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THESIS

BENEFITS OF UTILIZING PROCEDURAL JUSTICE PRINCIPLES IN HIRING AND TRAINING OFFICERS

by

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September 2019

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13. ABSTRACT (maximum 200 words)

Policing is at a critical point in its history, with ever-increasing expectations on law enforcement and evidence of mistrust among the communities they serve, particularly in communities of color. Negative encounters between police and community members are symptoms of mistrust, sometimes manifesting in acts of violence both by and against police. Trust and willingness to comply with police are linked to the community's perception of legitimacy in the institution, which is reduced when interactions between the police and public go badly.

The purpose of this thesis is to analyze how incorporating procedural justice principles in hiring and training will encourage active community engagement and increased minority representation in law enforcement, resulting in increased legitimacy and decreased negative encounters with citizens. This thesis looks at several real-world examples of procedural justice in action, demonstrating the ability of the key principles—voice, transparency, fairness, and impartiality—to increase trust and reduce the frequency of negative encounters between the community and law enforcement.

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**BENEFITS OF UTILIZING PROCEDURAL JUSTICE PRINCIPLES
IN HIRING AND TRAINING OFFICERS**

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Submitted in partial fulfillment of the
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ABSTRACT

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TABLE OF CONTENTS

LIST OF FIGURES

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EXECUTIVE SUMMARY

This thesis explores how incorporating procedural justice principles in hiring and training can encourage active community engagement and increased minority representation in law enforcement, resulting in increased legitimacy and decreased negative encounters with citizens. After analyzing four cases studies, the thesis identifies six recommendations that should be implemented in all agencies to enhance the relationships and trust between police and the communities they serve.

Police interact with millions of people every year in formal contacts and also have unlimited informal interactions with members of their communities.[1] A small but alarming number of these interactions go very badly—for the police and the public alike. Police shoot and kill approximately 1,000 people per year, a rate that has remained consistent for the last decade.[2] At the same time, sixty-six police officers were killed by intentional acts of violence against them, and an additional 57,000 police officers were assaulted in the performance of their duties in 2016.[3] The upshot is a much discussed crisis of legitimacy for and in American law enforcement.

Justin Nix defines legitimacy as "a feeling of obligation to obey the law and defer to the decisions made by legal authority."[4] Tom Tyler concludes, "People obey the law and cooperate with legal authorities primarily if and when they view those legal authorities as legitimate.… That legitimacy, in turn, is a product of how the police treat people and make decisions when they are exercising their regulatory authority—that is, procedural

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[1] Lynn Langton and Matthew R. Durose, *Police Behavior during Traffic and Street Stops, 2011* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2013), https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4779.

[2] "Police Shootings 2016 Database," *Washington Post*, accessed July 25, 2019, https://www.washingtonpost.com/graphics/national/police-shootings-2016/.

[3] "FBI Releases 2016 Statistics for Law Enforcement Officers Killed and Assaulted in the Line of Duty," press release, Federal Bureau of Investigation, October 16, 2017, https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2016-statistics-for-law-enforcement-officers-killed-and-assaulted-in-the-line-of-duty.

[4] Justin Nix et al., "Trust in the Police: The Influence of Procedural Justice and Perceived Collective Efficacy," *Crime & Delinquency* 61, no. 4 (2015): 614.

justice."[5] Procedural justice posits that fairness, respect, and influence in decisions are more important than the actual outcome of a process.[6] The Department of Justice defines the four main areas of procedural justice as "opportunities for voice, fairness in the processes, transparency in actions, [and] impartiality in decision-making."[7]

This thesis examines the following four case studies, which have shown effective utilization of procedural justice principles in hiring and training of officers.

Atlanta Police Department: The Atlanta Police Department has a long history of support in the community. The department's model of representation and its active programs to ensure community engagement demonstrate that the mission and vision are more than just words: they are institutionalized in the organization and community. The resulting increase in trust and legitimacy of the organization allows for greater understanding in moments of crisis.

New Orleans Police Department: Unlike the Atlanta Police Department, the New Orleans Police Department was in crisis after Hurricane Katrina, with very little trust among the community. They undertook an aggressive reform process, focused on procedural justice concepts. As a result of the changes, satisfaction with the police department has increased from 33 percent to 60 percent, showcasing the power of procedural justice to influence public support for law enforcement.[8]

Washington State Criminal Justice Training Center: An experiment is currently underway at the Washington Criminal Justice Training Center, the only basic police certification center in Washington State to transition from teaching warriors to battle the

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[5] Tom R. Tyler, "Trust and Legitimacy: Policing in the USA and Europe," *European Journal of Criminology* 8, no. 4 (2011): 257, https://doi.org/10.1177/1477370811411462.

[6] Stephen J. Schulhofer, Tom R. Tyler, and Aziz Z. Huq, "American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative," *Journal of Criminal Law & Criminology* 101, no. 2 (Spring 2011): 346.

[7] "Procedural Justice," COPS, accessed February 7, 2018, https://cops.usdoj.gov/Default.asp?Item=2866.

[8] Ronal Serpas, "Legitimacy and Procedural Justice: The New Orleans Case Study," *Subject to Debate* 28, no. 1 (February 2014): 10; Jim Norman, "Confidence in Police Back at Historical Average," Gallup, July 10, 2017, http://news.gallup.com/poll/213869/confidence-police-back-historical-average.aspx.

community to developing guardians to serve the community. Officer training is focused on enhancing connections to the community and providing officers the tools needed to serve the community.

The Reno Field Training Model: This training model focuses on developing the skills of the officer through creating a positive learning environment and fostering ideals such as community policing.[9] The Police Society for Problem Based Learning states that the program "provides a foundation for life-long learning and prepares the employee for the complexities of policing today and in the future."[10]

Procedural justice must be more than an approach to solve a specific problem; it must be woven into all levels of the agency to facilitate effective hiring and training. Through application of the principles, there is an opportunity to reestablish the relationships between the police and their communities, and rebuild trust and legitimacy. Therefore, negative interactions can be reduced by creating an environment that increases the likelihood of compliance with both the law and the authority of the officer enforcing the law. The following recommendations are likely to provide positive effects on the relationship between police and the communities they serve:

- Train all officers in implicit bias and culture competency

- Recognize community engagement as a recruiting practice

- Have community representation in the hiring process

- Structure academy training to provide "soft skills"

- Implement the Reno field training model

- Engage the community in enhanced neighborhood portfolio exercises

Procedural justice is the driver of legitimacy in policing. There is clear evidence that increasing legitimacy and decreasing bias can improve positive outcomes in policing

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[9] COPS, *PTO Manual: A Problem-Based Learning Manual for Training and Evaluating Police Trainees* (Washington, DC: Department of Justice, 2001), 6, https://ric-zai-inc.com/Publications/cops-w0358-pub.pdf.

[10] "PTO," *The Police Society for Problem Based Learning* (blog), accessed October 6, 2018, https://www.pspbl.org/pbl/pto/.

encounters. Each individual recommendation is good policy, but collectively they create a structure that allows a systematic approach to hiring and training a police department that mirrors both the outward appearance of the community and the values of the community. This systematic view enables employee-led recruiting, pride in the profession, response to community problems, and engagement with communities of all color. It also enhances community acceptance of police and police actions. There will continue to be negative outcomes during individual police encounters, but increasing the use of procedural justice in all aspects of hiring and training has the ability to reduce the frequency and severity of negative outcomes.

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I.   INTRODUCTION

Police interact with millions of people a year in formal contacts and also have countless informal interactions with members of their communities.[1] A small but alarming number of these interactions go very badly—for the police and the public alike. Police shoot and kill approximately 1,000 people per year, a rate that has remained consistent for the last decade.[2] At the same time, sixty-six police officers were killed by intentional acts of violence against them, and an additional 57,000 police officers were assaulted in the performance of their duties, in 2016.[3] The upshot is a much discussed crisis of legitimacy for and in American law enforcement.

Justin Nix defines legitimacy as "a feeling of obligation to obey the law and defer to the decisions made by legal authority."[4] Tom Tyler concludes, "People obey the law and cooperate with legal authorities primarily if and when they view those legal authorities as legitimate.… That legitimacy, in turn, is a product of how the police treat people and make decisions when they are exercising their regulatory authority—that is, procedural justice."[5] Procedural justice posits that fairness, respect, and influence in decisions are more important than the actual outcome of a process.[6] The Department of Justice defines

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[1] Lynn Langton and Matthew R. Durose, *Police Behavior during Traffic and Street Stops, 2011* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2013), https://www.bjs.gov/index.cfm?ty=pbdetail&iid=4779.

[2] "Police Shootings 2016 Database," *Washington Post*, accessed July 25, 2019, https://www.washingtonpost.com/graphics/national/police-shootings-2016/.

[3] "FBI Releases 2016 Statistics for Law Enforcement Officers Killed and Assaulted in the Line of Duty," press release, Federal Bureau of Investigation, October 16, 2017, https://www.fbi.gov/news/ pressrel/press-releases/fbi-releases-2016-statistics-for-law-enforcement-officers-killed-and-assaulted-in-the-line-of-duty.

[4] Justin Nix et al., "Trust in the Police: The Influence of Procedural Justice and Perceived Collective Efficacy," *Crime & Delinquency* 61, no. 4 (2015): 614.

[5] Tom R. Tyler, "Trust and Legitimacy: Policing in the USA and Europe," *European Journal of Criminology* 8, no. 4 (2011): 257, https://doi.org/10.1177/1477370811411462.

[6] Stephen J. Schulhofer, Tom R. Tyler, and Aziz Z. Huq, "American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative," *Journal of Criminal Law & Criminology* 101, no. 2 (Spring 2011): 346.

the four main areas of procedural justice as "opportunities for voice, fairness in the processes, transparency in actions, [and] impartiality in decision-making."[7]

A.   RESEARCH QUESTION

How can incorporating procedural justice principles in hiring and training encourage active community engagement and increased minority representation in law enforcement, resulting in the increased legitimacy of law enforcement and fewer negative encounters between officers and citizens?

B.   HISTORY OF POLICING

Long before the twenty-first-century policing concept, Sir Robert Peel theorized that police must achieve a relationship with the public; his core principles closely mirror those described by modern researchers in outlining how to achieve legitimacy. In 1829, Peel structured the London Metropolitan Police like a military organization for efficiency of operations, but this new force was to function collaboratively within the community in order to build relationships. He developed nine key principles that guided the department, allowing for a military-structured organization to function in a civilian environment. Peel's principles are:

1. The basic mission for which police exist is to prevent crime and disorder as an alternative to the repression of crime and disorder by military force and severity of legal punishment.

2. The ability of police to perform their duties is dependent upon public approval of police existence, actions, behavior and the ability of police to secure and maintain public respect.

3. The police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain public respect.

4. The degree of cooperation of the public that can be secured diminishes, proportionally, to the necessity to use physical force in compulsion of police objectives.

5. The police seek and preserve public favor, not by catering to public opinion, but by constantly demonstrating absolutely impartial service to

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[7] "Procedural Justice," COPS, accessed February 7, 2018, https://cops.usdoj.gov/ Default.asp?Item=2866.

the law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws; by readily offering of individual service and friendship to all members of society without regard to their race or social standing; by ready exercise of courtesy and friendly good humor; and by readily offering individual sacrifice in protecting and preserving life.

6. The police should use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found insufficient to achieve police objectives; and police should use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.

7. The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police are the only members of the public who are paid to give full time attention to the duties that are incumbent on every citizen in the interests of community welfare.

8. The police should always direct their actions toward their functions and never appear to usurp the powers of the judiciary by avenging individuals or the state, or authoritatively judging guilt or punishing the guilty.

9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with them.[8]

The wide acceptance of his principles earned Peel the moniker "father of modern policing."[9] Agencies around the world, including law enforcement agencies in the United States, have adopted Peel's nine values. Similar to English society, early settlements in the United States did not have structured police agencies. Policing was done by community volunteers and night watchmen, who were largely funded by private businesses, not by governments.[10] As a rule, they were not responsive to the community or focused on community interests; rather, they protected the interests of business owners. In the most

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[8] "Sir Robert Peel's Nine Principles of Policing," Criminal Justice Law International, accessed July 12, 2018, http://criminaljusticelaw.org/enforcement/police-history/peels-nine-principles-policing/.

[9] "Sir Robert Peel's Policing Principles," Law Enforcement Action Partnership, accessed July 12, 2018, https://lawenforcementactionpartnership.org/peel-policing-principles/.

[10] Victor E. Kappeler, "A Brief History of Slavery and the Origins of American," Police Studies Online, January 7, 2014, https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing.

extreme cases, the police led slave patrols and used extreme violence to promote the interests of the wealthy.

