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## **Recent Research on Procedural Fairness: A Quarterly Report**

*Winter 2014*

This publication highlights notable procedural fairness scholarship released over the past quarter by topic. Each Quarterly issue will also include a listing of other articles that are of particular relevance to procedural fairness the courts. Recent news and events, if available, complete the report. Articles still in the publication process are identified as “*forthcoming*” and articles available via open source are denoted by a double asterisk.

### **Editors**

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## General Research

\*\*David Rottman & Tom Tyler, *Thinking about Judges and Judicial Performance: Perspective of the Public and Court Users*, 4 OÑATI SOCIO-LEGAL SERIES 1046 (2014).

Studies of the courts, conducted primarily in the United States, suggest that the way legal professionals think about judging underpins nearly all official evaluations of judicial performance. The general public has a different view than lawyers of judging that merits consideration along with the type of criteria emphasized by the legal community. Research demonstrates that the public places the greatest importance on the extent to which a judge reaches decisions through a process that meets the public's expectations of fairness. Surveys of California residents and California attorneys are used to demonstrate the importance of procedural justice for explaining whether people have trust in the courts and regard court decisions as legitimate. The article describes and critiques existing judicial performance evaluation programs that incorporate procedural justice principles as a dimension for measuring judicial quality through both survey and observational methods.

\*\*Special Issue: *Procedural Justice: Reflections on Legal Practices*, 10 UTRECHT L. REV. (2014).

This special issue includes ten articles on topics related to procedural justice in the Dutch legal system.

Devon Johnson, Edward R. Maguire & Joseph B. Kuhns, *Public Perceptions of the Legitimacy of the Law and Legal Authorities: Evidence from the Caribbean*, 48 L. & SOC. REV. 947 (2014).

Research on procedural justice and legitimacy has expanded greatly across the social sciences in recent years. The process-based model of regulation, which links people's assessments of procedural justice and legitimacy to their compliance with the law and legal authorities, has become particularly influential in criminology and sociolegal studies. A review of the previous research on perceived legitimacy highlights two important features. First, legitimacy has been conceptualized and measured in many different ways. Second, most of the research on legitimacy has focused on only a handful of developed nations. Using survey data from Trinidad and Tobago, this article examines the conceptualization and measurement of the perceived legitimacy of the law and legal authorities. The findings indicate that some of the prominent conceptual and



measurement models used in previous research are not empirically valid in the Trinidadian context. The implications of the results for conceptualization, theory, and future research are discussed.

\*\* Jordan M. Singer & William G. Young, *Bench Presence 2014: An Updated Look at Federal District Court Productivity*, 48 NEW ENG. L. REV. 565 (2014).

Last year, we unveiled a new way of thinking about the productivity of the federal district courts. Whereas most studies have equated court productivity with administrative efficiency, we argued that productivity must also account for the effectiveness of court services, as measured by the procedural fairness afforded to the parties and the accuracy of decisional outcomes. We further explained that a district court's commitment to procedural fairness could be measured in a rough but meaningful way by tracking its "bench presence"; that is, the amount of time that its judges spend in the courtroom, adjudicating issues in an open forum.

Subsequently, we examined real-world bench presence data from Fiscal Years 2008 through 2012. The data showed a steady year-over-year decline in total courtroom hours during that period, culminating in a national drop in courtroom time of more than eight percent during the five-year span of the study.

In this Article, we provide new data on bench presence in the federal district courts for Fiscal Year 2013. Overall courtroom time continues to fall, but we find reasons to remain optimistic that the trend can be reversed. We also briefly address a series of challenges that commentators have raised with respect to the bench presence measure, and our productivity model more generally. We close with some additional thoughts on bench presence and the importance of courtroom activity at the start of the twenty-first century.

Rick Trinkler & Ellen S. Cohn, *Putting the "Social" Back in Legal Socialization: Procedural Justice, Legitimacy, and Cynicism in Legal and Nonlegal Authorities*, 38 L. & HUM. BEHAV. 602 (2014).

