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POLICE EXECUTIVE  
RESEARCH FORUM

# **Legitimacy and Procedural Justice: A New Element of Police Leadership**

**A Report by the Police Executive Research Forum (PERF)**

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Edited by Craig Fischer



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## **INTRODUCTION**

The job of leading a local law enforcement agency has always been a complex one, requiring skills in mastering complex policy issues, developing organizational structures and systems, managing employees, and addressing the various and sometimes conflicting expectations of the community, political leaders, agency employees, and the news media.<sup>1</sup>

Many experienced police chiefs are saying that the 21<sup>st</sup> Century has brought a trend toward even greater complexity in their jobs. New types of technology are revolutionizing how police departments operate, and often the challenge is to make sound decisions about how to integrate multiple forms of technology. The widespread adoption of community policing has resulted in community members having higher expectations of accountability and efficiency in their police departments. National and international economic conditions have strained local police budgets. The workforce is changing in ways that affect police recruiting and retention. These are just a few of the challenges that must be understood and constructively managed by today's chief executives in policing.

*In fact, perhaps the greatest job qualification for today's police executives is the ability to recognize and respond to the swiftly changing issues and opportunities facing them. Police chiefs often speak of their role as being "agents of change." Never before has managing change been a larger element of their jobs.*

Today's police departments appear to be succeeding, at least by the measure of crime rates. Violent crime rates nationwide are half what they were two decades ago, and many

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<sup>1</sup> *Leadership Matters: Police Chiefs Talk About Their Careers*. Police Executive Research Forum, 2009.

jurisdictions are experiencing record low crime rates not seen since the 1960s. In addition, there are indications that a variety of types of wrongful police behaviors, ranging from corruption to unlawful shootings, are at lower levels today than in the past.

**As today's police executives strive to maintain the progress in reducing crime while serving as effective agents of change, many are taking on a new challenge: applying the concepts of "legitimacy" and "procedural justice" as they apply to policing.** These concepts are defined in detail later in this report (see page 9). In essence, legitimacy and procedural justice are measurements of the extent to which members of the public trust and have confidence in the police, believe that the police are honest and competent, think that the police treat people fairly and with respect, and are willing to defer to the law and to police authority.

*Because the effectiveness of police operations often depends at least in part on the public's willingness to provide information to and otherwise help the police, police leaders increasingly are seeing legitimacy and procedural justice as necessary conditions of success, and as worthy goals in themselves.*

This paper discusses the concepts of legitimacy and procedural justice in the context of police leadership. In any given community, residents will have opinions about whether their local police act "legitimately." These opinions may be based on a particular encounter a resident had with the police, such as a traffic stop, or on larger policy issues. And these opinions often vary from one subgroup of the community to another.

For a police leader, the key challenge is to think about the ways in which the public's perceptions of legitimacy and procedural justice can affect a police agency's efforts to achieve its goals. For example, the goals of building community cohesion and trust in the police clearly depend on the extent to which the public believes that police actions are legitimate and

procedurally just. And other goals—such as high success rates for investigating crimes and preventing crime—depend on the willingness of the public to cooperate with police, to provide information to the police, and to willingly obey the law, all of which can be affected by the department's reputation for legitimacy.

The ways in which issues of legitimacy and procedural justice may affect the success of the police vary from one department to the next. To take one example, quality-of-life issues sometimes are most important to community members, even in districts with high levels of crime. Police chiefs often speak of arriving at community meetings ready to discuss the details of violent crime patterns and police countermeasures – only to be surprised when residents do not seem interested in discussing crime in their neighborhood. Instead, they seem more interested in talking about issues like abandoned cars, vandalism, speeding by motorists and other traffic violations on their streets, and other matters that the police may see as a lower. Issues of legitimacy and procedural justice are important in such a situation. By listening carefully to residents about the issues that concern them and responding to those concerns, police can build trust in the community and increase residents' respect for police authority. (That is not to say that police should ignore the issues that the police think are important; those can be discussed as well.)

Furthermore, police can increase their level of perceived legitimacy by explaining their actions to the people who are directly involved in those actions. For example, in the situation described above where residents say they are worried about motorists speeding through their streets, the police may respond with targeted traffic enforcement. That will presumably please the residents who complained about the speeding, but motorists who are stopped may wonder

why police are spending resources on traffic enforcement instead of focusing available manpower on violent crime.

In the past, police might have thrown up their hands and said, “This is a no-win situation.” However, research on legitimacy and procedural justice supports the proposition that police can reduce the conflict simply by explaining their actions to the public. In this example, officers making the traffic stops can provide a brief explanation that the reason for the stop is that residents of the neighborhood have expressed concerns about pedestrians being hurt by speeding motorists.

When such initiatives address a real public safety problem, and if police make it their business to provide a brief explanation of that problem every time they make a stop, the same traffic enforcement strategy can result in an *increased* sense that the police are acting legitimately, rather than in damage to the police department’s reputation.

A police chief who is familiar with the concepts of legitimacy and procedural justice and the research behind these ideas, and who works to incorporate these concepts in the practice of policing in his or her department, will generate feelings of goodwill and support for the police among the public. And that result is not a mere public relations success, but rather an important component of ensuring the overall success of the police.

Furthermore, there is a growing recognition of the need for police executives to treat their employees with the same sense of legitimacy and procedural justice that applies to members of the public. This is sometimes referred to as “internal legitimacy” or “internal procedural justice.” When the leaders of a police department treat their officers with dignity, respect, and fairness – for example, by creating meaningful and transparent paths for career advancement, ensuring that disciplinary system are fair, and soliciting officers’ views about major issues of policy and

practice – they increase the likelihood that the officers will show initiative and seek to do a good job.

*This paper presents an argument that the concepts of legitimacy and procedural justice are essential elements of leadership in policing.* It offers an explanation of legitimacy and procedural justice by Yale Law Professor Tom Tyler, who is one of a handful of top national experts on these issues. Professor Tyler traces the development of the concepts of legitimacy and procedural justice from their roots in research about why people do (or do not) obey the law and respect institutions of authority.

Dr. Tyler is Professor of Law and Psychology at Yale Law School. His books include *Why People Cooperate* (2011); *Legitimacy and Criminal Justice* (2007); *Why People Obey the Law* (2006); *Trust in the Law* (2002); and *Cooperation in Groups* (2000).

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A second paper conducted for this project presents a case study of a police leader, New Orleans Superintendent Ronal Serpas, who is working to apply the concepts of legitimacy and procedural justice to a department with a history of troubled relationships with the community.

PERF intends to continue this series with additional papers highlighting case studies of police executives who demonstrate leadership by incorporating the principles of procedural justice and legitimacy in their daily operations.



