each type/reason. Since each warden is unique in his combination of perspectives, the comments of the wardens are presented in whole rather than parceling out parts of each warden's comments to a context.

Three points seem to be consistently weaved throughout most of the vocabularies of the wardens. First, game wardens differ on the use of discretion and/or whether it should ever be used. Second, every warden interviewed felt that the killing of endangered species should be punished to the fullest extent of the law. Although there is disagreement on the use of discretion this is one issue on which no variation was found. 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. Lastly, there is wide disagreement

among game wardens regarding the idea that there are still individuals poaching to survive.

The comments of some wardens indicate they are what Forsyth (1994) and Eliason (2003) categorized as bookers. These wardens fit into the strict law enforcement role, using no discretion.

I do not believe that survival poaching occurs with any great frequency anymore. I am sure there are situations where it happens but most often, poaching is done for the fun/sport of it and the bragging rights that accompany it. As wardens, we do not make decisions as to whether or not to charge someone or not based on survival poaching vs. fun/sport poaching. This decision is left up to the courts once a person arrives at that point. The penalties can be much greater for killing endangered species.

During my employment of 6 years, I have never caught anyone that was poaching for survival. I think all poachers do it for the excitement. They take advantage of our resources and must realize the consequences.

I think people poach for the fun and challenge of it and for the bragging rights. If you don't believe that, put on a uniform and go sit down to eat in a restaurant. I bet you won't get through the meal without someone loudly proclaiming about the big doe they killed last night followed by a big laugh. In my career and in this day in age subsistence hunting and fishing does not exist. No one is hunting to feed a family although they may want you to believe that is the reason when they get caught. If you think about the fuel, the cost of gear, guns and ammunition and other things a poacher needs to poach, a trip to the grocery store is cheaper.

People are poaching these days mostly for bragging rights. They want to be able to brag that they killed the biggest deer or killed the most ducks etc. In the early 1900's and during the depression people would hunt for the money and for food. Today most hunting is done for recreation and relaxation. This being said anyone caught poaching is probably aware of what they are doing. As far as throwing the book at them that is determined by the courts or the District Attorneys Office

who will prosecute the case. Endangered species are looked at a little differently. Endangered species are what it says and the taking of even one of these animals or birds could be detrimental to the reproduction of the species. Usually these will carry a more severe penalty.

...I only know of one guy who actually lives off the land and hunts for survival. I don't treat him any different because I think he chooses to live like he does.

I believe people generally hunt illegally because that is how their dad or family did it for a long time. No one hunts anymore to survive. I had a guy that shot over the limit of doves tell me he needed the birds to feed his family. I told him I would seize the birds and give them to a needy family in the community, and the next words out of his mouth were-I'll give you fifty bucks to buy the birds back from you. I guess he wasn't too needy! When it comes to commercial fishing, these people are doing it to feed their family. But experience tells me that the ones breaking the law commercial fishing are just greedy or trying to support a habit. Most of the commercial fishermen that fish legally make good money and do not have to break the law. As far as endangered species, they are treated the same just stiffer penalties.

Bookers tend to put all poachers in one category, which they labeled in some disapproving manner. They used little, if any, discretion, strictly applying the law. While bookers denied the existence of the survivalist poacher, there were game wardens who felt there were a few poachers who do it to survive. They exercised discretion and voided the citations in the case below.

I did see one situation once where another officer and I were working at night for night hunters. We heard shots and zeroed in on this shabby little house along a country road. We spotted two subjects going in the front door of the house with a gun and headlight and decided to check it out. We went to the door and saw fresh rabbit skins in the yard and blood drops on the porch. We knocked on the

door and a woman answered. We asked the obvious question and she said yes her sons had killed a couple of rabbits. She invited us in, very humble. Her husband was in the tiny living room and did not look well. The two boys were the desperados we saw go in the front door. They looked scared to death. I asked where the rabbits were and she already had them cooking on the stove. I honestly believe that was all they had to eat that night. We issued the appropriate citations and left. We did not seize the rabbits. As we road off we both admitted to not being too proud of this case. The next day we talked to our supervisor and told him we thought justice might best be served in this case by voiding these citations and returning to visit those people and tell them they just could not put supper on the table by night hunting. He agreed. I went back and met with the father and voided the citations. You should have seen the look on his face. And we never had to go back to that house to check out a poaching complaint again. But that is very rare and the only time I saw something that pathetic in 30 years. The endangered species killer gets handled differently in court in most cases because the penalties for killing endangered animals are higher. We treat them no different in the apprehension process.

