The Bill Blackwood
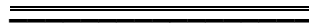# Law Enforcement Management Institute of Texas

―――――――――

The Accountability and Transparency of Procedural Justice

―――――――――

A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College

―――――――――

By
Jaclin Ramirez

Willow Park Police Department
Willow Park, TX
September 2019

ABSTRACT

This paper explains how procedural justice can improve the efficiency and effectiveness of law enforcement organizations. Not only does procedural justice improve effectiveness and efficiency, but it provides transparency, accountability and legitimacy. Each interaction with the public helps to shape how citizens view law enforcement and its administration. Procedural justice believes in particular principles, which also help bridge the gap between certain ethnic groups and law enforcement.

While interacting with the public, law enforcement officers should take the time to ensure that person comprehends what is happening. This allows the citizen to be more confident and trusting of the situation around them. Handling complaints in a timely manner provides legitimacy to that department, which also builds trust. Citizens know their voice is being heard and their concerns are important to administrators. Procedural justice is effective when cooperation exists. The pillars of procedural justice provide the tools necessary for law enforcement to build trust, legitimacy, and cooperation with the community they serve.

TABLE OF CONTENTS

Page

Abstract

INTRODUCTION

The public's view of law enforcement can be both positive and negative, though many times it appears to be negative. One purpose of procedural justice is to improve the interactions between law enforcement and the general public. By committing to the principles that surround procedural justice, law enforcement organizations and their employees can build trust within the communities they serve, provide the public with a voice, remain neutral, and provide overall efficiency and effectiveness.

Transparency is less likely to be argued unless someone is acting unethical themselves and accountability is the key to avoiding many concerns. By establishing foundations that include procedural justice, helps to provide legitimacy to that organization (Procedural justice, n.d.). Procedural justice is a positive topic for law enforcement. When people are treated with a certain amount of respect and dignity, they are more likely to comply with answering an officer's questions or complying with his demands (Harvey, 2018).

Law enforcement agencies should implement procedural justice to ensure a culture of transparency, legitimacy and accountability. When a negative perception is heightened, law enforcement must work harder to overcome that stigma. Transparency from public administrators such as the chief of police, can help rebuild that confidence and restore a more positive outlook. In today's society, administrators must work harder to achieve the general public's acceptance. Individuals make their assumptions based off their own interactions with law enforcement. Each interaction has a reason for the contact, the process that occurs, and the conclusion. That interaction molds the next and sets the bar for the entire organization, including other organizations. If the

encounter is negative and administration is not transparent about how they remedied the negative interaction, if one exists, then the public concludes this was a negative encounter. The organization's ethicality can then come into question.

Frederickson and Ghere (2014) stated that unethical behavior within organizations have increased and can be detrimental to society. Negative impacts can create high turnover, lower morale, and question the organization's legitimacy. To prevent this from occurring or becoming more prevalent, public administrators must continue to minimize the likelihood of lapse in judgement and dysfunction. The public's perception is important in that a negative perception creates more work for public administrators. The media is another group whose perception can dictate the public's reaction in how they interact with law enforcement. Having a negative view of law enforcement can create issues such as increased crime (riots, etc.) and misinterpretations of police actions (arrests, citations, etc.). Law enforcement is held accountable by not only the public it serves, but through the entire duration of the judicial process.

Events such as the beating of Rodney King in 1991 and the deadly shooting of Michael Brown in 2014 (Salinas, 2016), shined a negative light on law enforcement from the standpoint of the general public and the media. Regardless of the officers' innocence or guilt, law enforcement suffered and continued to carry the stigma that was placed on every law enforcement organization. Use of force policies were questioned and police administrators were placed into a defense position. When complaints are brought to light by the public and media, public administrators must do their part to verify the nature, facts, and legitimacy of the issue at hand. In the U.S., a stereotypical

city will receive a small percentage of complaints where citizens believe officers acted inappropriately (Worden & McLean, 2017). To ensure complaints are investigated properly, officers must be held accountable for all acts of misconduct.

By officers and their organizations holding themselves accountable, they help build trust within the community. When police officers abuse their authority and fail to conduct their duties in a proper manner, procedural justice theories state law enforcement's authority can come into question (Trinker, Jackson, & Tyler, 2018). By implementing procedural justice theories, officers will treat everyone with respect and make appropriate decisions that are transparent and free of bias.

POSITION

The general public is not only concerned with receiving a fair outcome, but they are also concerned with the fairness of their treatment. Gold and Bradley (2013) stated procedural justice is an often-overlooked approach. When a person questions the legitimacy of a law enforcement organization and the treatment they received, they are not as willing to cooperate. Those who do view their encounters and treatments as fair, are more likely to cooperate and comply with directives given by law enforcement. Failing to take environmental factors into consideration, such as using legal jargon or procedures on traffic stops (Gold & Bradley, 2013), can create a sense of intimidation and confusion for the individual. Taking the time to provide better explanations and humanizing their experience can help officers obtain compliance from an individual.