## **What Are Legitimacy and Procedural Justice in Policing? And Why Are They Becoming Key Elements of Police Leadership?**

**By Dr. Tom Tyler**

Macklin Fleming Professor of Law and Professor of Psychology  
Yale Law School

In the mid-1960s, several national initiatives looked at the role of the police in society. For example, “The Challenge of Crime in a Free Society: A Report of the President’s Commission on Law Enforcement and the Administration of Justice” examined America’s criminal justice system and the roles of each of its main components.<sup>2</sup> The report discussed the critical role police agencies play in our justice system, and served as the impetus for a period of investment by the federal government in local policing that continues to this day. In addition to training and grants for equipment, the investment included the establishment of several federal agencies and offices that provided funding for technical assistance, as well as social science research into policing that laid bare some of the myths of policing.

This research and assistance led to the development of practices and policies that fundamentally changed urban policing and community expectations of criminal justice. The 1970s saw the development of a number of organizations that focused on the study of policing, including several professional associations devoted to the challenges of police officials and the development of police leaders. The federal investment in policing included unprecedented funding for hiring police officers and other assistance to state and local law enforcement agencies in the 1990s and beyond.

Federal grants also have supported numerous demonstration projects, technological advances, and research in policing. A review of policing by the National Academy of Sciences in

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<sup>2</sup> Available through National Criminal Justice Reference System at <https://www.ncjrs.gov/pdffiles1/nij/42.pdf>

2004, for example, detailed evidence of increasingly professional and effective police departments and of more sophisticated policing practices.<sup>3</sup> There is a new professionalism in policing that benefits the people who have individual encounters with the police, as well as residents who work with local police to reduce crime and disorder.

**These improvements in the objective quality of policing notwithstanding, the other consistent finding of studies of the police is that over the last 30 years, public support for the police—often indexed as “trust and confidence” in the police—has not increased.** The percentage of Americans expressing “a great deal of confidence” in the police between 1980 and 2009 has generally ranged between 50 and 60 percent. In June 2011 it was at 56%, according to a Gallup poll.<sup>4</sup> By contrast, violent crime rates nationwide have dropped 48% since 1993, according to the FBI’s Uniform Crime Reports.<sup>5</sup>

**This discrepancy between the increasing level of police performance and generally unchanging levels of public support suggests that the police may not be capturing the potential gains of heightened professionalism and improved performance.** What are those potential benefits? Studies suggest that they include: (1) greater public deference to the police when the police have personal interactions with members of the community<sup>6</sup>; (2) increased

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<sup>3</sup> *Fairness and Effectiveness in Policing: The Evidence*. National Research Council of the National Academies. Available at [http://www.nap.edu/openbook.php?record\\_id=10419&page=R1](http://www.nap.edu/openbook.php?record_id=10419&page=R1)

<sup>4</sup> “Sourcebook of Criminal Justice Statistics Online.” <http://www.albany.edu/sourcebook/pdf/t2122011.pdf>

<sup>5</sup> Crime in the United States, 2012, FBI. Table 1. [http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatadecoverviewpdf/table\\_1\\_crime\\_in\\_the\\_united\\_states\\_by\\_volume\\_and\\_rate\\_per\\_100000\\_inhabitants\\_1993-2012.xls](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1993-2012.xls)

<sup>6</sup> Tyler, T.R. & Huo, Y.J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. N.Y.: Russell-Sage Foundation.

compliance with the law<sup>7</sup>; (3) higher levels of cooperation with police efforts to manage crime<sup>8</sup>; and (4) stronger institutional support for police departments.<sup>9</sup>

To build a stronger partnership between the police and the community, we need a focus on what shapes public views about trust and confidence and ultimately influences the perceived legitimacy of the police in the community.

This is not a new direction in policing. Rather, it is an extension of the ideas that have defined police-initiated strategies of “community policing” for the past several decades. Those strategies include a police focus on how the community views the police, and on building cooperative relationships with people in the community. At the core of community policing is the premise that effective policing is a result of strong and positive relationships between officers and the people they serve. Police officers across the country do this every day through their use of operational procedures that build legitimacy within the community and foster cooperation with the police and compliance with the law.

### ***Specific Reasons for Police to Place a High Priority on Legitimacy***

Success in policing is enhanced when the police can gain and maintain support from the public. In individual encounters with residents, police benefit when people are willing to accept and defer to the appropriate use of police authority, rather than starting the encounter with feelings of hostility and resistance. Further, if people have a high degree of respect for their local police and the law, they are more likely to obey the law, including relatively minor traffic laws

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<sup>7</sup> Tyler, T.R. (1990). *Why people obey the law: Procedural justice, legitimacy, and compliance*. Republished with a new afterword (2006). Princeton University Press.

<sup>8</sup> Tyler, T.R. & Fagan, J. (2008). *Why do people cooperate with the police?* Ohio State Journal of Criminal Law, 6, 231-275.

<sup>9</sup> Sunshine, J. & Tyler, T.R. (2003). *The role of procedural justice and legitimacy in shaping public support for policing*. Law and Society Review, 37(3), 555-589.

and laws governing quality-of-life issues. This gives the police greater flexibility to concentrate their resources on serious crime and disorder hot spots, on repeat offenders, and on other strategies for making significant improvements in public safety. And police efforts to combat crime are improved when people in the community help with policing, for example, by coming to community meetings or joining neighborhood watch groups, by reporting crime, by identifying criminals living in their communities, and by alerting officers to problems or conditions that foster crime and disorder.

### ***Legitimacy and Procedural Justice: Definitions***

In discussing the concepts of legitimacy and procedural justice in policing, it is helpful to give the words specific definitions as terms of art that go beyond their everyday meaning:

**Legitimacy** reflects the belief that the police ought to be allowed to exercise their authority to maintain social order, manage conflicts and solve problems in their communities. Legitimacy is reflected in three judgments. The first is public trust and confidence in the police. Such confidence involves the belief that the police are honest, that they try to do their jobs well, and that they are trying to protect the community against crime and violence. Second, legitimacy reflects the willingness of residents to defer to the law and to police authority, i.e. their sense of obligation and responsibility to accept police authority. Finally, legitimacy involves the belief that police actions are morally justified and appropriate to the circumstances.

**Procedural justice** can be viewed as a means to attaining legitimacy and can be defined in terms of four issues. First, people want to have an opportunity to explain their situation or tell their side of the story to a police officer. This opportunity to make arguments and present evidence should occur before the police make decisions about what to do. People are interested

in having an opportunity to tell their story or state their case; that is, they want to have a voice. This is true both when policies are being developed and when officers implement them on the street.

