

The Potential Impacts of Pandemic Policing on Police Legitimacy: Planning Past the COVID-19 Crisis

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Abstract One of the biggest challenges facing modern policing in recent years has been the lack of police legitimacy. The tipping point of this phenomenon is often attributed to the Rodney King incident in Los Angeles in 1991, where Los Angeles Police Department (LAPD) officers were videoed assaulting a lone black male. They were arrested and charged but eventually all were acquitted, thereby etching deep distrust between communities and police. Now the Rodney King example is an extreme and criminal act by police but it was the beginning of communities and media focusing on what the police were doing and how they were doing it. This lack of legitimacy coupled with what is referred to as the militarization of policing have lasting consequences and impacts on police–community relations and how interactions between police and community shape society today. In the wake of pandemic policing due to COVID-19, there are tales of two eventualities for police legitimacy that will be explored in this article: (1) The police response to the pandemic results in further militarization and draws deeper divides between police and communities or (2) the police response is compassionate and build on procedurally just operations resulting in the rebuilding of police legitimacy post-pandemic.

Introduction

The COVID-19 pandemic has put the world into a situation of uncertainty. Many organizations are treading on unknown territory and have no blueprint for how to manage the crisis and its consequences. Police are having to respond to and assist in a public health crisis enforcing new laws and bylaws that are regularly changing as governments take information from epidemiologists and virologists on how to manage this global pandemic. As

the government relies on the justice system to ensure community safety and to protect the community not only from common threats to public or individual safety such as domestic violence, gangs, guns, or drugs but also from COVID-19, they afford them with additional powers. How the police carry out those powers and policies during the pandemic becomes of utmost importance as these drastic measures can impact police legitimacy. Whether or not the police can successfully respond to this crisis does not only depend on lawmakers

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This article discusses the potential impacts that pandemic policing could have on police legitimacy.

Advance Access publication: 5 June 2020

Policing, Volume 14, Number 3, pp. 579–586

doi:10.1093/police/paaa026

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or the government but also on public trust and confidence, and the public is seeing the police as a legitimate power holder. Research consistently shows that whether the public trusts the police and views it as legitimate has important consequences of whether or not people obey the law (Bottoms and Tankebe, 2012; Mazerolle *et al.*, 2013; Terrill *et al.*, 2016). Consequently, in these very uncertain times, the police must understand their impacts, the construct of police legitimacy, the tenets of procedural justice, and put a substantial amount of effort into avoiding to create an us versus them mentality amid this pandemic (Reicher and Stott, 2020).

The concept of police legitimacy implies that the police are seen as a legitimate power holder who uphold the law and operate in the community in a procedurally just way, giving a voice to the people they serve (Bottoms and Tankebe, 2012; Mazerolle *et al.*, 2013; Tankebe *et al.*, 2016). Research has shown if the police are perceived as a legitimate power holder, community members are more likely to comply and cooperate with police and less likely to re-offend (Paternoster *et al.*, 1997; Sunshine and Tyler, 2003; Bottoms and Tankebe, 2012; Mazerolle *et al.*, 2013). There is also greater satisfaction with the police, less resistance to police, and less support for vigilante violence (Paternoster *et al.*, 1997; Sunshine and Tyler, 2003). Conversely, the opposite is true when police are not seen as legitimate. Community members are less likely to comply and cooperate, show more resistance (Bolger and Walters, 2019), and also more often feel that when they report to the police nothing will be accomplished (Brunson and Wade, 2019; Crehan and Goodman-Delahunty, 2019). In addition to the perception that nothing would be done, communities in which police lack legitimacy tend to have overwhelming fears of abuse by the police.

The police now more than ever need to ensure that their actions are procedurally just and work to build legitimacy with the entire population that they serve. In this, the police must acknowledge

that the 'community' is made up of several communities that are not homogenous and may require nuanced policing (Rinehart Kochel, 2011; Bottoms and Tankebe, 2012). The concepts of procedural justice and police legitimacy are not new and agencies across the world have worked towards implementing procedurally just practices in order to enhance police legitimacy (Picket *et al.*, 2018; Antrobus *et al.*, 2019). However even with the adoption of procedurally just policing, police legitimacy, or the lack of police legitimacy is a challenge for police agencies (Smith, 2017; Cheng, 2020; Deuchar *et al.*, 2020). In research with incarcerated populations 'distrust in police' was found to be one of the main reasons that these individuals never reported their victimizations, even prior to their entry into the criminal justice system (Jones *et al.*, 2019; D. J. Jones, unpublished data). As police agencies pivot due to the need to provide safety to the public with new legislation and enhanced police power, it is crucial the police continue down the path of procedural justice to enhance police legitimacy and public confidence (Picket *et al.*, 2018; Antrobus *et al.*, 2019).

