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Procedural justice and professional policing in times of austerity

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Abstract

This article draws on a study of differential treatment of young people in the youth justice system to present a typology of styles of policing that contrasts procedural justice with adversarial policing. It considers the factors that can trap police in adversarial styles of policing and offers suggestions about how best to move towards policing grounded on principles of procedural justice. It argues that ideas about procedural justice may be able to gain more traction in times of austerity, given that changing policing style does not necessarily incur significant costs.

Keywords

Procedural justice; police legitimacy; stop and search

Word count: 8,090 words

Introduction¹

There is growing criminological interest in procedural justice theories, coupled with an increasingly robust body of evidence – summarised below – in support of the idea that legal authorities such as the police and the courts can best secure compliance and cooperation with the law by treating the public in ways that are recognised to be fair, respectful and legal. Procedural justice theories thus seek to address those policing dilemmas that are created by the tensions between ‘crime control’ models of policing and ‘due process’ ones, and offers a resolution which privileges professional

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standards and the consolidation of institutional legitimacy over short-term goals of crime control.

These tensions have been recognised for many years, starting with Herbert Packer's (1968) landmark book, *The Limits of the Criminal Sanction*². And the policy implications from procedural justice theory about the best ways of resolving the tensions are increasingly well-accepted. Nevertheless translating principles into practice remains difficult, and one still does not have far to look to find examples of policing where institutional legitimacy is endangered in the pursuit of short-term goals. Intensive use of stop-and-search and the 'kettling'³ of protesters in public order events are obvious examples of tactics where losses in legitimacy may outweigh immediate benefits.

This article is concerned with some of the obstacles to the adoption of principles of procedural justice. It draws on qualitative observational and interview research conducted as part of a study of the differential policing of young people from different ethnic groups; it focusses on street encounters between police and young people, such as incidents of 'stop and search'. It contrasts policing styles in two quite similar urban areas, and provides examples of police contacts with young people that exemplify adversarial and professional styles of policing. To anticipate its conclusions, the paper argues that adversarial policing runs the risk of establishing a malign dynamic in relations between police and public, and makes it difficult to 'row back' to more professional policing.

A sub-theme running through the article is that in times of austerity, principles of procedural justice may enable the police to achieve "more with less". Political debate on policing has centred for many years on which political party can promise the greatest number of front-line officers. One implication of the arguments set out here is that quality may be more important than quantity in policing. This is an issue on which Police and Crime Commissioners in England and Wales will need to take a view, as they guide the development of policing strategy⁴.

The article first summarises procedural justice theory. It then introduces a typology of policing styles consistent with procedural justice theory. It moves on to present

illustrations of adversarial and professional policing styles. Finally it offers some suggestions about strategies for rowing back from adversarial policing styles.

Theories of procedural justice

Procedural justice theories can be located within a broader set of theories of normative compliance, or 'compliance theories', which can be traced back to Durkheimian and Weberian thinking about the roots of social order. Tyler (e.g. 2006, 2011a, 2011b) emphasises the need for justice institutions to pursue fair and respectful *processes* – in contrast to *outcomes* – as the surest strategies for building trust in justice, and thus institutional legitimacy and compliance with the law. This is the central hypothesis in procedural justice theories.

Procedural justice theories are, in essence, theories about the use of authority. Central organising concepts are trust in justice, legitimacy, cooperation and compliance. Public trust in justice helps to build public beliefs about the legitimacy of the institutions of justice. This confers authority on them, and cooperation and compliance flows from this legitimate authority. This is basic and uncontentious political philosophy. Any thoughtful political analyst takes for granted that power relations achieve stability only if naked power is transformed into authority by processes of legitimation. Power is legitimate, and is thus transformed into authority, when its use follows rules that are regarded as fair by both the dominant and subordinate, and when the latter confer their consent to the use of this power.

There is now a reasonable body of evidence in support of procedural justice theory (see Tyler et al., 2007; Tyler, 2011a, 2011b; Jackson et al, 2012, Hough et al., 2010). This research has established the various linkages between trust in the police, police legitimacy and consent to the rule of law that are posited by the theory. In essence:

- If the police are seen by the public to be unfair and disrespectful, this damages trust in the police
- Low trust in the police reduces the legitimacy of the police in the eyes of the public
- The less that the police are seen as legitimate, the less the public will defer to police authority
- And this will reduce public commitment to the rule of law and preparedness to help the police.

Researchers vary in the emphases they place on the central 'drivers' of police legitimacy. Tyler stresses the importance of the *style of* police contact: treating people fairly, respectfully and giving them a voice. Legality (and the absence of corruption) is another obvious precondition for legitimacy (cf Beetham, 1991). Elsewhere colleagues and I have argued, that additional factors may also be important, at least in some cultural settings, such as a sense of moral alignment between police and public, and a level of basic competence (Jackson et al., 2012; Hough et al., 2013). There is an important literature that offers a note of qualification: Skogan (2006, 2012) has argued that there is a marked asymmetry in the impact of negative and positive contacts with the police, the former having a large effect on attitudes to the police, and the latter a much smaller, even negligible, effect. (See also Bradford et al., 2009)

If these principles seem unexceptional and commonsensical, they tend not to be reflected in political discourse about crime and policing. Many industrialised countries have seen a progressive toughening up of their criminal justice policies, and a marked coarsening of political and media discourse about crime and justice (cf. Lappi-Seppälä, 2011, 2013). It seems fairly clear that there are structural pressures on politicians – which are intense in some forms of 'adversarial' two-party democracies – to offer tough, no-nonsense, crack downs on crime. The difficulty with this is that no-nonsense solutions often tend to be genuinely nonsensical, premised on the faulty assumption that persistent offenders fine-tune their criminal decision-making in the face of varying levels of deterrent threat. Criminal justice politicians risk getting trapped within these over-simplified economic theories of instrumental compliance. This is not to argue that instrumental strategies for securing compliance are redundant; but to place them as the centrepiece of justice policy is a misjudgement.