Second, people react to evidence that the authorities with whom they are dealing are neutral. This involves officers making decisions based upon consistently applied legal principles and the facts of an incident, not an officer's personal opinions and biases. Transparency and openness about what the rules and procedures are and how decisions are being made facilitates the belief that decision-making procedures are neutral. This helps the police to be seen to be acting neutrally.

Third, people are sensitive to whether they are treated with dignity and politeness, and to whether their rights are respected. The issue of interpersonal treatment consistently emerges as a key factor in reactions to dealings with legal authorities. People believe that they are entitled to treatment with respect and react very negatively to dismissive or demeaning interpersonal treatment.

Finally, people focus on cues that communicate information about the intentions and character of the legal authorities with whom they are dealing (their "trustworthiness"). People react favorably when they believe that the authorities with whom they are interacting are benevolent and caring, and are sincerely trying to do what is best for the people with whom they are dealing. Authorities communicate this type of concern when they listen to people's accounts and explain or justify their actions in ways that show an awareness of and sensitivity to people's needs and concerns.

Research has shown that when the public believes that the police exercise their authority in these procedurally just ways, they accept the legitimacy of the police and defer to police

authority, both in particular situations and through a generally increased level of compliance with the law and cooperation with the police.<sup>10</sup> Of particular importance is the finding that the use of fair procedures encourages voluntary acceptance of police and legal authority, as well as respect for the broader justice system. This is important because it means that people are more willing to take responsibility on their own for accepting the limits on their behavior spelled out in the law. Absent such community buy-in, the police must often revisit problematic people and situations and try to motivate unwilling members of the community to change their behavior.

### *The Differences between Legitimacy and Legality*

The concepts of “legitimacy” and “legality” may be confused or even considered interchangeable by some people, but they are not the same thing. Legitimacy refers to the *judgments* that ordinary residents make about the authority of the police to make decisions about how to enforce the law and maintain social order. Unlike police lawfulness, which is defined by the text of laws and by administrative and regulatory standards, legitimacy lies within the perceptions of the public. Perceptions of legitimacy are subjective, and will vary among jurisdictions and within specific communities in those jurisdictions.

Traditionally, the framework through which policing activities are evaluated has been their legality. Of course, legality and adherence to police agency policy must continue as benchmarks for evaluating any policing practice, just as practices must be evaluated in terms of their ability to control crime, protect officer and civilian safety, and meet cost-effectiveness objectives. **However, the argument being advanced here is that there is an additional**

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<sup>10</sup> For a review of studies demonstrating this point, see Lorraine Mazerolle, Sarah Bennett, Jacqueline Davis, Elise Sargeant & Matthew Manning (2013). *Legitimacy in Policing: A systematic review*. Campbell Systematic Reviews. Campbell Collaboration.

**benchmark for evaluating police practices: the impact of a policy and practice upon perceived police legitimacy within the community.**

Studies suggest that the public is not generally knowledgeable about law and the legalities of police practices. Hence, the public is not likely to be able to correctly assess the legality of some police practices. Rather, the public evaluates the legality of the police by reacting to how they and others are treated by the police. A study of reactions to videos in which observers rated police-citizen interactions, for example, shows that people's evaluations of whether the police violated the law are more strongly shaped by whether the police treated the resident with whom they dealt "fairly" than by whether the police action was in fact legal.<sup>11</sup> Other research has found that members of minority groups focus on how they are treated by the police as a central cue to tell them if they are being racially profiled.<sup>12</sup>

These findings suggest that the public is more willing to defer to legitimate police actions when they believe the actions are reasonable and appropriate. A key indicator that the police are acting in reasonable and appropriate ways is that they behave professionally—they make decisions in rule-based, factual ways; they listen to people and obtain necessary information from those involved so that they can make informed and intelligent decisions; and they treat people with dignity and respect. When the police act in these ways, they find the public more deferential to and supportive of their actions and more willing to infer that the police are acting within their authority and to trust that their motives are sincere and caring.

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<sup>11</sup> T.L. Meares, T.R. Tyler & J. Gardener (in press). *The two different worlds we live in: Lawfulness and perceived police misconduct.* Journal of Criminal Law and Criminology.

<sup>12</sup> Tyler, T.R. & Wakslak, C. (2004). *Profiling and the legitimacy of the police: Procedural justice, attributions of motive, and the acceptance of social authority.* Criminology, 42, 13-42.

## *How Does Legitimacy Differ from Community Policing?*

Some observers have noted that the concept of legitimacy in policing seems similar to the concepts of community policing as they have been developed since the 1980s. Some think of legitimacy as “new wine in an old bottle,” or as an updated or higher-powered version of community policing.

It is true that efforts to build legitimacy in policing have much in common with efforts to build community policing. But the concepts are not exactly the same.

Community policing, as defined by the Justice Department’s Office of Community Oriented Policing Services, is “a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”<sup>13</sup>

Community policing has three main components in the Justice Department’s definition:

- Community partnerships between the police and other organizations;
- The systematic identification of crime-related and other community problems and the development of solutions; and
- The organizational transformation of the police agency to support community partnerships and problem-solving.

Thus, community policing is generally seen as a philosophy or set of initiatives undertaken by a police department. And while community policing has become widely accepted in thousands of police agencies, sometimes, unfortunately, it is considered a mere “program” that

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<sup>13</sup> “Community Policing Defined.” COPS Office, United States Department of Justice.  
<http://www.cops.usdoj.gov/default.asp?item=36>



can be set aside temporarily if a police budget is cut and funding runs short. At a 2010 meeting of police executives regarding the economic downturn that began in 2008, Rutgers Prof. George Kelling summed up this perspective when he said, “I had very mixed feelings listening to the comments from chiefs today, because it sounds as if many departments are backing away from community policing, which we know works. Many chiefs are talking about making a priority of responding to calls for service, which... would be a return to a failed strategy of the 1950s and ’60s.”<sup>14</sup>

Legitimacy in policing is not a police program, initiative, or set of policies. The concept of legitimacy applies to all police departments, regardless of whether each department has leaders who have read about legitimacy and tried to incorporate the concept of legitimacy throughout the department. Every department can be said to have a certain degree of legitimacy in the eyes of its residents, and that level of legitimacy can be measured, for example, by conducting surveys of the public.

Another way of saying this is that community policing is generally seen as a police initiative, while legitimacy is a criterion by which a police department can be judged and, evidence suggests, is judged every day by the people in the community. Community members decide whether to willingly defer to and accept police decisions and policies, and make their own judgments about the extent to which they are willing to work with the police to help them maintain order in the community.

