

Citation	Kim Loyens, (2014) Rule bending by morally disengaged detectives an ethnographic study Police Practice and Research, 15(1), 62-74.
Archived version	Author manuscript: the content is identical to the content of the published paper, but without the final typesetting by the publisher
Published version	http://dx.doi.org/10.1080/15614263.2013.770941
Journal homepage	http://www.tandfonline.com/toc/gppr20/current#.VCVkl00cTg8
Author affiliation	Kim Loyens, Leuven Institute of Criminology, Faculty of Law, KU Leuven (University of Leuven), Belgium
Author contact	kim.loyens@law.kuleuven.be +32 (0) 16 329452
IR	http://lirias.kuleuven.be/handle/123456789/367974

(article begins on next page)

Rule bending by morally disengaged detectives: an ethnographic study

Abstract

Rule bending is a well-known practice in policing worldwide, often linked to 'noble cause corruption'. This ethnographic study shows how police detectives sometimes consider to creatively bend rules when rule abidance would lead to other values being jeopardized. This paper illustrates that the theory of role strain and moral disengagement could deepen our understanding of underlying mechanisms that explain rule bending practices. The mechanism of 'insulation from observability' in role strain theory and the mechanisms of 'moral justification' and 'displacement of responsibility' in moral disengagement seem to be applied often. However, these findings need further testing in future research.

Introduction

Rule bending is a well-known practice in policing worldwide (Punch, 2000). It is linked to concepts like 'noble cause corruption' and 'dirty Harry' in the police culture literature (Cooper, 2011; Westmarland, 2005; Klockars, 1980). Rules are mostly bent in situations where legality conflicts with other values, like effectiveness, efficiency and possibly even the public interest. These are typical examples of moral dilemmas or, in other words, situations in which important values are at stake and in which good arguments can be given for different behavioral options (Cooper, 2001).

This paper attempts to illustrate that two theories can shed some light on causal mechanisms that explain why and how police officers engage in rule bending. Role strain theory and the moral disengagement framework will be applied in an ethnographic study in two police agencies in a West European country.¹ First, the fundamentals of both theories will be explained as part of the tradition of causal mechanisms. Second, the ethnographic methods of observation and interviewing will be presented as suitable to study rule bending. In the third part, the results will be shown, particularly focusing on how both types of mechanisms operate in a number of rule related dilemmas experienced by detectives in this study. This paper ends with a conclusion and a number of recommendations, which illustrate its relevance for practitioners and academics in the international community. Particularly, this study shows that insight into the mechanisms that explain rule bending can be useful for police chiefs who want to tackle this kind of misbehavior and for academics who study the police. However, the findings should be considered hypotheses that need testing in future research.

Causal mechanisms that explain rule bending

The concept 'causal mechanism' is related to the "*analytical approach of social theory*" (Hedström & Swedberg, 1998) or the "*mechanismic understanding of causation*" (Gerring, 2007: 162). The fundamental ambition of this approach is to provide insight into the black box between two correlated

¹ The findings in this paper result from a doctoral study on ethical decision making in the police and the labor inspection that has been completed in May 2012.

variables by identifying the causal mechanisms and the situational conditions under which they operate (Mayntz, 2004; Hedström & Swedberg, 1998). Applied to the topic of this paper, this approach can offer the tools to develop deeper, more fine grained, and more fully integrated theories that can explain how and under which conditions rule related dilemmas are dealt with. However, it is not always possible to go beyond mere explanation of behavior because prediction is rarely feasible in social research (Elster, 1998).

Unfortunately, academics firmly disagree about the definition of the concept 'causal mechanism', which is illustrated by Mahoney (2001)'s list of 24 different definitions by 21 authors. For this paper, the approach of George and Bennett (2005: 137) will be followed, who define causal mechanisms in the tradition of scientific realism as:

"[...] ultimately unobservable physical, social, or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information, or matter to other entities."

Two types of causal mechanisms are selected from the sociological and psychological literature, respectively causal mechanisms of dealing with role strain and cognitive mechanisms of moral disengagement. Both of them will be discussed below.

