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**Internal Procedural Justice and  
Police Legitimacy**

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**A Leadership White Paper  
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## **ABSTRACT**

Police legitimacy is the power freely given by the people to law enforcement officials to enforce the laws and keep the general peace within a community. Legitimacy is based upon a relationship of trust between law enforcement and the community. The foundational principals of limited government established in the U.S. Constitution provide power to the people to choose the manner in which they are governed. The public's perception of law enforcement can either increase or decrease police legitimacy. Procedural justice is directly related to legitimacy as fairness and equality in the criminal justice process further builds trust. Many police agencies understand this important concept; however, many fail to develop internal strategies that facilitate operational practices reflective of a commitment to further developing community trust. Recent events have continually demonstrated the ongoing divide between police agencies and the community in numerous cities. The discretionary individual behavior of each police officer can effectively shape the public's perception about the entire police agency. Law enforcement leaders must empower individual officers to increase police legitimacy through procedural justice by developing transparent, fair, and equitable internal management practices and procedures. The impact of institutional fairness and organizational equity creates synergy as individual employees embrace procedural justice and internalize a commitment to justice and equity. When officers are treated with dignity and fairness in disciplinary systems they will demonstrate these positive organizational values to the community facilitating greater police trust and increasing police legitimacy.

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## INTRODUCTION

The public's perception about law enforcement and its legitimacy within the community is integral to effective policing. Without legitimacy police are incapable of establishing relationships and lack the power to improve the quality of life for citizens. Legitimacy is influenced by the community's confidence in the police and its willingness to recognize police authority. Actions by the police that are perceived to be disproportionate or lawless increase distrust and act to undermine the legitimacy of law enforcement. Without legitimacy police act as an occupying force and operate without the trust needed to facilitate needed community partnerships. The ability to build trust and community solidarity are dependent upon the public's belief that police actions are legitimate and procedurally just. Legitimacy is a reflection of the trust citizens have in the police to be honest, professional, fair, and equitable (Fischer, 2014).

Procedural justice is directly related to fairness and transparency in the criminal justice process, and the belief that fair procedures will lead to more equitable outcomes. Many police agencies understand the importance of legitimacy and procedural justice and publicly support the four principles of treating people with dignity, listening, neutral and transparent decision making, and trustworthiness; however, they frequently fail to develop effective internal strategies to ensure these principles are incorporated into operational actions and the daily practices of officers and employees (President's Task Force on 21<sup>st</sup> Century Policing, 2015). Recent events in communities throughout the nation demonstrate the continuing divide between the police and the community in many cities. Furthermore, the increasing crime rate in many urban cities like Chicago raises awareness that many current police practices fail to achieve intended results.

Many large cities have attempted to incorporate some form of procedural justice into their policing efforts. Police leaders in cities like Baltimore, Maryland and Chicago, Illinois have long recognized the importance of procedural justice. They have invested extensive time and budgetary funds to integrate procedural justice into their daily operations. The President's Task Force on 21st Century Policing (2015) incorporated procedural justice ideas from the Chicago Police Department (CPD) into the final May 2015 report, and distributed CPD procedural justice curriculum to other departments; yet the Department of Justice recently released a report indicating the CPD is guilty of a pattern or practice of unconstitutional force (USDOJ & US Attorney, 2017). In spite of police leadership espousing procedural justice, a chasm existed between equitable, fair police actions and the activities of individual officers on the street. Organizational culture can be very difficult to change. Police leaders who are unable to change longstanding poor practices at the base of the organization will see their best efforts shattered on the streets of the city as the public continues to experience inept and untrustworthy policing.

The discretionary individual behavior of each officer has the potential to shape the public's perception of the law enforcement agency and facilitate distrust in the policing profession. Organizational factors including fairness, justice, and support tend to improve organizational citizenship behavior and increase the ability of leaders to influence individual performance (Song, Kang, Shin, & Kim, 2012). Top down procedural justice initiatives often fail to incorporate the individual beliefs and motivations of street level officers. Law Enforcement agencies should empower individual officers to increase police legitimacy through procedural justice by developing

transparent, fair, equitable management practices and internal procedures. The inability to significantly implement this concept has doomed the prospects of procedural justice from a governmental policy perspective. Employees who develop trust in their organization and perceive the organization to be fair and supportive increase their engagement in positive organizational citizenship behaviors (Kogan, 2004).

## **POSITION**

The value of police legitimacy is significant to governance as public support for law enforcement is a foundational element of our democracy. Legitimacy enhances lawful compliance, elicits cooperation, and reduces the fear of crime. “Legitimacy is the view that the police have appropriate authority to enforce laws concerning individual behavior, maintain public order, and make decisions that are right for the community” (Wolfe, Nix, Kaminski, & Rojek, 2015). Legitimacy is a non-negotiable requirement for any police agency. Procedural justice acts to build trust while creating and maintaining police legitimacy within a community. Procedural justice relates to a wide cross section of racial, ethnic, and cultural backgrounds as the element of equity and just outcomes is perceived by all. Police actions are perceived by the community to be fair when they are objective, unbiased, and transparent.