When one analyses policing deployments in conventional times, the police are disproportionately deployed to marginalized communities where they interact with the public in some form on a more regular basis than they do in non-marginalized areas. Unfortunately, research has shown that police are often seen as unjust in their procedures or lack compassion in their interactions, thus resulting in a state of reduced legitimacy (Rinehart Kochel, 2011; Jones and McGuire, 1999; unpublished paper).

The over-policing of marginalized neighbourhoods and communities is particularly worrisome during the pandemic, when the police have to enforce new public health laws and ensure public safety while depending on the public's willingness to comply with social distancing or lockdowns in a way that they never had to before. At the same time, police are tasked more than ever to prevent civil unrest. Communities that already have

strained relationships with the police might have a harder time complying with the new rules and regulations. As police legitimacy is often lower in disadvantaged communities (Kane, 2005; Gau and Brunson, 2010; Mazerolle and Wickes, 2015), there is the potential that the population does not see the laws as necessary. As such, it becomes even more important for the police to be (and be perceived as) legitimate and procedurally just to gain compliance from community members (Murphy *et al.*, 2009). How police respond in this current crisis will have long-lasting impacts on legitimacy and police–community relationships far beyond the reach of the pandemic. In this article, we will discuss two likely eventualities for how police may respond to this pandemic, how this will affect police legitimacy, and then conclude with where this may take modern policing in the post-pandemic era.

Discussion

There are, and always will be multiple different potential outcomes at the end of any disaster or war. However, historically people have often responded to these disastrous events by coming together and building community (Reicher and Stott, 2020).

This is true for society in general; however, for policing, the long-term consequences of the pandemic can go in different directions. While there are various scenarios, we argue that there are two very distinct possibilities for police legitimacy past the pandemic threat of COVID-19: (1) the police response to the pandemic results in further militarization and draws deeper divides between police and communities or (2) the police response is compassionate and operates procedurally just resulting in the rebuilding of police legitimacy post-pandemic.

The first potential option is that the already over-militarized modern police agencies currently requiring reform (Balko, 2013) become ever-more militarized moving farther away from the

community and being less approachable and accountable to the public. The concept of militarization of police is not about the equipment that the police have, it is about how the police interact with the public with a ‘warrior’ mindset negating community relationships (Balko, 2013; Goldsworthy, 2018). An additional concern is that police perceptions of using procedural justice diminish with negative demeanour of the citizens in which they interact (Nix *et al.*, 2017), responding to crowds that are protesting public health ordinances could then result in potentially violent conflict. The consequence of this would likely see police operating in a manner that society would not perceive as procedurally just, thereby further widening the gap between police and the community. Over the past several years, policing has worked towards better serving the communities in which they police (Lum *et al.*, 2016). The effectiveness of police reform is unclear (Bell, 2016); however, if the pandemic response by police is militarized and lacks procedural justice, it risks any progress that has been done in recent years when police underwent reform and improved police–community relationships (Lum *et al.*, 2016; Tyler, 2019).

Unfortunately, just a few weeks into the pandemic, there are already some early signs that the relationship between police and the community is changing for the negative. It must be said that police agencies across the world are not homogeneous, and the police in the UK, Europe, Australia, Canada, and the USA have worked to embrace police reform through procedural justice (President’s Task Force on 21st Century Policing, 2015; Hough *et al.*, 2017). Unfortunately, negative media has an impact on police legitimacy and the community as a whole does not differentiate one police agency from another (Li *et al.*, 2016; Intravia *et al.*, 2018). An example of negative media during pandemic policing is reports coming from South Africa state that just days into their 21-day lockdown as a result of COVID-19, police are abusing their powers in multiple ways while enforcing their newly enhanced powers enacted

from their Disaster Management Act: assaultive behaviour by police and the death of three people at the hands of law enforcement officers (Faull, 2020). Ironically, the same number of people had been reported to have died as a result of the virus at that time (Faull, 2020). The experience in South Africa may be an extreme example. However, it exemplifies some of the potential societal consequences of the COVID-19 pandemic: anger and civil unrest as well as violent and deadly interactions with the police.

