

MODULE 5 - WHERE DO WE WANT TO GO?

LECTURE 1 - LESSONS LEARNED

Somebody once said something to the effect that the past is prologue, which means that it's like a preview of what's to come.¹¹⁰ At the end of the last lecture, it looked like the past was telling us that the **future** would be some combination of **the Patriot Act, the 9/11 Commission recommendations, and Big Brother**, driven by advances in **forensics and technology**. Meanwhile, **detectives** were going to be standing at a **crossroads**, just watching everything go by, and not very interested in **hitching a ride** on any of these developments. Maybe so.

A NICE OVERVIEW

So I'm going to start off this lecture with a series of broad statements **encapsulating the main lessons learned in the previous lectures**, and use them as a basis for describing where we oughta be going based on what we know now. They represent the **main theses of this course**. That's T-H-E-S-E-S. As I mentioned at the beginning of this course, you, dear DISCERNING TRAVELER, may have a different opinion of them and you may disagree with them as you wish – please! We can, and often do, disagree in this country. We're allowed to do that, aren't we? Besides, they tell me it's good for the digestion – uh, sometimes. But it can also useful to develop a consensus about some things, in order to progress. Hopefully, the lessons will bring about less of the former (disagreement) and more of the latter (consensus). In any event, as we traverse the second decade of the new millennium, here's what I see.

1. One. The **central tasks** of detectives everywhere are basically the same – to collect and use information to prevent, detect and solve crime (CUIPDSC). Sir Peel and I agree on the “prevent,” at least. Fosdick and I agree on the “detect” and “solve” parts.¹¹⁶ Again, that's, Fosdick as in Raymond, not as in Fearless. This applies to all five phases of the crime continuum of the Conceptual Framework, and to all five major crime categories.
2. Two. However, the **techniques** detectives use to accomplish their central tasks are subject to public approval (see Sir Peel and CC vs. DP).

3. Three. The more **covert** the techniques are, the more suspiciously they are viewed by the public. Covert techniques include (but are not limited to) the use of Informers, Thief Takers and Agent Provocateurs to collect information.

4. Four. **Covert techniques of detectives**, by their very nature, are less visible, more difficult to monitor, supervise and control, and harder to hold people accountable for. I mean, because they're covert.

Because of this, covert techniques are more vulnerable to corruption and abuse. We saw this repeatedly with the Government Spy, the Secretive Rogue, the Inquisitor, the Pinks and Burns, and with the FBI and DEA. That's just about every group we've covered so far – except the Bureaucrat Detective. Looks like we finally got these guys under control, eh? Don't investigate most crime, and only solve 20% of the ones you do investigate. Yep, under control.

5. Five. The **public perception** of detective covert techniques has historically been that they are most likely to be used to infringe upon the community interests and individual liberties of the citizenry. And not without cause. History provides lots of examples of the result of the use of **covert** techniques by **public police and detectives** that the public in countries with relatively decentralized governments have constrained the detectives from using. Examples include when police agencies were first formed in Britain in the 19th Century; the Secretive Rogue and the Inquisitor Detective in the 19th and 20th Centuries in the US; the FBI in the 1920s and 1970s; the DEA always, and now in the 21st Century at the federal level regarding post 9/11 national security vs. individual privacy issues.

6. Six. This same phenomenon was also seen in the **private detective agencies** (Pinkerton and Burns) in the 19th and 20th Centuries. They used **covert** techniques extensively to provide investigative and security services to large businesses in the US, but when they gained public notoriety and criticism for their actions, they abandoned those techniques (similar to what the public police did) and moved into protection and security services that were more accepted by the public.

7. Seven. **Covert** investigative techniques are used most effectively to collect information to **prevent and detect** crime. When the public constrains the ability of detectives from using covert techniques, it **essentially reduces their central tasks from CUIPDSC to CUISC**. The detective's ability to be proactive in trying to prevent and detect crime is compromised.

8. Eight. This in turn **constrains** the ability of detectives to work in **in all five major crime categories**.

Instead of proactively seeking to prevent and detect crime, detectives are reduced to **waiting** to be **notified** that a crime has been committed and reported to the police, and then **reacting** to it.

This happens primarily with Visible crimes, because they typically have clear victims who deem it to be in their self-interest to report crimes to the police. But even then, the victims themselves report **fewer than half** of the Visible NCVS-tracked crimes they suffer from to the police.

Crimes in the other four major crime categories are normally **never reported** to the police, for a variety of reasons. It is these very crimes that necessitate that detectives be able to work proactively in order to prevent and detect them.

9. Nine. It also **constrains** the ability of detectives to work in **all five phases** of the crime continuum.

This **limits** the amount and availability of information detectives can collect and use to solve the crime (CUIISC). This relates to the early research findings on investigations that detectives have marginal impact on clearance rates. For most crimes, especially the less serious ones, if detectives cannot operate in the PLAN and ACTION phases to collect info, they will lose access to the info in those phases. If they have to wait until a crime is reported to the police, they will not know of crimes not reported and will lose access to info about them. And if they do not participate in the preliminary investigation of crimes, then they will lose access to that info if insufficient information is collected and the case is never referred to them. It is only after sufficient information is deemed to have been collected to generate reasonable leads consistent with available resources (the solvable or where-are-they crimes), that the detectives generally become involved in the investigation.

