The Annual Review of Interdisciplinary Justice Research Volume 10, 2021

Edited by
Steven Kohm, Kevin Walby, Kelly Gorkoff,
Katharina Maier and Bronwyn Dobchuk-Land
The University of Winnipeg
Centre for Interdisciplinary Justice Studies (CIJS)
ISSN 1925-2420

Assholes in the News: Policing in the Age of the COVID-19 Pandemic

Christopher J. Schneider
Brandon University

Abstract

This exploratory study examines some of the situational outcomes as presented in news coverage of police encounters with citizens in which the police definition of the situation was not followed. According to organizational studies scholar John Van Maanen, people labelled and treated as "assholes" by officers can be subject to arrests that rely principally on *post facto* accounts including "disorderly conduct," "assaulting a police officer," "disturbing the peace," and "resisting arrest." This paper investigates coverage of "assholes" with an eye upon reporting during the COVID-19 pandemic, allowing us to ask the question: What can we learn about pandemic policing from examining news coverage of "assholes" during COVID-19? The novel coronavirus was first reported to the World Health Organization (WHO) China office on December 31, 2019. On March 11, 2020, the WHO officially declared the global COVID-19 outbreak a pandemic. An examination of news reports from December 31, 2019, until mid-May 2020 (before and after COVID-19 was named a pandemic) using qualitative media analysis reveals that the pandemic has seemingly augmented the ability of police to act as front-line moral entrepreneurs with an unparalleled position as rule enforcers authorized with the state-sanctioned authority to use violence. A consequence of this pandemic shift is the expansion of police powers where routine activities become situational determinants that might influence police arrests. The findings herein provide a pandemic-era window into police behaviour that occurs beyond the scope of procedural justice. Suggestions for future research are noted.

Introduction

In 1978, organizational studies scholar John Van Maanen published his provocatively titled and influential paper "The Asshole." His paper, originally published in *Policing: A View from the Streets* (co-edited with Peter K. Manning), has attracted considerable attention, exceeding more than six hundred citations. Van Maanen argues in his classic article that "assholes" are those people who refuse to accept the police definition of the situation; in other words, assholes are any suspected persons who challenge an officer's authority. "The Asshole" has also been reprinted in various important edited collections (see, e.g., Newburn, 2005). This study examines the presentation of outcomes of police encounters in media in which the police definition of the situation was not followed. Such circumstances result in the presentation of assholes in news reports.

People labelled and treated as assholes by police are sometimes subject to "street justice" and arrests that rely on *post facto* legal accounts employed to justify or excuse police violence, including "disorderly conduct," "assaulting a police officer," "disturbing the peace," and "resisting arrest" (Van Maanen, 2005). These four *post facto* accounts, Van Maanen explains, are legally defensible justifications of police behaviour to "cover [an officer's] ass" (p. 290). Arrests and related charges produce empirical evidence in the form of official police records that are often shared with media (see, e.g., Ericson, 1982; Fishman, 1978, 1980; Mawby, 2002). Police use of *post facto* accounts relies on the exercise of discretion or "the day-to-day decisions of policemen" (Brown, 1988, p. 3). An examination of assholes in the news can provide some helpful insight into pandemic justice as it relates to police discretionary powers.

This paper investigates news coverage of assholes with an eye upon reporting during the worldwide COVID-19 pandemic. Assholes are typically people who are arrested and/or charged with a *post facto* offence. Assholes then may become features of news media "crime stories" (Chermak, 1995). Scholarship has shown that police "often exert substantial control" over crime stories and accounts (Doyle, 2006, p. 870). As Sacco (1995, p. 146) explains, "the police role as the dominant gatekeeper means that crime news is often police

news." In the early days of the pandemic police were generating crime news stories framed as COVID related to seemingly stress the perception of assholes taking advantage of pandemic stay-at-home orders. The following headline helps illustrate the point: "Police report shocking cases of speeding motorists taking advantage of quieter roads during the coronavirus lockdown" (Hull, 2020). Police Detective Superintendent Andy Cox also took to Twitter on March 26, 2020, to share specific examples of traffic officers cracking down on "utterly outrageous speeds" and included pandemic-related hashtags in his tweet (#Covid19 and #CoronavirusUK), thus linking a crime story with COVID-19.

Since the 1980s, nearly all large city police departments have employed "press officers who generate contacts with the media and 'feed them'" (Ericson, 1982, p. 8; see also Skolnick & McCoy, 1984). Press officer relations with journalists enable police to exert influence and frame crime stories (Chermak, 1995), as it is "the police department [that] offers the reporter the fundamental facts to write the story" (Skolnick & McCoy, 1984, p. 521). Many of these fundamental facts come from the "beginning stages of the criminal justice process, including police discovering incidents, conducting investigations, and makings arrests" (Chermak, 1995, p. 33).