Procedural justice theorists (eg Hough et al., 2010; Tyler, 2011; Jackson et al., 2012) argue that strategies of instrumental compliance are relatively costly and ineffective. They suggest that motive-based, voluntary self-regulation based on perceptions of the legitimacy of the law is more effective, more economical and more durable over time. According to the procedural justice perspective people are willing to accept decisions and outcomes that they do not regard as being in their personal best interests – provided that they consider justice institutions and officials to be wielding legitimate authority. This points to the possibility of creating a form of social order which is based upon the willing consent and cooperation of citizens, rather than upon the threat of punishment.

Of course these ideas are hardly novel; some policing scholars have stressed the significance of legitimacy as an organising concept in thinking about policing (see especially

Reiner, 1984, and subsequent editions), but they have tended not to be articulated explicitly in the research literature, in keeping with a general tendency to ignore issues of individual police performance (Reiner, 1998). At the same time, there is an extensive literature on policing tactics that have the potential for damaging police/community relations, most obviously to do with stop-and-search practice and with what are dubbed in the US 'contempt of cop' arrests. (For the UK, see, eg, Bowling, 2007; 2008; FitzGerald et al., 2002; Phillips and Bowling, 2003; Waddington et al., 2004. For an excellent discussion of a US 'contempt of cop' arrest that backfired – the arrest of Professor Gates in 2009 – see Cambridge Review Committee, 2010.)

The research study

The study on which I draw for empirical evidence was a large scale research project funded by the ESRC and the Equalities and Human Rights Commission, designed to explore the extent to which young people from different ethnic groups are treated differently by the police and the youth justice process (See xxx, 2010 for full findings and methodology). In this article I draw on observational data collected by the research team in two Basic Command Units⁵ and on interviews with 49 police officers and 32 young people. The evidence to support the claims made in this paper, especially about two styles of policing, is inevitably impressionistic. Assessing the dynamics of police interactions with young people is a subjective process. However, the research involved extensive amount of observation of police practice. While field notes and interviews are used to illustrate points in support of the argument, the analysis draws on a much wider collection of evidence.

Styles of policing and procedural justice

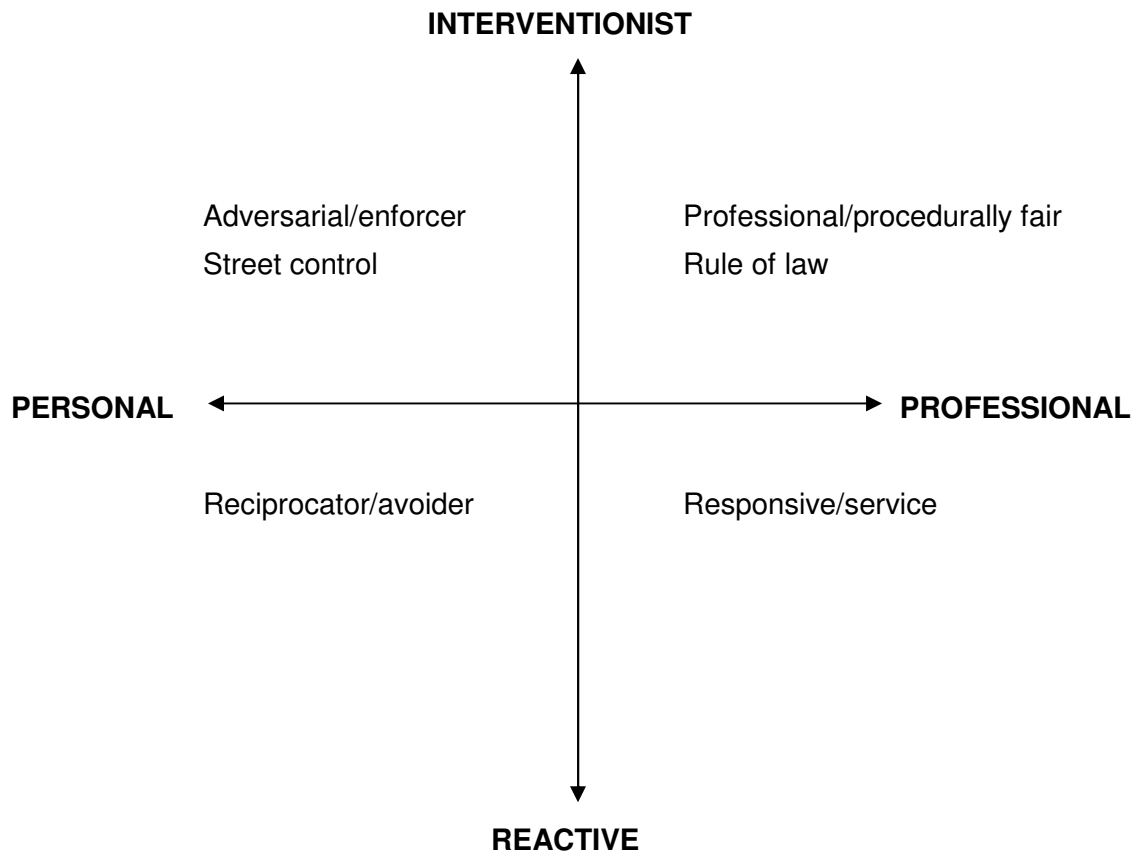
The different policing areas in the study adopted markedly different styles of policing. Some were highly proactive, others more reactive. In some areas, encounters with the public could be characterised as following a highly professionalised style of policing. Others were characterised by a more adversarial and more personalised policing style, which placed less priority on respectful and fair treatment. However, adversarial policing often occurred in situations which genuinely required police action, in circumstances where police were sometimes constrained by the actions of others. These people sometimes brought their own stereotypes and prejudices to the encounter, reflecting long histories of difficult relations between police and public.