Traditionally, legal socialization theory and research has been dominated by a cognitive developmental approach. However, more recent work (e.g., Fagan & Tyler, 2005) has used procedural justice to explain the legal socialization process. This article presents 2 studies that expand this approach by testing a procedural justice model of legal socialization in terms of legal and nonlegal authority. In Study 1, participants completed surveys assessing the degree to which they perceived 3 authorities (police officers, parents, and teachers) as procedurally fair, the degree to which they perceived the



authorities as legitimate, how cynical they were about laws, and the extent of their rule violation during the past 6 months. Across all 3 authorities, legitimacy and legal cynicism mediated the relation between procedural justice and rule violation. Study 2 examined the model with the same 3 authority types using experimental methods. Participants read 3 scenarios describing an interaction between an adolescent and an authority figure where a rule is enforced. Within each scenario, we manipulated whether the adolescent had a voice and whether the authority enforced the rule impartially. After reading each scenario, participants rated the authority's legitimacy, their cynicism toward the authority's rule, and the likelihood they would violate the rule. Again, legitimacy and rule cynicism mediated the relation between impartiality, voice, and rule violation. In addition, impartiality had a stronger effect in the parent and teacher scenarios, whereas voice had a stronger effect in the police scenario. Results are discussed in terms of expanding legal socialization to nonlegal contexts and applying legal socialization research to prevention and intervention strategies.

[Emily C. Bianchi et al., \*Trust in Decision-Making Authorities Dictates the Form of the Interactive Relationship Between Outcome Fairness and Procedural Fairness\*, 41 PERSONALITY & SOC. PSYCH. BULL. 19 \(2014\).](#)

Reactions to decisions are shaped by both outcome and procedural fairness. Moreover, outcome and procedural fairness interact to influence beliefs and behaviors. However, different types of “process/outcome” interaction effects have emerged. Many studies have shown that people react particularly negatively when they receive unfair or unfavorable outcomes accompanied by unfair procedures (the “low-low” interactive pattern). However, others find that people react especially positively when they receive fair or favorable outcomes accompanied by fair procedures (the “high-high” interactive pattern). We propose that trust in decision-making authorities dictates the form of the process/outcome interaction. Across three studies, when trust was high, the “low-low” interactive pattern emerged. When trust was low, the “high-high” interactive pattern emerged. The findings suggest that when people's experience of outcome *and* procedural fairness diverged from how they expected to be treated, they reacted in the direction of their experiences; otherwise, their reactions were consistent with their expectations.

[Diane Sivasubramaniam & Larry Heuer, \*Procedural Justice\*, in APA HANDBOOK OF FORENSIC PSYCHOLOGY, VOL. 2: CRIMINAL INVESTIGATION, ADJUDICATION, AND SENTENCING OUTCOMES, 345 \(Brian Cutler & Patricia A. Zapf, eds., 2015\).](#)



The procedural justice field explores the role of decision-making processes and their outcomes in determining individuals' perceptions of justice and satisfaction. Dominant theoretical models in this field describe fairness and satisfaction judgments as being determined primarily by treatment concerns rather than by outcomes: When individuals feel that they have been treated fairly in a decision-making procedure, they judge those procedures and their outcomes to be more just, and they are more satisfied with those procedures and their outcomes. In this chapter, we will describe several recent studies in the procedural justice field that document a disparity between decision makers and non-decision makers in the importance they place on treatment versus outcomes. These recent findings indicate that, when determining the fairness and propriety of decision-making procedures, decision makers are more concerned than non-decision makers about ensuring that decision-making procedures result in just outcomes. We will also discuss potential motivators that lead to this disparity, such as the perception that the target of a procedure deserves respectful treatment, and the responsibility placed on decision makers for protecting the social group. Throughout the chapter, we consider the ways in which these recent developments in procedural justice may inform forensic psychology researchers and legal practitioners about the fundamental psychological mechanisms in operation among decision makers in the legal system. We conclude by offering suggestions about the ways in which recent work on the basic social psychology of procedural justice might strengthen our understanding of the behavior of jurors, police officers, interrogators, judges, and other decision makers in the legal system, and how this research may even be leveraged to influence or modify the behavior of these decision makers.