Evidence suggests that another issue that links news media accounts with police accounts of assholes concerns the uncritical reliance of news media on police for official information so journalists can quickly produce stories to fill the ever-demanding news media cycle. Skolnick and McCoy (1984, p. 547) found that "[t]he more qualified the police media specialist, the less independence the reporter may exert. As reporters become dependent on the police department, they may lose the capacity to dig independently." Independent verification is hindered by the immediacy of the news media cycle but is also exploited by press officers who "collect facts about fast-breaking crime stories and make them available to reporters who need facts quickly" (Skolnick & McCoy, 1984, p. 545). In his research of British police, Mawby (2002) discovered that since the 1990s journalists have had less time to validate information provided by police. In such cases, Mawby found that reporters were discovered to be less challenging of police narratives, and because of this "police

press officers found it easier to shape the news in that their press releases would be accepted with little to no editing" (Mawby, 2002, p. 134). We must exert caution concerning the extent to which news media accounts can be relied upon as data that captures wide changes in policing as a consequence of the pandemic. This exploratory study does not make claims regarding changes in police behaviour as a result of news reporting; rather, the concern herein rests with examining the nature and content of pandemic-related news media coverage, *which is heavily influenced by police*.

Police control is usually most pronounced during the early stages of crime stories when less information about crime is available and journalists rely on police to provide data and narratives. Increasingly, however, some crime stories, particularly those that involve bystander recordings, might also begin or unfold concurrently on social media platforms (Schneider, 2015, 2016). Attention in what follows is on news media reporting of assholes, as the label or *post facto* account is a police construction that is difficult to ascertain from social media materials alone absent official police records.

The Asshole

Van Maanen suggests that decisions to arrest may follow a moral transgression that results in the police categorizing people under the label of "asshole." While anyone in principle can be labelled an asshole by police, marginalized and racialized groups are more often predisposed to the label. Van Maanen (2005, p. 286) does not say much explicitly about racialization other than to suggest that certain classes of people, noting Black people among them, are fixed by police in a "permanent asshole grouping." This categorization influences police decisions to stop an individual, but in order to make the asshole categorization concrete *a priori* categorizations must be tied to observable social actions. A limit then of addressing the role of race in news media reporting of assholes concerns the simple fact that such information might be incomplete, counted or coded differently by law enforcement agencies, or purposefully excluded altogether in some jurisdictions and not others. Nevertheless, available evidence does indicate that race plays a factor in COVID enforcement measures with people of colour and other marginalized

folks disproportionally stopped, fined, and arrested by police and law enforcement agencies (Amnesty International, 2020; Kaplan & Hardy, 2020). Ultimately, the asshole label is the outcome of stigmatization and *unrelated* to the occupational police mandate.

The mandate is the licence that grants police the authority to carry out their state-sanctioned duties (Manning, 1978). The police mandate involves upholding the law and maintaining social order. The mandate enables police to identify crime as a problem specific to the domain of police work, and, importantly, allows all law enforcement agencies to justify both the definition and enforcement of all that is designated as crime matters. In keeping with the mandate, police work is mostly symbolic and hinges largely on the manipulation of appearances by providing scripted statements to news journalists or the careful control and use of social media in an effort to influence public perceptions (Manning, 1978; Schneider, 2016).

The asshole is a particular occupational police label that is applied to certain people following a series of situational social conditions at the interactional level. The label is a direct result of what Van Maanen (2005) calls the "moral mandate," that, unlike the police mandate, concerns situations where the authority of an individual officer is questioned. Van Maanen, citing Cain (1973), suggests that when the authority of an individual officer is challenged, an officer may respond with one of three broad based choices: "(1) physically attack the offender; (2) swallow his pride and ignore the offender; or (3) manufacture a false excuse for the arrest of the offender" (Van Maanen, 2005, p. 285).

Building upon Cain's (1973) work that explores face-to-face police interactions in rural and urban environments, Van Maanen provides a typology to understand the interactional process in which the label of the asshole "arises, sticks, and guides police actions during a street encounter [consisting of] a stigmatization process [that] is divided into three stages […] *affront*, *clarification*, and *remedy*" (2005, p. 286, *emphasis in original*). According to Goffman (1963, p. 3), stigma as a categorization is not static; rather, the process should be viewed as "a language of relationships." *The asshole then is not necessarily a violator of any law per se but rather only as an*

individual who has been labelled and treated as such. To illustrate his three stages, Van Maanen provides a series of hypothetical police–citizen interactions.

During an "affront," for instance, an officer's authority is directly challenged, such as in the fictional case of a "stumbling drunk who says he has had 'only two beers'" (Van Maanen, 2005, p. 287). In the next stage, the officer seeks further "clarification" in determining if the person could have acted differently under the circumstances and whether the person was aware of the consequences of their actions. "For example, the speeding motorist who, when pulled to the side of the road, could be excused for his abusive language if it were discovered by the officer that the motorist's wife was at the same time in the back seat giving birth to a child" (Van Maanen, 2005, p. 288). The final stage, or "remedy," is where an officer renders a determination of their response to an encounter.

If a subject is determined, for instance, to have *knowingly* caused offense and could have acted otherwise given the circumstances, they become "prominent candidates to be the recipients of street justice," and the officer may physically attack the offender as punishment for violating extralegal moral codes (Van Maanen, 2005, p. 289). When street justice occurs, an officer must usually "manufacture *post facto*" legal accounts to justify or excuse police violence (Manning, 2005, p. 290).

Van Maanen (2005) provides additional scenarios that further illustrate his model of the interpretive rules that govern police conduct when interacting with people. For instance, in situations where a person did not know what they were doing and could have acted differently under the given circumstances, an officer might choose to instead teach, isolate, or otherwise ignore the transgression. These situations are usually unlikely to result in arrests, and, as such, drawing any conclusions about the outcomes of police conduct relative to the application of the asshole label is difficult. Arrests, however, produce outcomes in the form of empirical evidence as police records and data that are shared with news in the form of press releases that can be collected and examined.