We constructed a typology of policing styles to allow us to summarise our observational data. Many police researchers have offered typologies of policing styles, starting with the well-known classifications of Banton (1964), Wilson (1968), Muir (1977) and Packer (1968). Combining these typologies and our work on procedural justice theory, the study classified policing styles on two dimensions:

- interventionism (or readiness to intervene), and
- professionalism and adherence to principles of procedural justice

Figure 1 shows how the quartiles created by these two dimensions create different styles of policing. The typology in Figure 1 bears a close resemblance to that of Muir (1977). He derived a four-fold classification from two key dimensions that he observed in police personalities: passion (the motivation to achieve something) and perspective (a moral appreciation of the human condition). This yielded four types of officer: the 'professional', the 'avoider' (with neither passion nor perspective), the 'reciprocator' (with perspective but no passion) and the 'enforcer' – with passion but no perspective. This is a highly insightful typology for analysing individual police personality, but it is less appropriate for describing the choices open to police managers in fostering policing styles. One axis of the typology, 'Interventionist' – the degree to which policing is proactive – overlaps with Muir's one of passion. However, the personal/professional axis differs from his one of moral perspective. The result is a slightly different classification which allows for the possibility that officers can be trained to perform professionally even if they are personally short on moral perspective.

Figure 1 **Styles of policing**



The top two quadrants of Figure 1 are of most relevance to this paper, because officers or teams whose style favoured the reactive had less contact with young people on the street, and considerably less contact through stop and search. I have characterised these as:

- the adversarial/street control style and
- the rule of law/procedural justice style.

The observational material presented here is drawn from two BCUs which seemed to embody 'ideal types' of these two styles of policing. Both BCUs had significant black populations; both had a history of high crime; and both had historically experienced large scale disorder. I shall refer to them as the *SC BCU* (for 'street control') and the *PJ BCU* (for 'procedural justice').

Adversarial policing/street control style

This style of policing emphasises the control and management of those who police officers believe to be most heavily involved in offending. It focuses simultaneously on crime control and on the assertion of control over those who pose a challenge to police authority. It is

prevalent in high crime areas, but as we shall see, it is not the only style of policing adopted in such areas. Where offending is concentrated – or believed to be concentrated – among particular groups, there is a tendency for these groups to attract differential police treatment.

Stop and search tends to be enthusiastically embraced by officers adopting this type of policing. Not surprisingly, given that the rationale is to demonstrate control over the streets, the same small group of people who challenge police authority tend to be the focus of police action. The research team formed the clear impression that in these areas the police persistently stopped the same groups of young people, who were often known to them by name. This style of policing tends neither to foster – nor to value – good relations with those who are policed in this way.

Rule of law/procedural justice style

We observed adversarial styles of policing, to greater or lesser extent, in all four areas, but few officers were committed exclusively to adversarial tactics. Officers in all four areas covered by this part of the study also exercised, to a greater or lesser degree, a more consensual style of policing designed to secure greater commitment to the rule of law through strategies that valued procedural justice. Procedural justice entails treating all those involved in police interactions with decency and respect, and according to the rules set out in law and in codes of practice (Tyler and Huo, 2002; Tyler, 2003, 2007; Jackson et al., 2012).

Reactive styles of policing

The two styles of policing in the lower quadrants of Figure 1, reciprocator/avoider and responsive/service, both encompass styles of policing that are on the reactive end of the continuum; they differ, of course, in the emphasis they place on personal or professional relationships with the public. Some teams that we observed, however, placed considerably less emphasis on proactive contact with young people than others. Given that the aim of our observations was to capture the varying ways in which the police interacted with young people, these areas feature minimally in this article.

Case studies: varieties of police engagement

The adversarial style was particularly prevalent within the SC BCU. Here adversarial policing was adopted by the two teams of specialist officers whose remit was to disrupt the illegal activities of young people and to be seen to take command of the local area. It was not,

however, a style adopted by the BCU's local neighbourhood policing whose style focused more on consensual, responsive policing.

Challenging police authority

Teenagers in the SC BCU tended to view the police in a particularly negative light. Some drew on their own personal experience, while for others, second-hand experience of encounters that their friends or relatives had had with the police were important. The police in this BCU had identified various young people – mainly black teenagers – as criminally active or engaged in gang activity. This group was targeted in stop and search tactics and was otherwise subject to rigorous enforcement. Our interpretation of this was that these tactics were being deployed to demonstrate who was in control of the streets. In some cases, the police demanded rather than negotiated respect and compliance. Equally, however, those who were the object of this policing tended to goad the police, especially if they had a crowd to play to. They appeared to enjoy the attention and the adversarial relationship, often inviting confrontation and setting out to antagonise officers. The case study below illustrates the difficulties and complexities of many of the interactions that occur between the police and young black people in the SC BCU.