## **Compliance and Cooperation**

### ***Courts***

**[\\*\\*EMILY GOLD LAGRATTA & PHIL BOWEN, CRIMINAL JUSTICE ALLIANCE, TO BE FAIR: PROCEDURAL FAIRNESS IN COURTS \(2014\).](#)**

This briefing is the second in a series which explores different policy ideas to make the criminal justice system more effective. This paper discusses the concept of procedural fairness and whether how a defendant, victim or witness is treated has an effect on their perception of the process and their ongoing likelihood of complying with court orders and the law generally.



## *Specialized Courts*

[Alexandra E. Sigillo, \*Promoting Positive Perceptions of Justice by Listening to Children's Sentiment in Custody Decisions\*, in HANDBOOK OF COMMUNITY SENTIMENT, 173 \(Monica K. Miller, Jeremy A. Blumenthal & Jared Chamberlain, eds., 2015\).](#)

When making custody decisions, judges typically rule on the basis of what is in the best interests of the children. The best interests of the child standard could include many factors such as considering children's sentiment. However, judges tend to limit the amount of children's participation in custody cases. This can affect children's level of satisfaction with and adjustment to custody decisions, and their perceptions of justice and fairness. Therefore, comprehensive training standards for legal professionals should document how to obtain children's wishes, judges should solicit sentiment from children of any age who want to share their custodial preferences, and children should receive education on court roles and proceedings. Proper procurement of children's sentiment in custody decisions can help promote principles of procedural justice and therapeutic jurisprudence, generating perceptions of the legal system as a legitimate authority.

## *Policing*

[\\*\\* Ben Bradford, Katrin Hohl, Jonathan Jackson & Sarah MacQueen, \*Obeying the Rules of the Road: Procedural Justice, Social Identity and Normative Compliance\* \(Oxford Legal Studies Research Paper No. 87/2014, 2014\).](#)

Why do people comply with traffic laws and regulations? Road traffic policing tends to be premised on the idea that people comply when they are presented with a credible risk of sanction in the event of non-compliance. Such an instrumental model of compliance contrasts with the normative account offered by procedural justice theory, in which compliance is encouraged by legitimate legal authorities. Comparing these two accounts, we find evidence that both instrumental and normative factors explain variance in motorists' self-reported propensity to offend. Extending the standard procedural justice account, we also find that it is social identity – not legitimacy – that forms the 'bridge' linking procedural fairness and compliance, at least according to a definition of legitimacy that combines felt obligation and moral endorsement. Fair treatment at the hands of police officers seems to enhance identification with the social group the police represent, and in turn, identification seems to motivate adherence to rules (laws) governing social behavior. These findings have implications not only for understandings



of legal compliance, but also our understanding of why procedural justice motivates compliance, and the role of procedural justice in promoting social cohesion.

[TRUST AND LEGITIMACY IN CRIMINAL JUSTICE \(Gorazd Meško & Justice Tankebe, eds., 2015\).](#)

The book explores police legitimacy and crime control, with a focus on the European region. Using comparative case studies, the contributions to this timely volume examine the effects of a transition to democracy on policing, public attitudes towards police legitimacy, and the ways in which perceptions of police legitimacy relate to compliance with the law.

Following these case studies, the authors provide recommendations for improving police legitimacy and controlling crime, in these particular sociopolitical environments, where the police are often associated with previous military or paramilitary roles. The techniques used by these researchers may be applied to studies for policing in other regions, with potential applications within Europe and beyond. Chapters present topical issues of crime, crime control and human emotions regarding crime, criminals, law enforcement and punishment in contemporary societies.

This book will be of interest to researchers in criminology and criminal justice, as well as political science and public policy.

[Wesley G. Skogan, Maarten Van Craen & Cari Hennessy, \*Training Police for Procedural Justice\*, J. EXPERIMENTAL CRIMINOLOGY \(2014\).](#)

**Objectives:** This paper reports the findings of an evaluation of a police training program on the principles of procedural justice. This training was part of a larger organizational change strategy aimed at improving the relationship between the police and the public in Chicago.