The media appears to express a need to sway the viewer into a particular direction. Celebrated cases are repeatedly shown by the media to etch the event into viewers' minds. Freedom of Information Act requests by the media may discover

inconsistencies within an organization. The rate at which information is disseminated allows for inaccuracies to occur (Zercoe, 2015). The media wants and expects transparency from law enforcement, even during times of active situations such as hostage negotiations, sexual assaults, and murders. Crucial information cannot always be released because it can be detrimental to the event and ultimately, the case. To better control what information is disseminated, public administrators can be accommodating by providing timely updates, releasing basic information, and releasing press releases. This allows transparency and helps to promote trustworthiness, which is one of the procedural justice principles.

The final report of The President's Task Force on 21st Century Policing (2015) states that trust between the police and citizens is the key to stability. President Obama's purpose of this task force was to identify best practices and provide organizations with recommendations for law enforcement to reduce crime while building public trust. This report provides 6 pillars that flow with the principles of procedural justice: 1) building trust and legitimacy, 2) policy and oversight, 3) technology and social media, 4) community policing and crime reduction, 5) officer training and education, and 6) officer safety and wellness.

Maintaining the public's trust is a very important part of administrative responsibility, according to Cooper (2012). A public administrator such as the chief of police must resist the temptation that can be created by a conflict of interest. One's values and ethical principles should be viewed as a top priority and will reflect in their actions. Building trust and legitimacy must occur, both with citizens and law enforcement, and is proven to be effective. Compliance is more likely to be given to an

officer when the citizens believe the officer's authority is legitimate. Procedural justice can be effective in building trust because it allows law enforcement organizations to bring transparency and accountability to the public (Procedural justice, n.d.).

The President's task force feels that not only should law enforcement follow their own organization's policies, but that these policies should also reflect the community's values (2015). They feel for transparency reasons, policies regarding use of force, riots, and consent searches should be accessible to the public. Periodic reviews of policies help to ensure current measures are in place and up-to-date.

Technology is important because implementation and use help the organization perform efficiently and effectively. Social media helps provide transparency, build trust, and legitimacy when a well-stated policy is in place (Ellis, 2017). Officers can also engage the public in conversation and ensure understanding. To continue building this foundation, technological advances must be reviewed and considered by public administrators. Since procedural justice seeks cooperation between public administrators and its citizens, administrators must be willing to listen. Listening to the public's concern builds legitimacy and shows their opinions are taken into consideration. Not all opinions and suggestions may be taken into consideration, but the simple task of listening goes a long way. Solutions with meaningful results in the community will provide more overall compliance by citizens, which helps reduce crime.

Law enforcement's responsibilities grow on a daily basis and to stay afloat, administrators must provide effective training to their employees. All employees need the ability to address any challenge they may face, whether in the community or within their own organization. Training topics such as ethics, Crisis Intervention Training

(CIT), cultural diversity, mental health/mental retardation (MHMR), and procedural justice are just a few topics that law enforcement officers face. The ability to properly apply the training receive, greatly benefits the community they are sworn to protect.

The final pillar given by the Presidential task force covers the officer's safety and health (2015). Law enforcement is not new to shift variations. Some examples of various patrol shifts can range from 8:00am to 5:00pm, 2:00pm to 12:00am, or 6:00pm to 6:00am. Sleep deprivation and the disruption of the body's internal clock can become a concern for not only the officer, but the public (Volanti, Owens, Fekedulegn, Ma, Charles, & Andrew, 2018). If an officer does not receive enough sleep, their health suffers, and they cannot make sound decisions. Faulty decision-making places the officer and citizens' lives in jeopardy. Administrators are encouraged to review their organization's shift lengths for officer safety and well-being. Encouraging safety practices such as wearing their ballistic vests, wearing seat belts, and first-aid training, satisfy internal procedural justice principles.

COUNTER POSITION

The question of procedural justice not resulting in a favorable outcome has been brought about and questioned. Mayer, Greenbaum, Kuenzi, and Shteynberg (2009) stated in their research that there are times where the use of procedural justice may not make a difference and will fail to result in a positive outcome. Fairness is shown not to matter to a person when their identity, whether social or personal, has been violated and the study refers to it as the Identity Violation Effect (Mayer et al., 2009). From the beginning to the end of an encounter with law enforcement, a person wants to know the entire contact was conducted with transparency and equality. When an undesirable

outcome is the result, following procedural justice methods will not matter because of the person's own morale convictions, or conscience. A person who is insecure or unwilling to view other perspectives will view their encounter with law enforcement as being unjust or negative (Murphy, 2017). Certain ethnic groups may also hold a lesser value towards the principles of procedural justice, while others view the principles as being highly important. Western vs Eastern cultures view social norms differently (Lind & Early, 1992). Skogan and Frydl (2004) suggest that some studies claim that officers treat citizens differently, depending on their race or ethnicity.