Dealing with role strain

As in the tradition of causal mechanisms, role strain theory attempts to explain how and under which circumstances staff members in an organization deal with differing and conflicting expectations or role strain (e.g. Biddle, 1986; Goode, 1960; Merton, 1957). Role theorists assume that the behavior of individuals can (in part) be explained by their respective social identities and situational factors. As in theatre, individuals perform 'parts' or 'roles' for which 'scripts' were written (Biddle, 1986: 68). Scripts can be described as organizationally given role-demands, consisting of "*norms, expectations, taboos, responsibilities and the like [...] associated with a given social position*" (Levinson, 1959: 172). These

expectations do, however, not necessarily lead to a coherent 'script'. There may be differences or even contradictions between expectations generated by several sources in the role-set (i.e. a combination of actors who formulate role expectations), leading to role strain (Goode, 1960). Interesting in this literature is the observation that, despite these tensions, "[...] *it is obvious that humans are not incapacitated by role strain [...]*" (Sieber, 1974: 568), leading to the question: "[W]hich processes are operative to counteract these strains and under which circumstances [do] they (fail to) operate?" (Merton, 1957: 112-113). Several role theorists listed mechanisms that explain how individuals manage to cope with role strain in particular situations (e.g. Thornton & Nardi, 1975; Hall, 1972; Goode, 1960; Merton, 1957).

Police officers regularly have to deal with conflicting demands. This is particularly the case in rule related dilemmas, on which this paper focuses. In these situations, legality conflicts with other values, like effectiveness, efficiency or justice. Two types of role strain mechanisms seem to be relevant when dealing with these kinds of dilemmas: insulation of activities from observability and importance. First, the influence of certain sources in the role-set can be diminished by insulating activities from their observation. Merton (1957: 114-115) states that social control presupposes the structural feasibility to observe behavior, referring to the extent to which individual behavior can readily become known to and scrutinized by others in the social system (e.g. supervisors or colleagues). When staff members' behavior cannot be observed by sources in the role-set, the staff members are less subjected to competing pressures. Second, the 'importance' mechanism refers to some sources in the role-set being considered more crucial than others, leading to the expectations that originate from these more important sources being articulated in concrete behavior.

Moral disengagement

The second category of mechanisms that will be used in this study is based on Bandura (1999)'s theory of moral disengagement. The basic argument is that individuals use cognitive mechanisms to reframe their behavior in ways that downplay their ethical content or moral implications. Individuals are then

released from guilt that would ensue from violating certain standards, making it easier and more acceptable to behave in a questionable way (Detert, Sweitzer & Trevino, 2008: 375). Although the theory was originally developed to explain why people engage in inhumane conduct without apparent distress², the theory has also been applied to other types of misbehavior, such as corruption (Moore, 2008), social loafing and anti-social behavior in soccer (Tractlet, Romand, Moret & Kavussanu, 2011).

An important assumption of moral disengagement is that, even though it operates at the individual level, it is not considered a stable personality trait. Rather, it is conceptualized as a cognitive orientation to the world that is influenced by social contexts in an interactive relationship between personal and social influences. Sometimes situational aspects or organizational patterns can even 'override' individual values and compel people to engage in actions they would otherwise not take part in (Moore, 2008). Furthermore, moral disengagement is considered context-dependent, meaning that it is more likely in some situations than in others (Moore, 2008: 131).

Five types of moral disengagement mechanisms seem to be relevant to explain rule bending practices of police detectives: (1) moral justification, (2) distortion of consequences, (3) displacement of responsibility, (4) diffusion of responsibility, and (5) euphemistic labeling. First, moral justification refers to portraying misbehavior as being worthy because it serves higher social or moral purposes. A case in point in policing is the notion of 'noble cause corruption' in which the good end is used to justify controversial or even illegal behavior when it serves a higher purpose (Crank, Flaherty & Giacomazzi, 2007: 103-104; Barker & Carter, 1999). Second, when the consequences of questionable behavior are minimized, people do not have to feel bad for what they have done. Distortion of consequences is thus a mechanism that can facilitate harmful behavior by ignoring severe implications of one's actions. Third, when responsibility is displaced, people tend to attribute the responsibility for their actions onto individuals with a higher authority, who may have explicitly ordered or implicitly condoned the

² A classic example is Milgram's experiment in 1974 where a certain person in charge got people to escalate their level of aggression (i.e. electroshocks) towards harmless victims by commanding them to do so and explicitly telling them that he would take full responsibility for the consequences of their behavior (i.e. 'displacement of responsibility' mechanism).

behavior (Kelman & Hamilton, 1989). Individuals then use the argument: “My boss made me do it.” Fourth, when responsibility is diffused, people tend to distribute blame across all involved actors who are together responsible for the questionable behavior and by doing so diminish their own responsibility. Individuals then use the argument: “I only played such a small part that I am not really responsible” or “Everybody does it”. Fifth, language can also shape how people think about their behavior. Because “*activities take on very different appearances depending on what they are called*” (Bandura, 1999: 195), harmful behavior can appear to be innocent by using euphemisms, such as sanitizing language and specialized jargon, that rename harmful actions so that they appear benign (Moore, 2008: 130).