Steven Carter believes that all police training should begin with a history lesson to help new officers understand the origin of policing in America.[11] He believes police officers must know that "the police system we have today grew out of a community organization of Southern white men who desired to maintain slavery by terrorizing blacks and controlling them with violence."[12] For example, under slave laws, several states made it legal for a white person to kill a black person for no reason, taking away the basic human rights of African Americans in the eyes of the law. It was not just blacks who were abused and killed by early police forces. In frontier towns, police patrolled at night to protect white settlers from Native Americans.[13] Even though the police and the laws no longer support many of these historical practices, the legacy of poor behavior is still felt in minority communities today. Police who use tactics of oppression and control can remind minority communities of past practices, and such practices will be magnified if there is not a mutual understanding and acceptance of police tactics and policies.

As cities grew, the need for career policing became apparent—and the profession began to take its modern shape.[14] The first full-time, funded police agency in the United States was the Boston Police Department, formed in 1838.[15] The department consisted of 250 white officers, with limited training.[16] Having city governments fund policing allowed businesses to transfer the cost of protecting their goods to the taxpaying community. Officials went on to restructure police departments, turning them into the bureaucratic

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[11] Jessica Dixon Weaver, "Police Training Should Start with a History Lesson on Slavery Laws," The Root, accessed October 10, 2018, https://www.theroot.com/police-training-should-start-with-a-history-lesson-on-s-1795970036.

[12] Weaver.

[13] Kappeler, "A Brief History of Slavery."

[14] Olivia B. Waxman, "How the U.S. Got its Police Force," *Time*, May 18, 2017, http://time.com/4779112/police-history-origins/.

[15] Waxman.

[16] "Brief History of the Boston Police," City of Boston, accessed April 14, 2019, https://www.boston.gov/departments/police/brief-history-boston-police.

government agencies that are present in the United States today. These agencies were isolated from political influence by structure and policy.[17] For example, it became illegal in many states for a council member to direct the actions of police officers—giving a measure of separation between political influence and the use of police power. An unintended consequence of separating police from politics was that police agencies also became separated from community influence, becoming "inward looking" and "isolated from the public."[18] While these practices helped to remove the influence of the wealthy, today they also limit the responsiveness to community interests, particularly among minority communities already unrepresented in police organizations.

The war on drugs, which began under the Nixon administration in 1971, put increased pressure on the relationship between minorities and police. The extreme focus on drugs as a societal evil led to mass incarcerations for nonviolent drug offenses, which disproportionately affected minority groups. The focus on this "war" led to more militarization of police and extreme approaches to solve the drug problem through police action.[19] The jail population for drug offenses increased from 50,000 in 1980 to more than 400,000 in 1997.[20] As a result of drug policy and the focus on inner-city neighborhoods, nearly 80 percent of people in federal prison and 60 percent of people in state prison for drug offenses are black or Latino.[21] In the eyes of many critics, the war on drugs essentially replaced the past with a new set of laws that disproportionately affect minority communities.

Given the history of policing and general inequality in the United States, the idea of putting blacks into senior police positions did not take hold until recently. To be sure, a few black officers took up policing as far back as the 1860s, but they had little influence

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[17] Waxman, "How the U.S. Got its Police Force."

[18] Waxman.

[19] "A Brief History of the Drug War," Drug Policy Alliance, accessed October 10, 2018, http://www.drugpolicy.org/issues/brief-history-drug-war.

[20] Drug Policy Alliance.

[21] "Race and the Drug War," Drug Policy Alliance, accessed October 10, 2018, http://www.drugpolicy.org/issues/race-and-drug-war.

and were often relegated to policing only in black communities. They were not allowed to promote or transfer, leaving almost no opportunity to change the department or influence the institution of policing. It was not until the 1960s, when black mayors were elected in several major municipalities, that upper-level police administration began to see meaningful black influence.[22] Still, minorities remain under-represented in policing and particularly in leadership positions today.[23]

C.   RACIAL TENSIONS

In the fifty-five years since the 1964 Civil Rights Act, America has not achieved racial parity. Nikole Hannah-Jones states, "Policing is the most enduring aspect of the struggle for civil rights. Black people often see police as the face of larger systems of inequity in the justice system, employment, education and housing."[24] Minority workers routinely make less than white workers and have dramatically less accumulated wealth than their white counterparts.[25] In times of economic growth, Asian and white Americans have much lower unemployment rates than black and Hispanic citizens.[26]

The disparate outcomes of being minority in America can be seen in education, finance, and the criminal justice system. Black and Hispanic youths are more likely than their white peers to drop out of high school, limiting their opportunities.[27] They pay higher

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[22] Taylor Hosking, "The Long History of Black Officers Reforming Policing from Within," *Atlantic*, December 5, 2017, https://www.theatlantic.com/politics/archive/2017/12/the-long-history-of-black-officers-reforming-policing-from-within/547457/.

[23] Victoria Bekirmpis, "The New Racial Makeup of U.S. Police Departments," *Newsweek*, May 14, 2015, http://www.newsweek.com/racial-makeup-police-departments-331130.

[24] Nikole Hannah-Jones, "Taking Freedom: Yes, Black America Fears the Police. Here's Why," *Pacific Standard*, April 10, 2018, https://psmag.com/social-justice/why-black-america-fears-the-police.

[25] Valerie Wilson, "Racial Inequalities in Wages, Income, and Wealth Show That MLK's Work Remains Unfinished," Economic Policy Institute, January 11, 2018, https://www.epi.org/publication/racial-inequalities-in-wages-income-and-wealth-show-that-mlks-work-remains-unfinished/.

[26] Kellie Ell, "April's Jobs Report Shows Racial Inequalities in Unemployment Rate," CNBC, May 4, 2018, https://www.cnbc.com/2018/05/04/aprils-jobs-report-shows-racial-inequalities-in-unemployment-rate.html.

[27] See the indicator for May 2018 in Commissioner of the National Center for Education Statistics, "The Condition of Education: Status Dropout Rates," National Center for Education Statistics, accessed July 12, 2018, https://nces.ed.gov/programs/coe/indicator_coj.asp.

rates for mortgages and are routinely subjected to predatory lending practices.[28] In areas of criminal law, minorities are more likely to be subjected to the criminal justice system than their white counterparts. For example, roughly 10 percent of both blacks and whites use illicit drugs, but blacks are arrested for drug crimes at a rate of 879 per 100,000 while whites are arrested at a rate of just 332 per 100,000.[29] Thus, criminal justice discussions must account for the overall status of race in the United States to illuminate the impact of police actions on the individual level.

Criminal behavior is more prevalent in minority communities, in terms of both people who commit crimes and those who are victims crimes. For example, despite comprising only 13 percent of the overall population, blacks represent more than 50 percent of all homicide victims.[30] Edwin Rubenstein states, "The overwhelming majority of black homicide victims (93 percent from 1980 to 2008) were killed by blacks."[31] The crime victimization data suggest that if police are not deemed legitimate, many victims will be unwilling to seek assistance from the criminal justice system, which relies extensively on cooperation to effectively solve crimes after they occur.[32] Without confidence in the system, police will miss opportunities to intervene prior to crimes of violence.

D. THE USE OF FORCE

Minorities, particularly in the black community, experience force at the hands of police at a much higher rate than the overall population. Police shoot and kill approximately

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[28] Jeff Guo, "If You're Poor, Your Mortgage Rate Can Depend on the Color of Your Skin," *Washington Post*, December 23, 2014, https://www.washingtonpost.com/news/storyline/wp/2014/12/23/if-youre-poor-your-mortgage-rate-can-depend-on-the-color-of-your-skin/.

[29] German Lopez, "There Are Huge Racial Disparities in How U.S. Police Use Force," Vox, September 11, 2018, https://www.vox.com/cards/police-brutality-shootings-us/us-police-racism.

[30] Matthew Cella and Alan Neuhauser, "Race and Homicide in America, by the Numbers," *U.S. News & World Report*, September 29, 2016, https://www.usnews.com/news/articles/2016-09-29/race-and-homicide-in-america-by-the-numbers.

[31] Edwin S. Rubenstein, "The Color of Crime, 2016 Revised Edition," American Renaissance, accessed July 25, 2019, https://www.amren.com/archives/reports/the-color-of-crime-2016-revised-edition/.

[32] Jonathan Jackson et al., "Why Do People Comply with the Law? Legitimacy and the Influence of Legal Institutions," *British Journal of Criminology* 52, no. 6 (2012): 1051–71.

1,000 American citizens every year.[33] Blacks represent 31 percent of those killed by police despite representing only 13 percent of the general population.[34] When looking only at the percentage of the overall population, these statistics support the argument that police are disproportionately killing minority Americans. Moreover, police kill more unarmed minorities than whites. In 2015, minorities represented more than 37 percent of the overall population but represented more than 62 percent of those who were unarmed when killed by police.[35] German Lopez states, "The disparities and high-profile killings have fostered concerns that black lives matter less to police, and the next victim of a police shooting could be just about any black American."[36]

On July 17, 2014, Officer Daniel Pantaleo, a white New York City Police Department (NYPD) officer, used an unapproved chokehold on Eric Garner, a black man. Garner was being detained for the misdemeanor offense of selling untaxed cigarettes. During the arrest, Officer Pantaleo held Garner's neck, restricting his airway. Garner repeatedly said he could not breathe. He was handcuffed and eventually died from the lack of oxygen during his arrest, caused by chest compression and airway restriction.[37] The initial police report failed to address the officer's contributions to the man's death, blaming it on Garner's medical condition. Despite the unapproved tactics used by the officer, no criminal charges were filed. This incident led to national protests during which participants chanted "I can't breathe."[38]

On August 9, 2014, Officer Darren Wilson, a white police officer with the Ferguson Police Department in Missouri, shot and killed Michael Brown, an eighteen-year-old black

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[33] *Washington Post*, "Police Shootings 2016 Database."

[34] Lopez, "Huge Racial Disparities."

[35] Lopez.

[36] German Lopez, "What Were the 2014 Ferguson Protests About?" Vox, January 27, 2016, https://www.vox.com/cards/mike-brown-protests-ferguson-missouri/mike-brown-ferguson-MO-protests.

[37] Kathleen O'Reilly, "Transparency, Accountability, and Engagement: A Recipe for Building Trust in Policing" (master's thesis, Naval Postgraduate School, 2017), 1.

[38] Al Baker, J. David Goodman, and Benjamin Mueller, "Beyond the Chokehold: The Path to Eric Garner's Death," *New York Times*, June 13, 2105, https://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html.

man. The exact series of events that led to the shooting of Brown have been investigated, yet the outcome of that investigation has been hotly contested. Some witnesses reported that Brown was standing, facing the officer, and following commands—with his hands in the air—when he was shot. After a local investigation failed to file charges against Officer Wilson, the Department of Justice reviewed the case. Ultimately, no charges were filed against Officer Wilson on either the local or federal level. Despite being one incident in a small town, the case triggered a series of nationwide protests, drawing criticisms of racism and bias throughout the criminal justice system. This case also focused on a lack of racial representation, with a predominately black community being policed by an almost entirely white police department.[39] This incident led to a movement among protesters messaging "Hands up—don't shoot."

On April 12, 2015, Freddie Gray, a twenty-five-year-old black male, died in the custody of the Baltimore Police Department. Following his arrest for carrying an illegal knife, his hands and feet were shackled, and he was transported unrestrained. He was then given a "rough ride" on his way to the jail, a practice of leaving prisoners unbelted and taking a series of sharp turns. This practice is reportedly common as a way of addressing disrespect toward officers.[40] Upon arriving at the jail, the transport officers found Gray in cardiac arrest and neglected to give him prompt medical attention. He died one week later from injuries sustained in police custody. An autopsy revealed his death was caused by a severe neck injury—how the injury happened was never determined. Several officers were charged in his death, including white and minority officers. All were either acquitted or their charges were dropped. Gray's death led to national protests of police brutality against young blacks.[41]

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[39] Lopez, "2014 Ferguson Protests."

[40] Baynard Woods, "'Rough Ride': Practice Linked to Freddie Gray's Death at the Center of Latest Trial," *Guardian*, June 9, 2016, https://www.theguardian.com/us-news/2016/jun/09/freddie-gray-death-trial-rough-ride-baltimore-police.

[41] John Cox, Lynh Bui, and DeNeen Brown, "Who Was Freddie Gray? How Did He Die? And What Led to the Mistrial in Baltimore?" *Washington Post*, December 16, 2015, https://www.washingtonpost.com/local/who-was-freddie-gray-and-how-did-his-death-lead-to-a-mistrial-in-baltimore/2015/12/16/b08df7ce-a433-11e5-9c4e-be37f66848bb_story.html.