Who owns the streets? Police versus young people in SC BCU

17.45 I am with two officers in an unmarked police car patrolling a busy area. We drive past a row of shops and the officers point out a group of seven young people hanging around outside the newsagent. One says that the colours they are wearing signify they are members of a particular 'crew'. The officers tell me that although the crew has been quiet for some time, it is known for violence and drug dealing. They circle the area and drive past again; one of the boys waves at the officers. The officers contact their colleagues and ask to meet them so they can discuss what to do. They meet and decide to search the group to see if they are carrying anything.

They decide to surprise them – so they cannot run away – and approach from different directions. There are five officers in two cars. They approach from different directions, jump out of the cars and surround the young people. All of them are mixed race boys under the age of 17. They do not try to walk away but look bemused. At the kerbside is a car with one of their friends in it, a young mixed race woman, with her toddler. The officers tell the group that they are going to be searched. Within five minutes, the encounter has attracted considerable attention from passers-by. Some of these question the police about their tactics and accuse them of being heavy-handed.

The teenagers stay fairly calm but say they do not think the police have the grounds to search them, complaining that they have not been told of the grounds of the search. An officer tells them they are being searched because they are known gang members. One of the boys goes right up to an officer with his face a couple of inches from the officer's face, and laughs at him, telling him he has no idea

what goes on in the streets. The officer tries to ignore him. After the teenager has been searched he moves over to the car and turns the volume up on the stereo. He then returns to where one of the officers is standing and starts to dance around him, keeping his face only inches away from the officer's face at all times. The officer stands his ground and says nothing. Some of the crowd are cheering the young man on and his friends laugh at the scene unfolding before them. One of them shouts to his friend: 'He can't do nothin' as he knows this is our manor and there is too many watching his every move, he's fucked, man, and he knows it – the pain for him, you'll pay for it the next time he sees you on your own.'

After we leave the area the officers discuss how difficult it is to police young people in their area. One of the officers states that most of the local residents can't decide how they want the police to behave. He believes that in this area there is only one appropriate style of policing and that is aggressive. He further comments that whatever style of policing they adopt, it will never be right. 'We just have to accept that here we will never be in the right, or liked. We are damned if we do a lot of searches and damned if we don't.' One of the officers comments that he would rather stop and search more young people and stretch the boundaries of reasonable suspicion than turn up at a parent's front door to tell them their child is either dead or in hospital. He then comments that the local residents need to decide what they want, aggressive policing that keeps kids alive or 'nicey nicey policing' and more dead or injured kids.

This incident exemplifies the way in which challenges to police authority can lock officers into the logic of confrontation. Tactics that in other situations might be interpreted as fair and professional – offering polite explanations, for example – might be interpreted simply as "bottling out" of the confrontation. As it was, the officer in question was able to do very little except to remain silent – and perhaps, if the suspicions of the crowd were justified, get even at a later date. In other words, once police officers commit themselves to the assertion of control over anyone who challenges their authority, they sharply limit their options in the case of challenge. This is, of course, one of the classic dilemmas about wielding power or exercising legitimated authority.

Constraints on room for manoeuvre

In considering policing styles, it is important to recognise that officers may be constrained by the situations which they encounter, and that the dynamic of an interaction can be shaped not only by the officers but by those with whom they are dealing. The next case study illustrates how the assumptions and stereotypes brought to an encounter with the police turned a low-key encounter into a confrontation.

The influence of a parent on a police encounter in SC BCU

23.50 The two officers I am with are called to assist two colleagues who are searching three young men. The officers have come across three young people smoking cannabis in a parked car. The car is in fact parked outside the home of one of the teenagers, who lives with his mother. Two of them are under 16, the third is 17. Two are black British; one is mixed race. When we arrive, the atmosphere is friendly with the officers bantering quite happily with the three young men about cannabis and being a teenager. The three readily admit they have been smoking cannabis but say they don't have any left.

The officers explain to them that they have to search both them and the car. The three young men are quite happy for this to happen. One of the young men asks if his mother has to be made aware that he has been searched. The officer tells him he has no interest in telling his mother unless he has to arrest him. The three ask if they are going to be arrested, and the two officers tell them that they have no intention of arresting them, but suggest that they don't smoke their weed in a parked car at this time of night. One of the officers turns to the three young men and says there are only a couple of situations when three young men sit in a stationary car: the first is when they are up to no good, the second is when they are police officers looking for people who are up to no good. Since they didn't look like police officers, they must be up to no good.

At this point a woman leans out of one of the windows of the block of flats and starts shouting down to the three boys. The officers ask who the woman is and one of the boys replies, 'It's my mum.' The officer shouts up to the balcony that it is nothing to be concerned about and that they will be on their way very soon. The mother shouts down to let the officers know she is coming to join them. While she is on her way down the officer turns to the young boy and says that he may have to explain why he is searching him. The young man seems unconcerned. The woman comes out of the block of flats. She is very angry, pushes past her son and places herself about an inch from the officer. She shouts in his face, 'I have no respect for you whatsoever.' The officer replies: 'I'd like to be your son with that attitude. Can you leave as you're making matters worse?', to which she replies, 'I'm his mother, you can't tell me to go no fucking where.' The officer asks her to stop swearing. She refuses.