Other wardens contend discretion, while not always used, is always in play during an arrest. There exists a great deal of variation among game wardens in their use of discretion. For some game wardens the survivalist poachers should almost always be forgiven.

If it is an obvious means of survival then I personally would probably not charge the person, but it would have to be clear to me that it was a means of survival. Poachers are treated slightly different when an endangered species is involved only because it would be a Federal violation. In the realm of the Federal criminal justice system there is a different protocol.

We treat every case differently, because each has their own extenuating circumstances. I've never had the chance to run upon someone who was poaching for survival, however if I would, I'd have to think real hard about what

I'd do...if someone were starving...it'd be hard to throw the book at them...we are human. When it comes to an endangered species, the majority of them are protected by federal law and I must say the federal courts, at least in our district will literally throw the book at them when they are found guilty.

One game warden would not issue a citation but put in a "good word" with the judge or DA.

If I was to encounter a poacher who was hunting as a means of survival, I would still do my job, but I would try to help him out as much as possible when the penalty was handed down (by talking to the DA or Judge). This all depends on the poacher's attitude and of course his criminal history.

Some wardens acknowledge the use of discretion without qualifying circumstances.

It would not be accurate for me to say that all poachers are treated the same. Game wardens have the gift of officer discretion in dealing with each situation individually. This can however, be abused by a warden who has forgotten the true mission...The severity of the crime dictates the fines and penalties.

Any time that I have caught someone, I have always looked at the circumstances...Each scenario caused me to handle every situation as its own. I have always believed in being fair, but stern also. Some wardens would put their own mother in jail.

...In all situations policy and procedure comes into place, as well as officer discretion. You can always call your supervisor and let him make the decision.

When game wardens arrest poachers the illegal game is confiscated. Apparently, in some cases, this food is given to hunters who the warden determines to be hunting to survive.

...I have only caught one person in my career who was doing it for food. He was a young black male who was hunting rabbits at night to help feed his sick mother and the rest of his siblings. After this encounter, this family

became regular recipients of animals we seized due to violations. There are many poachers who get caught selling meat to supplement their income...If the poacher kills an endangered species, we do not treat them any different but the courts do.

One game warden, who contends he has never encountered a survivalist poacher, would investigate the hunter's criminal history and then make a decision.

In my experiences I have never encountered a person who's only means of survival was poaching. Most poachers are low income, working class people who sell fish and game as a means to an end. However, some do poach for fun, while some poach for bragging rights and others out of pure boredom. If I personally caught someone who killed something out of season for his or her family to use, I would have a tough decision ahead of me. More than likely, I would begin to investigate that person and evaluate whether or not he has been caught before, are they really struggling financially, and the frequency that person was violating game law. Would I allow someone to continue to be a poacher because of his or her financial problems, absolutely not...

Many game wardens feel that with all the social supports that exist in society today, the survivalist poacher is a situation of the past and is no longer necessary. Poachers although, having social services available to them, may be culturally prohibited from taking advantage of these structural aides given their rural-traditional backgrounds. They are more comfortable with the self-sufficiency of solving their own problems. Some wardens understand this cultural conflict others do not. The following quotes illustrate poacher motivations, their oppositional stance with mainstream society, their lack of social capital and support networks that would allow them greater knowledge and access to social services.