Methodology

In this study, ethnographic research methods were used, like observation (almost 300 hours) and interviewing (20 respondents during 60 hours), in two police investigation teams³, during 21 months. Ethnography as a method has been used in multiple ways, in different traditions, leading to a numerous set of definitions (e.g. O’Reilly, 2005; Willis & Trondman, 2000; Savage, 2000; Hammersley & Atkinson, 1995). For this study, the approach of Hammersley and Atkinson (1995: 1) is adopted who define ethnography in a loose way as a set of methods, which in its most characteristic form “*involves the ethnographer participating [...] in people’s daily lives for an extended period of time, watching what happens, listening to what is said, asking questions – in fact collecting whatever data are available to throw light on the issues that are the focus of the research*”.

The respondents are detectives who predominantly do investigations on illegal employment and illegal residence.⁴ In interviews, they were asked to think about actual dilemmas they had recently

³ The first investigation team consisted of approximately 11 detectives, the second of approximately 16 detectives.

⁴ The findings that are presented in this paper result from a comparative study on ethical decision making among police officers and labor inspectors. To maximize comparability of the moral dilemmas both professional groups face, the researcher decided to select police officers who are responsible for law enforcement concerning issues that labor inspectors are involved in, such as illegal employment and economic exploitation.

experienced in which they doubted whether or not to follow certain rules or procedures. They were asked to give a detailed narrative of each dilemma they had faced, which was enabled by in-depth (sub)questions from the researcher. The observations aimed at complementing the narratives by looking at organizational factors that are assumed to have an impact on ethical decision making. The interviews were recorded and transcribed literally and the observations were summarized in detailed reports. This resulted in rich data and thick description. The data were analyzed with the qualitative software Nvivo using topic coding and analytic coding (Richards & Morse, 2007: 139-143), after which the technique of process-tracing was applied to identify the causal mechanisms that underlie ethical decision-making (George & Bennett, 2005).

Before discussing the results, two methodological remarks need to be made. First, because this is a qualitative, exploratory study in a limited number of police agencies the dilemmas that are analyzed are not necessarily representative for the rule related dilemmas detectives in general face. However, the goal of this study is not generalization to a wider population as in quantitative research, but theory-building by developing hypotheses which could be tested in further research. Arguably, the findings could lead to more theoretical insight into rule bending practices in the police. Second, to protect the respondents' identities neither the country/region where the organizations are located nor the exact teams the respondents work in are mentioned.⁵ Further, the respondents' sex will be concealed by randomly using 'he' or 'she'. To protect the respondents, the author will not mention whether the detectives actually broke the rules or only seriously considered to do so.

⁵ The author will use 'first police agency' and 'other police agency' in an arbitrary way so it is not clear which dilemmas are mentioned in which police agency.

Results

Out of 400 dilemmas that were mentioned in this study, 25 are linked to the decision to follow rules or not. In some of them, the rules are followed, while in other cases the front-line officer seriously considers to bend them. These rule related cases are linked to five areas, listed in table 1 below.⁶

⁶ As will become clear in the 'results' section, the types of rule bending in these five areas are quite diverse. This variety can mainly be explained by the fact that the researcher did not select the rule bending types beforehand, but inductively derived them from the data. Some types of rule bending in this study are violations of the law, while others are not illegal and even accepted by most practitioners. Arguably, all of them are forms of rule bending in which important values, such as equal treatment or following hierarchical orders, are neglected.

[table 1 here]

Treatment of suspects or illegal persons

The respondents mention nine dilemmas that deal with rules on how to treat suspects or illegal persons. In the first police agency, three dilemmas are mentioned in which detectives consider to bend the rules: (1) not handcuffing an arrested suspect while this is obliged, (2) being alone with an illegal prostitute when she is transported, even though one should always do that in the company of another colleague, and (3) giving an illegal prostitute one's personal cell phone number which is forbidden by the internal code of ethics. In all three cases, rule bending would stimulate a reciprocal give-and-take relationship towards the suspect or illegal person, in which the detective grants certain privileges in exchange for information that is useful in the detective's investigations.

Similar mechanisms explain why the respondents sometimes consider to bend the rules in all three cases. First, they use the moral disengagement mechanism of 'moral justification', in the sense that rule bending would be acceptable because of the higher purpose, being a successful investigation as a result of useful information. Second, the role strain mechanism 'insulation of behavior from observability' is also relevant, albeit that the actor from which the behavior is concealed differs. In the 'not handcuffing the suspect' case, the detective explains that colleagues of the former Gendarmerie – who would too bureaucratically abide by the rules – were not present, giving him the opportunity to bend the rules. In the other two cases, the rules could be broken because the department head was not present, and neither were the colleagues who would disapprove of the behavior. In two other cases in this police agency (i.e. transporting illegal prostitutes alone in one's car or not, and accepting a solarium card an illegal prostitute offers or not), disapproving colleagues are present, resulting in the detective not considering to bend the rules. Them being present reverses the 'insulation from observability' mechanism and induces the 'importance' mechanism because detectives need colleagues to back them up in the future. Jeopardizing this relationship would – in the respondents' opinion – not be beneficial from an opportunistic point of view, because it does not outweigh the short-term benefit of getting information from the prostitute.