The three young men are quiet for a while, as are the four officers. The mother continues to shout at the officers for being 'fucking racist pigs', at which point the officers say to her that if she doesn't shut up and walk away she'll be arrested. At this point her son starts to get angry and shouts at the officer, 'It's just bully-boy tactics, that's all you do, the problem with you is you have a problem with your

height which is why you go about bullying black boys.' The officer replies: 'What I have a problem with is people who break the law – why are you starting to sound off? Until your mother showed up you were as good as gold.' The officers continue to search the car and the young men. Nothing is found. The mother continues to stand by the officers following them around the car; the officers ignore her. The checks come back from the control room and none of the three is wanted. The officers advise the three not to smoke weed in a stationary car and leave. The mother shouts after the officers that they are racists and should be ashamed of themselves picking on teenagers. The officers get in their car and drive off.

This case study illustrates how officers have only partial control over how encounters develop. What started off as a pragmatic decision to deal with evidence of a possession offence in a low-key way very nearly ended up in an arrest. It also illustrates the personal nature of this policing style; for example, the joke about the symmetry of people in cars up to no good and police in cars looking for people up to no good. The observation about the mother setting a poor example to her son also enters the realm of inappropriate personal judgement – even if it seems a reasonable observation to make.

Offering explanations for police action

The next two case studies show contrasting approaches to giving explanations in stop and search. In the first example, from the SC BCU, the black teenagers who have been stopped and searched get minimal explanation (simply looking 'dodgy'), and they feel victimised. In the second example - from the PJ BCU – the officers take considerable care to explain their actions to their suspects.

Stop and search in SC BCU

17.30 The officers I am with receive intelligence from colleagues of a sighting of a prominent gang member thought to be carrying a gun. The officers decide to drive to areas frequented by gang members.

Officers see three black teenagers (two aged 17 and one aged 19) on the street and follow them. They say that these are not associated with the gang they are concerned with but nevertheless think it prudent to stop and search them as they are 'walking together at a strange time of the day'. [It was unclear to the researcher what was strange about the time of day.] They pull over to talk to the three boys, who stop and immediately begin to shake their heads. The officers tell them to stand against a nearby wall, and they call for back-up. Shortly thereafter four officers arrive in two marked cars. The teenagers are searched. Each of them complies with the officers' request. It is clear that they don't know the reasons for the stop. They repeatedly ask the officers why they have been stopped and the officers respond by saying that they have the powers to do so. At no stage are the young men told why they have been stopped. However, the officers tell me (after the incident) that it is because they matched the description of a gang member who they thought was in possession of a gun.

It is obvious that the teenagers are unhappy about the search. However, two of the three remain calm and say nothing. The third is upset and angry. He persistently asks the officers to explain why he has been stopped and makes many comments about the police 'always being on the back of black men'. He protests that all he and his friends were doing was walking along the road and asks the officers how this can be regarded as criminal behaviour. One of the officers says that the way he was walking looked 'dodgy', and asks why he and his friends were out and about at this time. This infuriates the young man and he and the officer throw comments back and forth.

While waiting for the checks, one of the officers photographs the teenagers. The three ask why they are being photographed and the officer informs them that he has the permission of his superintendent to take photographs of all those who are stopped and searched. They are told that their photos may be used for the purposes of intelligence and will be deleted within seven days if they are not required. They are angered by this, in part because they are asked to remove their headgear. The checks reveal that both 17-year-olds are known to the police but they are not currently wanted. The outcome is 'no further action'. The most vocal of the three asks for a copy of the stop and search form, which at the time has not been started. The officer remarks that the completion of the form could take anywhere between 15 to 20 minutes as his 'writing hand hurts and so it's a little slow today'. The teenager confirms that he is happy to wait and demands that a form be completed. His two friends are laughing and tell him to forget about the form so that they can be on their way. He is adamant, however, that he wants a copy.

While waiting, the young man tells his friends that he is in court the following day and will produce this and the other forms to show the judge that he is frequently stopped and searched by the police. The officers ask why he is attending court, and he tells them to mind their own business. He does, however, inform them that he will be appearing before the youth court. The officers laugh and tell him that 'the youth court is for kids' and how he isn't a real man yet because if he was he would be at the Crown Court. The young male retaliates by swearing at the officers. His friends, who are both laughing, tell him to shut up and impress upon him that the officers are winding him up for the fun of it and he should keep quiet. After some time, the officer provides the young man with a stop and search form and they depart the scene.

Police-initiated stop and search in PJ BCU

17.45 The officers I am observing are driving through a well-known open drug market when they spot a black teenager down an alleyway with a bike appearing to fiddle with his sock while talking to a white girl. The two officers believe that the boy may be selling drugs. One of the officers jumps out of the car to see what is going on. He approaches the two and startles them. He asks what they are doing, the boy replies: 'I'm chatting to my friend.' The officer asks how old he is and if he has anything on him he shouldn't. He replies that he is 16 and he doesn't have anything on him. The girl doesn't reply. The officer tells the boy that he is in an area known for drug selling and that he is down an alley fiddling with his sock and hence he is going to search him for drugs. The boy is taken aback and tells the

officer he was tying his shoelace. He appears put out by the intrusion and asks the officer if he is being searched because he is black. The officer reiterates what he has said earlier adding that when he saw the two he didn't know what ethnicity they were. The officer carries out the search, nothing is found and the checks come back negative. The officer apologises to the young man for keeping him and asks if he wants a copy of the stop and search form. He informs him that the form will be kept back at the police station if he decides he wants it at a later date. The boy decides not to wait for the form. The officer apologises again, and jokes that he can sometimes jump to conclusions about young people in alleyways. The young man accepts his apology and leaves with his friend.

It is noteworthy that the team in this case study was managed by three sergeants and an inspector who focused their team briefings on intelligence-led policing. They tasked their officers with specific duties for each shift that officers were required to provide feedback on at the end of each shift. Officers in this area were rarely left to drive around their area without a specific goal.

