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IDEAS IN AMERICAN POLICING



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Law Enforcement for Lawabiders

By Tracey L. Meares

Introduction

Why do people break the law? This is an important question for police researchers to answer. A less prominent, yet still important question, however, is why do people *comply* with the law? Intuitively, these questions are flipsides of one another. Nonetheless, it is also (intuitively?) true that there is something more to a decision to comply with the law than simply being persuaded *not* to commit a crime. Those working in crime policy have not systematically honed in on this point.

Compliance with the law, as opposed to desistance from breaking it, is a function of internalized norms inculcated through the power of private social control. Thus, one new idea for policing might be this: we can control and reduce crime by explicitly drawing the

power of private social control, implemented through the promotion and transmission of lawabiding norms, into law enforcement and into policing in particular. This idea has a name: law enforcement for lawabiders.

My focus here is what I have referred to in some of my work as the “normative”

conception of law enforcement (Meares 2000, Meares 1998b). I want to demonstrate that the normative conception of law enforcement offers a vision of law enforcement, and policing in particular, that is very different from the more popular get-tough-on-crime approach. I also want to demonstrate that

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the normative law enforcement alternative may very well be more effective than the more popular approach in terms of both crime reduction and doing less harm to community structures.

By “normative law enforcement” I mean to contrast a conception of law enforcement with one that is instrumental. As Tom Tyler (1990) explains in his excellent book, *Why People Obey the Law*, there are at least three categories of reasons why people obey the law. The first is instrumental. That is, people obey the law because they fear the consequences if they don’t. The instrumental view of compliance fuels current, get-tough, deterrence strategies. These strategies are lawbreaker focused in that they attempt to control criminal behavior by convincing the offender on the margin that the costs of lawbreaking are higher than the benefits.

The second and third reasons are what Tyler refers to as “normative.” Morality: people obey the law because the articulated law happens to comport with their own moral schedule. And legitimacy: people obey the law because they believe that government has the right to dictate to them proper behavior. Tyler demonstrates empirically in his book that the normative categories are more important to compliance than the instrumental category.

Legitimacy as a basis for normative compliance is the engine behind my thoughts in this essay. I believe that it is

especially interesting and useful for thinking about innovative criminal law policy because of the way it links up with a community-level explanation for criminal offending.

The community-level explanation for criminal offending is grounded in classic sociological work by Shaw and McKay (1969). The idea behind this work is that community characteristics themselves—as distinct from mere aggregations of demographic factors, such as poverty, joblessness, family disruption, and the like—contribute to crime in a neighborhood. Indeed, the empirical work in this area suggests that once we control for community-level structural factors—such as the prevalence of friendship networks; participation in formal and informal organizations like churches, PTAs and the like; and the level of community-wide supervision of teen peer groups—then the impact of a factor like economic disadvantage on crime diminishes significantly (Sampson, Raudenbush, and Earls 1997).

In addition to community structural cohesion factors, the level of cultural organization in a community is important to determining its ability to control crime. Cohesive communities exert social control by realizing common values centered on law abidingness. These common values are reinforced among a community’s residents through daily conduct and discourse. A community that has wide-

ranging, diverse, and fragmented community values and norms can be considered to have low levels of cultural organization.

Fragmented and diverse values that lead to lawbreaking conduct flow predictably from weak community organizational structures, such as infrequent participation in formal organizations, low levels of teen peer group supervision, and the like. Thus, because of the connection between social structure in a neighborhood and cultural cohesiveness, we might say that community organization structures operate like “norm highways” along which cultural values that have crime control as their goal flow (Meares 1998b:676). Urban ethnography helps to make this point.

In his book *Streetwise*, sociologist Elijah Anderson (1990) describes the clash between the “decent” values (norms associated with hard work, family life, the church, and lawabiding behavior) held by some families in the urban community that Anderson calls “Northton” and the “streetwise” values (norms associated with drug culture, unemployment, little family responsibility, and crime) held by others. Anderson explains that the diffusion of norms in Northton was correlated with a weakening in Northton’s community-level structures, or “norm highways.”