**Methods:** The paper reports on the findings of two studies. The short-term effects study was a quasi-experimental test of the immediate effectiveness of the training conducted at the police academy. A longer-term effects study examined the subsequent views of trainees and a comparison group, officers who had not yet been to training. Statistical controls were used to increase confidence in the findings of the second study, which was based on observational data.

**Results:** In the short term, training increased officer support for all of the procedural justice dimensions included in the experiment. Post-training, officers were more likely to



endorse the importance of giving citizens a voice, granting them dignity and respect, demonstrating neutrality, and (with the least enthusiasm) trusting them to do the right thing. All of the effects of training were strong, with standardized effect sizes ranging from 1.2 to 1.6. Longer-term, officers who had attended the procedural justice workshop continued to be more supportive of three of the four procedural justice principles introduced in training; the effect of training on trust was not statistically significant.

Conclusions: There has been little systematic research on police training. This paper concludes that it can play a role in improving police–community relations. It also presents a discussion of some of the limitations of a training-based organizational change strategy.

[Frank V. Ferdik, \*The Influence of Strain on Law Enforcement Legitimacy Evaluations\*, 42 J. CRIM. JUST. 443 \(2014\).](#)

Purpose: While law enforcement officers have the state-sanctioned authority to use force as a way to ensure citizen obedience with the law, research has found that when private citizens evaluate the police as legitimate, they are more likely to comply with legal demands and cooperate with the police. Although procedural justice has shown to be a highly significant predictor of perceived police legitimacy, research has found other correlates of this outcome, including ethnic identity, low self-control and structural economic disadvantage. To date, no study has explored whether strain influences perceptions of the legitimacy of law enforcement.

Methods: A series of linear regression equations was estimated using survey data collected from a convenience sample of college students to determine the effect of strain on perceived police legitimacy.

Results: Even after controlling for procedural justice, strain exerted a negative and statistically significant influence on law enforcement legitimacy evaluations.

Conclusions: Police officers are encouraged to interact with citizens in procedurally just manners and to also consider people's strain levels when enforcing the law.

[Charles F. Klahm IV, Benjamin Steiner & Benjamin Meade, \*Assessing the Relationship Between Police Use of Force and Inmate Offending\*, CRIME & DELINQUENCY \(2014\).](#)

We assess the effects of exposure to police use of force on inmates' odds of offending in prison using survey data collected from a national sample of inmates. We found, net of relevant controls, prisoners subjected to police violence were more likely to engage in



assaultive and other rule violating behavior, especially those who did not resist police authority. Consistent with the cycle of violence hypothesis, our findings suggest violence perpetrated by legal authorities produces similar effects to exposure to violence in general. Moreover, the consequences of police use of force are especially problematic when the recipient fails to perceive his or her treatment was fair, which supports the theoretical perspective on procedural fairness and legitimacy. Policy implications are discussed.

[\\*\\*Devon Johnson & Daniel K. Pryce, Procedural Justice, Legitimacy, and Cooperation with Police: Evidence from a Community of Ghanaian Immigrants \(August 2014\) \(unpublished Ph.D. dissertation, George Mason University\).](#)

Recent scholarship examining public perceptions of procedural justice, police legitimacy, and public cooperation with the police in the United States has found that concerns about fairness (normative considerations) tend to be more powerful predictors of citizen satisfaction with the police than concerns about the police's capacity to reduce crime (instrumental considerations). Most of these studies have focused on differences in the views of Whites, Blacks, and Hispanics, while only a handful have examined the perspectives of different immigrant groups toward the police. To help fill this gap, especially at a time of significant growth in immigration, this dissertation investigates the relationship between procedural justice, police legitimacy, and willingness to cooperate with the police in a Ghanaian immigrant community in the United States.