Pew Research surveys demonstrate the large divide between the police and the public in the perception of major use-of-force incidents. Nearly 72 percent of American police officers believe the deadly police shootings that have drawn national attention are isolated incidents and not part of a larger problem. Only 44 percent of the public and only 18 percent of black citizens support that position.[42] Even within policing, officers view force differently along racial lines. Black police officers appear more in line with the public, with only 43 percent of them supporting the position that these incidents are isolated.[43] In response to a related question, 92 percent of white officers said the country has made the changes necessary to give blacks equal rights with whites. Only 12 percent of the black population agrees.[44] These stark facts demonstrate the disconnect between police and black citizens on the use of force and racial equality in the United States.

All of these events described above involved young black men who died at the hands of police officers. In each case, the community called for actions against the police, and in each case the officers were not held accountable for the deaths. Each triggered national protests, violent interactions between police and the public, and rioting. The reaction to these events draws out a problem in the relationship between police and the community. The discussion thus turns to racism among American law enforcement, with allegations of brutality and aggressiveness used to oppress minority citizens. These allegations constitute a crisis for law enforcement. The power of these events to draw national outrage demonstrates the level of strain in the relationship between law enforcement and communities of color.

While the issue of racial tension is not unique to the United States, the use of force is. In the first twenty-four days of 2015, American police killed more citizens than British

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[42] John Gramlich, "Black and White Officers See Many Key Aspects of Policing Differently," Pew Research Center, January 12, 2017, http://www.pewresearch.org/fact-tank/2017/01/12/black-and-white-officers-see-many-key-aspects-of-policing-differently/.

[43] Gramlich.

[44] Gramlich.

and Welsh police have in the last twenty-four years combined.[45] German police kill about ten citizens per year, with most demonstrating clear evidence of a mental health crisis.[46] One author states, "The rate of killings by police with firearms in the United States—or anyone—is insanely high when compared to other developed countries."[47] Thus, factors other than just the race of the individuals are involved in understanding the relationship between American police and communities of color.

E. RESEARCH DESIGN

This thesis posits that there is a link between increasing police legitimacy and decreasing negative outcomes during police-citizen encounters. It uses an appreciative inquiry approach to explore how applying procedural justice to hiring and training practices can increase legitimacy. It calls for more than a policy change: it calls for a systematic organizational and cultural change. According to Diane Whitney, "Organizational transformation is more than critical mass of personal transformation. It requires macro-level changes in the very fabric of organizing, the social architecture."[48]

This thesis applies a four-step process—discovering, dreaming, designing, and delivering—to enhance several current police structures.[49]

- *Discovering*: This thesis examines current policy and practice in law enforcement hiring and training, identifying the disconnections between the community and the police who serve its members. It outlines the

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[45] Jamiles Lartey, "By the Numbers: U.S. Police Kill More in Days Than Other Countries Do in Years," *Guardian*, June 9, 2015, http://www.theguardian.com/us-news/2015/jun/09/the-counted-police-killings-us-vs-other-countries.

[46] Milan Gagnon, "Police in Germany Kill More Than You Think," Deutsche Welle, May 14, 2017, http://www.dw.com/en/police-in-germany-kill-more-than-you-think/a-38822484.

[47] Kuang Keng Kuek Ser, "WheniIt Comes to Police Shootings, the U.S. Doesn't Look Like a Developed Nation," Public Radio International, July 13, 2016, https://www.pri.org/stories/2016-07-12/when-it-comes-police-shootings-us-doesnt-look-developed-nation.

[48] David L. Cooperrider, Diana Whitney, and Jacqueline M. Stavros, *Appreciative Inquiry Handbook: For Leaders of Change*, 2nd ed. (Brunswick, OH: Crown Custom Publishing, 2008), 6, https://books.google.com/books/about/The_Appreciative_Inquiry_Handbook.html?id=EpB-vPPKPaQC.

[49] Cooperrider, Whitney, and Stavros, 6.

impact of not using procedurally just practices in hiring and training, and the impact on legitimacy.

- *Dreaming*: Next, the thesis demonstrates the impact of greater application of procedurally just practices in hiring and training on police legitimacy. It identifies how the police can achieve a greater level of legitimacy. It explores the cause-and-effect relationship between legitimacy and compliance.

- *Designing*: Next, the thesis creates structures that apply the elements of procedural justice to hiring and training. It utilizes the lessons learned from the application of procedural justice in other environments. It evaluates effective practices in diversity recruitment programs and the limits.

- *Delivering*: Finally, the thesis makes policy recommendations for recruiting, hiring, and training officers that can be applied to any police agency to improve the perception of legitimacy. It demonstrates that procedural justice and representation are essential to improving legitimacy.

The intent of this thesis is not, though this body of work, to eliminate force; the author recognizes that there are times, places, and circumstances in which force is an unavoidable outcome. The focus is, instead, to reduce the need for force application through better relationship development between the police and the communities they serve. This thesis is not a study of use-of-force dynamics or tactics. Despite the correlation between legitimacy and crime rates, this work does not address the crime-reduction effects of increased legitimacy. Rather, this work focuses on the potential reduction in negative outcomes for both police and community members during their encounters as a byproduct of increasing police legitimacy.

F.   CHAPTER OUTLINE

Chapter II explores how the relationship between police and the community is affected by bias. It posits that as confidence and legitimacy increase, the need to use force decreases. Chapter III explores the structural problems with the hiring and training systems that prevent optimization of the procedural justice concepts. Chapter IV reviews four cases in which procedural justice principles are being effectively employed to increase positive contacts with the community, hire the correct people for the job, and train officers in the best practices to meet the community's needs. Chapter V analyzes case studies for trends and explores how to achieve a synergistic effect from building an organizational culture around procedurally just policy and practice. From this combination, legitimacy can be maximized—resulting in decreased negative outcomes from interactions between police and their communities.

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II. BIAS IN POLICING

Legitimacy affects the willingness to comply with both the laws and those responsible for enforcing them, giving way to opportunities for reduced negative interactions between police and members of minority communities. A series of unconnected events in 2014 and 2015 demonstrated the nationwide tension between police and communities of color, putting the issue on the forefront of calls for new policing practices and oversight. This chapter identifies the connection between trust, legitimacy, and effectiveness, with legitimacy being the driver of social order. It also discusses the impacts of implicit bias on minorities in order to better understand the frustration and lack of trust minorities have in the institution of policing.

A. IMPLICIT AND EXPLICIT BIAS

Implicit bias has been heavily studied in a wide range of contexts: medicine, housing, human social interactions, education, and business transactions, to name a few. In all studies, the fundamental agreement is that implicit bias is an unconscious decision-making process through which the human mind processes information. Anthony Greenwald states in the *California Law Review*, "The assumption that human behavior is largely under conscious control has taken a theoretical battering in recent years."[50]

Part of the underlying narrative in the United States is that all police are racist, and that police intentionally use oppressive tactics to control minorities, resulting in violent encounters. Clearly defining the terms *racism* and *bias* is essential to furthering this conversation, as they are two separate concepts with very different implications. The Anti-Defamation League defines racism as "the hatred of one person by another—or the belief that another person is less human—because of skin color, language, customs, place of birth or any factor that supposedly reveals the basic nature of that person."[51] Based on this definition, racism is a conscious belief that results in intentional acts to treat people of color

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[50] Anthony G. Greenwald and Linda Hamilton Krieger, "Implicit Bias: Scientific Foundations," *California Law Review* 94, no. 4 (July 2006): 945.

[51] "Racism," Anti-Defamation League, accessed July 12, 2018, https://www.adl.org/racism.

differently or with outright contempt based solely on their skin color. While there are examples of isolated racist conduct by police officers, there is little evidence to suggest widespread racism is present in policing.

Implicit bias differs from racism, as actions are the byproduct of a subconscious decision-making process and not an intentional action. The Anti-Defamation League describes implicit bias as "attitudes and stereotypes that we carry around with us unconsciously. These mental associations influence our perceptions, actions and decisions, yet because implicit biases are unconscious and involuntary activated, we are not even aware they exist."[52] Unlike racism, implicit biases are present in all people and influence their actions unconsciously, whether they consciously hold those beliefs or not.[53] Christine Jolls and Cass Sunstein from Yale Law School demonstrate that bias can operate counter to one's conscious beliefs. That is, a person may truly believe he or she has no bias against a visible trait but will still demonstrate behaviors that indicate a bias toward it.[54] Therefore, while the actions of a police officer are influenced by race, those actions could be completely unintentional and even counter to the officer's stated beliefs.

Implicit association testing (IAT) is a method used to uncover subconscious. Harvard University states that IAT "measures attitudes or beliefs that people may be unwilling or unable to report."[55] This simple test measures a person's preferences and reactions to such traits as race, age, and weight through word association. For instance, a person is asked to respond to the word *pleasant* when it is presented in conjunction with images of both black and white people. The system measures responses and speed of responses to see how people associate positive and negative words with different images.[56]

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[52] Cheryl Staats, "State of the Science: Implicit Bias Review 2014" (report, Kirwan Institute for the Study of Race and Ethnicity, 2014): 70.

[53] Staats, 73.

[54] Christine Jolls and Cass R. Sunstein, "The Law of Implicit Bias," *California Law Review* 94, no. 4 (July 2006): 969–96, https://doi.org/10.2307/20439057.

[55] "Project Implicit," Harvard University, accessed October 6, 2018, https://implicit.harvard.edu/implicit/education.html.

[56] Anthony G. Greenwald, Brian A. Nosek, and Mahzarin R. Banaji, "Understanding and Using the Implicit Association Test: I. An Improved Scoring Algorithm," *Journal of Personality and Social Psychology* 85, no. 2 (2003): 197–216, https://doi.org/10.1037/0022-3514.85.2.197.

This analysis exposes trends and subconscious associations. Based on Harvard University's extensive data from more than a million people from all racial groups, the test has demonstrated that "most people tend to prefer white to African-American."[57] This preference shows up when both white and black people take the test. While the IAT does not study discriminatory actions, it does identify the presence of implicit bias.

Many researchers also believe that racism is still prevalent, yet is has morphed from overt, publicly unacceptable actions into a more subtle series of behaviors, known as symbolic racism.[58] According to this theory, conscious thoughts—for example, the thought that blacks have achieved parity—can lead to apathy toward clearly discriminatory practices. These thoughts can be measured through a test that uses the modern racism scale (MRS), which asks questions about underlying beliefs about blacks in relation to traditional America values. The test asks participants to respond to such statements as "It's just a matter of some people not trying hard enough; if blacks would only try harder they could be just as well off as whites."[59] The implication is that the individual is failing to achieve success available equally to all Americans. Through measuring the responses, researchers can better predict discriminatory behaviors.

In the context of using force, Josh Correll et al. were able to demonstrate that implicit bias can influence how the police make decisions in use-of-force incidents. Correll et al.'s study asked police officers to make use-of-force decisions after showing them images of young men. In some of the images, the youths held cell phones and wallets; in others, they held guns. The study found that police officers are more likely to shoot a black male who is holding a non-threatening object and more likely to give a white male the benefit of the doubt. Correll et al.'s work shows that bias does affect how force is used in

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[57] Jolls and Sunstein, "The Law of Implicit Bias," 971.

[58] "Symbolic and Modern Racism," Encyclopedia.com, accessed November 25, 2018, https://www.encyclopedia.com/social-sciences/encyclopedias-almanacs-transcripts-and-maps/symbolic-and-modern-racism.

[59] Encyclopedia.com.

critical situations.[60] More importantly, they demonstrate that black youths are more likely to have a negative outcome than white youths in the same use-of-force situation. Figure 1 includes all of the images used in Correll et al.'s study. Each image was shown separately to participants on a screen.

Figure 1.   Images Utilized in Correll et al.'s Study[61]

As depicted in Figure 1, the men are in similar positions and similar clothing. When the images are flashed, the only significant difference is the race of the person holding the item in hand, isolating race as the variable in making the use-of-force decision.

The extent to which implicit bias plays a role in the use of force is difficult to assess. In 2016, Ronald Fryer, Jr., attempted to show that by analyzing race, neighborhood demographics, and crime rates, he could prove statistically that racial bias was evident in police officers' decisions to use force. He used multiple datasets to correlate use of force and race statistically—including NYPD's Stop and Frisk Program, the Public-Police

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[60] Joshua Correll et al., "Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot," *Journal of Personality and Social Psychology* 92, no. 6 (June 2007): 1108, http://dx.doi.org/10.1037/0022-3514.92.6.1006.

[61] Source: Joshua Correll et al., "The Influence of Stereotypes on Decisions to Shoot," *European Journal of Social Psychology* 37, no. 6 (November 2007): 1008, https://doi.org/10.1002/ejsp.450.