The idea that legitimacy within the community is the basis for a general policing philosophy is not, of course, a novel one in the history of policing. In his principles of policing, Sir Robert Peel, the founder of the London police department, famously argued in the 1800s that

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<sup>14</sup> *Is the Economic Downturn Fundamentally Changing How We Police?* Police Executive Research Forum, 2010, p. 24. <http://members.policeforum.org/library/critical-issues-in-policing-series/Econdownturnaffectpolicing12.10.pdf>

“the police are the public and the public are the police.” His model emphasized the need for the police to have legitimacy within the community they police, recognizing that “the ability of the police to perform their duties is dependent upon the public approval of police actions.”

### ***Resistance to the Term “Legitimacy”***

When the term “legitimacy” began to be aired in police circles in the late 2000s, it received a cool reception from some police executives. As one big-city police chief expressed it, “I’m not a fan of this term ‘legitimacy.’ Most of us in policing think we have a very important job, and we work hard at doing it well. And there’s no question that policing today is light years ahead of where it was a generation ago in terms of being progressive, evidence-based, and compassionate. So to talk about whether the police are ‘legitimate’ implies that if anyone criticizes us, suddenly we are ‘illegitimate.’ And that word doesn’t go down well with officers who have made a life’s work of protecting the public and trying to do right by people.”

This feeling is understandable, particularly considering that “legitimacy” is based on the Latin word for “law,” and the definitions of “legitimate” include “lawfully begotten...accordant with law...conforming to recognized principles or accepted rules.” Legitimacy also is often seen as an absolute term; an action is either lawful or it is not. So it is not difficult to see why police leaders may have an instinctual aversion to being evaluated in ways that go beyond their long-standing efforts to act lawfully and to effectively address community issues.

However, this is not what the term “legitimacy” is meant to convey in the context of policing. For purposes of this document and general discussions of this topic, “legitimacy” is a relative term that denotes the extent to which a police department is *perceived as morally just, honest, and worthy of trust and confidence.* Often, there will be people in a community who believe that a certain police action or policy is legitimate, while others have the opposite view.

Thus, legitimacy in policing is not an absolute state, but rather a relative measure of people's perceptions. Further, taking the views of people in the community seriously is not an indication that one accepts the belief that the police are acting unlawfully or being ineffective. Rather, it is an acceptance of the reality that success in policing depends upon the way the community views and reacts to the police, so the police need to try to understand and respond to community concerns.

### ***Leadership and Legitimacy***

Because legitimacy and procedural justice are concepts that are relatively new to policing, for today's police executives, the issue of leadership on these issues begins with recognizing their importance to the success of a police department.

It is only in the last few years that police chiefs have begun to use the words "legitimacy" and "procedural justice" in national conferences of police executives, where new concepts and approaches are often given their first major airing. General concepts of legitimacy and procedural justice in government have been the subject of research and academic study for a longer period of time,<sup>15</sup> but these ideas are fairly new in the field of policing.

**Thus, the police chiefs who are taking leadership roles on the issue of legitimacy and procedural justice today are those who have read or heard about the concepts and are aware of the research behind them. These chiefs recognize the importance of the concepts in terms of achieving police department goals and producing benefits for everyone in the community. They incorporate the ideas of legitimacy and procedural justice in what they say to police officers, and in what they say to the public. And they make the concepts part**

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<sup>15</sup> See E. Allen Lind and Tom Tyler, *The Social Psychology of Procedural Justice* (1988), and John Thibaut and Laurens Walker, *Procedural Justice* (1975).

**of their everyday thinking as they plan police operations, develop policies, make speeches, hold community meetings, give news media interviews, and otherwise go about their work.**

It should be emphasized that leaders on the issue of legitimacy and procedural justice do not see this as a public relations initiative or as an “optional” initiative to be considered only when a police department has some free time to spend. Legitimacy and procedural justice are more important than that and may be particularly important during times of stress in a community, because the success of a police department can depend on whether the community supports their local police. And whether the public backs the police can depend on whether they consider police actions legitimate.

It is also important to recognize that ideas of legitimacy and procedural justice apply not only to interactions between the police and the public. They are also relevant to the internal dynamics of police departments. Like members of the public, police officers in some departments complain that their superiors do not listen to them, do not explain their policies, and are not concerned about the issues that matter to officers. And, just as is true of the public, studies indicate that officers who feel this way are less likely to follow department rules for behavior on the street, and less willing to voluntarily cooperate with their superiors in the department’s efforts to manage social order.

What is the primary reason that officers evaluate their superiors and their departments as being legitimate? It is that they feel that they themselves are treated fairly when they deal with their superiors. Hence, legitimacy is not only an issue on the street; it also matters within the department.

### ***Examples of Critical Issues in Policing in Which Perceptions of Legitimacy Are Important***

The concepts of legitimacy and procedural justice have implications for the process of developing a variety of police policies, strategies, and programs. The following is a discussion of two issues in which legitimacy and procedural justice are especially pertinent: (1) “stop, question, and frisk” policies and (2) racially biased policing.

#### ***Case Example 1: Street Stops and the Experiences of New York City and Philadelphia.***

There have been expansions in the use of street stops and searches by the police in some American cities in recent years. In New York City, the Police Department’s so-called “stop and frisk” practices became a controversial issue, to the point that it was considered a factor contributing to the election of Mayor Bill de Blasio in 2013.

Proponents of stop-and-frisk initiatives argue that large numbers of stops help police to get guns and drugs off the streets. In some cases, this is accomplished because stops result in arrests. But to a larger extent, the reasoning is that frequent stops of pedestrians or motorists in high-crime neighborhoods *deters* people from carrying firearms, illegal drugs, or other contraband, because they know there is a risk of being stopped by police.

Opponents of large-scale stop-and-frisk practices argue that the large majority of street stops do not yield either guns or drugs, but they often result in the repeated stopping and humiliation of innocent people, which damages police-community relationships.

These issues came to a head in New York City in August 2013, when the U.S. District Court for the Southern District of New York handed down its ruling in a class-action lawsuit regarding stop and frisk practices. The legal action was brought by a group of African-American and Hispanic persons who said they were stopped by police without a legal basis in violation of

the Fourth Amendment, and that they were targeted for stops because of their race in violation of the Fourteenth Amendment.

Michael Bloomberg, who at that time was Mayor of New York City, had argued that the New York City Police Department's "stop, question, and frisk" practices had been effective; in fact, the Mayor said, the practices had saved the lives of thousands of New Yorkers by removing guns from the streets.<sup>16</sup>

However, others argued that police tactics that many consider overly aggressive *undermine* public safety by reducing the public's willingness to cooperate with and support the police.