In the dilemma where the detective considers to give his personal cell phone number to the prostitute, an additional moral disengagement mechanism is at work. The detective minimizes the effect of his actions (i.e. 'distortion of consequences'), as illustrated in the following quote:

"But this [giving my personal cell phone number] wouldn't lead to me getting personally involved with this prostitute. I mean, she would not come at my place. She doesn't even know where I live. I also don't want to make out with her. I don't want to get in her pants or anything."

In the other police agency, three examples are given of rule related dilemmas, all related to the same topic: 'cutting off' an investigation to stay one step ahead of suspects. The penal code in this West European country prescribes that suspects in a judicial investigation (in which an examining magistrate, and not the Public Prosecutor is in charge⁷) have the right to inspect the case file, with the exception of the confidential parts linked to special investigation measures, like observation, infiltration and working with informants. Opening the case file could, however, make already smart criminals even smarter, giving them tools to stay out of the hands of the police.

To avoid criminals outsmarting them, detectives and supervisors in this police agency developed the construction of dividing investigations on criminal organizations in different case files per suspect or per offense so when one of the suspects is arrested – which leads to the investigation on this person being transferred to the examining magistrate – this suspect can only inspect his specific case file which is often very small, although it is part of a wider investigation. By doing this, the police avoid having to disclose information they have on other gang members and having to reveal the investigative measures that are taken to gather this information (e.g. telephone tap).

In investigations with an international dimension, this 'cutting off' strategy could be applied in an even more creative way, by closely cooperating with foreign police agencies. For example, detectives who

⁷ Most police investigations start as a 'criminal investigation' in which the Public Prosecutor is in charge, but when special measures are necessary (e.g. telephone tap, arrest, house search warrant) the investigation is transferred to the examining magistrate. The 'criminal investigation' then becomes a 'judicial investigation'.

are doing a telephone tap on several members of a criminal organization could hear a suspect explain when and where certain offenses will take place. This information is then informally shared with a foreign police agency that intercepts the suspect by arresting him. This information (about the arrest) is later transferred to the detectives who are tapping. Because the arrest is not made by the latter, the case file does not need to be opened. The result is that the investigation can be continued as planned because the other gang members are not aware that they are being tapped. In other words, 'cutting off' an investigation enables the police to conceal investigative measures that are taken.

Although it is not clear whether this strategy leads to suspects' rights being violated legally, it definitely concerns a violation of the spirit of the law, because the intention of the suspect's right of inspection is to increase transparency about the investigation in order to enable the suspect and his attorney to file complaint against unlawful investigative steps by the police. In the case of 'cutting off' an investigation, the suspect's attorney does not have a complete sight of the investigation and does not know whether the other case files contain information that is relevant for his client. If he suspects that the specific case file of his client does not contain all relevant information, he can only notify the judicial authorities about it, but he cannot substantiate his complaint because he does not have access to the police database of case files. Hence, this type of rule bending puts the defense in a very weak position.

In all three cases, the detectives state that treating suspects in a fair, respectful and lawful way is essential in a democracy, but in order to get results they are sometimes tempted to bend the rules by these 'cut offs'. Two mechanisms of moral disengagement are applied. First, a 'cut off' is considered justifiable because it avoids a total failure of the investigation (mechanism of 'moral justification'). Second, they use the mechanism of 'euphemistic labeling' to make this type of rule bending sound less damaging, for example by calling it a 'practical solution' or by referring to it with the technical jargon 'cut off'.

This part will be concluded by referring to a final rule related dilemma concerning the treatment of suspects. A detective in the first police agency considers to bend the rule which states that during transportation arrested suspects need to be accompanied by two police officers, not because it leads to better results (as the ones above), but because her boss asks her to do so. Specifically, two illegal prostitutes need to be transported to a closed refugee center. In theory, this should be done by four police detectives, but the department head claims two detectives are sufficient in this case, because illegal prostitutes are not considered dangerous. Moreover, rule abidance would lead to resources being wasted. The detective explains that if she would have broken the rule she would not have felt responsible because she only followed orders from her superior, which is an example of the 'displacement of responsibility' mechanism.