Governments across the globe are declaring states of emergencies in response to the pandemic, enacting new laws, and enhancing the powers of law enforcement organizations. These legislative practices are being afforded with the intention that the exponential growth of coronavirus is halted or at least slowed down (Greenstone and Nigam, 2020). As new laws come into play, the police must understand that it is not just the legislation that creates consternation and fear; it is how the police enforce these laws. If the police enforce the laws in a manner that lacks procedural justice and is excessively militaristic lacking in community engagement, there is a risk of civil unrest (Reicher and Stott, 2020). If the community questions the legitimacy of the new laws as well as the police themselves, compliance is unlikely to occur (Murphy *et al.*, 2009). The concern of the potential for abuse of power and militarization of police has already been discussed in multiple international media reports (Faull, 2020; Leung, 2020).

When the police are required to enforce curfews, social distancing, and social isolation ordinances, and it is done militarily with no regard for the relations with the community, there might be significant ramifications. Currently, the media are reporting numerous issues of police abuse of power worldwide. In Acadia Parish, LA, the police sounded the same siren that was sounded in the *Purge* films¹ to indicate that the curfew time had started and that all citizens should clear the streets.

While the sounding of the siren alone is not an egregious issue, it is a decision by police that caused fear to members of the community (Russian, 2020). In India, officials sanitized storefronts with firehoses spraying bleaching agents, and police ordered they also spray on a crowd of people at a bus stop (Leung, 2020). Allegedly, a 13-year-old was shot and killed by police in Kenya for breaking a coronavirus enacted curfew, while a police officer in the Philippines forced two minors and three adults into a dog cage for 30 min and threatened to shoot them if they did not stay in the cage for a curfew breach (Leung, 2020).

These examples of power abuse can have lasting implications for police–community relationships. Past research has also shown that such adverse media reports can have lasting impacts on police legitimacy independent of where such incidents occur (Graziano and Gauthier, 2018; Intravia *et al.*, 2018).

Considering these adverse reports and examples of power abuse, police agencies across the world are at risk of proving to society that they are using extreme measures to address the new laws that have been enacted by the government forgoing their relationships with community and confirming that the militarization of police is fully embedded in modern policing (Balko, 2013; Goldsworthy, 2018).

The second option is that the police embrace a guardian mindset during these unprecedented and uncertain times. The ideology of the guardian is to work with communities and embrace their role as one that is not only there to arrest and incarcerate but to engage community in non-enforcement conversations, and assist in solving problems in the community (Lum *et al.*, 2016; Peyton *et al.*, 2019).

This option would require police to follow, or continue to follow the tenets of procedural justice, even in the face of the Novel Coronavirus (COVID-19) pandemic. Police working together

¹ The *Purge* films were about a 12-h period of lawlessness that allowed all crimes ranging from theft to murder to be legal.

with community members and community leaders in a partnership is a proven way to enhance informal social controls so that people obey the law (Schuck, 2019). One of the tenets of procedural justice implies fairness when dealing with individuals who are suspected of breaking the law. The main component of that is giving people a voice in their own justice experience by allowing the individual to tell their version of the events that brought them into contact with the justice system and listening to them without prejudice to their account. This becomes challenging during a pandemic; however, police need to understand the potential stress that the population is feeling as a result of the COVID-19 crisis. Disasters or mass traumas regardless of if they are natural (i.e. hurricanes, tsunamis, or earthquakes, etc.) or human-initiated (terrorist attacks, mass shootings, etc.) result in spikes of post-traumatic stress responses, increased alcohol and drug use, and other mental health crisis (Galea *et al.*, 2020). Police can work with communities and community leaders to provide a venue to have these conversations using different technologies for virtual community conversations. Police in this time of crisis, must increase communication with citizens through traditional media, social media, fliers, etc. as face to face meetings are restricted due to COVID-19. Ideally, this account should be used to make fair decisions. In the event, people are breaching orders to socially distance, or something as simple as going to the park when they have been shut down due to the pandemic, rather than significant fines police may want to have a warning and a conversation and explain why the Public Health orders are necessary. Findings from the Queensland Community Engagement Trail in 2012 showed that when given an explanation as to why the police were taking action, increased cooperation, and police legitimacy (Mazerolle *et al.*, 2012), this would intimate that police could use education rather than suppression to gain public support and adherence to public health ordinances. Policing crowds or protests with procedural justice

is a challenge (Radburn *et al.*, 2018). In order to be effective in policing crowds, specifically as it pertains to protests relating to COVID-19, police need an enhanced sense of togetherness with the community (Radburn *et al.*, 2018). Police communication needs to occur often and be clear, compassionate, and voluntary to help build legitimacy (Chanin and Courts, 2017). It may also be prudent during the pandemic to have shared communication platforms between police, health authorities, community leaders, and political leaders so that in this time of crisis, expectations of the citizens are clear. Another cornerstone of procedural justice is transparency which is built by having open communications (Biggs, 2018; Ramirez, 2018). The police must be fully transparent about their actions with the public so that the public understands why and how the police are acting. Procedural justice also implies impartiality on the part of law enforcement so that all communities feel that they are equal and that the police are equitable in the distribution of justice (Mazerolle *et al.*, 2013). It is this last point, in particular, where the police risk failing during this pandemic.