While the perception that procedural justice is not one-hundred percent effective, applying procedural justice principles can help bridge gaps with many minority groups. Murphy (2017) stated Indian and Arabic groups are more apt to cooperate with law enforcement when procedural justice theories are applied. There are also studies that show race has no effect on an officer's decision to arrest (Skogan & Frydl, 2004). By law enforcement displaying more transparency, they are showing their willingness to follow procedural justice theories. The willingness to conduct matters without bias, fairly, and equally, can also help build trust within minority groups who feel the police are not as transparent with them.

To ensure that officers follow the theories of procedural justice, they must continue to work to build the public's trust. Transparency erases secrecy and deceit. For transparency to work properly, policies need to be followed on a consistent basis. Public administrators must verify that subordinates know the direction in which administration is taking the organization. Setting examples, goals, and mission

statements for employees to follow helps with consistency. This also allows the public to better understand the agency's thought process.

Law enforcement's legitimacy has always plagued organizations. The New Orleans Police Department has had a history of being a "troubled agency" (PERF, 2014). When the legitimacy and lack of accountability in an organization are questioned, cooperation from the public they serve may not come easily. The obligation to obey (Laxminarayan, 2012) is less likely to occur and thus creates more concerns. An officer's failure to display the department's legitimacy can create failure to obey issues. Offenders who have been arrested before already have legitimacy concerns with police organizations (Baker & Gau, 2018). A previous negative encounter with law enforcement where an officer was not held accountable for his actions, may create issues with the organization's legitimacy.

Although internal complications such as those within the New Orleans Police Department create legitimacy concerns for law enforcement, by using the fundamentals of policing, applying procedural justice principles, and improving leadership, departments who were questioned in the past will be able to rebuild the trust with the community, and restore their own credibility. Pillar one of The President's Task Force on 21st Century Policing (2015) covers building trust and legitimacy within the community. To continue operating effectively, accountability should be clear and held to a higher standard. Polices and discipline should be consistent with all officers. Since the community seeks transparency in law enforcement, law enforcement must do the same for the citizens. Letting the citizens know in a professional manner that mutual respect is expected, will set the tone for future concerns.

RECOMMENDATION

For procedural justice to be effective, citizens should follow the laws and obey them (Tyler, 2003). Cooperation must come from all angles which include law enforcement, the court systems, and the public. Police officers depend on their citizens to help in identifying suspects involved in crimes and reporting those crimes. Witnesses are valuable to law enforcement and cooperation makes the justice process that much more smooth and easier for all involved. The pillars of procedural justice provide effective tools to ensure cooperation continues.

While some law enforcement organizations may be resistant to the foundations of procedural justice, many others believe it will help bridge the gap between the public and law enforcement. The chief of police and his administration must ensure they provide policies which are proven to be effective. Lax policies or failure to discipline when needed creates tension amongst other employees, which can carry over onto the public. For transparency to be effective, essential policies such as filing a racial profiling complaint must be accessible to the public.

Many departments' racial profiling complaint process is in a pamphlet form and available to all who request it, and many are even attainable through the department's website. Copies may also be accessible to the public when they enter city hall, municipal courts, and other governmental buildings. The process is a standard process and all complaints, regardless of nature, are treated with importance. The citizen has the opportunity to voice their concern and be heard. There are times where the complaints are not actual complaints, but frustration on the citizen's part due to lack of

explanation by the officer. Better explanations help resolve the confusion and tensions can be lowered.

With the introduction of social media, police departments have better opportunities to show their transparency online. Various forms of communication such as e-mail, Facebook, and other social media avenues allow agencies to interact with the public. The more information the department puts in the public's eye, the more the public is willing to show their trust in the department. Transparency is about being open and accessible, but the public must understand that not every aspect of police procedure can be transparent. Education and explanation will help bring understanding to the forefront for the times that information is limited.

Another way for law enforcement to demonstrate transparency would be to become accredited or recognized. In Texas, the Texas Police Chiefs Association (TPCA) provides law enforcement agencies with the opportunities to receive this recognition ("What Is Recognition," n.d.). 166 best practice standards were created, they are expected to be followed, and then a voluntary pledge is taken to ensure all of the standards will be placed into compliance. It is the belief of TPCA that by following the best practices they have set forth, agencies will be able to provide more efficient and effective policing to the community ("What Is Recognition," n.d.).

Negativity in law enforcement is not a new concept. The major use of force incidents such as Michael Brown and Rodney King (Salinas, 2016) bring to light questions regarding how much trust the public has for officers. Citizens expect to be in the know and handed information anytime they request it. There are times for safety reasons, information will be limited or not released. Transparency is important because

administrators must not seem as if they are hiding anything, which might be a cause for concern. Also, being transparent allows for community involvement, discussion, and understanding.