The Definition of the Situation

While the concept of the definition of the situation underpins Van Maanen's entire development of the asshole typology, he does not clarify the concept. The definition of the situation is a conceptual framework for understanding how people interpret social reality, such as the process through which patrol officers classify those they encounter into different categories like "suspicious persons," "assholes," and "know nothings." The origin of the concept is credited to Thomas and Thomas (1928) and their widely cited pronouncement, "If [people] define situations as real, they are real in their consequences," sometimes referred to as the "Thomas theorem."

"Although loosely defined," Waller (1970, p. 162) argues that the Thomas theorem "is a valuable concept because it designates certain real aspects of psychic and social life, and explains phenomena otherwise without significance." According to Waller (1970) the definition of the situation is an interactional process in which individuals explore the limitations that the situation imposes on their possible (re)actions, and this in turn results in the formation of the individual attitude, or definition as it were, of a given situation.

More recent scholarship has developed the Thomas theorem in relation to the role that media play in defining situations. For instance, Altheide (2000) examined how media and popular culture connects to the process through which individuals construct their identities. Other research has examined social cues provided through media that contribute to how audiences define situations in relation to crime and legal control (Schneider, 2012).

"In another sense," Waller (1970, p. 162) writes, the definition of the situation can also "denote certain psychic products of group life which are left as residua from the definition of the situation." The residua of definitions of situations can be located in media documents, which are said to capture the "dramaturgical character" of action or snippets of the process through which "human beings accomplish meaning in their lives" (Brisset & Edgley, 1990 p. 2). The accomplishment of meaning also includes the police labelling and treating people who have refused to accept their definition of the

situation as assholes. Assholes, like those charged with *post facto* offences, are featured in news articles that cite police reports, official arrest data, and statements from police personnel.

Pandemic Police Powers

Police powers around the world have broadened quite considerably in response to the COVID-19 pandemic (see, e.g., Amnesty International, 2020; Luscombe & McClelland, 2020). Police surveillance has expanded, as has the ability to restrict individual freedom of movement, disband any public gathering, and enforce "social distancing" measures. An array of possible pandemic-related situations exists for labelling and treating people who have refused to accept the police definition of the situation as assholes.

In the United Kingdom, for instance, police retain the power to detain anyone *thought* to be infectious even in the absence of test results (Proctor, Walker, & Syal, 2020). Whereas in Toronto, Canada's largest city, controversial police street checks were seemingly reintroduced to allow police to charge people with violating state emergency orders (Canadian Civil Liberties Association, 2020a). The practice, otherwise known as "carding," of police asking a person for their identification is a controversial one that data reveals disproportionally affects people of colour and has no effect on crime. Michael Bryant, executive director of the Canadian Civil Liberties Association, calls such pandemic-related police profiling "COVID carding" (Perkel, 2020).

The expansion of pandemic police powers related to the enforcement of social distancing orders (keeping two metres apart from others not in your household) increases police encounters with citizens in numerous contexts where people would otherwise be engaging in routine everyday behaviours. During the pandemic, ordinary situations, such as walking in the park, holding hands, riding bikes, sitting on a park bench, or pushing a child on a swing, may be defined by police officers as transgressions (e.g., Rider, 2020). We might reasonably surmise that some people might disregard, ignore, or respond with criticism to police enforcement of social distancing

requirements. These people would become, by virtue of ignoring the police definition, assholes.

People labelled and treated as assholes by police are more likely to be at the receiving end of "street justice," or "a physical attack designed to rectify what police take as an insult" (Van Maanen, 2005, p. 282). Other scholars have provided much broader definitions of street justice. Sykes (1986, p. 489), for instance, defines street justice as something that is "done about situations where formal institutions cannot or will not respond for a variety of reasons," whereas, for Johnson (2003, p. 10) street justice refers to "police violence as a more general term to encompass the use of physical or deadly force that may or may not be justified under law." Underpinning street justice is the fact that it is used at the discretion of an officer "to mete out justice on their own initiative" (Terpstra & Kort, 2016, p. 3).

Alongside the broadening of police legal powers is the increased expansion of police discretion. "The law defines only the outer limits of discretion, and tells a policeman what he may not do — *rarely what he should do*" (Brown, 1988, p. 5, *emphasis added*). At its core, police discretion is the ability to define a situation as an individual officer perceives it, such as a person on the street who looks "infectious" with COVID-19, or another who is not properly social distancing. Scenarios such as these raise a broader and underexplored question: What can we learn about pandemic policing from examining news coverage of assholes during COVID-19?

Van Maanen's (1978) important paper provides a foundational model to understand the interactional processes through which patrol officers—over the course of their routine duties—classify all those whom they encounter into different categories: "suspicious persons," "assholes," and "know nothings." Van Maanen's model is useful for police ethnographers (see, e.g., Cram, 2016). For instance, research has addressed some of the situational determinants that might influence police arrests, such as factors like race or gender (see, e.g., Smith & Visher, 1981; Smith, Visher, & Davidson, 1984; Visher 1983), while other policing scholarship has investigated decisions to arrest made on the basis of organizational characteristics largely focused on policing style (Chappell, MacDonald, & Manz, 2006).