Correctness of reporting

Lying or not telling the whole truth in official reports is a second way in which rules can be broken. In the first police agency, four examples are given in which detectives consider to falsely report events for opportunistic reasons. In the first case, a detective considers to bend the rule that an informant runner is not allowed to conduct investigations based on information given by his informant.⁸ The detective explains how this rule could be easily circumvented by informally passing on the information to a police officer in another region who then makes an official information report which is 'coincidentally' picked up by the first detective when he consults the national police data base. Detectives then do not have to transfer these investigations to colleagues, which fits the individualistic work context in which detectives feel they 'own' their investigations. In the second case, a detective explains that she sometimes considers to not report everything which she sees happening during observations, particularly when certain events force the police to intervene. By not reporting them, the events seem to not have happened so the investigation can be continued as planned. This is beautifully illustrated in the following quote:

⁸ This rule aims to protect informants against overzealous detectives who could jeopardize their informants' safety by their strive to 'score'.

"[...] yes I think sometimes not everything which has been observed is put on paper, and they don't put it in the report because if they do they need to intervene and when your investigation is not finished yet you could jeopardize the whole operation by intervening too soon. [...] Then they keep it in mind as information that is 'nice to know', and they try to launder it later."

The third case is also linked to the investigative measure of observation. The specialized police techniques law in this West European country prescribes that systematic observation of persons, things, places or events can only be conducted with a warrant of the examining magistrate. Systematic observation in this law refers to (1) observation during more than five consecutive days or more than five non-consecutive days spread in a month, (2) observation in which technical means are used, (3) observation with an international dimension, or (4) observation by specialized units. The detective in this case explains how one could easily circumvent these rules: one could conduct systematic observations without having to ask for a warrant by not putting everything in the report. When something relevant is observed, one only puts the observation of that day (which could as well be the fifth or sixth in a row) in the official report. The detective does not consider this type of rule bending problematic, because there is no 'paper-trail' evidence. In the final dilemma, several detectives consider committing a serious offense⁹ to avoid total failure in their investigation, which could be concealed by lying about it in their report.

The considerations in these four dilemmas can be explained by a number of mechanisms. In all cases, the mechanism of 'insulation of behavior from observability' is applied in the sense of "what's not on paper didn't really happen". Apparently some detectives believe rule bending is acceptable as long as it is kept out of the official report so judicial authorities and suspects will not find out. In the second case (i.e. not report everything that has been observed), the mechanism of 'moral justification' is

⁹ To protect the respondents in this study, no details are given concerning this offense.

applied; concealing information would enable continuation of the investigation. In the 'observation without a warrant' case, 'distortion of consequences' is an important mechanism. The detective explains: "*If you do not enter the place what's the big deal?*", referring to the fact that no fundamental civil rights are violated (e.g. privacy). This mechanism is also relevant in the final case. The respondent explains that would the offense have been committed the negative consequences for the victims would have been neglectable. Lying about it in the official report would in that case be the only way to not get into trouble themselves. Moreover, committing this offense would have been the result of another police agency not acting according to the agreement, by which the respondent displaces responsibility to another actor.

Although in the other police agency no opportunistic reporting cases are mentioned, several detectives state it is sometimes considered, for example when leading questions are used during an interrogation, which could afterwards be phrased differently in the official report.

Contacting Federal Immigration Service when confronted with illegal employment

Police officers in this study regularly encounter illegal employees in the performance of their job, for example, illegal prostitutes who are found during inspections in houses of prostitution and illegal workers who are encountered during inspections in the catering, horticulture or construction industry. The normal procedure for police detectives is to administratively arrest the illegal employees and then call the Federal Immigration Service to await the decision. Nevertheless, detectives sometimes doubt whether they should comply with this rule. The detectives in this study mention four dilemmas in which they doubted whether or not to apply the normal procedure (two in each police agency).

In the first police agency, there is one dilemma in the sexual exploitation domain. A detective is confronted with an illegal prostitute who is not willing to give information about her pimps, and who can thus not officially be acknowledged as an exploitation victim. The detective decides to follow the normal procedure by calling the Federal Immigration Service, despite the fact that she considers

waiting for the decision a total waste of time. She explains that following orders is more important than the results, which seems to refer to the role strain mechanism of 'importance'. However, not following procedure would in this case not give her the result she strives for, which is valuable information about sexual exploitation, so following the rules is in this case the most opportunistic strategy. In the second example in this police agency, a detective considers not to follow procedure, because he might need the illegal workers encountered during an inspection to give information concerning the investigation they are involved in as victims. He applies the 'moral justification' mechanism in the sense that a higher purpose justifies rule bending. Particularly, bending the rules would – in his opinion – lead to better investigative results.