Contact Survey, an independent review of officer-involved shootings in fifteen cities, and the Houston Police Department's arrest data.[62] In his work, he was attempting to prove the presence of bias through a mathematical model. After comparing all the data, Fryer determined there was no statistical evidence of racial disparity in police shootings. He called the results the "most surprising of his career."[63] Other scholars question Fryer's techniques, particularly focusing on his mathematical assumptions.[64] Even though his study did not demonstrate bias in shooting incidents, it did show clear bias in lower-level decision-making, including the use of handcuffing, pepper spray, striking, and baton use, with officers using these levels of force statistically more against minorities than whites.[65] Another take-away was that there was a greater need to use lower levels of force to achieve compliance within minority communities. The need to use force at any level to coerce compliance is indicative of a lack of willingness to comply with police authority.

Professors at Rutgers University conducted a series of experiments to see whether they could reduce the impact of bias by exposing students to white and black professors in a racial awareness seminar.[66] Students were evaluated for implicit bias with the IAT and explicit bias through MRS. The researchers had students complete both tests and then put them in classes about reducing racism, taught by minority and white professors. The students underwent the tests again after the course to determine its effect on their biases. Following the course taught by a black professor, the students reported a more conscious awareness of their biases and demonstrated a corresponding decrease in their bias in IAT and MRS testing.[67] While all students showed reduced subconscious bias from the

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[62] Roland G. Fryer Jr., "An Empirical Analysis of Racial Differences in Police Use of Force" (working paper, National Bureau of Economic Research, 2016), 7, http://www.nber.org/papers/w22399.

[63] Fryer.

[64] Justin Feldman, "Roland Fryer Is Wrong: There Is Racial Bias in Shootings by Police," Scholars at Harvard, July 12, 2016, https://scholar.harvard.edu/jfeldman/blog/roland-fryer-wrong-there-racial-bias-shootings-police.

[65] Fryer, "Empirical Analysis of Racial Differences," 21.

[66] Laurie A. Rudman, Richard D. Ashmore, and Melvin L. Gary, "'Unlearning' Automatic Biases: The Malleability of Implicit Prejudice and Stereotypes," *Journal of Personality and Social Psychology* 81, no. 5 (2001): 858, https://doi.org/10.1037//0022-3514.81.5.856.

[67] Rudman, Ashmore, and Gary, 858.

material, those exposed to a positive black role model showed much higher levels of impact. The researchers' findings "strongly support the hypothesis that people can unlearn both explicit and implicit prejudice in real world contexts."[68] In other words, both training and positive role models reduce bias and the effect of bias on actions.

Another study from the University of Wisconsin–Madison, showed a long-term reduction in explicit and implicit bias using a coordinated, multifaceted approach.[69] Researchers evaluated bias using IAT and then conducted a seminar in which they taught five different strategies to reduce biases and prejudices. These five strategies were used for the intervention:

- Stereotype replacement: Recognizing stereotypes, labeling them as such, and considering how to avoid them in a future response

- Countering stereotypical imaging: Providing positive examples from within the stereotyped group and challenging the stereotype

- Individualism: Obtaining specific information about people as individuals and forcing the evaluation to be about the person, not the group's attributes

- Perspective taking: Taking a mental walk in the shoes of the other person and understanding situations from his or her perspective

- Increased opportunities for contact: Seeking opportunities to encounter and have positive interactions with members of the stereotyped group[70]

Researchers then tested candidates for bias after the seminar. The results of the study demonstrated an immediate reduction in implicit bias and an increase in awareness of discrimination. Follow-up testing several weeks after the seminar demonstrated the results were still present, showing stability over time from the training and strategies.[71] This research provides a roadmap for overcoming the impact of implicit bias. Most of these

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[68] Rudman, Ashmore, and Gary, 864.

[69] Patricia G. Devine et al., "Long-Term Reduction in Implicit Race Bias: A Prejudice Habit-Breaking Intervention," *Journal of Experimental Social Psychology* 48, no. 6 (November 2012): 1267, https://doi.org/10.1016/j.jesp.2012.06.003.

[70] Devine et al.

[71] Devine et al.

techniques could be accomplished organically through positive interactions between the police and minority communities.

The body of research is clear that implicit bias is present in all people and affects their decision-making process, subconsciously filtering an overwhelming amount of information. Based on the numerous variables that influence crime and human interaction, it is difficult to use statistics that only look at outcomes to evaluate the causation. Based on the unlimited variables influencing crime and human interaction, it is difficult to use statistics that only look at outcomes to evaluate the causation. What is not disputed is that implicit bias is a factor in human behavior and likely influential in creating the racially disproportionate outcomes in police use of force. There are several bodies of research that show implicit bias is not fixed and can be influenced. Correll et al.'s work specifically demonstrates that the effects of implicit bias can be reduced over time.[72]

B.   POLICE CONTACTS AND CONFIDENCE

Direct and vicarious contact with police are both important to police relations. Negative contacts with police lower the confidence levels of both individuals and their social and familial contacts. Positive contacts with police, however, do not appear to have a corresponding positive impact on confidence levels.[73] Therefore, it is important to decrease negative contacts with law enforcement, perhaps even more so than to increase positive ones. The implication is that police officers in neighborhood roles may do more to affect police relations by reducing negative incidents and contacts. The reality is that most inner-city youths do not have direct experiences with police brutality yet have a very real belief that it is a regular occurrence in their community. These feelings come from third-hand reports, vicarious contacts, and from others in their community. The youth report knowledge of brutality that they have never witnessed and that runs counter to their

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[72] Correll et al., "Across the Thin Blue Line."

[73] Joel Miller et al., *Public Opinions of the Police: The Influence of Friends, Family, and News Media* (New York: Vera Institute of Justice, 2004), 3, https://www.ncjrs.gov/pdffiles1/nij/grants/205619.pdf.

personal experiences with police.[74] This presents a complex challenge for the police, as they have to change their impression in minority communities—not just the reality but also the narrative.

Every two years, the Bureau of Justice Statistics conducts the most complete study of police contact, called the Police-Public Contact Survey. This phone survey interviews approximately 50,000 people who have interacted with police in the prior year to help law enforcement understand the contacts and the perceptions of police behavior. The subjects responding to the survey represent all regions of the country, all races, and all types of contacts and outcomes.[75] The study has found that police interactions with the public are roughly proportional to the racial makeup of society, and the police are not disproportionately targeting minorities for interaction.[76] After reviewing the report, the *National Review*'s Ian Tuttle concluded the evidence did not "turn up … an epidemic of racist cops."[77] The largest dataset available does not support that police are disproportionately singling out minorities for contact.

Neighborhood and group association is a strong influencer of perceptions of police. People's impression of the police has been quite stable over time, and the media appear to have little long-term impact on confidence in police.[78] Neighborhood and racial groups have the most powerful effect on confidence in police.[79] In evaluating how police can shape public opinion, the Department of Justice concludes, "Instead of relying on media for their opinion, residents appeared to react primarily to their own experiences and

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[74] Rod K. Brunson, "'Police Don't Like Black People': African-American Young Men's Accumulated Poilce Experience*," *Criminology & Public Policy* 6, no. 1 (February 2007): 91, https://doi.org/10.1111/j.1745-9133.2007.00423.x.

[75] Langton and Durose, *Police Behavior*, 13.

[76] Langton and Durose.

[77] Ian Tuttle, "The DOJ's Policing Statistics Don't Lie," *National Review*, December 9, 2014, https://www.nationalreview.com/2014/12/dojs-policing-statistics-dont-lie-ian-tuttle/.

[78] Miller et al., *Public Opinions of the Police*.

[79] Bradley Edwards, "Media: Effects on Attitudes toward Police and Fear of Criminal Victimization" (master's thesis, East Tennessee State University, 2007), 88, https://dc.etsu.edu/etd/2048/.

expectations in performing opinions about their local police."[80] That same work also confirms that the perception of trust in the police closely relates to race and ethnicity.

Both police and minority communities appear to suffer from a confirmation bias based on their social group association. A confirmation bias is a "tendency to cherry pick information that confirms … existing beliefs or ideas."[81] The majority of the public believes the events in New York, Ferguson, and Baltimore are indicative of a broader problem in policing.[82] Gallup's polling found overall confidence in police was at historical averages in 2017, but minority confidence was substantially lower than white confidence. That gap in confidence is also growing: white confidence is increasing while both Hispanic and black confidence is falling.[83] Gallup's findings are echoed by the Pew Research Center, which found the perception of the police is nearly twice as positive among white communities than it is in black communities.[84] The falling levels of support in the minority community are particularly concerning, as a lack of confidence leads to a lack of compliance—likely leading to more negative interactions.

C.   LEGITIMACY

The study of confidence closely aligns with the academic study of legitimacy. Tom Tyler is widely recognized for his work in this field. He summarizes the basic concept as follows: "First, legitimacy involves belief that police officers are honest, trustworthy and concerned for the well-being of the people they deal with. Second, legitimacy involves a belief that police authority ought to be accepted and people should voluntarily defer to

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[80] Cheryl Maxson, Karen Hennigan, and David C Sloane, *Factors That Influence Public Opinion of the Police* (Washington, DC: U.S. Department of Justice, 2003), 11, https://www.ncjrs.gov/pdffiles1/nij/197925.pdf.

[81] "Confirmation Bias and the Power of Disconfirming Evidence," *Farnam Street* (blog), May 24, 2017, https://fs.blog/2017/05/confirmation-bias/.

[82] Gramlich, "Black and White Officers."

[83] Jim Norman, "Confidence in Police Back at Historical Average," Gallup, July 10, 2017, http://news.gallup.com/poll/213869/confidence-police-back-historical-average.aspx.

[84] Hannah Fingerhut, "Deep Racial, Partisan Divisions in Americans' Views of Police Officers," Pew Research Center, September 15, 2017, http://www.pewresearch.org/fact-tank/2017/09/15/deep-racial-partisan-divisions-in-americans-views-of-police-officers/.

police decision and directions."[85] Therefore, legitimacy is essential for both the positive perception of police among the public and the compliance of the public when police exercise their authority. For people to comply willingly with the police, they have to believe the underlying individuals and institutions are legitimate.

It is apparent based on data contained in a 2011 Bureau of Statistics study that the perception of police interactions varies greatly across racial lines.[86] Black citizens are less likely than their white counterparts to believe a contact with the police was for a legitimate purpose; 90 percent of white citizens believe traffic stops were for legitimate reasons while only 83 percent of black citizens believe the stops were legitimate.[87] The perception of legitimacy by race is more pronounced on street stops, with black citizens reporting a belief that the contact was legitimate only 37 percent of the time, verses white citizens believing the stop was legitimate 77 percent of the time. Despite the high number of citizens reporting inappropriate conduct, only 2.8 percent reported the perceived violation. Black citizens also reported a high level of force and inappropriate conduct on the survey but acknowledged that they had not reported the incidents to the agency.[88] The survey did not directly ask about trust in the oversight systems, but the results are consistent with a lack of trust among minority communities in the oversight systems to address their concerns.

Legitimacy is directly linked to the need to use force. Tyler's work has demonstrated that legitimacy drives compliance with police who are exercising their authority. The results of the Police-Public Contacts Survey suggest the perception of legitimacy varies greatly depending on the race of the person being interviewed, with Hispanic and black drivers substantially less likely to believe officers have stopped them for legitimate reasons. Street stops present an even more glaring gap in perceptions of legitimacy, with only 37 percent of black citizens believing the police had stopped them

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[85] Tyler, "Trust and Legitimacy," 256.

[86] Langton and Durose, *Police Behavior*, 3.

[87] Langton and Durose, 3.

[88] Langton and Durose, 3.

on the street for a legitimate reason.[89] British researchers studying legitimacy concluded that a contact not perceived as legitimate results in a greater need to use force to achieve compliance.[90] Based on the academic research, the use of force on minority communities could be a byproduct of both bias and a lack of legitimacy.

All authorities and systems must achieve a level of legitimacy to achieve compliance. Jonathan Jackson and several British researchers studied the connection between legitimacy and procedural justice. In publishing their results, they stated, "Legitimacy is commonly defined in political science and sociology as the belief that a rule, institution or leader has the right to govern. It is a judgement by an individual about the rightfulness or a hierarchy between a rule and ruler and its subject and the subordinate's obligation toward the rule or ruler."[91] Therefore, legitimacy is based on perceptions of those who are asked to follow the guidance of the institution. Simply put, legitimacy must be earned and maintained based on this definition—it is not assumed. In the minority view of policing, there has to be an advantage to the individual—and group—to honor the individual contract between the government and the individual. Therefore, if the group that is subject to policing tactics does not see the behavior as necessary for achieving order, but rather as a way of oppressing the group, it will see such actions as illegitimate.