Less research has sought to investigate how the police application of the asshole label is reported in news media.

Methodology

Given the stated interest with news reports regarding the police definition of the situation, the selection of qualitative document analysis as a methodological procedure is suitable. Qualitative Media Analysis (QMA) is a specific type of document analysis that is oriented to the analysis of multiple documents, such as news articles. QMA is a 12-step process (Altheide & Schneider, 2013, p. 39–73). After the identification of a research topic (Step 1), focus shifts to developing an awareness of the relevant source materials (Step 2).

In line with the question posed at the outset of this paper, it was important to first become familiar with the basic timeline of the novel coronavirus. This helped ensure the identification and selection of appropriate search terms used to retrieve news documents and to establish a clear set of search parameters for data collection. Because this is an exploratory study regarding a global pandemic, searches were not bound by jurisdiction in an effort to ensure the widest range of possible documents for collection and analysis.

Before it was named COVID-19, the respiratory illness was reported as an "unknown pneumonia." According to the United Nations international public health agency the World Health Organization (WHO [2020]), a "pneumonia of an unknown cause" was first reported to the WHO China office on December 31, 2019. The last use of "unknown pneumonia" in WHO updates was on January 5, 2020. Five days later the WHO replaced pneumonia with "novel coronavirus." The WHO issued an international public health emergency at the end of January, and on February 11, 2020, the WHO announced a name for the new coronavirus: "COVID-19."

On March 11, 2020, the WHO officially declared the global COVID-19 outbreak as a pandemic. However, an imposed lockdown had already begun months earlier on January 23, 2020, in Wuhan, a Chinese city of 11 million people in the Hubei province. Wuhan was the first city in the world to go into a state mandated lockdown to

quarantine the spread of COVID-19. The 11 million residents of Wuhan were not permitted to leave the city without permission from authorities, with police as the enforcers.

Soon after the lockdown was imposed in Wuhan, news reports and videos on social media provided citizen accounts of authorities welding apartment doors shut to forcefully confine residents and in other situations removing residents against their will (Philip, 2020). According to Tim McLean, an Australian man residing in Wuhan during the lockdown with his Chinese wife, "The police are actually knocking on doors, taking temperatures, and if they've got a temperature, they're dragging them out, mate. You don't get an option" (Philip, 2020). Geographic quarantines around the globe spread almost as quickly as the virus, ranging from stay-at-home suggestions to mandatory quarantine and social distancing measures.

Using LexisNexis, a database with access to news documents, searches were conducted on May 14, 2020, using the above *post facto* legal accounts: "disorderly conduct," "assaulting a police officer," "disturbing the peace," and "resisting arrest," along with "coronavirus" and "COVID." Use of the latter two as truncated search terms also ensured the return of data where "novel" or "19" did not appear. Searches of LexisNexis returned articles from multiple countries. The data in the findings draw from Canada, the United States, the United Kingdom, Australia, New Zealand, and France.

A cursory reading of a few dozen articles established a deeper familiarity of the topic (Step 3) to assist with the development of categories (variables) and the construction of a data collection protocol (Step 4). Reading reports across these data permitted the further testing of the protocol instrument (Steps 5–6). These data were categorized as "Oldest to Newest" and then saved as PDF files for chronological review and analysis. Coding, analysis, and comparisons were conducted with the aid of the Adobe Acrobat Pro software. Data analysis involved reading, sorting, and searching data category by category, that is, *post facto* accounts. Collecting text data from collated news media reports in Adobe Acrobat Pro helped to identify key themes associated with *post facto* categories. Themes are

understood to constitute "the recurring typical theses that run through a lot of the reports" (Altheide & Schneider, 2013, p. 53). Themes emerged from news reports with recurring behaviours cited across numerous contexts and jurisdictions. For instance, news reports of coronavirus-inspired "pranks" were usually paired with disorderly conduct charges, whereas spitting was typically paired with charges of assaulting a police officer, with neither behaviour unique to one jurisdiction or country.

Searches of LexisNexis for "disorderly conduct" and "coronavirus" netted the most results at 1,083 articles; 769 articles were found when "disorderly conduct" was searched along with the term "COVID." These search results were combined as individual PDF files for more careful reading, review, and analysis, resulting in 2,196 PDF pages and 1,544 PDF pages, respectively. Subsequent searches for "assaulting a police officer" and "coronavirus" returned 203 articles (873 PDF pages) with "COVID," 155 reports (683 PDF pages). "Disturbing the peace" and "coronavirus" netted 120 articles (582 PDF pages), whereas "disturbing the peace" and "COVID" returned 108 (252 PDF pages). Searches for "resisting arrest" with "coronavirus" and "COVID" returned the second largest data set of the paired search terms with 1,044 articles (3,308 PDF pages) and 784 articles (2,759 PDF pages).