Procedural justice is critical in communities where fear of crime is high and the perceptions of unjust police actions are pervasive. Racial and ethnic minorities are affected by procedural justice to a greater extent (Wolfe et al., 2015). Procedural justice offers the best opportunity for police to develop trust and legitimacy within the community. Procedural justice improves transparency by providing the public access to the processes where criminal justice decisions are made. These processes include the

ability for all parties to be heard before decisions are rendered while continually validating procedural fairness and equitable outcomes. Law enforcement agencies that practice the concepts of procedural justice will generate feelings of collaboration and support for the police among the public.

The impact of institutional fairness and organizational equity has greater implications for police agencies eager to incorporate procedural justice principles and facilitate trust within the community. Internal procedural justice is extensively linked to the success of procedural justice in the community. When employees experience a perceived organizational injustice, they will attempt to make sense of the injustice and internalize the information in various ways. Their interaction with co-workers, disciplinary precedents in the workplace, characteristics of leadership, and the collaborative understanding of events lead to the development of shared perceptions (Seo, 2012). These perceptions advance employee distrust in management and buttress long standing silos of group protectionism within the police culture that often stand as a barrier to needed police reforms.

Police organizations that develop and follow policies that improve fairness and ensure procedural equity can bridge the divide between employees and the disciplinary process. Process fairness is the most important component in the overall perception of organizational justice. Individuals are more likely to accept perceived unjust outcomes if the procedure that determined the outcome was fair (Seo, 2012). When officers are treated with dignity, fairness, and disciplinary systems that are equitable there is a greater chance the officers will demonstrate positive organizational values to the community.

An employee's organizational support is proportionate to the belief that their contributions are valued and the organization cares about their well-being. Police agencies are dependent upon each officer's individual commitment to achieve the organizational mission and their ability to incorporate the ideas of procedural justice. Higher levels of perceived organizational support are directly related to increased performance (Boateng, 2014). Effective policies reinforce consistency, institute a concise accumulation of accurate information, make determinations free of bias, and advocate ethical standards. When policies are just, they enhance perceived positive outcomes promoting fairness and enhancing positional value within the organization. An employee's commitment to the values and standards established by the organization is dependent upon the perceived organizational support provided to the employee. The relationship between internal procedural justice and the perceived fairness of the police organization within the community is extensively linked together and promulgated through the interactions of community members with individual officers.

Organizational citizenship is an important factor when determining work performance. Individuals who have pride in their organization and believe the organization is fair will likely follow the cultural norms and set aside personal interests for the good of the organization. If individuals have a poor understanding of the organizational mission or objectives, they will likely not understand the direction of the organization and compromising performance. In order for procedural justice to work, employees at the base level of the organization must recognize the benefits and experience those benefits on a personal level from an internal policy perspective. The greatest influence of citizenship behaviors is the perception of fairness in the procedural



decision making process (Brebels, Cremer, & Dijke, 2014). Employees who consistently observe and experience unjust employment actions will be less likely to implement the concepts of procedural justice when dealing with the community. Employee's perception of fairness can be linked to the opportunity to voice their opinion or concerns. Equitable treatment of employees demonstrates their value to the organization, and furthers the feelings of acceptance and respect while growing trust in the organization. Trust is capable of empowering individual employees to utilize significant personal resources for overall team success.

Procedures often regulate the employee's interactions with supervisors and other leaders within the organization. According to Brebels et al. (2014), procedural justice is important to the development of relationships and facilitates group membership which results in the desire to maintain good relationships with others. This group dynamic acts to regulate employee behavior and motivates the individual to follow established group norms. When the agency and organizational culture both support, and follow the four central principles to procedurally just behavior there is significant interpersonal cultural norms placed on individual employees to adhere to those principles as well. This organizational pressure enables police agencies to better demonstrate procedural justice to the community predicting individual officer behavior will follow the organizational norm. To promote specific organizational behavior and achieve positive outcomes organizational principles must rely upon the concepts of procedural justice (Brebels et al., 2014).

## COUNTER ARGUMENTS

There have been many different policing initiatives trying to improve community relationships and reduce crime. Community oriented policing and problem oriented policing programs have a long history in many police agencies, yet the promise to improve police relationships with citizens has not been fully realized. Furthermore, the overall ability to reduce crime through these initiatives has not been achieved other than hot-spot policing which initially reduces crime while police resources are actively engaged. Police effectiveness related to new crime fighting initiatives over the last 30 years has been modest at best. The typical one size fits all generalized police strategy focusing on the means of policing and resource allocation has little impact on public safety (Weisburd & Eck, 2004). Procedural justice like many other academic police initiatives will have little effect on reducing crime and fear. Police legitimacy in many communities with significant minority populations has been so thoroughly damaged there is little chance lofty programs with limited street level applications will have any effect.