Legitimacy is an important factor in police-community relationships and their overall effectiveness. Tom Tyler and Jeff Fagan define legitimacy as "the feeling of obligation to obey the law and to defer to the decisions made by legal authority."[92] Jason Sunshine and Tom Tyler have conducted extensive research and published several studies on the topic of police legitimacy. Their research shows legitimacy influences both the willingness to work with the police following a crime and the willingness to comply with

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[89] Langton and Durose, 3.

[90] Jackson et al., "Why Do People Comply with the Law," 8.

[91] "Legitimacy," Encyclopedia Princetoniensis, accessed July 13, 2018, https://pesd.princeton.edu/?q=node/255.

[92] Tom R. Tyler and Jeffrey Fagan, "Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?" *Ohio State Journal of Criminal Law* 6, no. 1 (2008): 235.

the laws themselves.[93] When the police aggressively control crime by enforcing minor violations and making frequent contacts, they negatively affect legitimacy.[94] A study by Jacinta Gau and Rod Brunson in 2010 found that "respondents who believed they had done nothing wrong were more likely to defy police commands and were more likely to adopt an outwardly hostile demeanor towards the officers."[95] Even when citizens feel their encounters were appropriate, the dynamics of the interactions, particularly involving rudeness and threats, can negatively affect the perception of legitimacy.[96] Therefore, it is reasonable to conclude that a decrease in legitimacy increases the need for force and reduces the effectiveness of police.

Understanding the influence of police perception in minority communities is necessary to address the gaps in the relationship. Steven Tuch and Ronald Weitzer from George Washington University have completed several studies on the public's relationship with police. Their work demonstrated that, particularly among the black community, the perception of police is heavily influenced by both direct and vicarious exposure, more so than by media and other sources.[97] Other studies imply that socioeconomic and neighborhood grouping factors may drive views of police legitimacy more than the race factor.[98] Even if neighborhood association is the driving force in legitimacy, minority groups tend to be disproportionately represented in high-crime neighborhoods.[99] Predominately minority neighborhoods have historically experienced higher crime rates

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[93] Jason Sunshine and Tom R. Tyler, "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," *Law & Society Review* 37, no. 3 (2003): 513–48.

[94] Jacinta M. Gau and Rod K. Brunson, "Procedural Justice and Order Maintenance Policing: A Study of Inner-city Young Men's Perceptions of Police Legitimacy," *Justice Quarterly* 27, no. 2 (April 2010): 255–79, https://doi.org/10.1080/07418820902763889.

[95] Gau and Brunson, 257.

[96] Gau and Brunson.

[97] Ronald John Weitzer and Steven A. Tuch, "Racially Biased Policing: Determinants of Citizen Perceptions," *Social Forces* 83, no. 3 (June 2005): 1009–30, https://doi.org/10.1353/sof.2005.0050.

[98] Paul Jesilow, J'ona Meyer, and Nazi Namazzi, "Public Attitudes toward the Police," *American Journal of Police* 14, no. 2 (1995): 67–88.

[99] Camille Zubrinsky Charles, "The Dynamics of Racial Residential Segregation," *Annual Review of Sociology* 29 (August 2003): 167–207.

and police have responded with aggressive crime reduction strategies. Therefore, frequent direct and vicarious exposure is more likely.

Studies are inconsistent about whether legitimacy can be influenced positively based on brief encounters, but a recent body of work demonstrates a link between procedurally just interactions on traffic stops and confidence in police overall.[100] There is a body of research from several sources, as summarized by Tuch and Weitzer, that clearly shows "people's reactions to their personal experiences with police are shaped by their evaluations of the fairness of the procedures police use to exercise their authority."[101] Studies have shown that the outcome of a situation is less important than having a fair process or system.[102]

Procedural justice has been recommended in several academic and government documents as the best path forward for law enforcement. According to the National Institute for Building Community Trust and Justice, "Procedural justice focuses on the way police and other legal authorities interact with the public, and how the characteristics of those interactions shape the public's view of police, their willingness to obey the law and actual crime rates."[103] Procedural justice is a series of measures that increase the perceived and actual fairness of the system. These concepts are directly interlinked with the legitimacy of the entire criminal justice system, including the police and courts.[104] The underlying idea is to engage both parties in the process, even if just to make sure they are heard and the measures for applying authority are clear and consistent.

The cumulative body of work suggests the outcome is not the driver of satisfaction with police interaction—it is the process that is essential to achieving legitimacy. For

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[100] Lorraine Mazerolle et al., "Shaping Citizen Perceptions of Police Legitimacy: A Randomized Field Trial of Procedural Justice: Shaping Citizen Perceptions of Police," *Criminology* 51, no. 1 (February 2013): 33–63, https://doi.org/10.1111/j.1745-9125.2012.00289.x.

[101] Weitzer and Tuch, "Racially Biased Policing."

[102] Steven L. Blader and Tom R. Tyler, "A Four-Component Model of Procedural Justice: Defining the Meaning of a 'Fair' Process," *Personality and Social Psychology Bulletin* 29, no. 6 (2003): 747–58.

[103] "Procedural Justice," National Initiative, accessed January 19, 2018, https://trustandjustice.org/resources/intervention/procedural-justice.

[104] Sunshine and Tyler, "Role of Procedural Justice and Legitimacy."

instance, a study in the *International Journal of Law and Psychiatry* demonstrates that people undergoing mental health diversion are more willing to accept treatment and comply with court-ordered conditions when they feel the court system listens to them in the process.[105] When procedurally just practices are applied to offenders, they also show effectiveness in achieving desired outcomes. Raymond Paternoster, a criminology professor at the University of Maryland, demonstrated that people arrested for a domestic violence offense are more likely to comply with treatment and have reduced rates of recidivism when they believe they are treated fairly by police at the time of contact, irrespective of the arrest decision.[106] Both of these case studies demonstrate that the process is more important than the outcome when evaluating authoritative government processes.

Sunshine and Tyler have shown that legitimacy is necessary for police to be effective because it increases cooperation in solving crimes and the willingness of citizens to submit to legal authority.[107] Legitimacy is important to the discussion, as several studies show perceptions of the police and the actual data do not align. The community's perception of effectiveness must be measured against community relationships, not crime reduction strategies, as police actions often have little impact on the actual crime rate.

D.   CONCLUSION

It is clear that the United States has still not achieved racial equality in all areas, and in many cases, legacy systems are seen as evidence of further oppression of minorities. Implicit bias affects the encounters between law enforcement and minority community members, reinforcing negative beliefs and in some cases leading directly to unnecessary violent encounters between the groups. Legitimacy is developed through processes that establish trust in a system and has the ability to increase compliance with the law and those

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[105] Heathcote W. Wales, Virginia Aldigé Hiday, and Bradley Ray, "Procedural Justice and the Mental Health Court Judge's Role in Reducing Recidivism," *International Journal of Law and Psychiatry* 33, no. 4 (September 2010): 265–71, https://doi.org/10.1016/j.ijlp.2010.06.009.

[106] Raymond Paternoster et al., "Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault," *Law & Society Review* 31, no. 1 (1997): 163–204, https://doi.org/10.2307/3054098.

[107] Sunshine and Tyler, "Role of Procedural Justice and Legitimacy."

responsible for enforcing it. Police must overcome the effects of both bias and the lack of trust in the system to achieve legitimacy in communities of color. Procedural justice has been demonstrated as a way to systematically increase legitimacy and trust, offering potential to decrease negative encounters.

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III.   THE PROCEDURAL JUSTICE APPROACH

Many suggest that policing in the United States is at a crossroads where policing policies are negatively affecting the legitimacy of law enforcement, thereby decreasing citizens' desire to comply with the law.[108] This chapter identifies the gaps in procedural justice in many current police department policies and structures. These gaps have a negative effect on hiring and recruiting efforts, resulting in police agencies that do not represent their communities. The training practices for police officers further contribute to the gap between communities of color and police, as they do not foster a partnership between police and the communities they serve.

A.   WHY PROCEDURAL JUSTICE?

As policing has become more disconnected from the community, it has moved further away from the modern policing principles suggested by Robert Peel. Following a series of violent community encounters, President Obama called for a review of policing in America. A series of experts in policing convened to produce the President's Task Force on 21st Century Policing. The panel suggests that the police adopt a cultural change—from a warrior to a guardian mentality.[109] Much of what the panel suggests for American policing mirrors Peel's concepts from 200 years before:

> The final report calls for law enforcement to protect the dignity of and human rights of all, to be protectors and champions of the Constitution. This rethinking of the role of police in a democracy requires leadership and commitment across law enforcement organizations to ensure internal and external policies, practices, and procedures that guide individual officers and make organizations more accountable to the community they serve.[110]

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[108] Schulhofer, Tyler, and Huq, "American Policing at a Crossroads."

[109] COPS, *President's Task Force on 21st Century Policing Implementation Guide: Moving from Implementation to Action* (Washington, DC: Office of Community Oriented Policing Services, 2015), http://noblenational.org/wp-content/uploads/2017/02/President-Barack-Obama-Task-Force-on-21st-Century-Policing-Implementation-Guide.pdf.

[110] COPS, 2.

The panel's recommendations include the police embracing community policing principles and focusing on positive interactions and engagement with the community to build trust and legitimacy.[111]

Dennis Rosenbaum summarizes the problem: "Without public support, police are very limited in their ability to solve known crimes, alleviate neighborhood problems, maintain order, build crime prevention partnerships, and maintain taxpayer support for budget requests."[112] His work goes on to show that attitudes toward the police are deeply held and difficult to change, particularly in minority communities. He finds that if there is a negative orientation toward law enforcement, individual contacts likely have little impact on the community's long-term support for the police.[113] From his work, it can be deduced that police must do much more than simply facilitate positive contacts with the community to improve legitimacy and trust.

Tom Tyler's work demonstrates that the best way to improve and maintain police legitimacy is through procedurally just interactions with the community.[114] Because order can only be maintained and criminal behavior effectively moderated with compliance from the community, procedural justice is essential to addressing criminal behavior. Police cannot simply arrest their way out of a problem when it comes to addressing matters of social order.

Procedural justice is a set of guiding principles for policing. The concept's four pillars have to be woven into the interactions and structures of an organization. The four pillars are shown in Figure 2 and described as follows:

- Fairness: "Treating people with dignity and respect"

- Voice: "Giving citizens voice during encounters"

[111] COPS.

[112] Dennis P. Rosenbaum et al., "Attitudes toward the Police: The Effects of Direct and Vicarious Experience," *Police Quarterly* 8, no. 3 (September 2005): 344, https://doi.org/10.1177/1098611104271085.

[113] Rosenbaum et al.

[114] Tom R. Tyler, "Psychological Perspectives on Legitimacy and Legitimation," *Annual Review of Psychology* 57, no. 1 (January 2006): 375–400, https://doi.org/10.1146/annurev.psych.57.102904.190038.

- Transparency: "Being neutral in decision making and explaining the rational"

- Impartiality: "Conveying trustworthy motives"[115]
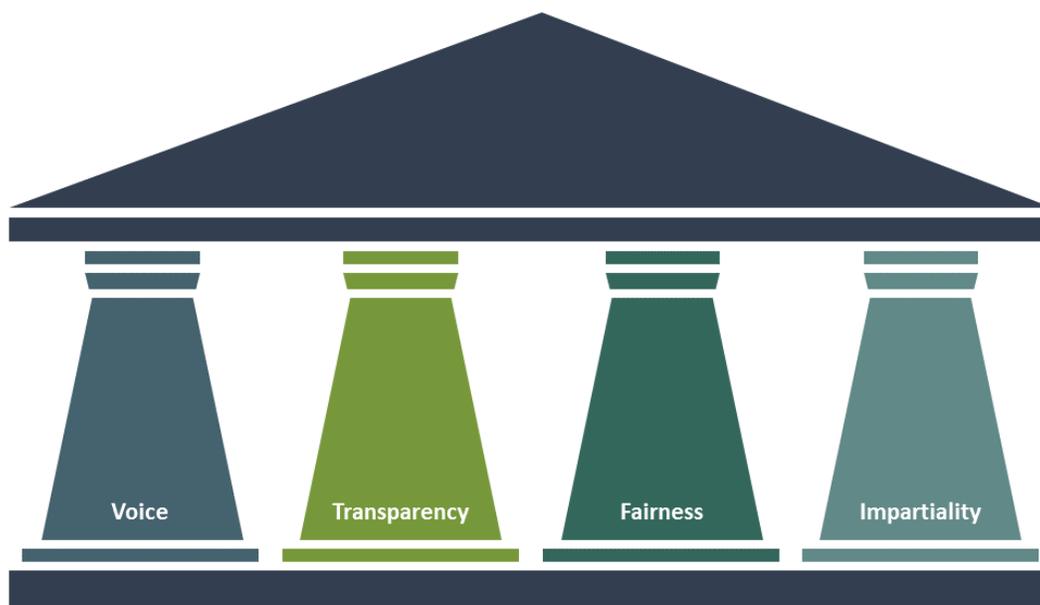
Figure 2.   Pillars of Procedural Justice[116]

The history of conflict between minorities and police officers offers insight into the challenge involved in minority communities viewing police as legitimate. Looking at the problem through the lens of Henri Tajfel and John Turner's 1979 social identify theory helps to explain the divide. Tajfel and Turner surmised that people associate themselves with groups to give their lives meaning. They theorized that people unconsciously group themselves among those with like interests and traits such as race, neighborhood association, religion, and profession. People adopt others who have similar traits into the

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[115] National Initiative, "Procedural Justice."