While these data sets are certainly large, especially for qualitative research, the search capabilities of the PDF format assisted in the development of an even deeper familiarity of the context of coverage across multiple reports more quickly. Further, the volume of these data sets was reduced for review and analysis by aggregating the files to a line-by-line context. For example, aggregating the largest data set of "disorderly conduct" and "coronavirus" by conducting an advanced search in Adobe using the text "disorderly conduct" reduced 2,196 PDF pages of data to a more manageable 100 pages[1]—

[1] To aggregate files in Adobe Acrobat Pro to a line-by-line text context one must first select the Edit option in the Adobe menu bar and then choose the Advanced Search function. In the Advanced Search window enter your text (e.g., "disorderly conduct") into the "What word or phrases would you like to search for" search option. In searches of "disorderly conduct," of the "disorderly conduct" and "coronavirus" data set, the Adobe software returned 1,545 hits that were then saved as an additional 100-page PDF document. The 100-page document provides a line-by-line text context for additional careful reading with each line of text listed with the

a more workable data set for a more nuanced and careful reading (for further discussion of working qualitatively with large data sets, see Schneider, 2018).

Step 7 of QMA involves the selection of a sampling strategy. A saturation sampling was first drawn by entering in *post facto* legal accounts with "coronavirus" and "COVID" into the LexisNexis database. Following the retrieval of data, progressive theoretical sampling was used to ensure that the full range of data materials were included. This procedure "refers to the selection of materials based on emerging understandings of the topic under investigation. The idea is to select materials for conceptual or theoretically relevant reasons" (Altheide & Schneider, 2013, p. 56).

Step 8 involves gathering the data, which brings us back to our PDF data sets in order to obtain the appropriate unit(s) of analysis (i.e., single news articles). Step 9 involves analyzing these data, the goal of which is "to understand the process, to see the process in the types of meanings of the documents under investigation, and to associate the documents with conceptual and theoretical issues" (Altheide & Schneider, 2013, p. 70). During Step 10, the researcher is to locate key differences, compare and contrast extremes in the data, and write brief summaries of these observations. Step 11 involves bringing together these summaries with examples of typical cases while also highlighting important extremes. Step 12 is to integrate the findings into a draft manuscript.

Findings

The findings are distinguished below by each *post facto* account reported in connection with coronavirus or COVID-19. While *post facto* accounts sometimes overlapped (i.e., multiple accounts appeared together) or were very commonly used in conjunction with

corresponding page number where the aggregated text originally appeared in the 2,196-page PDF document. Other similar searches were conducted of the PDF data to generate aggregated files for additional review in order to develop a deeper familiarity of the context of news media coverage.

other charges, some accounts were paired more frequently with recurring behaviours (i.e., "pranks" were often paired with disorderly conduct whereas spitting was regularly paired with assaulting a police officer). In the conclusion of this paper, a short discussion of the research question is provided along with insight regarding pandemic justice as it relates to the expansion of police power.

Disorderly Conduct

Reports of disorderly conduct ranged considerably from lesser to gradually more severe offences. Thematic behaviours associated with disorderly conduct consisted usually of practical jokes (i.e., pranks) and shifted to "terrorist threats."

In numerous cities, local governments authorized police to issue disorderly conduct citations in lieu of arrests for any failure to comply with mandated stay-at-home orders or for not following state-sanctioned social distancing guidelines. Disorderly conduct citations expand police discretion to include a host of otherwise routine activities, thereby significantly enhancing the police ability to define situations and control social situations.

Across examined news articles, disorderly conduct charges appeared alongside a laundry list of mostly routine social behaviours like driving, parties, weddings, funerals, "anyone in a group," "hanging out," coughing, and some less routine things such as protesting and terrorism, even while "terrorist threats" appeared quite frequently. Regarding the policing of routine social behaviours, consider "standing":

> In late March [2020], New York City police arrested a woman for allegedly standing with her boyfriend and others in a Brooklyn parking lot. The police claimed she "failed to maintain social distancing" and charged her with unlawful assembly, disorderly conduct, and obstructing governmental administration. Recounting the incident to The Intercept, she described officers without masks transporting her to Central Booking, where she spent 36 hours in a jail cell with more than 20 other women without access to soap. Once released,

> her employer barred her from work, afraid that she'd been exposed to the coronavirus while in custody. (Shure, 2020)

A situational irony exists where police arrest and detain people for routine activities while simultaneously, in many places, releasing from custody those jailed pre-pandemic for petty crimes to limit the spread of COVID-19 infections in prisons. In this regard, albeit less typical, some people with serious criminal charges were released from custody.

> "These are extraordinary, dire times," a judge wrote Monday in a decision ordering the release of a man accused of firing a bullet through his ex-girlfriend's apartment window in Hamilton [Ontario, Canada]. (Bell, 2020)

In the month before COVID-19 was officially declared a global pandemic, disorderly conduct charges appeared in reports from all around the world. Many pre-pandemic arrests for disorderly conduct were for pranks often committed by teenagers, sometimes referred to as "coronavirus pranksters." Two thematic examples from early February, one in suburban Chicago and the other in New York City, each demonstrate the point.

In one instance, it was reported in various outlets that a teen walked into a Walmart in Joliet, Illinois, wearing a face mask and a sign on his back that read "Caution I have the Coronavirus" while spraying Lysol. Reports stressed that the police did not actually believe the teen had the coronavirus. "It appears to have been a prank that went too far," Joliet police Sgt. Chris Botzum said of the incident without any further explanation (Fabbre, 2020). In another more exaggerated prank just five days later in New York City, a pair of teens dressed in Hazmat suits spilled a bucket of "coronavirus" (Kool-Aid) onto a crowded subway car (Brown, 2020). A recording of the prank was shared on Instagram and it quickly went viral, attracting the attention of the New York Police Department. The teens were all charged with misdemeanour disorderly conduct, among other charges.