[\\*\\*Vaughn Joel Crichlow, Small Business Owners in Detroit: An Assessment of Procedural Justice and Police Legitimacy Perceptions \(2014\) \(unpublished Ph.D. dissertation, Michigan State University\).](#)

Little is known about procedural justice and police legitimacy perceptions in the business community, particularly in high-crime urban areas. This dissertation comprises a study on the attitudes of small business owners toward the police in the city of Detroit. . . . Although existing research indicates that procedural justice is a stable predictor of legitimacy across race, ethnicity and community contexts, there is a paucity of research on the factors that shape business owners' perceptions of policing.

This study contributes to research on procedural justice and police legitimacy theory by presenting a conceptual framework on the influence of race, culture and experiences with crime and victimization on attitudes toward police. The research goals are three-fold. The study examines the applicability of procedural justice and police legitimacy perceptions as explanations for small business owners' attitudes toward the police in high-crime areas.



It also examines whether the attitudes of small business owners toward the police are influenced by the type and location of business, prior victimizations, fear of crime, race and ethnic origin. In addition, it explores whether these factors also influence the likelihood of business owners reporting crimes to the police, and their willingness to assist the police.

### Miscellaneous

[Noa Nelson, Dikla Shechter & Rachel Ben-Ari, \*Procedural Justice and Conflict Management at School\*, 30 NEGOTIATION J. 393 \(2014\).](#)

In this research, we explored the contributions of perceived procedural justice (PPJ) to the conflict management behaviors of adolescents when they experience conflict with their teachers. We tested an extensive model to determine how PPJ contributes to conflict management. We also extended research on PPJ to examine its impact on adolescents. Our results, acquired from a large and diverse sample of 256 high school students, indicate that PPJ had an impact on adolescents' approach to managing conflicts with their teachers. Students who perceived that their teachers' decision processes were just were less dominating and more avoiding, obliging, and compromising. In addition, we found that students' perceptions about the legitimacy of their teachers' authority mediated the relationships between PPJ and conflict management style. This study contributes to the rather scarce research on PPJ's role in conflict management and should be useful for educators searching for constructive, relationship-based tools for conflict management.

[Jane Goodman-Delahunty, Natalie Martschuk & Mandeep K. Dhimi, \*Interviewing High Value Detainees: Securing Cooperation and Disclosures\*, 28 APPLIED COGNITIVE PSYCH. 883 \(2014\).](#)

Four types of coercive and noncoercive interview strategies (legalistic, physical, cognitive and social) used to facilitate disclosure by high value detainees were examined in an international sample of practitioners and detainees (N = 64). Predictive analyses confirmed that the accusatorial approach was positively correlated with physically coercive strategies ( $r_s = .58$ ) and negatively with forms of social persuasion ( $r_s = -.31$ ). In response to social strategies, detainees were more likely to disclose meaningful information [odds ratio (OR) = 4.2] and earlier in the interview when rapport-building techniques were used (OR = 14.17). They were less likely to cooperate when confronted with evidence (OR = 4.8). Disclosures were more complete in response to noncoercive



strategies, especially rapport-building and procedural fairness elements of respect and voice. These findings augmented past theory on interactional processes and the evidence-base of international best practices in suspect interviews.

[Amber DeBono & Mark Muraven, \*Rejection Perceptions: Feeling Disrespected Leads to Greater Aggression than Feeling Disliked\*, 55 J. EXPERIMENTAL SOC. PSYCH. 43 \(2014\).](#)

Social rejection can lead to feeling disliked and disrespected. From research on the culture of honor and perception of procedural justice, we predicted that feeling disrespected should be a more potent predictor of retaliatory aggression than feeling disliked. In four experiments, using correlational measures and experimental manipulations of dislike and disrespect, people who felt disrespected responded with greater aggression than people who felt disliked. The results suggest that merely being rejected may not be enough to trigger aggression; the person needs to feel disrespected. This has implications for understanding why people are more likely to respond to rejection with aggression, as well as future research explaining how people's perception of rejection affects their behavior.