[116] Source: Emma Peterson, Jessica Reichert, and Kaitlyn Konefal, "Procedural Justice in Policing: How the Process of Justice Impacts Public Attitudes and Law Enforcement Outcomes," Illinois Criminal Justice Information Authority, November 7, 2017, http://www.icjia.state.il.us/articles/procedural-justice-in-policing-how-the-process-of-justice-impacts-public-attitudes-and-law-enforcement-outcomes.

"in-group" and relegate those unlike them to the "out-group." The website Simply Psychology summarizes the theory, stating, "The central hypothesis of social identify theory is that group members of an in group will seek to find negative aspects of an out group, thus enhancing their self-image."[117] Therefore, social groups look to the outside to find sources of comparison that positively support their in-group narrative and negatively portray the out-group. The argument is that this process is not only possible but necessary to satisfy an individual's need for social identify. Creating a narrative around this grouping allows individuals to develop an "us-versus-them" mindset, whereby their group is positive and other groups are negative.[118] Through social identity theory benchmarking, it becomes easier to understand racial divides between the police and the public.

When police employ procedurally just procedures, community members are more likely to associate themselves with the same social group as the police. This in-group association and corresponding acceptance of police authority is largely associated with the implementation of perceived fair practices by police.[119] Creating an in-group that includes community members is the core of Peel's principle that "police are the public and the public are the police."[120] Procedurally just contacts have a lasting impact, changing the overall belief in the legitimacy of the organization. This effect on the perception of organizational legitimacy can be seen after even one positive contact, which produces a notable increase in trust.[121] Presumably, increasing positive contacts reduces criminal behavior and social disorder, as it results in increased perception of legitimacy for both the underlying organization and the law.

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[117] "Social Identity Theory," Simply Psychology, accessed July 13, 2018, https://www.simplypsychology.org/social-identity-theory.html.

[118] "Social Identity Theory—Tajfel and Turner 1979," Age-of-the-Sage, accessed July 13, 2018, http://www.age-of-the-sage.org/psychology/social/social_identity_theory.html.

[119] Ben Bradford, "Policing and Social Identity: Procedural Justice, Inclusion and Cooperation between Police and Public," *Policing and Society* 24, no. 1 (January 2014): 22–43, https://doi.org/10.1080/10439463.2012.724068.

[120] Criminal Justice Law International, "Sir Robert Peel's Nine Principles of Policing."

[121] Mazerolle et al., "Shaping Citizen Perceptions of Police Legitimacy."

Procedurally just practices can increase compliance during individual encounters and also reduce recidivism for the offender or victim. Paternoster was able to demonstrate that domestic violence offenders who perceived fair treatment in their arrests were substantially less likely to reoffend and held a more positive view of the law enforcement profession. The arrest and prosecution decisions were less impactful than the perception of fair treatment by the officer during the process.[122] This body of research confirms that it is not the decision to take police action that influences the perception of legitimacy or compliance. *How* the police enforce the law is more important than the fact they take enforcement action. This study gives insight into how police increase legitimacy in minority communities while still taking enforcement action to address criminal behaviors.

B.   LACK OF REPRESENTATION

One way that law enforcement can improve the relationship between the police and communities of color is to employ the right people—for example, by specifically hiring members of the community who mirror the community. All for pillars of procedural justice can be affected through inclusion in the organization. As discussed in Chapter II, people have a higher level of satisfaction in police when the police officer and the person being contacted are the same race.[123] Despite years of effort to achieve racial representation in policing, most departments are still far behind in hiring minority officers. In 2015, the nonpartisan think tank Governing produced a report that shows minorities are underrepresented by nearly 25 percent in the profession as a whole, with some cities underrepresented at a substantially higher rate.[124] This underrepresentation presents a barrier to achieving the desired relationship with the community.

If police agencies increase racial representation, they may be better perceived by their communities. Sounman Hong studied the racial makeup and uses of force among English police agencies. He demonstrated that a 1.5-percent increase in minority

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[122] Paternoster et al., "Do Fair Procedures Matter."

[123] Langton and Durose, *Police Behavior*, 4.

[124] Meg Keller and Mike Maciag, "Diversity on the Force: Where Police Don't Mirror Communities" (report, Governing, 2015), http://media.navigatored.com/documents/policediversityreport.pdf.

representation correlates with an 11-percent decrease in sustained officer complaints. The data also show complaints are reduced for all officers, regardless of race.[125] He surmises, "Improved satisfaction may be derived from improved bureaucratic integrity that promotes an ethical climate within the organization; such a change improves all members' treatment of minority-group citizens."[126] This work demonstrates the value of representation and implies that the overall legitimacy of the organization improves through racial representation. From this research, it can be assumed that the decrease in complaints across all races represents an increased perception of legitimacy.

In a 2016 report, the Department of Justice addressed the need to increase representation in police forces. The report concludes:

> While we fully recognize that increasing diversity in law enforcement agencies alone cannot solve the myriad challenges in policing or address every concern about public trust in law enforcement, enhancing diversity must be part of the conversation about improving relations between law enforcement and communities.[127]

In a discussion of legitimacy, the Department of Justice states, "This trust—and the cooperation it facilitates—also enables officers to more effectively and safely perform their jobs."[128] It is not as simple as hiring more minority officers. There are substantial challenges in hiring minority officers, not the least of which is the relationship between the communities of color and the police. The path forward to inclusion must be more involved than a direct recruiting strategy. The strategy must include a community engagement approach that builds trust and legitimacy in the institution—making one proud to be part of the police and part of the minority community, thereby aligning the in-groups.

The Equal Employment Opportunity Commission's study of diversity among policing shows that despite an increase in overall diversity among police in the last thirty

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[125] Sounman Hong, "Does Increasing Ethnic Representativeness Reduce Police Misconduct?" *Public Administration Review* 77, no. 2 (February 2017): 195–205, https://doi.org/10.1111/puar.12629.

[126] Hong.

[127] "Advancing Diversity in Law Enforcement," Equal Employment Opportunity Commission, accessed September 8, 2018, https://www.eeoc.gov/eeoc/interagency/police-diversity-report.cfm.

[128] Equal Employment Opportunity Commission, 7.

years, underrepresentation is greatest in communities with the highest diversity in the population. Among the barriers to recruiting minority officers, the commission admits that "strained relationships and lack of trust in law enforcement may deter individuals from underrepresented communities from applying to be officers."[129] The report connects the application to the practices of police by saying, "The reputation or operational practices of law enforcement agencies may dissuade applicants from underrepresented communities from pursuing a career in law enforcement."[130] A recent investigation by PBS confirms the commission's findings, noting that some recruiting difficulties come from the "stigma attached to the police by the minority community."[131] To attract minority candidates to careers in law enforcement, the police must make themselves an attractive group to be part of, creating pride in joining that social group.

The lack of minority representation within policing reinforces the impression that police are an out-group for the community. Racial representation in policing has not been achieved on a national scale; blacks and Hispanics are substantially underrepresented in police departments.[132] It also takes more than just representation to alter perceptions of police in the community. The mindset of the police and law enforcement agencies must be consistent with the needs of the community for the police to be more than an occupying force. The act of increasing representation alone does not result in increased approval. The Detroit Police Department, for example, is one of the most diverse agencies in the country, yet satisfaction surveys in Detroit demonstrate the lowest levels of trust among minority populations.[133]

Inner-city youths believe that officers routinely target them based on race. Gau and Bronson conducted an extensive study of inner-city black youth in Chicago. They conclude that black youth "believed their socioeconomic status and/or race made them de facto

[129] Equal Employment Opportunity Commission, 18.

[130] Equal Employment Opportunity Commission, 18.

[131] "Can Diverse Police Departments Ease Community Tension?" PBS, August 22, 2016, https://www.pbs.org/newshour/nation/can-diverse-police-departments-ease-community-tension.

[132] Keller and Maciag, "Diversity on the Force."

[133] Hong, "Increasing Ethnic Representativeness."

'suspicious persons' in the eyes of officers."[134] The study shows that even if individuals have not had a negative experience with officers, their perception of the police and their intent is influenced by his social group. As discussed in Chapter II, this social group does not support the legitimacy of police and the negative impression of officers as the out-group prevents effective policing and cooperation with police.[135] The social group Gau and Bronson studied is important to recruiting, as it is underrepresented in police ranks.

Based on the obstacles to recruiting, the challenge is to build a relationship with the community that encourages minorities to become part of police organizations. Inclusion has to be inclusive of practices that go deeper than skin color. Community policing is in effect a recruiting platform that can improve community relationships in the short term and legitimacy in the long term through increased representation.

C.   TRAINING A WARRIOR TO DO A SERVANT'S MISSION

Another place where there is a substantial opportunity to improve the situation in American policing is in training after officers are hired. Assuming police departments are hiring the correct people, they should leverage the knowledge, skills, and abilities of their officers to serve communities. Police culture, into which officers are indoctrinated during their training, has been widely studied. Diane Wetendorf describes police culture as a belief that officers are not individuals but rather a collective body engaged in a perceived struggle between good and evil. This establishes the basis for the in-group narrative that develops among officers. Training reinforces officers' position as the ultimate authority in society. Wetendorf states, "When anyone challenges their authority, they defend their right to enforce control and authority."[136] This training separates the officers further from the community and differentiates their in-group from society as a whole, including those being served.

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[134] Gau and Brunson, "Procedural Justice and Order Maintenance Policing," 272.

[135] Gau and Brunson.

[136] Diane Wetendorf, "Police Culture, Brotherhood, Code of Silence: Police Officer Involved Domestic Violence," Abuse of Power, accessed July 14, 2018, http://www.abuseofpower.info/ Culture_Brotherhood.htm.

Police training uses military phrasing to describe police officers' role as one that establishes control within a community. In creating modern policing, Peel recognized the need to create a different relationship between the police and the community than that of an occupying military force. Yet in a 2010 Police One article, a police commander of twenty-five years discusses command presence in a community—control and authority—as a means of survival. Channeling General Jim Mattis's wartime speech, he says, "Remain humble and compassionate; be professional and courteous—and have a plan to kill everyone you meet."[137] The mindset demonstrated in this statement runs counter to the principles of effective policing and achieving a state of partnership within a community.

Systems that train officers to be warriors further the gap between the police and the communities they serve. Sue Rahr and Stephen Rice analyze the problem: "The current culture in some American law enforcement agencies tends toward the warrior mentality. The seeds of that culture are planted during recruit training, when some recruits are trained in an academy environment that is modeled after military boot camp, a model designed to produce a warrior ready for battle and ready to follow orders and rules without question.."[138] Rahr and Rice's observations point directly to the gap in training law enforcement officers. Police cannot simultaneously have the mindset of a warrior going into battle and be an advocate for relationship-based policing. Under the legitimacy argument, the warrior mindset likely decreases the belief that the police and their authority are legitimate, thus increasing the willingness of the public to commit crimes and decreasing the willingness of the public to cooperate with the police.

Most officers go through two training environments as part of becoming a police officer: a structured police academy and a field training component. The first stage is the academy, an academic environment, usually held for four to eight months at the "department level or state law enforcement training facilities, used by all law enforcement

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[137] John Bennett, "How Command Presence Affects Your Survival," PoliceOne, October 7, 2010, https://www.policeone.com/Officer-Safety/articles/2748139-How-command-presence-affects-your-survival/.

[138] Sue Rahr and Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals* (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2015), 3, https://www.ncjrs.gov/pdffiles1/nij/248654.pdf.

agencies in the state."[139] These academies provide both practical training (e.g., the use of force, vehicle operations, and firearms) and academic training (e.g., criminal law, ethics, and protocol).[140] The purpose of the academy is to give all officers a standardized base of knowledge to do the job. Upon graduation, officers obtain a certification in most instances.