The critical aspect of Anderson’s research is his demonstration that in the highest crime community he studied, neither streetwise

values nor decent values held sway. That is, although many of the community's residents continued to adhere to decent values, even as the structural factors that typically predict community cohesion began to weaken, those residents did so in a world where they were forced to negotiate simultaneously a significant and rival set of values—the streetwise code of conduct—in their daily lives (Anderson 1990, 1999). Competition between streetwise and decent values made it more difficult for lawabiding Northton residents to achieve and reinforce a common set of values among all residents in their community—a common set of values that could be directed toward law abidingness.

The implication of this work is that criminal law policy—punishment—meted out among individuals residing in community contexts can impact a community's ability to regulate itself through informal means. It is not difficult to imagine the ways in which formal legal punishment—in potentially large amounts—could be beneficial to communities with a social structure that predicts a kind of social organization that is not conducive to crime resistance and control. If lawbreakers respond to punishment as the instrumental model predicts, then reduction of crime in a neighborhood could lead to stronger community social structures, which in turn will amplify the outcomes of a get-tough strategy. Thus, we might be able to purchase

social organization improvement through the business-as-usual plan.

But theories of social disorganization also help to explain why current and popular approaches to crime control potentially are wrong-headed (Meares 1998a, Rose and Clear 1998). Consider drug offending. Drug dealers are not randomly distributed throughout society. Rather, they are, in fact, geographically concentrated in communities that are poorly structured for crime reduction. High incarceration rates mean high rates of removal of individuals from the neighborhoods they live in. When we remove these men (usually) from the community, we can predict family disruption, an unemployment base with low potential for social capital creation, and mobility. In short, we can predict the precursors to social organization disruption. Large empirical studies have not unequivocally demonstrated that incarceration has adversely affected private controls and families (Lynch and Sabol 2004), but there is ethnographic work that is strongly suggestive of this thesis (Braman 2004).

Additionally, the normative conception of compliance with the law demonstrates that there is another important reason to be skeptical that law enforcement as usual will get the job done. Racial asymmetry in law enforcement outcomes can diminish the commitment that minority lawabiders have to government authorities, undermining their

perceptions of legitimacy of governmental authorities and law. My concern here is that the level of the commitment of lawabiders to government will determine in part the content of the norms that they pass on intergenerationally to their children. Weak attachment to government on the part of lawabiders predicts even weaker attachment on the part of their children and predictably higher levels of offending.

According to the normative view of compliance, our goal is not to manipulate the cost of crime for lawbreakers but to manipulate the perceptions of government legitimacy that lawabiders hold. In this way, we can hope to embed norms of voluntary compliance intergenerationally to achieve crime reduction.

What would a law enforcement policy look like that focused on lawabiders?

Legitimacy and Policing

To fully realize the potential for social organization to improve law enforcement, we must take as our target not crime but the social structure of communities. We know from empirical work that the norms are already prevalent. It's just that they are losing out in the norm competition because the neighborhood social infrastructure is damaged.

Law enforcement for lawabiders focuses on thinking about ways to bring individuals

to community-level social processes and to promote methods of integrating institutions particularly suited to the task of crime reduction through the promulgation of lawabiding norms. The targeting of institutional integration is particularly important, as the work of Albert Hunter (1985) shows. Hunter demonstrates that there are three levels of social order that we should be concerned about. The first is the private level, which is essentially family and friends and even neighborhoods to which an individual is closely connected. The second is the parochial level, the *mélange* of community-level institutions such as churches, community groups, local business, and the like. And, third, there is the public level, which is comprised of formal bureaucratic agencies. The police would be located here, as would other agencies of local government.

Hunter explains that the public level of social order relies, uniquely, on the state's claim to a legitimate monopoly of the use of coercion and force to maintain order, while the other two levels cannot sustain such use. The problem is that while the public level's use of coercion is sometimes necessary, its utilization alone is never enough to counteract disorder that supports fear that feeds crime.

And the social organization thesis suggests that it is the breakdown of the parochial level of social order—the disarticulation of individuals from organizations

and groups—that feeds crime in crime-plagued neighborhoods. In such areas, we see tightly knit groups of family and friends relying on each other but not a wider group of neighbors to prevent crime. Such a barricade approach is inconsistent with collective efficacy and leads to a fragmentation of social networks, making promotion of the parochial level of social order difficult. At the same time, these close-knit groups at the private level continue to demand more and more of the public level of social order. These demands ultimately undermine the legitimacy of this use of force, leading to lower levels of trust in the state and lower levels of voluntary compliance.