The U.S. Justice Department advanced this latter argument in a "Statement of Interest of the United States," which it filed with the District Court while the legal challenge was pending. The Justice Department called on the Court to impose strong remedies if it were to find a Constitutional violation.<sup>17</sup> The Justice Department statement said:

"[T]here is significant evidence that unlawfully aggressive police tactics are not only unnecessary for effective policing, but are in fact detrimental to the mission of crime reduction. Officers can only police safely and effectively if they maintain the trust and cooperation of the communities within which they work, but *the public's trust and willingness to cooperate with the police are damaged* when officers routinely fail to respect the rule of law....As systematic violations of civil rights erode public trust, policing becomes more difficult, less safe, and less effective. Therefore, if the Court finds any constitutional deficiencies exist in NYPD's stop-and-frisk practices, the implementation of injunctive relief would promote, rather than hinder, NYPD's mission of safely and effectively fighting crime."<sup>18</sup>

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<sup>16</sup> "Judge Rejects New York's Stop-and-Frisk Policy." *The New York Times*, August 12, 2013. [http://www.nytimes.com/2013/08/13/nyregion/stop-and-frisk-practice-violated-rights-judge-rules.html?hp&\\_r=1&](http://www.nytimes.com/2013/08/13/nyregion/stop-and-frisk-practice-violated-rights-judge-rules.html?hp&_r=1&)

<sup>17</sup> "Statement of Interest of the United States." *Floyd v. The City of New York*, U.S. District Court for the Southern District of New York. Filed June 12, 2013. [http://www.justice.gov/crt/about/spl/documents/floyd\\_soi\\_6-12-13.pdf](http://www.justice.gov/crt/about/spl/documents/floyd_soi_6-12-13.pdf)

<sup>18</sup> *Ibid*, p. 10, Emphasis added.

The Justice Department’s references to “the public’s trust [in the police] and willingness to cooperate with the police” echo the definition of legitimacy presented in this report.

The U.S. District Court ruled against New York City on August 12, 2013, finding that NYPD’s stop and frisk practices violated the Constitutional rights of members of minority groups. U.S. District Judge Shira A. Sheindlin’s legal analysis focused mainly on *Terry v. Ohio* and other search and seizure precedents, as well as equal-protection case law.<sup>19</sup> She said that the question of whether the NYPD’s stop and frisk practices are effective in reducing crime was irrelevant for her purpose of deciding whether the practices are Constitutional:

I emphasize at the outset, as I have throughout the litigation, that this case is not about the effectiveness of stop and frisk in deterring or combating crime. This Court’s mandate is solely to judge the *constitutionality* of police behavior, *not* its effectiveness as a law enforcement tool. Many police practices may be useful for fighting crime — preventive detention or coerced confessions, for example — but because they are unconstitutional they cannot be used, no matter how effective.<sup>20</sup>

Thus, the judge’s ruling supported the proposition stated earlier in this report that legality and legitimacy are different concepts. Some argue that high levels of pedestrian stop and frisks help to reduce crime, an argument that could be cited in an attempt to increase the perceived legitimacy of street stops. Others disagree, saying that the practice undermines crime-fighting efforts by reducing public support for the police. But in the end, Judge Sheindlin said, that argument had no bearing on the *legal* issue of whether the practice violates Constitutional standards.

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<sup>19</sup> *Floyd et al v. The City of New York*, Opinion and Order, 08 Civ. 1034 (SAS). U.S. District Court for the Southern District of New York. August 12, 2013.

[http://www.nylj.com/nylawyer/adgifs/decisions/scheindlin\\_floyd.pdf](http://www.nylj.com/nylawyer/adgifs/decisions/scheindlin_floyd.pdf)

<sup>20</sup> *Ibid*, page 2.

In other words, police cannot expect to argue that a policy or practice is legitimate if it is illegal. And even if a practice is found to be legal, that does not necessarily mean that community members will consider it legitimate, unless police executives show leadership by explaining the practice and demonstrating why it deserves the support of the community.

Judge Scheindlin touched on questions of legitimacy and procedural justice in her decision, saying that unconstitutional stops and frisks can hurt police effectiveness:

While it is true that any one stop is a limited intrusion in duration and deprivation of liberty, each stop is also a demeaning and humiliating experience. No one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life. Those who are routinely subjected to stops are overwhelmingly people of color, and they are justifiably troubled to be singled out when many of them have done nothing to attract the unwanted attention. Some plaintiffs testified that stops make them feel unwelcome in some parts of the City, and distrustful of the police. *This alienation cannot be good for the police, the community, or its leaders. Fostering trust and confidence between the police and the community would be an improvement for everyone.*<sup>21</sup>

Judge Scheindlin's ruling was not the last word on stop and frisk practices in New York City. The Bloomberg Administration appealed her decision, and in October, the 2<sup>nd</sup> Circuit U.S. Court of Appeals granted the city's request for a stay of her orders for a special monitor and other reform measures. The appeals court also criticized Judge Scheindlin, saying she failed to maintain an appearance of impartiality regarding the litigation. But in November, the 2<sup>nd</sup> Circuit denied the city's request that it overturn Scheindlin's decision and said it had not found any misconduct or ethical violations by her.

The legal controversy faded as New York City voters elected a new mayor, Bill de Blasio, who had campaigned largely on a promise to scale back stop and frisk in New York. In his Inaugural address on January 1, 2014, Mayor de Blasio said that the stop-and-frisk issue

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<sup>21</sup> Ibid, page 3; emphasis added.



would be part of a broader campaign to unify New York City. “When I said we would take dead aim at the Tale of Two Cities, I meant it,” he said. “We will succeed as One City....We will reform a broken stop-and-frisk policy, both to protect the dignity and rights of young men of color, and to give our brave police officers the partnership they need to continue their success in driving down crime.”<sup>22</sup>

Two weeks later, de Blasio’s new Police Commissioner, William Bratton, told a community group that the stop and frisk issue already “has been more or less solved.” Bratton said that statistics showed a sharp decline in the practice, with a total of approximately 194,000 stop and frisk reports in 2013, compared to a high of 694,000 reports in 2011.<sup>23</sup>

**Philadelphia’s experience with a challenge to stop-and-frisk:** In June 2011, the City of Philadelphia settled a lawsuit regarding its stop-and-frisk practices. In a settlement agreement filed in the U.S. District Court for the Eastern District of Pennsylvania<sup>24</sup>, the city agreed to a number of requirements, including the following: providing detailed information about past stop-and-frisk policies and statistics; filing new reports about stop-and-frisk incidents in an electronic database; reviewing supervision, training, and discipline policies as they apply to stop-and-frisk incidents; prohibiting stops and frisks based only on anonymous information about

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<sup>22</sup> “Inaugural Address of Mayor Bill de Blasio: Progress for New York.” <http://www1.nyc.gov/office-of-the-mayor/news/005-14/inaugural-address-mayor-bill-de-blasio-progress-new-york#/0>