After the academy, officers undergo a one-on-one training environment at the agency. In this environment, new officers are expected to perform a variety of tasks as part of transitioning from the academic environment to application in a field environment. This is often where officers are exposed to the inner workings of agency-specific culture and procedures.[141] These training programs are often a critical part of passing on organizational culture. Organizational culture is the "expectations, experiences, philosophy, as well as values that guide a member's behavior."[142]

Most agencies utilize the San Jose Training Model, named for the agency that created it in the 1970s.[143] The program was developed with the intention of standardizing training following a series of negative incidents that occurred when officers were not properly trained. The idea of the program is to have field trainers evaluate new officers based on set performance checklists.[144] The San Jose Police state, "Having police officers make employment decisions on recruit officers was a new and radical concept in the early 1970s."[145] A recent Police One article describes the experience with the following question, "So, how do you survive the senior officers hovering over you, assessing your every move until they eventually make a recommendation which essentially amounts to

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[139] "Police Officer Academy Training," LawEnforcementEDU, accessed October 6, 2018, https://www.lawenforcementedu.net/police-officer/police-training/.

[140] LawEnforcementEDU.

[141] LawEnforcementEDU.

[142] "What Is Organizational Culture?" gothamCulture, accessed October 6, 2018, https://gothamculture.com/what-is-organizational-culture-definition/.

[143] San Jose Police Department, accessed February 22, 2019, http://www.sjpd.org/.

[144] San Jose Police Department.

[145] San Jose Police Department- sjpd.org, "San Jose Police Department," San Jose Police, accessed February 22, 2019, http://www.sjpd.org/.

whether you get to keep your job?"[146] This type of indoctrination would clearly not invite new officers to express different views or to feel they are valued for their life experiences.

In his 2014 master's thesis, "Analysis of C3 Counterinsurgency-Inspired Policing and the Flip Side of the Coin," Bruce Hiorns advocates for utilizing military tactics to address gang activity in minority communities. He writes,

> The research shows that in regard to expanding C3 [counter criminal continuum policing] into new communities, law enforcement should seek invitation and permission from the community prior to commencing operations. The neighborhood should be the initiator of the contact as opposed to being arbitrarily selected by either law enforcement or the city administration. The community must have a desired interest in the outcome and be willing to be an active participant in the effort. It is imperative to its success that law enforcement is able to identify and work with the true local leaders and to enlist the support of local community groups. Building legitimacy is crucial to achieving these goals. Ultimately, the ability to mobilize the population against the gang problem depends on good relations between the community and police.[147]

Even when advocating for these extreme, military-based tactics, the principles of procedural justice described in this thesis show through: Hiorns describes the need for community voice, transparency, fairness, and impartiality to achieve legitimacy.

D.   CONCLUSION

In order to be effective, police must achieve a state of collaboration with the community they serve. The roots of policing have negative implications for minority communities, which creates a gap that must be overcome. Despite efforts, police agencies have failed to recruit officers from minority communities. The lack of representation and legitimacy enhance in-group and out-group narratives that further the relationship gap between police and communities of color. Police are then trained with legacy systems that do not enhance community policing and procedurally just principles. The research suggests

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[146] "How to Survive Field Training and Keep Your FTO Happy," PoliceOne, accessed February 22, 2019, https://www.policeone.com/chiefs-sheriffs/articles/337677006-How-to-survive-field-training-and-keep-your-FTO-happy/.

[147] Bruce Hiorns, "Analysis of C3 Counterinsurgency-Inspired Policing and the Flip Side of the Coin" (master's thesis, Naval Postgraduate School, 2014), 1.

that people are more concerned with the process than they are with the outcome of interactions with authority.[148] Procedural justice is presented as the best way to increase acceptance of authority and to increase the legitimacy of the organization, yet most police agencies have struggled to achieve the desired partnerships with communities, particularly communities of color.

[148] Blader and Tyler, "A Four-Component Model of Procedural Justice," 747.

IV. PROCEDURALLY JUST MODELS THAT WORK

This chapter examines four models for hiring and training police officers, each of which is based on procedurally just principles. These models have shown the potential to increase representation and decrease bias for both the police and the public. Creating structures that reinforce procedural justice can increase legitimacy, which has been demonstrated to increase compliance with both the law and the authorities enforcing it. The Atlanta Police Department and the New Orleans Police Department have shown that they can achieve effective policing and implement systems that build relationships with the communities they serve. The Washington State Criminal Justice Training Commission and the Reno Police Department have demonstrated that designing procedurally just training programs can effectively increase trust and legitimacy. As Steve Jobs once said, the secret to his success was hiring the right people. Once the correct people are identified and hired, it is necessary to train them in practices that support organizational and community goals.

A. CASE STUDIES IN HIRING PRACTICES

Achieving diversity in a police agency involves more than just a recruiting program or advertising gimmick. True diversity and transparency occurs when an agency culture is community-centric and focuses on procedurally just principals. These models show that procedural justice can work in agencies that have long histories of trust and can also work to change agencies that have a history of struggles.

1. Atlanta Police: Diversity Is in the Department's Culture

The Atlanta Police Department (APD) has been extensively studied by police agencies based on its ability to recruit and retain black police officers. The city is 52 percent black and 36 percent white; the department has been able to nearly mirror this representation, with 58 percent black officers and 36 percent white officers.[149] The mission and vision statements help to illuminate the focus and culture at the APD:

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[149] Abby Miller et al., "Promising Practices for Increasing Diversity among First Responders" (report, Coffey Consulting and American Institutes for Research, December 2016), 18.

Mission Statement

The mission of the Atlanta Police Department is to create a safer Atlanta by reducing crime, ensuring the safety of our citizen and building trust in partnership with our community.

Vision Statement

We are a source of pride of the citizens of Atlanta, admired among law enforcement agencies world-wide, recognized for our professionalism, integrity and service to our communities.[150]

These statements reference procedural justice by describing the importance of achieving trust and pride. They speak to integrity and service to the community, which are components of legitimacy. The importance of these statements lies in how they are used to guide the agency. In a 2015 interview, Chief George Turner describes the conscious decision to be a diverse agency and actively recruit candidates who reflect the community.[151] He states, "The leadership of the department—from the chief on down— also reflects the city's diversity."[152] He also describes the importance of diversity among leadership in attracting talent among diverse communities, demonstrating that opportunities exist regardless of race. He states that if people go to "[a police department's] website and see no diversity in leadership, they don't see an opportunity there."[153] Turner's words demonstrate the need to have diversity at more than just at the line level; diversity must exist in all levels of the organization.

The focus on relationships has been paramount to the successes at the APD. The Atlanta real estate and rental markets are very expense and eventually outstripped the salaries of the officers who patrolled the area. To encourage officers to live in the city, Atlanta Police Foundation began a housing assistance program called Secure

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[150] "Mission, Vision, Core Values," Atlanta Police Department, accessed October 6, 2018, http://www.atlantapd.org/about-apd/mission-statement.

[151] Beth Schwartzapfel, "Lessons for Bratton on How to Recruit Black Officers: A Conversation with Atlanta's Chief of Police, George Turner," The Marshall Project, June 11, 2015, https://www.themarshallproject.org/2015/06/11/lessons-for-bratton-on-how-to-recruit-black-officers.

[152] Schwartzapfel, 2.

[153] Schwartzapfel, 2.

Neighborhoods to support officers living in or moving to neighborhoods in the city. Officers receive a stipend to assist with the cost of their mortgage, assistance with housing down payments, and a marked police car to park in front of their homes. As a result of this program, the APD has been able to increase the percent of officers living in the city from 14 percent to 22 percent, which, in turn, encourages the officers to participate in community interactions while off duty.[154] One of the participants in the program notes, "The program helps the department improve community policing by building trust and humanizing officers."[155] When off-duty officers are present in the community, community members are able to see the officers in environments where they are not acting as officers and not in uniform. This program helps to create overlapping social groups, aligning the officers—when both on and off duty—with the community.

The APD uses an active recruiting, training, and promotion model that has institutionalized the importance of diversity. Figure 4 summarizes the department's process for diverse recruiting, including engagements early (before formal recruiting efforts) and continuing through retention and promotion opportunities. This model demonstrates a long-term commitment to diversity rather than a simple recruitment strategy.

[154] "Secure Neighborhoods," Atlanta Police Foundation, accessed October 6, 2018, http://atlantapolicefoundation.org/secure-neighborhoods/.

[155] Cassie Spodak, "Atlanta Police Program Bringing More Cops Home," CNN, June 1, 2018, https://www.cnn.com/2018/06/01/politics/bridging-the-divide-atlanta-police/index.html.
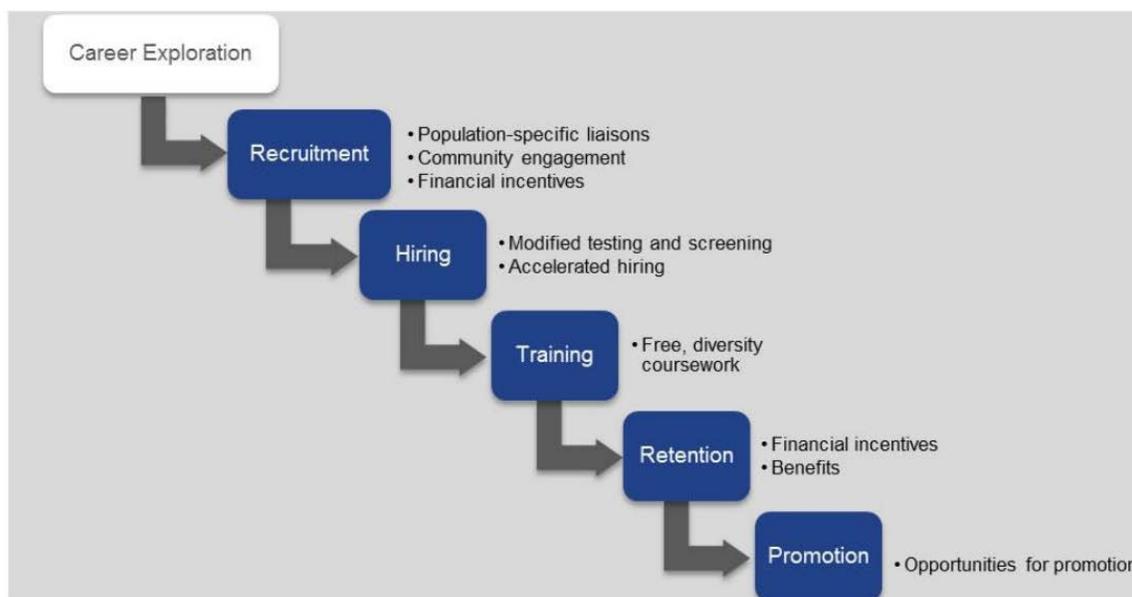
Figure 3.   Atlanta Hiring, Training, and Promotion Process[156]

The purposeful efforts to diversify the police force are also reflected in the APD policy. By creating a culture that values and rewards diversity, the APD has been able to achieve a high level of diversity among its staff. When asked about the impact of diversity, Chief Turner states, "The truth is, the best recruiters are our officers. Their friends, their family members. They think the way they think and they look the way they look. That became one of the best recruiting tools for us."[157] Turner's comments suggest that officers should be having positive contacts within the community to build relationships before and during formal recruiting. Those positive vicarious contacts can have positive impacts on perceptions of policing and trust.

The APD's model of representation and its active programs to ensure community engagement demonstrate that the department's mission and vision are more than just words—they are institutionalized in the organization and community. The resulting increase in trust and legitimacy of the organization allows for greater understanding in moments of crisis. Chief Turner states, "We got where we got because of the leadership of

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[156] Source: Miller et al., "Promising Practices for Increasing Diversity," 20.

[157] Schwartzapfel, "Lessons for Bratton on How to Recruit Black Officers."

Dr. King and simply having conversations."[158] Turner's reference to the symbolic civil rights leader focuses the discussion on racial equality. Focusing on equality and representation builds legitimacy and pride in the organization.

2.   New Orleans Police Department: Modeling Organizational Change

Another view of procedural justice in operation is modeled in the New Orleans Police Department (NOPD). The NOPD is roughly 57 percent black and 37 percent white; the population of New Orleans is roughly 60 percent black and 33 percent white.[159] Compared to the positive and proud history of the APD, New Orleans comes from a very different starting place. Ronal Serpas took over as superintendent of the NOPD in 2010, just after the Department of Justice initiated a review of the department following several felony actions by officers in the aftermath of Hurricane Katrina. While the NOPD has achieved racial representation roughly equal to the population, it has struggled with public trust.