In the USA, particularly in the Southern USA, people of colour and those who are impoverished are being the hardest hit from the pandemic (Laughland, 2020). Marginalized populations are often disproportionately policed, and thereby over-represented in the justice system (Rinehart Kochel, 2011) while also now being impacted at higher rates by the pandemic. If police are not procedurally just in these uncertain and challenging times, particularly with marginalized populations, one could imagine long-term impacts on police legitimacy past the pandemic response.

If the police respond with compassion and care when they are required to enforce public health laws due to the pandemic response of the respective nation, this could build police legitimacy in a time of crisis. If the police are to be seen as legitimate in these times, they must find opportunities for using education to explain the need to enforce laws that are put in place to reduce the spread of

the coronavirus. Communication with the community becomes of utmost importance as even if the laws themselves are not seen as legitimate if the police are communicating with the public through a lens of procedural justice, they have the ability to increase compliance (Murphy *et al.*, 2009). Transparency as to what the police are doing about the pandemic response and why they are doing it will help to build legitimacy with the public and the police (Jackson, 2015). Finally, the police need to ensure that the dialogues with the community are re-evaluated by keeping open lines of communication with community members and leaders to determine if they continue to be satisfied with the police response to the pandemic, as this could build and foster police legitimacy. As Bottoms and Tankebe have laid out, continuous dialogue with the community is critical (Bottoms and Tankebe, 2013). If this dialogue builds the legitimacy of the police, then we should see more compliance with the laws and less resistance to the police (Sunshine and Tyler, 2003; Paternoster *et al.*, 1997). All of these benefits could greatly assist the police in their pandemic response.

One way to work towards building legitimacy is via positive media news stories. We know media have an impact on police legitimacy (Intravia *et al.*, 2018) and broadcasting positive news stories regarding police interactions with the public and highlighting procedurally just actions in both conventional and social media can be quite effective in building and foster legitimacy. While positive media stories of police in the midst of this pandemic are hard to find, there is some hope. There are some tweets of support for frontline workers and frontline staff are being thanked in the mainstream media. In this author's police service, two members responded to a report of a sudden death during the pandemic. The death was of a Southeast Asian woman and was not suspicious in any way. With the pandemic, there was no opportunity for a funeral of any kind. The husband told the officers that he was unable to find white flowers so that he could at least honour his wife at

home. The two members left the residence, found and purchased white flowers, and delivered them to the husband so that he was able to offer a proper goodbye to his loved one. There is no doubt that these types of events are happening in policing across the globe, but the stories that are in the media are the negative ones with negative and lasting impacts on police legitimacy. It is important for police to highlight the positive interactions with communities to provide balance in the media.

This second option is by far the better one for policing during and beyond the pandemic. Authoritarian militarized policing may seem like the quickest and most efficient response in these uncertain times; however, they may be the hardest to overcome in the long run.

Conclusion

Now, possibly more than ever, police leaders need to ensure that procedurally just practices are occurring between police and public. The responsibility of the police is to ensure the safety of the public with the assistance of the newly enhanced powers and legislation. It becomes of significant importance for police leaders to articulate to their police officers that how they interact with the community in these uncertain times will either build or damage police legitimacy (Tyler and Jackson, 2014). Winston Churchill once stated, 'Never waste a good crisis.' This is an opportunity for the police to build on existing legitimacy and to rebuild lost legitimacy with the most marginalized communities. Police leaders must communicate to their respective organizations the importance of procedural justice, and remind the membership how to achieve it by ensuring fairness, giving the people participation or a voice, demonstrating transparency, and being impartial (Mazerolle *et al.*, 2013). This might also be an excellent opportunity for researchers to evaluate how police are building, fostering, or losing legitimacy

along the way. Importantly, both longitudinal quantitative surveys about police legitimacy as well as in-depth interviews (likely via Zoom or Skype) about community members' experiences with their interactions with police and how the police's actions during the pandemic are perceived would provide important insights into policing and police legitimacy during the pandemic and what implications it might have for post-pandemic times.

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