Misdemeanour reports of coronavirus pranksters did not last for more than a few weeks. A discernable shift of police responses occurred

following the WHO official declaration of COVID-19 as a pandemic. In numerous reports that followed, disorderly conduct quickly became joined with terrorism, usually in the form of "terror threats," "terror related charges," and violations of the "terrorism hoax act."

> Police said they have charged Daniel Tabussi, 57, with terroristic threats, simple assault, disorderly conduct and harassment […] Tabussi approached the victim, deliberately coughed in close proximity to him and made numerous coughing sounds while smiling and laughing, according to police. (Sentinel, 2020)

Most assholes in the news involved police narratives of encountering and distinguishing the asshole, resulting in disorderly conduct charges. Reports of street justice (although it was never called such), directly connected with coverage of disorderly conduct were infrequent, but not entirely absent. In such situations, police confrontations with citizens were captured on bystander video, as illustrated here where police cite disorderly conduct as the *primary* reason for the violent encounter:

> An Alabama woman who was body-slammed Tuesday at a Walmart in Birmingham by an off-duty police officer after refusing to wear a face mask and allegedly acting disorderly is facing criminal charges, police say, and the officer is under investigation […] "The reason for the officer's contact was disorderly conduct and not just the mere violation of a face covering ordinance" [said Sgt. Rod Mauldin of the Birmingham Police Department]. (Beachum & Farzan, 2020)

Assaulting a Police Officer

As with government and state orders that authorized police to issue disorderly conduct citations for quarantine and social distancing violations, the criminalization of routine activities was a consistent theme. Activities like driving were sometimes conflated with charges of assaulting police and even included behaviours like breathing. However, unlike with many reported cases of disorderly conduct,

coverage of assaulting a police officer most often coincided with some form of custody.

> A man has been sent to prison for 14 days after spitting at a police officer.
>
> The incident happened during a routine traffic stop on Fenton St in Rotorua on Tuesday April 14. Police say the 42-year-old man refused to comply with the officer's instructions and spat at him. He was arrested at the scene and charged with assaulting a police officer. "Police have a range of measures in place to protect staff, however given the frontline nature of police work, there is always risk," said police in a statement. "Spitting at police will not be tolerated, especially due the increased risk associated with Covid-19. In this case the saliva did not make contact with the officer and he was not required to self-isolate." (*New Zealand Herald,* 2020)

The most common reported assault on police was spitting at, near, or on an officer. Other reported assaults included coughing, breathing, and exhaling. For instance, a woman in the United Kingdom "was subsequently arrested for being drunk and disorderly [and while] she was being detained, she exhaled towards the officer and claimed to have coronavirus" (Shaw, 2020). She received an additional charge for assaulting a police officer. In another similar situation, a man who was being taken into custody on suspicion of drinking and driving "*threatened* to cough and spit at the [arresting] officers, saying he hoped they would contract the virus and die" (Connor-Hill, 2020, *emphasis added*). The man was charged with assaulting a police officer for his "threatening" behaviour.

Thematic across coverage that involved spitting, breathing, exhaling, or coughing in the direction of police was the expressed concern by law enforcement administration of the loss of front-line police who would have to self-isolate after potential exposure to the virus. Such concerns shared by police personnel were regularly touted as risks not only to individual police officers and their families, but also to public safety.

In Canada, a Saskatoon Police Service (SPS) statement following an officer who was spit on by a man claiming to have had COVID-19 helps clarify the point:

> We are not the only organization out there that faces these incidents of people exploiting the current environment and contributing to fear. Whether it's as egregious as what our member experienced last night, or someone faking flu-like symptoms as a joke, this is not okay. (Postmedia, 2020).

The SPS officer in question was only advised to self-monitor. In other situations, police were required to self-isolate following any possible exposure to the virus. Consider the following thematic example from New Zealand:

> Eight police staff have had to self-isolate after being spat on, Police Commissioner Andy Coster says […] There was a small number of people targeting police staff with spitting and coughing, as has been the case for supermarket workers and health care staff, Coster said […] For those who do spitting attacks but weren't Covid-positive, Coster said they could be charged with assault. (McAuliffe, 2020)

While Commissioner Coster does not clarify assault per se, coverage of physical assaults on officers in the context of the pandemic was markedly less frequent. Furthermore, assaults on police involving the intentional spread of biological materials (i.e., saliva) did not generally involve any subsequent terrorism-related charges, as was sometimes the case with people charged with disorderly conduct, as outlined above.

In reports of street justice connected with assaulting a police officer, charges were, as was the circumstance with disorderly conduct, infrequent, but also not absent. A bystander video theme of street justice emerged across coverage of policing during the pandemic. In situations of police enforcing pandemic policies such as social distancing that involved police force captured on video, officers were far more likely to be formally reprimanded for their actions. As reported in the *New York Times*:

> A New York City police officer was stripped of his gun and badge after video footage appeared to show him violently escalating a confrontation with bystanders that police said began as an attempt to enforce social distancing rules. The officer, Francis X. Garcia, appears in the video pointing a stun gun at bystanders before punching and slapping one man to the ground. The man, one of three people arrested during the encounter, was charged with assaulting a police officer. (*New York Times*, 2020a)

Disturbing the Peace

Charges or related citations for disturbing the peace in the context of the COVID-19 pandemic were minimal. When disturbing the peace did appear, the charge was most usually layered with other offences, and usually with one or more of the *post facto* excuses. Reporting of jail time for disturbing the peace was almost nonexistent.