Suspicion and respect

The policing of high crime areas clearly involves a difficult balancing act between intervention based on reasonable suspicion – which itself may be seen as an act of disrespect – and treating suspects with proper respect. For complex historical reasons, officers in the SC BCU now have to police an area which is beset by high levels of petty crime, high levels of violence, a significant problem with gangs and a visible drug market. These problems have to be policed against a backdrop of uneasy – or outright hostile – relations between the police and some local residents that date back more than 40 years. As much as the police may stereotype some young people, some local residents also stereotype the police. When the police are making a fully justified arrest in response to calls from the public, their actions are often viewed with suspicion – further alienating the police from the public, as the following case study shows.

Public-initiated arrest in the SC BCU

18.00 The police control room receive numerous calls about two groups of teenagers fighting on an estate. Several callers have mentioned weapons, and in particular a gun. The two groups are said to be of various ages and from various ethnic groups. The police I am with know the two gangs and agree that there is a distinct possibility that a gun could be involved. A number of officers and the firearms unit decide to attend the call. The officers I am with are en route with their siren and lights flashing. As they approach the fight they see two black teenage boys walking down the street. On hearing the siren one of them takes something out of his pocket and throws it over a wall. The police stop the car as they suspect the two may be on their way to join the fight. The teenagers walk in opposite directions away from the police. The officers ask them to stop but they carry on walking. The two are stopped. They are both 15 years old. The officers ask the two what they are doing and what

they have just thrown away – neither replies. One of the officers retrieves a table leg from the front garden where the object had been thrown. They are asked what they were doing with a table leg.

While this is going on, a number of passers-by have stopped and people have come out of their houses to see what is happening. Some are shouting at the police that they have only stopped the two boys because they are black and that they should leave them alone. The officers tell the two that they are going to be searched. One of the boys is happy for this to happen; the other is happy to be searched but will not let the officer touch a small bag he is carrying. The officer starts to try and pull the bag away from him, a scuffle ensues and both the officer and the boy end up falling over on the street struggling with one another. At this point the boyfriend of the boy's mother turns up in a car and jumps out asking, 'What the hell is going on?' The officer is unaware who he is and tells him to leave well alone as everything is under control. The boy stays silent.

The bag is eventually taken from the boy and the officer opens it up – there is nothing in the bag. The officer exclaims to the boy: 'Why the bloody hell have we just had a ruck over an empty bag?' The boy replies: 'Because you didn't ask if you could look in it, you just took it - it's about respect, innit.' The boy was arrested for carrying an offensive weapon.

Many of the teenagers we interviewed expressed similar views. A common complaint was that the police did not respect them or attempt to explain what they were doing and why they were doing it, particularly in respect to stop and search powers. When asked how the police could improve relations with young people, teenagers wanted police officers to speak to them politely, explain what they were doing, and wanted at times for police to use their discretion to stop them being arrested.

A proportionate response

The next case study below relates to a small operation put together by a shift from the PJ BCU in response to a request from a pub landlord. It provides an example of officers responding to the needs of local residents and a pragmatic approach to a teenager found in possession of cannabis.

A call from the public for police intervention in the PJ BCU

21.00 The response team we are working with have had several complaints from a pub landlord that young men are dealing drugs in his pub. He does not want it to be known that he has called the police but asks them if they will do a 'raid' on his pub to scare the dealers away. The officers I am with are part of a small team tasked by their inspector to visit the pub and carry out a number of searches. The officers arrive at the pub just after 9pm and four enter the property from the rear and four from the front. Around ten young men spill out onto the street and run in different directions. The officers catch one of them. He is placed in the back of the car and asked what he is doing in the pub. He is a mixed-

race boy of 17. He tells the officers he was having a drink with his friends. They then ask him why he thought it was necessary to run from them – he shrugs his shoulders and replies, ‘That’s what you do.’

He is told that they have received several complaints from members of the public about drug dealing in the pub and that because he ran he is going to be searched for drugs. He hands over a bag of cannabis before they start the search. The officers take the cannabis off him and tell him that he may get arrested for possession of a Class C drug - depending on how the checks come back. The checks come back negative (he’s not on bail or wanted) and the officers decide that given he is almost 18 they will issue him with a cannabis warning.⁶

He accepts the warning. The officers tell him that if he is selling drugs it will only be a matter of time before they meet him again. They also tell him that if he is selling drugs he needs to find a new place to do it as they will be regularly checking the pub now. The officers then tell him he is free to go, after handing him all the necessary paperwork. No arrests were made as a result of the operation.

Discussion

This article has tried to illustrate the complexity of police/public encounters in high crime areas. We have seen that styles of policing varied across area and even between units within the same area. In some areas, officers pursued highly proactive and adversarial styles of policing, targeting defined groups of young people thought to be involved in crime, drug-dealing and gang activities. The aim of this appeared to be to assert control over the streets, or more specifically groups who occupied the streets in a way that challenged police authority. The tactics in the stop and searches that we observed were intensively focused on small numbers of young people known to the police. The use of these tactics was justified by those using them in terms of differential involvement in offending on the part of those stopped and searched. Whatever the case, these tactics added to the over-representation of some ethnic minority groups in public order offences, drugs offences and driving offences.