A similar logic applies for a dilemma in the other police agency. During an inspection, three illegal prostitutes are found. The detective who is in charge manages to let the employer explain how the three girls were recruited. In exchange for this information, the detective wants to negotiate with the employer by letting one or two girls stay. However, the detective feels obliged to follow procedure, because the inspection is carried out in the company of other agencies, like the labor inspection and other police forces. The detective in charge explains that had the other agencies not been present during this inspection then she and her colleagues would have neglected legality in favor of result-orientedness by lying to the Federal Immigration Service about the number of illegal prostitutes they had encountered or by not calling the Federal Immigration Service at all. By doing this, they could establish a reciprocal give-and-take relationship with the employer and the prostitutes, in order to stimulate them to give valuable information to the detectives in the future. In other words, the reversed effect of the 'insulation from observability' mechanism prevents them from opportunistically bending the rules. Another detective in this police agency adds that when he does inspections on his own or with colleagues he trusts he does not call the Federal Immigration Service, but tries to bond with one of the girls and gain her trust, so when something goes wrong she might call him. The detective concludes by saying that when other agencies are present (and the rule bending is thus

observable to other people), one is forced to follow procedure, even though one does not agree with it.

'Judge shopping'

The fourth 'dealing with rules' dilemma is linked to the relationship with the examining magistrate. It is related to the procedure to switch from a 'criminal investigation' to a 'judicial investigation' when special measures are needed (e.g. telephone tap, criminal arrest, house search with a warrant, etc.). The normal procedure in both police settings is that the Public Prosecutor transfers the investigation to the examining magistrate who is on duty for that week. Because some examining magistrates are perceived by the respondents as not always being motivated to closely follow-up their investigations or to give authorization for special measures, detectives sometimes seriously consider to circumvent this procedure by applying the practice of 'judge shopping'. This refers to the strategy of waiting to ask the Public Prosecutor to transfer the investigation until the 'favorite' examining magistrate is on duty. In the first police agency, six different detectives refer to situations in which they considered to apply the strategy of 'judge shopping', while one detective claims it is never applied. When applied, this type of rule bending is aimed at trying to impose one's ideas upon the most susceptible examining magistrate. Only in urgent investigations where special measures need to be used quickly, the detectives do not consider 'judge shopping' appropriate. Most respondents refer to it as questionable behavior, because it is against the rules, but use mechanisms of moral disengagement to excuse for these practices. In all six cases, 'moral justification' is applied. Detectives explain that trying to have the 'right' examining magistrate is in the public interest, because it leads to investigations being dealt with in a more effective way. In two cases, other mechanisms of moral disengagement seem to be relevant as well, like 'diffusion of responsibility', because "everyone does it", and 'displacement of responsibility', because not the detective but the Public Prosecutor eventually decides when an investigation is transferred. One detective in the first police agency states that she is familiar with the

practice of 'judge shopping' but that it is not common in her organization, because rules are more important than the potential gain in effectiveness.

In the other police agency, no specific examples are given of situations in which detectives consider to apply the strategy of 'judge shopping'. Nevertheless most detectives explain it was a common practice in the past, which is not relevant anymore because they enjoy working with all examining magistrates in their region. Some disagree and claim that it still exists today, which they consider good, because certain examining magistrates are less flexible when it comes to giving authorization for special measures or are too occupied with higher priority investigations, like murder files.

Some detectives in both police agencies explain the downside of 'judge shopping', being the fact that the 'favorite' examining magistrates are always busy, leading to frustratingly long waiting periods when authorizations are asked for. A supervisor in one of the two police agencies refers to a similar practice of 'Public Prosecutor shopping', which is now impeded by keeping the 'on duty list' concealed for the police. Arguably, this measure would be an interesting method to diminish possibilities for these kinds of rule bending practices.

Cooperation with the labor inspection

The final domain in which rules gave rise to moral dilemmas in this study is the cooperation with other agencies, particularly the labor inspection. In the first police agency, two dilemmas are mentioned. The first case is linked to information exchange, particularly the transfer of officially registered employment data (to which police officers do not have access) from the labor inspection to the police. When a police detective needs employment data for a certain investigation, he should in theory contact the Public Prosecutor who asks the labor inspection to hand over the information. This official procedure could easily take a few days. A respondent in this police agency explains how this rule can be circumvented, namely by first informally contacting labor inspectors they know personally from previous joint inspections and checking the usefulness of the information. Only when the information is considered useful enough to be included in the case file, it will later be requested formally. By

applying this strategy, the detective gains a couple of valuable days to conduct his investigation. It is facilitated by 'displacement of responsibility', because the Public Prosecutor himself prefers this pragmatic method of information exchange above the bureaucratic and time-consuming official procedure, and 'moral justification' because it increases effectiveness.