The charge largely appeared in coverage of police responses to public gatherings. In Quebec, Canada, for instance, a social distancing "birthday parade"—consisting of a reported 10-minute procession of cars—received a warning from police for disturbing the peace (Haines, 2020). In the United States, in New Jersey, police "broke up a Pink Floyd party." The party was said to have included approximately 30 middle-aged people.

> When officers arrived at the house where the party was being held, officials said, they found the homeowner and another man strumming guitars and performing Pink Floyd songs. Because the gathering violated the state's social-distancing orders, officials said, the police told those who were there to disperse. At that point, officials said, the crowd became raucous, with at least one man, Ryan Sheftel, 46, of Rumson, shouting vulgarities and yelling "welcome to Nazi Germany." […] Mr. Sheftel was charged with disorderly conduct and violating a borough ordinance by disturbing the peace. (*New York Times*, 2020b)

Elsewhere in the U.S., a so-called "video vigilante" in Boston, Massachusetts, "was charged with trespassing, disturbing the peace and threats to do bodily harm after he refused to stop recording," even though the man apparently had the legal right to record (Dwinell, 2020). It was reported that the man, already known to law enforcement, was a member of what police called an "aggressive group" advocating for the right to video record in public spaces. As reported in the *Boston Herald*:

> "I informed him that I could not make him stop filming but I asked him to stop out of respect to patient privacy," the arresting officer wrote in a police report obtained by the Herald through a public records request. "He continued to film the [Massachusetts General Hospital] ramp and I again asked him not to film the ramp out of respect for the patient and to imagine how he would feel if the patient was a family member of his or if he were the patient," the officer added. (Dwinell, 2020)

These excerpts taken from the police report of the arrest seem to suggest that the man was arrested for simply failing to meet police expectations during the interaction.

Resisting Arrest

Lastly, we have the "almost legendary—due to its frequent use—resisting arrest" (Van Maanen, 2005, p. 290). The charge of resisting arrest was most often paired with assaulting a police officer. As such, and consistent with the above findings, charges of resisting arrest typically corresponded with some form of custody. Coughing and spitting on or at police were common across articles that covered resisting arrest. Additionally, resisting arrest charges were regularly reported alongside descriptions of physical assaults on police.

> Sean Pearson was part of a group of motorcyclists who had gathered in Cannock on Saturday afternoon in breach of social distancing restrictions. He resisted arrest and elbowed a police officer in the face — and when he was in the custody suite deliberately coughed over another stating he had

> coronavirus. Pearson, 31, who lives in Chadsmoor, was jailed for 32 weeks after pleading guilty via video link at North Staffordshire Justice Centre yesterday morning to two counts of assaulting an emergency worker. (Tyler, 2020)

In the context of COVID-19, coverage of resisting arrest appeared in relation to police enforcement of quarantine or social distancing rules. A thematic example from Milwaukee, Wisconsin, where "three people were cited for violating the order after they resisted arrest," helps illustrate the point:

> On April 18, a police officer saw three people walking faster after they noticed his patrol car. After he told them to stop, they ran. The officer cited two people in that case for loitering and prowling and resisting an officer, according to a report from the department. They were also cited and fined $313 for violating the safer-at-home order. (Casey, 2020)

A recurrent theme, particularly across the spate of coverage of resisting arrest, was police use of force (i.e., street justice). Analysis of coverage revealed that in the absence of some form of publicly available documentation, often a bystander video, media reports usually emphasized that police were aggressively confronted or physically attacked prior to the use of force, if any police force was mentioned at all. Limited coverage of police use of force in this way might be seen to legitimize any acts of police violence.

> A man has been jailed for attacking a police dog and punching three officers after he was stopped at a train station during coronavirus lockdown restrictions. Nelson Nelson was at Nottingham station on 4 April when he was approached by British Transport Police (BTP) officers who quizzed him on his reasons for travel […] Nelson admitted offences including two counts of actual bodily harm, assault with intent to resist arrest and assaulting an emergency worker. (Giordano, 2020)

In situations where videos of arrests existed, coverage focused more attention on physical violence by police officers. For instance,

bystander videos circulating online showing Miami Beach arrests in the days following the WHO announcement of COVID-19 as a pandemic clarify the point. One of the viral videos shows a Black woman who was pursued by police and subdued by choking. She was charged with resisting arrest.