### **In the News/On the Web**

[Michael Zuckerman, \*The Experience of Dignity: Community Courts and the Future of the Criminal Justice System\*, PACIFIC STANDARD, December 9, 2014.](#)

[\*Procedural Justice—Building a Better Experience in Court\*, INDIANA JUVENILE JUSTICE BLOG, October 29, 2014.](#)

[Tom Tyler, \*Teachable Moments About Policing from Ferguson, Missouri\*, PSYCHOLOGY BENEFITS SOCIETY, August 21, 2014.](#)

[Press Release, \*Justice Department Announces National Effort to Build Trust Between Law Enforcement and the Communities They Serve\*, Department of Justice \(September 18, 2014\).](#)

[Lawrence Solum, \*Legal Theory Lexicon: Procedural Justice\*, LEGAL THEORY BLOG, December 14, 2014.](#)



## Upcoming Events

### [Better Courts Conference 2015](#), February 3-4, 2015

People in trouble – whether it’s addiction, debt or homelessness – often find that their problems lead them to court. But, all too often, courts don’t have the tools to address those underlying issues. However, emerging evidence from around the world suggests that innovative new approaches can help courts to find more effective ways of handling the most difficult cases. By connecting to social services, holding people to account more effectively and ensuring that justice is seen to be done, courts can find long term solutions to complex problems.

Better Courts 2015 will bring together a practitioners and experts to discuss exciting new ideas and practices in the UK court system. The conference will offer delegates the opportunity to find out about innovative projects taking place across the country, to meet with practitioners and experts from around the world and to develop their own ideas for meeting the challenges which face our courts.

Better Courts 2015 is for justice practitioners - including legal advisers, court managers, judges, lawyers, offender health workers, voluntary sector staff and service managers - as well as experts and policy makers.

To request an invitation for yourself or a colleague - or for any press enquires - please email Arsheen on: [aqasim@justiceinnovation.org](mailto:aqasim@justiceinnovation.org).

### [Social Psychology and Law Preconference \(before the Society for Personality and Social Psychology Convention\)](#), February 26, 2015, 8:30 am – 4:30 pm

This preconference features presentations in the areas of discrimination, procedural justice/social justice, and immigration. Specifically the discrimination symposium examines explicit and implicit biases in the law. The procedural/social justice symposium looks at legitimacy and perceptions of justice in the legal system. Finally the immigration symposium examines the role of social psychology in legislation and policy. The preconference will include 10-minute data blitz presentations as well as poster presentations from graduate students and new researchers.

Speakers will include Ellen Cohen, Erik Girvan, Kevin Johnson, Evelyn Maeder, Tom Tyler, Cynthia Willis-Esqueda, and Michael Zarate.



### Now in Print

*These articles have been listed in past quarterly reports as forthcoming but have recently been published in print. This section also includes older articles that have just recently come to our attention.*

\*\* Tom Tyler & Justin Sevier, *How Do the Courts Create Popular Legitimacy? The Role of Establishing the Truth, Punishing Justly, and/or Acting Through Just Procedures*, 77 ALB. L. REV. 1095 (2014).

T. R. Tyler & J.P. Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation, and Engagement*, 20 PSYCHOL. PUB. POL'Y & L. 78 (2014).

Ben Bradford, K. Murphy & Jonathan Jackson, *Officers as Mirrors: Policing, Procedural Justice and the (Re)production of Social Identity*, 54 BRIT. J. CRIMINOLOGY 527 (2014).

Hiroyuki Sasaki & Yoichiro Hayashi, *Justice Orientation as a Moderator of the Framing Effect on Procedural Justice Perception*, 154 J. SOC. PSYCH. 251 (2014).

Liv Zetterberg, Stefan Sjöström, Urban Markström, *The Compliant Court—Procedural Fairness and Social Control in Compulsory Community Care*, 37 INT'L J. L. & PSYCH. 543 (2014).

Malini Laxminarayan & Antony Pemberton, *The Interaction of Criminal Procedure and Outcome*, 37 INT'L J. L. & PSYCHIATRY 564 (2014).

Angela Higginson & Lorraine Mazerolle, *Legitimacy Policing of Places: The Impact on Crime and Disorder*, 10 J. EXPERIMENTAL CRIMINOLOGY 429 (2014).

I.M. Boekema, *The Acceptance of Court Judgments: The Influence of Procedural and Distributive Justice* (August 14, 2014) (working paper).