<sup>23</sup> “NYPD top cop Bratton says he’s ‘more or less solved’ stop-and-frisk issues. *New York Daily News*, January 15, 2014. <http://www.nydailynews.com/new-york/nyc-crime/nypd-bratton-solved-stop-and-frisk-issues-article-1.1581457#ixzz2qZABUGA0>

<sup>24</sup> *Bailey v. City of Philadelphia*, Settlement Agreement, Class Certification, and Consent Decree. C.A. No. 10-5952. June 21, 2011. [https://www.google.com/url?q=http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/baileyagreement.pdf&sa=U&ei=cQgFU4XmI-HNsQT6rYGgDg&ved=0CAUQFjAA&client=internal-uds-cse&usg=AFQjCNHqf6-0Io\\_U1GcIIGefqK8cOFD2ww](https://www.google.com/url?q=http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/baileyagreement.pdf&sa=U&ei=cQgFU4XmI-HNsQT6rYGgDg&ved=0CAUQFjAA&client=internal-uds-cse&usg=AFQjCNHqf6-0Io_U1GcIIGefqK8cOFD2ww)

criminal conduct or other specified factors, such as “loitering”; and implementing policies to ensure that stops and frisks are not conducted on the basis of race or ethnic origin, except when legally permitted (e.g., in cases where a suspect has been described by his race).

In addition, Philadelphia agreed to regular audits and a monitoring and compliance system in which an independent court-appointed monitor, Temple University Law School Dean JoAnne A. Epps, was empowered to review information in the electronic database and submit recommendations for additional reforms.

On the day the agreement was signed, Philadelphia Police Commissioner Charles Ramsey made a presentation at a community meeting in which he outlined the terms of the agreement, and he made a special point of endorsing the appointment of Dean Epps as independent monitor.<sup>25</sup> “I welcome the outside scrutiny,” Commissioner Ramsey said, “because it takes that away from us doing it, and having someone say, ‘Well sure, you’re going to say that everything’s OK; you’re not going to be critical of your own department....’ I think this is something that should be done and it’s a good idea.”

Ramsey then noted that Philadelphia Mayor Michael Nutter also signed a separate executive order to improve the handling of citizen complaints against the police—an issue that was not part of the settlement agreement, but which is closely connected to the perceived legitimacy of stop-and-frisk policies.

“We’re making it easier for people to file a complaint against a police officer [for] any type of misconduct,” Ramsey said at the community meeting. “The biggest change is in the area of complaints of verbal abuse. The bulk of complaints against police officers that we get are for verbal abuse. And when it’s investigated by Internal Affairs, what usually ends up happening is

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<sup>25</sup> “Ramsey on stop-and-frisk policy.” YouTube video. [http://www.youtube.com/watch?v=dZ\\_ZsE0H5qA](http://www.youtube.com/watch?v=dZ_ZsE0H5qA)

[that the officer and complainant were the only two people present, so it becomes an issue of] ‘You say I swore at you; I say I didn’t swear at you.’ There’s not enough evidence to prove or disprove the allegation. [So the complaint is classified as] ‘not sustained.’

“But in many instances, *it happened*; we just can’t prove it,” Ramsey continued. “What I want to do is change the behavior and make sure that officers treat everyone with respect. So when these complaints come in, the Inspector from that Division is going to have to whistle that officer down and have a one-on-one with him, after talking to the person who’s making the allegation.”

Thus, Commissioner Ramsey demonstrated leadership in terms of legitimacy and procedural justice not only by accepting the terms of the agreement and endorsing the independent review of the police by a monitor, but by going a step farther. He worked to ensure that residents can file complaints about stop-and-frisk incidents or any other police activity.

Ramsey also contributed to procedural justice by acknowledging that when residents make complaints of verbal abuse by an officer, the complaints often are valid, even when there is not sufficient proof to formally sustain the complaint. And he not only indicated that he understands the potential indignity of those cases; he also took action to address the issue of inconclusive investigations by requiring supervisors to discuss such incidents with the officer.

**Thus, even in cases where the department is unable to determine whether a particular complaint is valid, officers are put on notice that complaints are taken seriously by the department, and that the department recognizes the importance of dignity in these interactions.**

Ramsey also noted that the gray-area cases that he was discussing were only cases in which verbal abuse was alleged, not physical abuse, and that he was not referring to cases in

which an officer is repeatedly accused of verbal abuse. Those more serious situations would result in more intensive review and sanctions.

A year later, in July 2012, Ramsey was interviewed by the *New York Times* regarding stop-and-frisk policies in Philadelphia in light of the settlement agreement.<sup>26</sup> Following is an excerpt from that article:

Commissioner Ramsey acknowledged that the way some officers behaved during stops was a bigger problem than the stops themselves.

“I would say if there is a real, valid issue in this debate, that’s it,” he said, adding that he was aware of the distrust pervasive in some neighborhoods.

After a homicide a few weeks ago, Commissioner Ramsey said, the police were unable to elicit any information from residents in the neighborhood.

“We’ve got the yellow tape and so forth, pools of blood, and directly across the street a bunch of kids are playing on the front porch,” he said. “Everybody’s acting like nothing happened.”

His goal, he said, is to change that dynamic, “but we can’t do it if we’re being perceived as harassing the community.”

By acknowledging that the ways in which officers treat residents is as important as the actual outcome of an encounter, Ramsey was highlighting the importance of procedural justice. And by noting that police cannot achieve their critical goals of crime-fighting if they are perceived as “harassing the community,” Ramsey showed leadership in promoting the concept of legitimacy in policing.

The examples of New York City and Philadelphia both illustrate the importance of considering the influence of police policies and practices on views of the people in the community. Recognizing that public views about police legitimacy are important because they influence the ability of the police to do their jobs is a first step toward bringing those views into

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<sup>26</sup> “Philadelphia Defends Policy on Frisking, With Limits.” *New York Times*. July 11, 2012. <http://www.nytimes.com/2012/07/12/us/stop-and-frisk-controls-praised-in-philadelphia.html?pagewanted=all>

police decision-making about how to act within the community. This is true of police chiefs, who can incorporate the public into discussions about policing policies and who can explain overall department goals and strategies, and to individual officers, who can shape public views by the way they treat the people they deal with on an everyday basis.

**Case Example 2: Racially Biased Policing and the Henry Louis Gates Case.** Because economically disadvantaged communities tend to have relatively high levels of crime, and minority status is intertwined with economic disadvantage, minority communities have long been a focus of the police. Disadvantaged communities also tend to rely on police services to a greater extent than do prosperous communities, so members of these communities have more frequent interactions with police officers.

Minority communities have responded to this focus in mixed ways. According to police executives, some members of heavily policed communities welcome the greater safety and security associated with a high-profile police presence if they think that presence helps to reduce crime. At the same time, police leaders acknowledge that other members of heavily policed communities object to being the focus of policies and practices that they view as intrusive at best and motivated by racism at worst.