But even in these cases, **significant constraints** are constantly being imposed on the basic investigative techniques of identification and arrest of suspects, search and seizure, and interview and interrogation.

10. Ten. While detectives tend to push the limits of these constraints (like drivers pushing **speed limits**), there are safeguards constantly being built into the CJ system and judicial process designed to counterbalance them (the CC vs. DP model), just like the cop lurking behind a billboard, lying in wait to catch an unsuspecting illegal speeder.

11. Eleven. The end result of all this is that **over 90%** of all Visible Index crimes are never fully addressed by our CJ system.

Even the great majority of the crimes that are reported, and that are actually tracked by the police, are **never "solved."** It is estimated that, out of 1,000 serious crimes committed, only 27 offenders are convicted (CJ filter, remember?).

So, the story goes like this: In order to deal with crime, the police do the covert stuff, which scares the public. The public then constrains the police from doing covert stuff. So then the police deal with less effectively with crime. So the public suffers more from higher crime rates.

Also remember that in a previous lecture we quoted an old saying that “it is better that ten guilty persons escape than that one innocent suffer?” The statistics indicate that a lot more than ten guilty persons escape. Yet, we still **convict some innocent people** sometimes. Not many, but really, even one is too many, especially if that one is you – or worse, me!

Maybe we should just **focus on preventing crime**, like Peel said. But what about when we fail to prevent crime, and crimes are committed? Should we just let criminals continue to inflict harm upon us and our society, and hope that we can eventually “prevent” them from doing so? By catching and bringing to justice so few criminals like we are doing now, and also by convicting innocent people, sometimes I wonder if we’re really going about things the best way. But according to the NCVS and UCR, crime rates are down around the lowest levels they have been in more than two decades. We don’t know why, or how, or what, or—it’s starting to get dizzy again.

But what about the harm to the **VICTIMS**? And what about the innocent people we send to prison when we do try to catch crooks? These things offend my sense of justice. This is the 21st Century, the New Millennium. We’ve been practicing on this since at least the first cities 10,000 years ago - can’t we do better? Apparently not. At least not yet.

12. Twelve. In the **COMMUNITY POLICING Era** of policing (1970s to the present), the following was found:

When **COMMUNITY POLICING** Officers work with communities in **overt partnerships**, crime can be prevented (maybe not all crime, but at least some crimes), more than otherwise, and the number of reported crimes can be reduced.

COMMUNITY POLICING may also help increase crime clearance rates (**solve more crime**) by helping detectives in their investigations.

So, the story then goes like this: In order to deal with crime, the police do the **OVERT** stuff, which scares the public less. The public then supports, rather than constrains, the police in doing the **OVERT** stuff. So then the police deal more effectively with crime. So is that why crime rates have fallen so much over the past three decades? Seems reasonable enough, but we just don’t know and the research has not yet been able to demonstrate the causes of the decreases. And remember, the technology factor is still hanging out there in the mix, also.

We learned that most police agencies focus on using COMMUNITY POLICING to prevent crime, and they have **not integrated** their COMMUNITY POLICING and investigations missions to take advantage of this potential to also solve more crime. I wonder why that is.

13. Thirteen. While most local agencies in the US were organized in the 19th Century, it wasn't until the 20th Century that **federal** investigation agencies began to develop. As was seen with the FBI and DEA examples, they received extensive criticism for their questionable use of **covert** techniques against US citizens.

As we continue to go into harm's way and new challenges arise, especially in the area of terrorism, the feds are **still struggling** even today to find a balance between providing security and defending liberty in the eyes of the public. The **ol'** covert techniques **bugaboo** is still with us, **eh?** Even after 9/11.

14. Fourteen. So it looks now like in the future we're going to get **more of the same "cream of the crop"** Bureaucrat Detective at the local level, and that we'll probably continue to struggle to try to figure out the security vs. liberty thing with Big Brother. We don't appear to be real **fast-learners** here. Maybe we're unconsciously betting on the great advances of forensics and technology as new sources of information to combat crime – we'll take a look at those prospects shortly. But there are many of the same old CC vs. DP issues that are beginning to surface, at least at the federal level, that may ultimately severely constrain our efforts in this regard, also. **Remember** the WALL?

There now, that's a **nice set of lessons**, don't you think? Kind of cuts to the chase, summarizes the key points of the course lectures, eh? I mean, it's a pretty good overview of the past that leads us to where we are now, and it points a little bit to where we're headed in the future with local and federal agencies regarding investigations.

That said, I have some concerns about that direction, which I am prepared to elucidate in the next lecture.