People poach for a variety of reasons. Some poach simply for the rush of doing it; some to see if they can get away with it; some for ego and bragging reasons; some because they are so hung up with hunting or fishing that they cannot help themselves; some for monetary gain; and some due to ignorance. I do not give much credit to claims that people are poaching for survival. Subsistence poaching, in my opinion, is more a lifestyle choice than a necessity...Even if someone has a money problem, this does not justify poaching anymore than it would justify stealing. When you poach, you are stealing from society...Perhaps in some really poor rural areas, there are still people who cannot find steady work and are very poor. If an agent truly believes someone is in a bad way and needs help, he can donate seized fish and game to them to help make ends meet. I have done this often over the years, and it takes away that excuse to poach. But for some, this is what they know and how they were raised, and is just...part of their lives.

I believe there are several reasons why people poach. Some people are just greedy, these people do not believe in conservation, they are out to catch and/or kill as much as possible because they were not taught any better. Either that or they just do not care. To some it is a sport and I believe there is a thrill they get from it. To others it is sometimes a desperation move. Maybe that hunter has not killed anything all year and he is not going to let the season end without putting some meat in the freezer. His thinking might be hey, I spent all of that money on licenses to the state, I am going to get me some meat. I do not believe that it is a form of survival; this is not the 1930's. With as many social and welfare programs out there, I had better not have someone tell me that they are taking over their limit of fish or game or killing animals at night to survive.

Since the beginning of time man has hunted for survival. In this day and age with the abundance of food, it is hard for me to believe that need still exists...I do believe that there are people who are in more need than others, and there are solutions for this through state assistance and food stamps for example. It is important to remember that before there were regulations regarding wildlife, the population of people was not as dense and people killed

what they needed. Today if we did not have regulations, with the population that exists, it would only be a matter of time before the resource was spent.

...For the most part, poaching in this day and time is not for survival. There are plenty of government programs that help people survive legally. The poacher of today does it for fun or excitement, there is no sport or real pride in taking an animal illegally.

Seldom do you see people violate game and fish laws due to survival... That's not to say a man won't take to outlawing a little to help feed the wife and kids especially if they are on the poorer side of the scale. Agents have caught people whom were poor violating game and fish laws. An agent tries to be fair-handed when charging people. In this liberal world we live in there are too many avenues to assist people in need to help feed their family. Making their own seasons and methods...just won't work, never has.

According to this data there are several factors which determine the use of discretion among game wardens; serious of the offense, prior record, demeanor of the offender, and the reason that poachers are committing the crime. 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 a few of the wardens. Consequently, they are less likely to be handled officially or they may be avoided all together. The notion of a poacher/hunter/provider may explain why certain old timers poach with apparent immunity (Forsyth, 1994; Eliason, 2003). Isolated rural settings with low standards of living are more likely to produce this type of behavior.

DISCUSSION

Future research should be aimed at investigating the relationship between the personal experiences of officers and their view of law violators or certain types of

violations as being more or less serious. Game wardens who violated game laws as a youth may be more lenient on poachers (Eliason, 2003). Police officers accommodate themselves to the demands of the police bureaucracy. Police types are, at least partially, formed by the organization which directs them (Brown, 1981; Muir, 1977). The social-organizational features of justice systems are critical factors in understanding patterns of police behavior. Research investigating the relationship between the official behavior of game wardens and the organizational characteristics should be of benefit to those interested in understanding certain styles of game warden behavior. Several patterns of the use of discretion are likely to emerge when there is wide variation in the backgrounds of law enforcement. Whether the reason people commit a crime enters into the selective enforcement of the law is an important question that research needs to continually address.

The effect of social change upon both the behavior of game wardens and the kinds of crime and criminals they encounter demands further research (Sherblom, Keranen & Withers, 2002). The gradual transition from traditional rural society to a more urban industrial society has affected the job of the game warden. While the areas where game wardens work are still relatively rural, these areas have undergone significant social change. Many have become bedroom communities. Folk crime is likely to emerge when there is rapid and/or extreme social change. Such conditions produce wide disagreement in a community regarding the criminality of an act. Poaching is an example of such behavior.

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