Overall, a large and persistent racial gap in trust and confidence in the police suggests that many members of minority communities, and in particular African-Americans, react negatively to past and current policing tactics. Studies consistently show that African-Americans are less likely than other groups to express confidence in the police, and that this difference has

not diminished in recent years.<sup>27</sup> A 2009 survey by Pew Social Demographic Trends found that only 14 percent of African Americans said they had a great deal of confidence in local police officers to treat black and white people equally, compared to 38 percent of white respondents who had a great deal of confidence that local police provide equal treatment. Nearly four times as many black persons as whites said they had “very little” confidence in their local police to treat the races equally (34 percent vs. 9 percent). African-Americans’ confidence in local police to provide equal treatment was little changed from 2007 or 1995, the Pew Research Center said.

Studies examining the basis of minority reactions to policing practices suggest that the primary concerns raised by the minority community are about procedural justice.<sup>28</sup> Those studies suggest that both white and minority group members evaluate their personal interactions with police officers through a procedural justice framework. Minority concerns are directly linked to issues of mistrust in police motives and perceptions of disrespectful treatment in dealings with the police. If the police address such concerns, their legitimacy in the minority community should increase.

Of course, it is important not to ignore the fact of unwarranted disparate treatment when it occurs. Such behavior leads to community distrust and undermines police effectiveness. But it is also important to deal with the *perception* of racial bias, since that perception may independently undermine cooperation with the police. Even if the police are not actually engaged in racial profiling, a perception in the minority community that they are doing so undermines “law abidingness,” the acceptance of police authority, and the willingness to cooperate with the police.

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<sup>27</sup> “Views of Law Enforcement, Racial Progress and News Coverage of Race.” Pew Research Center. March 30, 2012. <http://www.people-press.org/2012/03/30/blacks-view-of-law-enforcement-racial-progress-and-news-coverage-of-race/?src=prc-headline>

<sup>28</sup> See Tom R. Tyler and Yuen J. Huo, *Trust in the Law* (2002).

One of the most highly publicized incidents involving questions of racial bias in policing in recent years was the 2009 arrest of Harvard Professor Henry Louis Gates, Jr. at his home by Police Sgt. James Crowley of the Cambridge, Massachusetts Police Department. The “July 16<sup>th</sup> Incident” drew national and international attention, in part because the entire incident seemed unnecessary, and observers provided a variety of explanations for what occurred. Because Sergeant Crowley is white and Professor Gates is African-American, the arrest immediately raised questions about racial bias in policing.

Cambridge Police Commissioner Robert Haas quickly responded to the incident in ways that suggested a sensitivity to the concepts of legitimacy and procedural justice. He recommended to the City Manager that an independent panel be convened to identify the lessons that everyone might learn from the incident, including police agencies across the nation. A 12-member committee was formed that included Yale Law Professor Tracey L. Meares, a nationally recognized expert on legitimacy and procedural justice.<sup>29</sup>

The final report of the Cambridge Review Committee is imbued with the concepts of legitimacy and procedural justice, and one chapter explores how these concepts must be balanced with tactical and officer safety issues.<sup>30</sup> Following are excerpts from that chapter:

The Cambridge Review Committee members believe that the encounter between Sergeant Crowley and Professor Gates resonated with many law enforcement officers and

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<sup>29</sup> The members of the committee were: Chuck Wexler (Chairman), Executive Director, Police Executive Research Forum; Stacy Blake-Beard, Associate Professor of Management, Simmons School of Management; Marian Darlington-Hope, Assistant Professor of Human Services and Nonprofit Management, Lesley University; John Farmer, Jr., Dean and Professor of Law, Rutgers School of Law; Terrance Gainer, U.S. Senate Sergeant at Arms; John Gallagher, Assistant U.S. Attorney, Eastern District of Pennsylvania; John Kosko, Retired school administrator and community leader, Cambridge, Mass.; Tracey L. Meares, Deputy Dean and Professor of Law, Yale Law School; Jack McDevitt, Associate Dean for Research and Graduate Studies, College of Criminal Justice, Northeastern University; Aaron David Miller, Public Policy Fellow at the Woodrow Wilson International Center of Scholars, Washington, D.C.; Louis F. Quijas, President of North American Operations, Datong Electronics and former FBI Assistant Director; and Charles H. Ramsey, Commissioner of Police, Philadelphia.

<sup>30</sup> “Missed Opportunities, Shared Responsibilities: Final Report of the Cambridge Review Committee.” June 15, 2010. [http://www.cambridgema.gov/CityOfCambridge\\_Content/documents/Cambridge%20Review\\_FINAL.pdf](http://www.cambridgema.gov/CityOfCambridge_Content/documents/Cambridge%20Review_FINAL.pdf)

members of the public because it implicated the concept of “legitimacy” in the field of policing, criminal justice, and other institutions that exert authority over people.

Social psychologists use the term “legitimacy” to describe the judgments that ordinary citizens make about the rightfulness of police conduct and the extent to which they support the police department or other government agencies. A judge can determine if a police action was lawful, and a police supervisor can determine whether an officer acted within the bounds of departmental policy. But citizens will form their own opinions about whether they view the actions of an officer as measured or excessive, as impartial or discriminatory. In short, did the officer exercise his or her discretion in a fair manner?

...A key element in whether the public considers police enforcement legitimate is whether police provide “procedural justice.” Procedural justice not only involves whether a person believes that the law is fair and enforcement is even-handed, but also whether the police treat the person with dignity and respect as they enforce the law.

The Cambridge Review Committee’s interview of Professor Gates left committee members with the impression that Professor Gates believed he was denied procedural justice in July 16th. He believed that at several points, Sergeant Crowley refused to answer his questions, and Gates considered that silence demeaning.

However, the concepts of procedural justice and legitimacy must be balanced against tactical and safety considerations. Police officers’ efforts to increase residents’ perceptions of procedural justice must give way, at least temporarily, if they conflict with these tactical and safety issues....

The July 16th incident also demonstrates that side of the issue. During the first few minutes of his encounter with Professor Gates, Sergeant Crowley had concerns about his security and the safety of bystanders. He was responding to a 911 call about a possible break-in in progress. Thus, until he saw Professor Gates’ identification cards, he may have had good cause to be guarded in his approach....

The way an officer’s actions are perceived can not only shape the community’s judgment of that officer in that particular encounter, but also damage the public perception of other officers and the entire department if too many interactions with the police are viewed negatively.

This was evidenced in Cambridge after the July 16th incident. The community was not empowered to judge the arrest of Professor Gates as lawful or unlawful, but many residents expressed a variety of opinions about how the matter was settled....