There is little to be gained in arguing whether or not these tactics are justified by differential involvement in crime. A more appropriate question to ask is whether use of the tactics is proportionate to the problems they are designed to tackle, taking into account not only the crime-control benefits but also the broader social costs. It was clear that adversarial styles of policing compounded the alienation and disaffection of those who were exposed to them, eroding whatever commitment there was to the rule of law. As Bowling (2008) has argued, the police need to aim for ‘good enough’ policing, whereby they achieve a ‘satisficing’ balance between fairness and effectiveness. Judged against criteria of fairness, he argues that the present over-representation of some ethnic minority suspects in stop and search

statistics, and the low arrest rates that result from this tactic, 'provides a clear example of where policing is not good enough' (Bowling, 2008:30).

The research team was struck by the contrasts in policing styles in the SC and PJ BCUs. The former's adversarial style was in marked contrast to the 'procedural justice' style of the latter. The advantages of the emphasis on procedural justice are obvious. It is now a sociological cliché that teenage boys and young men from the most socially disadvantaged groups need and want, like all of us, a sense of self-worth and self-respect, but have limited access to legitimate ways of meeting these needs. Subjecting them to a style of policing which further denies them respectful treatment is short-sighted at best and, at worst, inequitable and counter-productive.

Perhaps the clearest recent example of this can be found in the widespread rioting in London and elsewhere in England in August 2011. A large-scale study of participants' motivations carried out by the LSE and the Guardian newspaper (Lewis et al., 2011) found that a sense of grievance at styles of policing was a strongly recurrent theme in rioters' account of their involvement. More generally, rather too little is made of the fact that over-policing, or heavy-handed policing can prompt defiance instead of compliance (Sherman, 1993).

The first step towards change is to ensure that middle and senior management view the policing of young people through a procedural justice lens, and the second is to ensure that they transmit principles of procedural justice to frontline officers. At a general level, all need to recognise first that there are social costs as well as benefits in securing compliance with the law through strategies of deterrence and incapacitation. And second they need to understand that normative commitment to the law is shaped in part by the styles of criminal justice agencies. If police act in ways that lack procedural justice, this damages the legitimacy of the institutions of justice, and thus erodes their authority and their ability to command compliance. The implication is that police should always assess the impact of their work not only in terms of their narrow instrumental value, but in terms of their impact on institutional legitimacy. Policy should set a high value on equity and public trust in justice. Acting in ways that are fair, are perceived to be fair and which contribute to securing the trust of young people is especially important.

The differences that we have seen in policing style reflect differences in leadership at middle and senior level across police forces. The last two decades of policing has been defaced by a crudity of performance management that involves the pursuit of the simplest (and often most inappropriate) numerical policing targets. Perhaps the most important priority is to

promote a vision of good policing that incorporates principles of procedural justice. That is, for policing to be done according to due process, treating suspects with proper respect, using coercive force only as a last resort. The aim should always be to maximise commitment to the rule of law on the part of the policed. As Reiner (2010: 8) puts it, “good’ policing has often been seen as the craft of handling trouble without resort to coercion, usually by skilful verbal tactics.’

More specifically, there is a need to revisit use of stop and search. The frontline police in this study, especially those in the SC BCU, had no doubt about the value of stop and search, usually justifying it as a tool to gather intelligence. Just over two-thirds of interviewed officers recognised that the use of stop and search damaged their relationship with young black and Asian teenagers, but they nevertheless saw its use as necessary and proportionate. None of our police respondents justified stop-and-search as a means of asserting control over populations regarded as troublesome and challenging of authority – even if this struck us forcefully as the real function that the tactic served. There is room for training that more explicitly handles questions about the use of authority, ways of legitimating authority and effective ways of responding to challenges to authority. Arguably this was the real ‘craft’ of policing that was traditionally transmitted by informal mentoring processes.

Any such training needs to recognise the genuine difficulties that teams of officers will face in ‘rowing back’ from adversarial styles of policing. Once relationships between police and community have become, for whatever reason, abrasive and adversarial, the former are likely to have only limited room for manoeuvre in recovering a policing style grounded on principles of procedural justice. In other words, it is not simply a question of police managers opting for a particular style of policing. Thought needs to be given on the best (or least worst) ways of handling challenges to police authority.

We have seen a tension between the desire to reassure the public – for example through visible assertive policing – and to retain the confidence of those who are most often or most heavily policed. The most important target audience for any ‘confidence-building’ strategies are, arguably, those groups most at risk of involvement in crime – which, in the areas we studied, will be teenage boys and young men from socially disadvantaged ethnic groups.

The contraction of UK policing planned over the period until 2015 creates some additional obstacles to the adoption of procedural justice styles of policing. Most obviously, a police workforce that feels under pressure and under threat may react with cynicism to calls for what is seen as “namby pamby” policing. The more that the workforce feels part of the

“squeezed middle” – those on middle-incomes feeling the pressure of the recession – the less receptive they are likely to be to reforms of this sort.

On the other hand, austerity may create its own opportunities. This paper has suggested that policing style rather than policing tactics is the key policing lever for securing compliance with the law. If front-line officers and their supervisors can be persuaded that fair and respectful treatment of the public builds trust and legitimacy, and thus compliance with the law, then procedural justice offers a possibility of achieving ‘more with less’.

Notes

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2. Though Packer's vision of due process places more emphasis on legality and rule adherence than on dimensions of fair and respectful treatment which are salient in procedural justice theory.

3. Kettling is the UK term for a policing practice in which protesters are contained, by force if necessary, in confined areas when it is judged that otherwise disorder may occur.

4. Police and Crime Commissioners were introduced through the Police Reform and Social Responsibility Act 2011. They are elected officials with oversight of the 41 police forces outside of London in England and Wales. (Separate arrangements were introduced for London.) The first elections were held in November 2012.