The way out of this is to reinforce the parochial level of social order. How can this be done? I believe that one strategy is to look to the ways in which the public level of social order might reinforce the parochial level. Law enforcement agencies are uniquely situated to provide resources and direction for the organizational efforts of private individuals and groups. Participation by residents in community-policing programs is itself an aspect of local community solidarity. Moreover, such activity not only reinforces the community social processes that prevent crime but also constructs and transmits lawabiding norms.

The key is to locate the right institutions to bring together. One idea is to bring together the church and police in inner city,

urban communities. The black church today is one of the few stable social institutions in poor, inner-city neighborhoods. The police are another stable presence. However, in many urban areas, predominantly black churches have little contact with the police and where there is contact it is too often adversarial.

Black churches and church leaders have traditionally played a role in criticizing police for their abusive behavior toward inner-city residents and for their nonresponsiveness to the crime problems in poor communities. Consequently, it is very difficult for Protestant church leaders, who serve at the pleasure of their congregants, to assume what might otherwise be their natural roles as trusted intermediaries between congregation members and police. The reluctance (or refusal) of church leaders to vouch for the police sustains an institutional resource mismatch in many urban, poor communities.

Social organization theory, however, suggests the possibility of considerable crime reduction benefits to communities that are able to bridge the gap between the church and the police. For example, in a community all but devastated by violent crime, the commander of Chicago's highest-crime police district led approximately 1,000 Chicagoans in a 30-minute prayer vigil. In groups of ten, the participants stood on designated corners—the same corners where lookouts often hawked their wares

by calling out, “Rocks and Blows!”—and prayed. Following the prayer vigil, the whole group and over 7,000 more community residents went to a large park for a “praise celebration,” where there was music provided by a 400-member gospel choir, food, and inspirational speeches.

It’s easy to dismiss this event as a publicity stunt, and more than a few of the law enforcement officials involved were uncomfortable about the explicit association of religion with policing activity. But attention to norms suggests that such an assessment is misguided, as the link had an important police purpose. While it was not stated as such, I believe that a central potential outcome of the prayer vigil is behavioral change on the part of lawabiding residents that will lead to improved social organization and eventually greater normative compliance with the law (Meares and Corkran, forthcoming).

Police-facilitated prayer vigils are just one aspect of a new vision for law enforcement focused on lawabiders. The full potential of this approach can only be redeemed by thinking about ways to bring individuals to community-level processes and to promote methods of integrating institutions particularly suited to the task of crime reduction. Additionally, greater strides must be made to prevent further alienation of lawabiding residents of the most crime-plagued communities from government institutions. The next section outlines a number of strategic approaches that police

organizations might adopt to promote law enforcement for lawabiders.

Strategies to Promote Law Enforcement for Lawabiders

Prevent further alienation

- Pay greater attention to racial asymmetry in punishment.
- Create alternatives to prison for low-level drug offenders.
- Improve tracking of racial demographics of arrest.

Promote community-policing strategies that are consistent with parochial institutional integration

- Focus community policing on the parochial not the individual—the key actor is the local police commander, not the beat cop.
- Promote a vision of policing that sees police-community meetings as opportunities for deliberative democracy.
- Promote ground-up programming rather than top-down, expert-based programming.

Enhance legitimacy

- Understand that lawabiders are critical to law enforcement.
- Advertisement is as important as traditional crime policy.
- Local police need to understand their communities and cooperate with accepted institutions.

Let me close with three take away points.

Public trust as a function of perception rather than outcome

My notion of law enforcement for lawabiders is premised upon the idea of achieving compliance through the promotion of attachment of individuals to governmental authority. As Tyler and Lind have explained, “the use of procedures regarded as fair by all parties facilitates the maintenance of positive relations among group members, preserving the fabric of society, even in the face of the conflict of interest that exists in any group whose members have different preference structures and different beliefs concerning how the group should manage its affairs” (Tyler and Lind 1992:134).