It is therefore critical that police take seriously the responsibility to apply discretion not merely within the strict letter of the law, but also wisely and fairly. When the police make the determination that strict enforcement action is needed to meet a legitimate law enforcement purpose, or, conversely, officers exercise their discretion to refrain from making an arrest because of mitigating circumstances, the cause of their actions must be recognized as fair and appropriate by the public or the perceived legitimacy of the action and the police will suffer. ...

The Committee also recognizes that some actions that police take are necessary but may not be perceived as fair or proper. In those cases, the agency’s chief executive should seek out opportunities to explain more fully the circumstances.



As mentioned in the Cambridge Review Committee report, one important area for the development of policing policies and practices is in efforts to balance these concerns of legitimacy vs. tactical and safety considerations. For example, Chicago Police Superintendent Garry McCarthy recommends that officers be trained to “first secure the situation, then sell the stop.”<sup>31</sup> In other words, once officers are assured that someone with whom they are dealing is not a danger or a lawbreaker, the officer has an opportunity to build trust by explaining his or her own actions, showing appreciation for the citizen’s cooperation, and generally trying to leave the citizen with a favorable view of the police and their actions.

Studies show that even simple and brief encounters can build legitimacy. For example, officers in one study built around stops to detect drunken driving found that if officers followed a simple protocol that involved explaining their policies, soliciting input about police policies in the community, and finding ways to communicate respect (“Thanks for your cooperation”; “Thanks for wearing your seat belt”; etc.), these enforcement encounters could be used to build police legitimacy in the community.

Cambridge Police Commissioner Haas, by calling for an outside review by an independent, broad-based committee, demonstrated leadership and an understanding of the need for a public review of questions of police legitimacy regarding the arrest of Professor Gates. The committee report that resulted from that review was one of the first major discussions of legitimacy and procedural justice in policing to receive national attention. The report provides a case study for efforts to identify procedures that effectively protect officers while also building police legitimacy within minority communities.

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<sup>31</sup> Interview conducted for this project.

## ***Legitimacy and Leadership***

To address the question of the legitimacy of the police and of policing practices among members of the public, we need to think about policing in a new way. We need to focus on the influence that police policies and practices have on public views about police legitimacy. In other words, we need to examine how the people being policed experience police practices, i.e. what people in the community feel are appropriate, reasonable and just police practices.

Research is very clear in suggesting that the primary issue shaping people's views about police legitimacy when people deal personally with the police is whether they believe that the police are exercising their authority in a fair and respectful way—i.e. with procedural justice. Thus, the police can most effectively build and maintain legitimacy by policing in ways that are consistent with public views about procedural justice.

It is natural to focus on legality when, for example, a city's police department is facing a federal investigation or lawsuit. However, a focus on legality motivated by the threat of sanctions may only lead to superficial change, which may be resisted and eventually reversed. In contrast, a focus upon legitimacy can lead to changes that benefit the police, and thus will be welcomed by police officers and incorporated into long-term changes in police policies and practices. In other words, a focus on legitimacy may change what the police think they ought to do by identifying a shared commitment to core values held by the public.

***For police chiefs and other law enforcement executives, the question of legitimacy is an important new element of leadership. In the future, police executives increasingly will consider the building of legitimacy as a key part of their job and a test of their leadership, because the success of police initiatives in key areas, including reducing crime, will depend on the public's view of whether the police are legitimate and procedurally just.***

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This concludes Professor Tom Tyler's discussion of legitimacy and procedural justice in policing. Following is a conclusion that summarizes the key points of this report.

## CONCLUSION

Following are the major points discussed in this paper:

- **Recognizing the importance of community trust:** In just the last few years, beginning in about the year 2010, police executives have begun to explore the concepts of legitimacy and procedural justice as they apply to policing.
- **Legitimacy defined:** Legitimacy is a measure of the extent to which the public trust and have confidence in the police, are willing to defer to the law and to police authority, and believe that police actions are morally justified and appropriate.
- **Procedural justice defined:** Police can increase the public's belief in their legitimacy by providing "procedural justice." One element of procedural justice is giving members of the public an opportunity to explain their situation or tell their side of the story in a given situation. People also feel they are receiving procedural justice if an officer makes decisions in a neutral and fair way, and not based on the officer's personal opinions or biases. People also wish to be treated with dignity and politeness. And they make judgments about whether an officer is trustworthy, caring, and trying to do what's best.
- **The success of policing depends on legitimacy:** Because the effectiveness of police operations often depends in part on the public's willingness to provide information to and otherwise help the police, police leaders increasingly are seeing legitimacy as a necessary condition of success, as well as a worthy goal in its own right.
- **There is research to support this:** There is a growing body of research indicating that when the public believes that police exercise their authority in procedurally just ways,

they accept the legitimacy of the police, defer to police authority, and are more willing to take responsibility on their own for obeying the law.

- **“Internal” legitimacy and procedural justice also are important:** Just as it is important for a police department to treat community members with respect and dignity in order to ensure that the public will trust and have confidence in the police, it is important for police leaders to instill a sense of legitimacy and procedural justice *within* their departments. Police officers, like community members, respond well to being treated fairly and with respect.
- **Legitimacy and procedural justice are not mere “programs”:** The concept of legitimacy applies to all police departments, regardless of whether a given department works to increase legitimacy. Every department can be said to have a certain degree of legitimacy in the eyes of its community members, and that level can be measured (for example, by conducting surveys). Thus, legitimacy is not a public relations program, an initiative, or a set of policies. Legitimacy is a criterion by which every police department is judged every day.
- **Legitimacy is a concept that police executives should integrate into their thinking about everything that a police department does.** Police must strive to ensure that all policies and practices have support in the community and do not undermine the public’s views about the police and whether they perform in legitimate and procedurally just ways.
- **Legitimacy is not a zero-sum game:** In countless daily encounters with members of the public, police can build legitimacy, sometimes without changing their basic approach to managing issues of crime control and law enforcement. For example, roadside stops to

detect drunken driving may inconvenience motorists, but if officers briefly explain the reasons for the stops and communicate respect by saying things like, “Thank you for your cooperation,” the stops may actually improve motorists’ opinions of the police. Research has suggested that whether a person is treated respectfully can have a greater effect on how they view an encounter with the police than the outcome of the encounter. For example, a motorist who receives a traffic citation and fine from a respectful officer may leave the encounter with a better impression of the police than a motorist who receives only a warning from a rude or disrespectful officer.

- **Increasing legitimacy is now an element of leadership in policing:** For the reasons cited above, a police executive’s ability to advance the concepts of legitimacy and procedural justice increasingly is seen as an essential element of leadership in policing.