> "The videos, along with the police officers' body camera footage, captured the hostile crowd, fights, and disorderly actions of numerous spring breakers," [said Kevin Millan, president of the Miami Beach Fraternal Order of Police]. "We are confident that a fair and thorough investigation will result in all officers being cleared of any wrongdoing." (Griffith, 2020)

What the Miami Beach incident reveals is that when bystander video exists, it is more difficult to publicly justify the charge of "resisting arrest" in the face of police violence. Where video footage does not exist, this charge is less often publicly questioned, on the basis of police accounts of the situation. However, this observation is not meant to suggest that police did not attempt to justify their actions with charges of resisting arrest during the pandemic. A more extreme and horrific example, as reported in the Agence France-Press, helps illustrate the point:

> Earlier this month [April 2020], prosecutors opened an investigation into the death in detention of a 33-year-old man arrested for allegedly violating the home confinement measures imposed by the government to curb the spread of the coronavirus. Police said the man resisted arrest. (Agence France-Press, 2020)

Discussion and Conclusion

News coverage of police encounters where the police definition of the situation was not followed provides an occasion to understand aspects of circumstances where people are labelled and treated as assholes by police. For instance, the data herein provides evidence of the widespread use of *post facto* legal accounts routinely employed by police officers in numerous jurisdictions, collectively underpinned

by police discretion. A basic finding of this paper is that police discretion is magnified in the context of pandemic policing. I now return to a short discussion of the question posed above: What can we learn about pandemic policing from examining news coverage of assholes during COVID-19?

The pandemic has seemingly augmented the ability of police to act as front-line moral entrepreneurs who occupy a unique position as rule enforcers with strict attention to risk management. The management of health risks has become a new and central concern of pandemic policing. A consequence of this shift in risk is the expansion of police powers in unforeseen ways. The data in this paper provide empirical evidence that illustrates otherwise routine activities as situational determinants that might influence police arrests. This now includes biological activities such as breathing and exhaling. In some circumstances, punishment of individuals for perceived moral transgressions that result in questionable arrests extends to situations where one might be barred from their employment and to the reframing of practical jokes as terrorism. The consequences of some of these moral transgressions are extrajudicial and absent due process, thus casting the role of police discretion during the pandemic in relation to just deserts into serious doubt.

In some ways news coverage of pandemic policing supports Van Maanen's (2005, p. 294) assertion that "when it comes to the asshole, police actions are not governed at all." A notable exception is bystander viral videos documenting police street justice, which subject *post facto* accounts to increased public scrutiny. Absent videos, however, police violence was largely left out (not discussed) across pandemic policing coverage. This finding supports the continued police control over news media crime stories and the ability to define the situation at the interactional level and in news coverage.

Though this exploratory qualitative study of pandemic policing contributes to the limited amount of empirical research on *post facto* legal accounts in news coverage, nevertheless, it leaves much to be desired. Understandably, the data and findings in this paper are not intended for generalization. Indeed, a major limitation of the data and

findings is that they draw from an international sample where legislation and variations in police practices and priorities may significantly differ. Additional research is necessary to examine intranational and international differences in police practices in relation to pandemic policing and the asshole label, and whether application of the label by police might result in fines and citations in lieu of arrests in some jurisdictions and not others.

Another limitation concerns examining news media documents only during a portion of the pandemic as these data provide just a brief snapshot of select police behaviours reported during COVID enforcement. Nevertheless, Van Maanen (2005) suggests that police harassment of people was "widely practiced" pre-pandemic. The findings in this paper then reveal some of the ways police may use COVID measures to harass people, highlighting contemporary policing enforcement practices such as the policing of routine social behaviours like standing. This raises serious questions about what pandemic policing *should* look like and the role police discretion plays in the process.

Van Maanen's paper outlines problematic discretionary police behaviours covered by *post facto* accounts that occurred long before the pandemic and are most certain to continue once it ends. While police discretion seems to have expanded, perhaps policing behaviours during the pandemic are not altogether different. Future work might examine time periods where *post facto* accounts appear in pre-pandemic news coverage. Doing so would help researchers get a better sense of any broader discernable changes in police practices, including the preservation of officer authority vis-à-vis the moral mandate as it occurs during pandemic conditions and in pre-pandemic times.

A strength of this exploratory study is that the findings do provide an empirically informed cross-national pandemic era window into police behaviour that occurs beyond the scope of procedural justice, laying some groundwork for future research specific to a region or jurisdiction. The principle of fairness is a hallmark of procedural justice and such an approach is likely to be accepted if people believe police have been fair (Farrow, 2020), so "that all communities feel

that they are equal" (Jones, 2020, p. 5). It is unclear if policing practices during the pandemic are procedurally fair; preliminary evidence suggests otherwise, with the gap between police and community widening during the pandemic (see Jones, 2020). McClelland and Luscombe (2020), for instance, have compiled a database of news media reports, police press releases, and other data for researchers to track police powers in response to COVID (see also Canadian Civil Liberties Association, 2020b). These data suggest an inconsistent and seemingly unfair application of police enforcement across Canada. More research is necessary to track similar trends in other countries. The lack of consistency across Canada can in part be explained by police discretion where challenges to police authority may result in application of the asshole label in one instance and not another and thus inconsistent police citations or arrests. The findings in this paper in some ways then help spotlight the necessity to further develop legal limits of police discretion.

Lastly, some early related pandemic policing data indicates that those arrested, stopped, and searched are disproportionally people of colour and other marginalized folks (Amnesty International, 2020; Kaplan & Hardy, 2020). Future work should also explore application of the asshole label during and after the pandemic, particularly in relation to race.

Acknowledgements

I would like to thank my colleague Stacey Hannem for her helpful feedback on an earlier version of this manuscript. I am grateful to the three anonymous peer reviewers of this paper and the editors of this journal for providing valuable suggestions for improvement.

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