5. Observations of 53 shifts were carried out in four BCUs, equating to around 530 hours of observation.

6. The ACPO guidance on cannabis warnings – delivered on the spot for possession offences – applies only to those aged 18 or over.

References

Banton, M. (1964) *The policeman in the community*. London: Tavistock.

Beetham, D. (1991), *The Legitimation of Power*. London: Macmillan.

Bowling, B. (2007) 'Disproportionate and Discriminatory: Reviewing the Evidence on Stop and Search', *Modern Law Review*, 70, 6, pp 936-961.

Bowling, B. (2008) 'Fair and Effective Policing Methods: Towards "Good Enough" Policing'. *Journal of Scandinavian Studies in Criminology and Crime Prevention*. 8, 1, pp 17-32.

Bradford, B., Jackson, J., and Stanko, E. (2009), 'Contact and Confidence: Revisiting the Impact of Public Encounters with the Police', *Policing and Society*, 19: 20—46.

Cambridge Review Committee (2010) *Missed Opportunities, Shared Responsibilities: Final Report of the Cambridge Review Committee*. Cambridge, MA.
http://www.cambridgema.gov/CityOfCambridge_Content/documents/Cambridge%20Review_FINAL.pdf
(accessed 1 October 2012)

Feilzer, M. and Hood, R. (2004) *Differences or Discrimination?* London: Youth Justice Board

FitzGerald, M., Hough, M., Joseph, I. and Qureshi, T. (2002) *Policing for London: Report of an independent study funded by the Nuffield Foundation, the Esmée Fairburn Foundation and the Paul Hamlyn Foundation*, Cullompton: Willan Publishing

Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P. and Tyler, T. (2012) 'Why do People Comply with the Law? Legitimacy and the Influence of Legal Institutions' *British Journal of Criminology*. Due to be published in November: for advance access, see <http://bjc.oxfordjournals.org/content/early/2012/07/08/bjc.azs032.full.pdf+html> (accessed 1 October 2012)

Hough, M., Jackson, J. and Bradford, B. (2013 in press) 'Trust in justice and the legitimacy of legal authorities: topline findings from a European comparative study' in Body-Gendrot, S., Hough, M., Levy, R. Kerezsi, K. and Snacken, S. (2013, in press) **European Handbook of Criminology**. London: Routledge.

Hough, M., Jackson, J., Bradford, B. Myhill, A., and Quinton, P. (2010) 'Procedural Justice, Trust, and Institutional Legitimacy', *Policing*. Vol 4, No 3. Pps 203-210.

Lewis, P., Newburn, T., Taylor, M., McGillivray, C., Greenhill, A., Frayman, H. and Proctor, R. (2011) *Reading the riots: investigating England's summer of disorder*. London: The London School of Economics and Political Science and The Guardian.

May, T., Gyateng, T. and Hough, M. (2010) *Differential treatment in the youth justice system*. London: Equalities and Human Rights Commission.

Muir, W.K. (1977) *The Police: Streetcorner Politicians*. Chicago: Chicago University Press

Packer, H. (1968) *The Limits of the Criminal Sanction*. Stanford, Cal: Stanford University Press and Oxford University Press

Lappi-Seppälä T (2011) Explaining Imprisonment in Europe. *European Journal of Criminology* 8(4) 303-328.

Lappi-Seppälä, T. (2013 in press) *Punitivity and public opinion* in (eds. Body-Gendrot, S., Lévy, R., Hough, M., Snacken, S. and Kerezsi, K. *The Routledge Handbook of European Criminology*. London: Routledge.

Phillips, C. and Bowling, B. (2003) *Racism, Ethnicity and Criminology. Developing Minority Perspectives*. *British Journal of Criminology*, 43(2), pp.269-290

Reiner, R. (1984) *The Politics of the Police*. 1st. ed. Oxford: Oxford University Press

Reiner, R. (1998) 'Process or product? Problems in assessing individual police performance.' In, ed. Brodeur, J-P., *How to Recognise Good Policing*. London: Sage.

Sherman, L. (1993), 'Defiance, Deterrence, and Irrelevance: A Theory of the Criminal Sanction', *Journal of Research in Crime and Delinquency*, 30: 445–73.

Skogan, W. (2006), 'Asymmetry in the Impact of Encounters with the Police', *Policing and Society*, 16: 99—126.

Skogan, W. (2012), 'Assessing Asymmetry: The Life Course of a Research Project', *Policing and Society*, 22, 3, 270-279

Tyler, T.R. and Huo, Y.J. (2002) *Trust in the law: Encouraging public cooperation with the police and courts*. New York: Russell-Sage Foundation

Tyler, T.R. (2003) Procedural justice, legitimacy, and the effective rule of law. In M. Tonry (Ed.), *Crime and justice - A review of research* (volume 30; pp. 431-505). Chicago: University of Chicago Press

Tyler, Tom R. (2007) *Legitimacy and Criminal Justice*. New York: Russell Sage Foundation

Tyler, T. R. (2006b), *Why People Obey the Law*. Princeton: Princeton University Press.

Tyler, T. R. (2011a), 'Trust and Legitimacy: Policing in the USA and Europe', *European Journal of Criminology* 8: 254—266.

Tyler, T. R. (2011b), *Why People Cooperate: The Role of Social Motivations*. Princeton: Princeton University Press.

Waddington, P., Stenson, K., and Don, D. (2004). *In Proportion: Race, and Police Stop and Search*. *The British Journal of Criminology* 44:889-914

Wilson, J.Q. (1968) *Varieties of Police Behaviour*. Cambridge, Mass: Harvard University Press