Procedural justice can be effective when cooperation exists. One purpose behind procedural justice it to change the negative perceptions of law enforcement into positive ones. There is evidence that shows procedural justice impacts public safety in a positive manner (Procedural Justice, 2018). Law enforcement's legitimacy is important because the public needs to have trust in those who are sworn to protect them. If a citizen experiences a negative encounter with a patrol officer or someone in administration, then that sets the tone for the entire agency. The entire organization may suffer the consequences of that one bad experience.

When Michael Brown was shot and killed in Ferguson, Missouri, that one incident set the tone for all police departments in the United States. Officers in other states experienced backlash because of misinformation and opinions that began in Ferguson and repeated by the media. Misinformation creates safety concerns for both law enforcement and the public.

The basic pillars or principles of procedural justice allow for community trust to rise and trustworthiness to continue. Officers will be viewed as being more honest and legitimate because of transparency, regardless of how much information has been released. Compliance will be gained from the citizens because of trust and accountability. With compliance, comes lower crime rates. Allowing the community to voice their concerns allows them to feel as if they are a part of the decision-making

processes, which can have effects on their daily lives. Procedural justice is effective

and brings a culture of transparency, legitimacy and accountability.

REFERENCES

Baker, T., & Gau, J. M. (2018, June). Female offenders' perceptions of police procedural justice and their obligation to obey the law. *Crime and Delinquency*, *64*(6), 758-781.

Cooper, T. L. (2012). *The responsible administrator: An approach to ethics for the administrative role.* San Francisco: Jossey-Bass.

Frederickson, H. G., & Ghere, R. K. (2014). *Ethics in public management*. Florence: Taylor and Francis.

Ellis, G. (2017). *Prevention-focused community policing building public trust*. Retrieved from http://www.policechiefmagazine.org/prevention-focused-community-policing/

Gold, E., & Bradley, M. (2013, September). *The case for procedural justice: Fairness as a crime prevention tool*. Retrieved from https://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp

Harvey, A. (2018). *Excellence in policing: Simple ways to exceed citizens expectations in every encounter* (1st ed.). Dallas, TX: Author.

Laxminarayan, M. (2012). Procedural justice and psychological effects of criminal proceedings: The moderating effect of offense type. *Social Justice Research*, *25*(4), 390-405.

Lind, E.A., & Earley, P.C. (1992, April). Procedural justice and culture. *International Journal of Psychology*, 27(2), 227.

Mayer, D., Greenbaum, R., Kuenzi, M., & Shteynberg, G. (2009). When do fair

    procedures not matter? A test of the identity violation effect. *The Journal of*

    Applied Psychology, *94*(1), 142-161.

Murphy, K. (2017, September). Challenging the 'invariance' thesis: Procedural justice

    policing and the moderating influence of trust on citizens' obligation to obey

    police. *Journal of Experimental Criminology*, *13*(3), 429-437.

Procedural justice. (n.d.). Retrieved from

    https://trustandjustice.org/resources/intervention/procedural-justice

President's Task Force on 21st Century Policing. (2015). Final report of the President's

    task force on 21st century policing. Washington, DC: Office of Community

    Oriented Policing Services.

Salinas, J. (2016). *Procedural justice style of policing*. Huntsville, TX: The Bill

    Blackwood Law Enforcement Management Institute of Texas.

Skogan, W. & Frydl, K. (2004). *Fairness and effectiveness in policing*. Washington

    DC: The National Academies Press.

Trinker, R., Jackson, J., & Tyler, T. R. (2018). Bounded authority: Expanding

    'appropriate' police behavior beyond procedural justice. *Law and Human*

    Behavior, *42*(3), 280-293.

Tyler, T. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime*

    and Justice, 30, 283-357.

Violanti, J. M., Owens, S. L., Fekedulegn, D., Ma, C. C., Charles, L. E., & Andrew, M. E.

    (2018). An exploration of shift work, fatigue, and gender among police officers:

    The bcops study. Workplace Health & Safety, 66(11), 530. Retrieved from

http://ezproxy.shsu.edu/login?url=http://search.ebscohost.com/login.aspx?direct=
true&db=edb&AN=132518471&site=eds-live&scope=site

What is recognition? (n.d.). Retrieved from http://www.texaspolicechiefs.org/what-
recognition

Worden, R., & McLean, S. (2017). Procedural justice and management accountability.
In *Mirage of police reform: Procedural justice and police legitimacy* (pp. 149-177).
Oakland, CA: University of California Press.

Zercoe, C. (2015, November 3). *Why police agencies should embrace news media*.
Retrieved from https://www.policeone.com/pulse-of-policing/articles/36137006-
Why-police-agencies-should-embrace-news-media/