The second case which is mentioned by a respondent in this police agency is related to a special warrant labor inspectors can request in order to do inspections in private residences. Labor inspectors in the West European country in which this study is conducted, can day and night enter places in which employment is suspected. However, this competence is not sufficient when, for example, houses of prostitution are inspected, because illegal prostitutes can withdraw themselves from being inspected by going from the reception room (which is considered a work place) to the kitchen (which is considered a residential place). Then, this special warrant is particularly useful, not only for labor inspectors but also for police detectives. The latter are only permitted to enter work places or residences with permission of the manager/inhabitants or when they have a house search warrant issued by the examining magistrate that can only be used between 5AM and 9PM (a period with little activity in houses of prostitution). In theory, this warrant can only be used when the labor inspection leads the investigation, even in cases where the police's assistance is requested. In practice, detectives sometimes consider to reverse the roles, as explained in the following quote:

"In theory, these men [labor inspectors] have a specific investigation for which they request the magistrate for a warrant and the police for assistance to protect them. That's the principle. And well, what do we sometimes consider? The reverse. We have a case, but we have no house search warrant. So we take advantage of them. They start an investigation. They ask for a warrant and they join us. [...] We only want their involvement to get the warrant so we can go inside, which is of course totally illegal. But it is with good reason, because we know something bad is going on, you know."

As clearly illustrated in this quote, the 'moral justification' mechanism is applied here because – as the detective adds – *“the end justifies the means”*. Additionally, the 'insulation from observability' mechanism is at play, because the magistrate who issues the warrant does not know who gives assistance to whom in a particular case and most employers do not know the rules. In the other police agency, detectives refer to similar practices, but no specific examples are given.

Conclusion

This study leads to the conclusion that police detectives sometimes consider to creatively bend rules. This mainly occurs in dilemmas in which rule abidance could jeopardize values like effectiveness or efficiency. Rule bending could in this study mostly be explained by the lack of supervision (i.e. 'insulation from observability' in role strain theory), the reference to higher goals or values (i.e. 'moral justification' in moral disengagement theory) or blaming someone else (i.e. 'displacement of responsibility' in moral disengagement theory). Hence, this study hypothesizes that rule bending in the police is not necessarily linked to the 'bad apple'-ness of individual detectives (Moore, 2008: 131), but can also be triggered by mechanisms that operate under specific situational conditions. Rule bending is thus context-dependent. In other words, when put in the 'right' circumstances, many police officers seem to be susceptible for this type of misbehavior. However, more qualitative and quantitative research is needed to study whether this hypothesis is relevant in other police settings as well. In addition, role strain theory and moral disengagement theory could be useful to study other types of decision making or misbehavior among police officers and comparable professional groups.

The findings in this study are not only relevant for academics, but also for practitioners. Particularly interesting is the understanding that rule bending practices are the result of a complex interplay between contextual aspects (e.g. job characteristics) and different causal mechanisms. Police chiefs who want to decrease rule bending could thus take measures that influence the organizational context, such as increasing managerial supervision by joining detectives during observations, closely monitoring

decisions and decreasing individual discretion or autonomy. Such measures could diminish the impact of 'insulation from observability'. When detectives are involved in the implementation of oversight instruments, a feeling of 'co-ownership' is created in which detectives understand that their goal is not inspection for inspection purposes only but inspection to improve the quality of investigations. However, supervisors should also attempt to act upon less visible psychosocial processes. Many detectives might, for example, not be aware of the fact that 'cutting off' investigations is a violation against the spirit of the law (i.e. suspects' rights) or that 'judge shopping' might be counterproductive (see above). Police chiefs could attempt to stimulate moral awareness in these issues by regularly mentioning them in staff meetings or by organizing ethics trainings in which real-life dilemmas are discussed in a 'safe' environment. In addition, supervisors should take up their managerial responsibility by not only reprimanding detectives for rule bending, but also helping them to cope with these 'tough' decisions. Only through sufficient managerial support, morally disengaged detectives can be given the necessary 'tools' to resist the temptation to bend rules.

Notes on the contributor

Dr. Kim Loyens is a post-doctoral researcher at the Leuven Institute of Criminology (KU Leuven, Belgium). For her PhD, she has conducted ethnographic research on ethical decision making in the labor inspection and the police. Her teaching and research interests lie in the fields of integrity management, performance management systems and public administration.

Address: Leuven Institute of Criminology, Faculty of Law, KU Leuven, H. Hooverplein 10, 3000 Leuven, Belgium

Email address: kim.loyens@law.kuleuven.be

References

Bandura, A. (1999). Moral disengagement in the perpetration of inhumanities. *Personality and Social Psychology Review*, 3 (3): pp. 193-209.