Thus, “relational” procedural justice provides to individuals indicators of how the authority in question views the group to which the evaluator perceives herself belonging. In order to make this assessment, individuals key in on three factors: standing, neutrality, and trust (Tyler 1989). By standing, researchers are referring to indications that the authority recognizes an individual’s status and membership in a valued group, such as polite treatment and treatment that accords dignity and respect. Neutrality refers to indications that decisions in which the perceiver is not made to feel as if she is less worthy

than others. And trust refers to the extent to which a perceiver believes that the authority in question can be trusted to behave fairly. Each factor is one that impacts the relationship of the perceiver to the authorities using the procedure (Tyler and Lind 1992). The procedures themselves provide information to the perceiver about her value to the group. The assessment she makes about her value to the group in turn impacts her assessment of the legitimacy of authority, which impacts her inclination to comply voluntarily with the law.

What is critically important is perception rather than outcome. What matters is whether people believe that they count as manifested in the way that authorities behave. Note, however, that what authorities actually think is largely irrelevant. Management of perceptions, then, has great potential for impacting compliance in the new millennium. At the same time, the lack of a necessary connection between perceptions and actual belief suggests a potential dark side to this approach.

The generality of perception matters

One limitation of the work on the link between legitimacy and compliance is that it taps primarily the link between legitimacy and compliance for those who have specific experiences with police, or courts, or some other institution. However, the vast

majority of those who form and express opinions about governmental entities do not have such experiences. Rather, their experiences are indirect—operating through their social milieu—instead of through direct encounters. What is necessary is research that addresses how perceptions, and subsequent dispositions to obey the law, are affected by indirect encounters.

One study by psychologist Janice Nadler (2005) explores this connection. Nadler's experiment empirically tests the theoretical link between justice perception and compliance with the law by exposing participants to unjust legal outcomes.¹ The hypothesis was that those

¹ The subjects were first exposed to a "prime," a videotaped news story concerning David Cash, the 18-year-old who watched his friend abduct a 7-year-old in a Las Vegas casino, and who did nothing when the friend raped and murdered the girl. Some of the subjects then received an unjust outcome story (nothing happens to David Cash in the criminal justice system, which is the truth), and others received a just outcome story (Cash is convicted of accessory to murder after the fact and receives a prison sentence of a year). The second part of the experiment tested compliance with the law by asking the subjects to sit as jurors in a case of a homeless defendant with two prior felony convictions charged with the felony of stealing a shopping cart in which the defendant kept his belongings. The materials made clear that the jurisdiction's three-strikes rule would result in life imprisonment for the defendant if he was found guilty, and they also made clear that there was no doubt about the outcome if the jurors faithfully applied the law to the facts at hand. Those who rendered a not guilty verdict were nullifying the law.

exposed to unjust legal outcomes would exhibit decreased legal compliance. Interestingly, there was an overall effect of *increased* compliance (preferences for guilty verdicts 63.8 percent of the time for those primed with unjust outcome, compared to 50 percent for those primed with the just outcome). However, subgroups of African Americans and Hispanics reacted as hypothesized. When primed with unjust outcomes, these subjects uniformly refused to comply with the law. Other subjects (e.g., whites and males) were either apparently unaffected by the prime or displayed higher rates of compliance after witnessing an unjust result.

This study suggests the possibility that when minorities are exposed to very prominent examples of injustice—whether they themselves experience it or not—there can be an effect on perceptions of both legitimacy and compliance.

Accountability matters

The previous points underscore the importance of creating accountability structures in the implementation of criminal justice. Accountability can be achieved in many ways. Citizen review of police is one common method. Victim participation in criminal justice decision making is another. One mostly untapped method is encouraging citizen participation in enforcement of the law. I have promoted one method of this

in Chicago by drafting language in the city's revised anti-gang loitering law that creates a partnership of enforcement between community members and police by requiring police to consult with community groups before designating areas of enforcement, as the ordinance requires. As far as I am aware, this legislation is unique.

Summary

I have addressed here the link between legitimacy and compliance because it is clear that by addressing issues of legitimacy and accountability at a general level, outcomes can also be affected. Carrots and sticks *do* work in producing outcomes, but often the benefits of instrumental programs are costly because they always depend on resource limits. These programs can be fleeting and time-consuming. Rather than attempting to achieve compliance through instrumental carrot-and-stick means that are inherently unstable and costly, it may be preferable to attempt to achieve voluntary compliance by increasing the store of legitimacy held by authorities—a store that may be changed simply by changing the procedures used by authorities and the methods such authorities utilize in their dealings with citizens.

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