On December 7, 2015, the Department of Justice (DOJ) announced it would be investigating the CPD for racial and ethnic disparities in the use of force. On January 17, 2017, the DOJ announced it found CPD had engaged in a pattern or practice of illegal use of force due to systematic deficiencies in training and accountability, and a failure to conduct proper investigations into the use of force (DOJ and US Attorney, 2017). Procedural justice was a priority for CPD over this period of time with little to no effect on the crime rate, unlawful use of force, or policy legitimacy within the community. While CPD's procedural justice initiative failed to achieve significant impact in crime

reduction and police legitimacy throughout the city over the last two years, there may have been modest improvements in other communities. The statistical impact of procedural justice may take years to attain. Furthermore, CPD incorporated procedural justice throughout the organization by requiring officers to attend limited training sessions. Internal CPD policies and procedures were adapted at regulating officer behavior and widely ineffective at deterring misconduct or ensuring bias free decision making (DOJ and US Attorney, 2017). The organization failed to address long standing perceived unfair treatment of officers by the organization, while perpetuating a culture of corruption.

The DOJ identified CPD policies allowed officers to circumvent punishment for serious misconduct, facilitated inappropriate questioning of officers and frequently demonstrated investigative bias. Procedural justice was essentially a top down management program centered on achieving positive popular opinion without any effective plan to substantially improve employee organizational citizenship behavior or operationally ensure procedural justice policing techniques would become the standard for individual officer behavior. If CPD had incorporated internal procedural justice, individual officers would have developed feelings of fairness and equity within the organization and in turn would have responded with positive outcomes for the organization (Arboleda, 2010). Police departments implementing procedural justice will tend to attain better results if employees incorporate the foundational pillars of fairness, equitable justice, transparency, and biased free decision making from an internal observational viewpoint.

Aggressive policing strategies have a greater impact on crime reduction and safer communities than theory based policing strategies like procedural justice. The most effective measure that consistently reduces crime is the rate of arrests. The “Broken Windows” theory where police strictly enforce minor disorder crimes thereby preventing more major crimes in addition to other aggressive policing strategies greatly reduced crime in New York City during the 1990s. Aggressive patrol techniques, heavy traffic enforcement and apprehension of criminals continue to be the best crime prevention (Swope, 1999). These techniques have been the standard practice for law enforcement over the years. When criminal suspects are apprehended and removed from the community, they are prevented from reoffending and there is a greater sense of security. During the 1990s, crime rates in New York City dropped dramatically. Violent crime declined by 56 percent in the city, compared to a drop of 28 percent nationally thanks to Mayor Rudolph Giuliani’s policies of aggressive policing (Francis, 2003).

Aggressive policing may have a more expedited effect on crime rates; however, the technique tends to damage police-community relationships, and the lower crime rate dissipates over time. As commanders and officers focus on obtaining greater numbers in arrests, and citations the ability to build relationships with community members is limited. Aggressive policing strategies increase tensions between the police and the minority community and lead to more civil rights violations (White, 2014). Whatever gain is made in the crime rate is compromised by the continuing feeling of the community that the police are an external force not comprehensively linked with the community as partners or guardians. True community policing begins at the individual

relationship level. As officers on the street facilitate communication with citizens and develop a greater understanding of the daily problems that reduce the community's well-being.

## **RECOMMENDATION**

Transparent organizations that continually demonstrate honest, fair and equitable management practices will have the greatest ability to incorporate procedural justice and legitimacy in the community. Trust is central to the success of any police organization. Trust is a foundational pillar of legitimacy in the community. Without legitimacy police are incapable of reducing crime. Legitimacy is a founding principal of our democracy. Procedural justice demonstrates to the public that police are honest, fair, professional, and just. These attributes are better demonstrated through the transparent administration of justice and the equitable outcomes theory. Procedural justice relies on the individual behavior of officers and the interactions they have with the public. Officers demonstrate procedural justice at the most personal level where basic trust and relationships are developed.

Procedural justice has not been completely successful due to the lack of internal procedural equity. The ability for organizations to influence individual employee behavior is closely related to the organizational justice practiced. Employees are likely to demonstrate the organizational values when internal management practices are fair. This improves organizational citizenship behavior is central to the concept of procedural justice since employees will demonstrate this internal justice on an external display of proper and just interactions with citizens. These interactions will improve the perceived fair behavior of the police department and influence police legitimacy within the

community. The collaborative community partnerships developed through procedural justice will reduce crime and fear in the community.

Police agencies that practice internal justice will recognize the benefits of improved community participation in crime prevention. They will also recognize greater employee retention and recruitment as the employees are empowered to make the vision of the organization a reality. Police agencies should incorporate procedural justice throughout their policies and procedures while working to improve the organization citizenship behavior of individual employees. Organizational citizenship behavior is closely related to positive outcomes, increased performance, and improved unit effectiveness (Kogan, 2004). The tendency for individuals to take actions in line with the type of treatment they observe and experience within their organization will greatly improve the police agencies ability to demonstrate procedural justice to the community and further police legitimacy.

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