- Barker, T. & Carter, D. (1999). Fluffing up the evidence and covering your ass: some conceptual notes on police lying. In L. K. Gaines & G. W. Cordner (Eds.), *Police perspectives: an anthology* (pp. 342-350). Los Angeles: Roxbury.
- Biddle, B. J. (1986). Recent developments in role theory. *Annual Review of Sociology*, 12 (1): pp. 67-92.
- Cooper, J. A. (2011). Noble cause corruption as a consequence of role conflict in the police organisation. *Policing and Society*, DOI: 10.1080/10439463.2011.605132.
- Crank, J., Flaherty, D., & Giacomazzi, A. (2007). The noble cause: an empirical assessment. *Journal of Criminal Justice*, 35 (1): pp. 103-116.
- Detert, J. R., Sweitzer, V. L., & Trevino, L. K. (2008). Moral disengagement in ethical decision making: a study of antecedents and outcomes. *Journal of Applied Psychology*, 93 (2): pp. 374-391.
- Elster, J. (1998). A plea for mechanisms. In P. Hedström & R. Swedberg (Eds.), *Social mechanisms. An analytical approach to social theory* (pp. 45-73). Cambridge: Cambridge University Press.
- George, A. L. & Bennett, A. (2005). *Case studies and theory development in the social sciences*. Cambridge: MIT Press, 331 p.
- Gerring, J. (2007). The mechanistic worldview: Thinking inside the box. *British Journal of Political Sciences*, 38 (1): pp. 161-179.
- Goode, W. J. (1960). A theory of role strain. *American Sociological Review*, 25 (4): pp. 483-496.
- Hall, D. T. (1972). A model of coping with role conflict: the role behavior of college educated women. *Administrative Science Quarterly*, 17 (4): pp. 471-486.
- Hammersley, M. & Atkinson, P. (1995). *Ethnography. Principles in practice*. London: Routledge, 323 p.
- Hedström, P. & Swedberg, R. (1998). *Social mechanisms. An analytical approach to social theory*. Cambridge: Cambridge University Press, 340 p.
- Kelman, H. C. & Hamilton, V. L. (1989). *Crimes of obediende: toward a social psychology of authority and responsibility*. New Haven, CT: Yale University Press.
- Klockars, C. B. (1980). The dirty harry problem. *Annals of the American Academy of Political and Social Science*, 452: pp. 33-47.

- Levinson, D. J. (1959). Role, personality, and social structure in the organizational setting. *Journal of Abnormal Psychology, 58* (2): pp. 170-180.
- Mahoney, J. (2001). Review essay: Beyond correlational analysis: recent innovations in theory and method. *Sociological Forum, 16* (3): pp. 575-593.
- Mayntz, R. (2004). Mechanisms in the analysis of social macro-phenomena. *Philosophy of the Social Sciences, 34* (2): pp. 237-259.
- Merton, R. K. (1957). The Role-Set: Problems in Sociological Theory. *The British Journal of Sociology, 8* (2): pp. 106-120.
- Moore, C. (2008). Moral disengagement in processes of organizational corruption. *Journal of Business Ethics, 80*: pp. 129-139.
- O'Reilly, K. (2005). *Ethnographic methods*. London: Routledge, 252 p.
- Punch, M. (2000). Police corruption and its prevention. *European Journal on Criminal Policy and Research, 8* (3): pp. 301-324.
- Richards, L. & Morse, J. M. (2007). *Readme first for a user's guide to qualitative methods*. Thousand Oaks (CA): Sage, 288 p.
- Rose, G. M., Kahle, L. R., & Shokam, A. (2000). Role relaxation and organizational culture. A social values perspectives. In N. M. Ashkanasy, C. P. M. Wilderom, & M. F. Peterson (Eds.), *Handbook of organizational culture and climate* (pp. 437-446). London: Sage Publications Inc.
- Savage, J. (2000). Ethnography and health care. *British Medical Journal, 321* (7273): pp. 1400-1402.
- Sieber, S. D. (1974). Toward a theory of role accumulation. *American Sociological Review, 39* (4): pp. 567-578.
- Thornton, R. & Nardi, P. M. (1975). The dynamics of role acquisition. *The American Journal of Sociology, 80* (4): pp. 870-885.
- Traclet, A., Romand, P., Moret, O., & Kavussanu, M. (2011). Antisocial behavior in soccer: a qualitative study of moral disengagement. *International Journal of Sport Exercise Psychology, 9* (2): pp. 143-155.

Society, 15 (2): pp. 145-165.

Willis, P. & Trondman, M. (2000). Manifesto for ethnography. *Ethnography*, 4 (3): pp. 289-332.

Table 1: Five areas of rule related dilemmas in this study

<i>Rule bending areas</i>	<i>Number of cases</i>
Treatment of suspects or illegal persons	9
Correctness of reporting	4
Contacting Federal Immigration Service when confronted with illegal employment	4
Judge shopping	6
Cooperation with labor inspection	2
TOTAL	25