Procedural Justice Theory and Public Policy: An Exchange

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Abstract

This article introduces a scientific exchange over the status of procedural justice theory and its applicability to policing reform. The introduction notes the long history of sociolegal research on procedural justice and its emergence as a source of ideas for criminal justice reforms and police training programs. The article contrasts the positions taken by Nagin & Telep (2017) and Tyler (2017). Nagin & Telep assert that it is premature to apply procedural justice principles without more definitive causal studies in policing. In contrast, Tyler draws on experimental research and other causal studies from different domains to argue that the work is sufficient to proceed with policy reforms.

INTRODUCTION

We are pleased to publish this important scientific exchange between preeminent scholars about procedural justice and compliance with the law. Procedural justice is a central topic of sociolegal research (Seron Coutin & Meeusen 2013) and a perennial subject in the Annual Reviews journals, including the *Annual Review of Law and Social Science* (*ARLSS*). To date, 22 reviews in *ARLSS* have considered the phenomenon of procedural justice, analyzing its implications for a diverse range of sociolegal issues, such as conflict resolution (Morrill & Rudes 2010), pro se litigation (Landsman 2012), and restorative justice (Menkel-Meadow 2007). It has been discussed in more than 50 reviews in other Annual Review journals devoted to psychology, sociology, political science, organizational behavior, environmental resources, and public health (e.g., Miller 2001). The use of the concept of procedural justice has expanded dramatically from its roots in the early experiments of Thibaut & Walker (1975) to its current prominence as a promising technique for policy reform (Meares 2014). Indeed, Google Scholar indicates more than 30,000 references to the work of the major procedural justice researcher Tom Tyler in the last five years alone.

The theory of procedural justice developed, tested, and applied by Tom Tyler and his colleagues has been eagerly embraced by politicians and policy makers as a guide for improving police–community relations in the United States. Procedural justice theory is the foundation of a much-discussed police training program in Chicago (Skogan et al. 2015). It is also the basis for recommendations by the Presidential Commission on Policing headed by Philadelphia Police Chief Charles Ramsey (President's Task Force on 21st Century Policing 2015). And it is central to the deliberations of a National Research Council (2017) Committee on Proactive Policing.

Given its theoretical and applied significance, this is a prime moment to take a close look at the scientific basis for procedural justice theory and practice. Tyler and his colleagues in the field of procedural justice have expended considerable efforts over several decades to elaborate and empirically test procedural justice theory across a range of domains, including organizational behavior, dispute resolution, and obedience to law (MacCoun 2005). Among other questions, this research has focused on the causal links posited by the theory between perceptions of the justness of police practices, citizen perceptions of police legitimacy, and legal compliance.

In this exchange, Nagin & Telep (2017) begin by acknowledging the wealth of data establishing correlations between perceptions of fair process, views about legitimacy, and obedience to the law. However, they also point to the limited research showing strong causal connections between procedural justice perceptions and compliance with the police. Nagin & Telep conclude that the scientific jury is still out on the capacity of procedurally just behavior to generate legal compliance. They argue that more research is required to establish a firm basis for the implementation of procedural justice theory in criminal justice policies and police training programs.

Tyler (2017) agrees with the call for further research, but he also points to the urgency of the moment. "The whole world is watching" has taken on an entirely new meaning in the era of smartphone, dashboard, and body cameras, technologies that have vastly increased public awareness of police violence against minority suspects and citizens. Black Lives Matter has built a powerful political protest movement around this new era of increased police visibility, seeking police accountability for incidents of criminally lethal brutality against minority suspects. And the news media dissemination of the audiovisual images of both the police violence and the movement advocacy has made the challenges to police authority and legitimacy impossible for policy makers and politicians to ignore.

But can improved public perceptions of police procedures bring the improvement that this moment in American police–minority community relations demands? Or, are flawed police procedures an endogenous outgrowth of larger and stubbornly systemic sources of cynicism and despair about these police–minority community relationships (Bell 2017)?

Tyler's claims for his theory of procedural justice are cautiously made and modestly advanced. He draws on experimental research in social psychology and work in organizational settings, both of which demonstrate the causal connections that Tyler, Nagin, and Telep all wish were more clearly confirmed in policing research. Nagin & Telep nonetheless worry that the hopes and aspirations of our politicians and policy makers and their embrace of procedural justice theory exceed this theory's capacity to meet the challenges posed by our present circumstances. The participants in the following exchange do us the service of forthrightly confronting these expectations and challenges, and in doing so offer important contrasting assessments of the possibilities and prospects of procedural justice theory and policies to mitigate the crisis of confidence we confront.

DISCLOSURE STATEMENT

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