In 2011, the Department of Justice completed its investigation into the NOPD, with several disturbing findings outlined in the report. It determined that the NOPD had "demonstrated patterns or practices of unconstitutional conduct and/or violations of federal law in the use of excessive force, biased policing, and unconstitutional stops, seizures and arrests."[160] The Department of Justice placed NOPD under a consent decree. In its report, the Department of Justice describes the NOPD's community relationship and outreach efforts:

> The Department's policies, training, and tactics support neither a community policing orientation, nor the ultimate goal of proactively addressing problems to reduce and prevent crime, rather than merely reacting to it. Within NOPD, the concept of community policing is poorly understood and implemented only superficially. Outside the Department,

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[158] Schwartzapfel.

[159] John Simerman, Jeff Adelson, and Matt Sledge, "NOPD Diversity Decreasing as More Recruits Hired, Numbers Show; Police Chief Unconcerned," *New Orleans Advocate*, September 3, 2016, https://www.theadvocate.com/new_orleans/news/crime_police/article_014fb50c-7149-11e6-bfe1-27c4c9b87293.html.

[160] Ronal Serpas, "Legitimacy and Procedural Justice: The New Orleans Case Study," *Subject to Debate* 28, no. 1 (February 2014): 8.

community members, especially members of racial, ethnic, and language minorities, and the LGBT communities, expressed to us their deep distrust of and sense of alienation from the police. This crisis of confidence and credibility serves as both a barrier to an effective community oriented policing program, and as a compelling reason to prioritize its implementation.[161]

Even before the Department of Justice investigation report came out, Superintendent Serpas had begun to change the direction of the agency. His plan began: "The New Orleans Police Department will no longer tell neighborhoods what their problems are; instead, the NOPD will listen, collaborate and respond proactively."[162] The structure of Serpas's plan included several elements of procedural justice.

- *Voice*: The NOPD created a citizens advisory panel, specifically designed to have members of diverse communities presenting the issues that are important in their community to the police department. The department then demonstrated responsiveness to the community panels by assigning detectives to each district to work specifically on community-related concerns. Each district was staffed with a new position—community coordination sergeant—who focused on community issues and was a direct line to command staff.

- *Transparency*: The plan created a civilian oversite board to increase the transparency of internal investigations. The department instituted Comstat meetings, during which commanders were responsible for presenting crime statistics and strategies to address the trends. The Comstat meetings at both the district and department level were open to the public, adding transparency to both the data analysis and reason for police responses.

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[161] Department of Justice Civil Rights Division, *Investigation of the New Orleans Police Department* (Washington, DC: United States Department of Justice, 2011), 18, https://www.justice.gov/sites/default/files/crt/legacy/2011/03/17/nopd_report.pdf.

[162] Ronal W. Serpas, "Rebuilding the New Orleans Police Department—The First Steps" (report, New Orleans Police, August 23, 2010), 1, http://media.nola.com/crime_impact/other/NOPD-65-point-plan.pdf.

- *Fairness*: Several policies directly or indirectly added a measure of fairness. U Visas, for instance, allow people without legal entry into the United States to achieve legal status; the department increased the use of U Visa programs to support crime victims with citizenship concerns, allowing people to report crimes without fear of deportation. The department also improved the response to and classification of sex crimes. The department expanded the use of in-car camera systems.

- *Impartiality*: Bias training was conducted in conjunction with a university. A presumptive termination policy was put into effect for cases of sustained dishonesty of an officer. In conjunction with this policy, a false or misleading statement on a report results in a presumptive termination. Officers became subject to integrity-based compliance checks to ensure continued moral and ethical standards were being upheld.[163]

With the Serpas plan in effect, the police department was already addressing most of the deficiencies that had led to the Department of Justice's scathing report in 2011. The consent decree supported the 65-point plan and recommended funding most of the measures put forward by Serpas. These measures have had an undeniable impact on both the NOPD and the residents of the city. The 2017 report from the Office of the Consent Decree Monitor reports,

> The NOPD today is undeniably a better, stronger, more professional organization than it was when the Monitoring Team began its work in 2013. Over the course of the last four and a half years, the NOPD has brought itself into compliance with many of the Consent Decree requirements. More importantly, NOPD has established many of the policies and procedures needed to achieve and sustain the constitutional policing, public safety, and community trust called for by the Consent Decree. The Department has promoted reform-minded leaders, adopted new policies, documented new processes in Standard Operating Procedures, and made far more data available to the public than in the past. In short, NOPD has developed and implemented the building blocks necessary to transform the NOPD into a

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[163] Serpas.

police department of which the New Orleans community rightfully can be proud.[164]

This statement is the determination of the legal scholars who are monitoring the compliance with the consent decree; as noted in this thesis, however, the opinion of the community members is more important in determining the legitimacy of the police and the public's willingness to comply.

In 2017, a community survey was conducted in New Orleans to judge the effectiveness of the programs instituted by Serpas. The results confirm that the use of procedurally just programs in organizational change efforts can change public perception rapidly.

- Respondents now have better perceptions of their most recent contact with the NOPD, are more satisfied with the NOPD, have more trust in the NOPD, and are more willing to cooperate with the NOPD.

- Respondents who interacted with NOPD felt they were more likely to be treated with dignity, respect, and politeness.

- Respondents noted improvements in officer honesty, fairness, professionalism, and integrity.

- Respondents felt that improvements in policing had been made in New Orleans, that the NOPD had become a better police department, and that the NOPD was less likely to use excessive force than two years ago.

- Respondents were more likely to believe corruption in the NOPD was low and the NOPD scandals of the past had been overcome by current practices.[165]

Serpas's 65-point plan led the department forward, and through the continued efforts of his replacement, Superintendent Michael Harrison, the department has regained trust in the community. As a result of the changes, satisfaction with the police department increased from 33 percent to 60 percent.[166] This percentage is above the national average,

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[164] Office of the Consent Decree Monitor New Orleans, Louisiana, "2017 Annual Report of the Consent Decree Monitor For the New Orleans Police Department Consent Decree" (report, Sehppard Mullin Richter & Hampton LLP, April 10, 2018), 5, https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/monitors-report-april-111.pdf/.

[165] Office of the Consent Decree Monitor New Orleans, Louisiana, 27.

[166] Serpas, "Legitimacy and Procedural Justice," 10.

showcasing the power of procedural justice in influencing public support for law enforcement.[167]

B.   CASE STUDIES IN TRAINING PRACTICES

To create and nurture a culture that is consistent with the ideals of community policing, legitimacy, and trust, the training environment must be consistent with the goals of the community and organization. The following two training programs have increased legitimacy and trust through their structure.

1.   Academy Training: Warriors to Guardians

In Plato's vision of a perfect society—in a republic that honors the core of democracy—the greatest amount of power is given to those called the Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy.[168]

Prior to 2012, the Washington State Criminal Justice Training Commission ran like most other police training organizations across the nation. Recruits showed up on their first day and were indoctrinated into police culture with displays of power and intimidation. The first day featured a series of impossible tasks designed to make the recruits fail. For their failures, they were yelled at and belittled in what essentially amounted to hazing. They were taught that officers were not allowed to talk to staff and were forced to brace against a wall whenever they encountered senior officers (a process of standing at attention without making eye contact). When recruits made errors, the punishment was verbal abuse and push-ups. The walls were adorned with messages of conquering and survival. The curriculum focused on developing warrior skills to win the fight.[169]

Once students graduated, they were sent out into their communities where they were first given access to power—often in the most depressed and crime-riddled communities. Rahr and Rice state, "Despite the way they were treated during their training, we expect[ed] them to treat the powerless people they encounter[ed] in the community with

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[167] Norman, "Confidence in Police Back at Historical Average."

[168] Rahr and Rice, *From Warriors to Guardians*, 1.

[169] Rahr and Rice.

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dignity and respect."[170] If the training was coercive and power-based, the natural outcome was for those behaviors to become part of the mentality of the officer in engaging with the community. An instructor at Rahr and Rice's academy says the standard instruction for dealing with the community was the "Ask, Tell, Make, or ATM, protocol: Ask a citizen to do something, such as providing identification. Upgrade the request to a command if they don't immediately comply. And use force if the command is not quickly followed."[171] Such a training system is inconsistent with the principles of procedural justice, Peel's ideals, and the desires of the community.

An experiment is currently underway at the Washington Criminal Justice Training Center, the only basic police certification center in Washington State to transition from teaching warriors to battle the community to developing guardians to serve the community. Rahr, the director of the center, argues that her changes are not about lowering standards but improving safety through greater utilization of noncombat skills.[172] Rahr and Rice state, "For the sake of safety, voluntary compliance should be the primary goal in resolving conflict, with the physical control reserved for those who present an immediate threat and cannot be managed any other way."[173] On the first day, recruits are given a copy of the U.S. Constitution. They are challenged to have a meaningful discussion about the rights of citizens. The Constitution, instead of posters focusing on death and battle, adorns the walls. Unlike the prior rules, under which students were forced to brace against the walls in a position of attention in the presence of staff, the new rules encourage recruits to politely and professionally interact, including with nonverbal communications such as eye contact.[174]

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[170] Rahr and Rice, 5.

[171] Kimberly Kindy, "Creating Guardians, Calming Warriors: A New Style of Training for Police Recruits Empahsizes Techniques to Better De-escalate Conflict Situations," *Washington Post*, December 10, 2015, http://www.washingtonpost.com/sf/investigative/2015/12/10/new-style-of-police-training-aims-to-produce-guardians-not-warriors/.

[172] Rahr and Rice, *From Warriors to Guardians*, 6.

[173] Rahr and Rice, 5.

[174] Rahr and Rice, 4.

During the training, officers are still required to develop skills that will prepare them to deal with any situation they will encounter on the street. Officers' skills are challenged during mock scenes, and "they are expected to handle antagonistic suspects without losing their cool."[175] In order to develop the guardian mindset and allow the officers to perform their jobs safely while addressing confrontational encounters, there is a series of programs now built into the 720-hour academy curriculum and woven into mock training. These include:

- *Blue Courage*: A motivational program designed to instill pride and nobility in policing. The training supports the importance of maintaining physical, emotional, and spiritual health.

- *Justice-Based Policing*: The "ask, tell, make" method of communication has been replaced with a policy of "listen and explain with equity and dignity," whereby students are encouraged to expand and develop their communication skills.

- *Crisis Intervention Training*: This program expands the officers' knowledge of mental health and traumatic brain injuries. It gives the officers tools to recognize and respond to confrontations.

- *Tactical Social Interaction*: This program teaches "specific, measurable actions that increase rapport between strangers and lead to positive social interactions."[176] The goal is to develop the positive communication skills needed for community engagement.

- *The Respect Effect*: This program looks to incorporate the ideal that respect and disrespect are linked closely to motivation and conflict. The

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[175] Kindy, "Creating Guardians, Calming Warriors."

[176] Rahr and Rice, *From Warriors to Guardians*, 11.

basis of the program is the neuroscience of the interaction components, motivating compliance instead of conflict.[177]

The training program still has the same high standards for success as traditional academies, but it reinforces all the skills needed to be a successful police officer, including the skills needed to build community relationships and trust. This type of training also creates a culture of officers focused on the skills needed to become community-focused and to develop relationships with the community the officer is serving.

2. Field Training: The Reno Way

Field training was standardized in the 1970s in a training program known as the San Jose Field Training Model. The basis of this training model is that students are expected to conduct tasks while they are continuously graded on their performance by a field training officer. According to the training manual, the intent of these evaluations is to achieve "behavior modification and to protect the agency from liability."[178] This structure does not encourage experimental learning, but rather avoidance of negative grades. The San Jose Model was the standard in police departments across the country for more than thirty years. In 2001, police leaders from around the country had been looking for a new way to train officers that considered the needs of modern policing and learning principles. Using a grant from the Department of Justice, the Police Executive Research Forum partnered with the Reno Police Department to create a police field training program that "incorporates methods in adult education and a version of problem-based learning … adapted for police."[179]

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[177] Rahr and Rice, 11.

[178] Reno Police Department, *The Reno Model: Reno Police Department Police Training Officer Program Basic Manual* (Reno, NV: Reno Police Department), accessed July 25, 2019, https://www.renopd.com/formAdmin/content/pdfs_lib/PTO_2_0_Manual.pdf.

[179] COPS, *PTO: An Overview and an Introduction* (Washington, DC: Department of Justice, 2001), https://www.policeforum.org/assets/docs/Free_Online_Documents/FTO/pto%20-%20an%20overview%20and%20introduction.pdf.

Instead of focusing on memorization, this program focuses on problem solving. Mistakes are not only accepted but encouraged.[180] The Police Society for Problem Based Learning states that the program "provides a foundation for life-long learning and prepares the employee for the complexities of policing today and in the future."[181] This training model focuses on developing the skills of the officer by creating a positive learning environment.[182] It also develops and fosters ideals such as community policing. The structure of the learning is designed to teach students to solve ill-structured problems by asking questions, experimenting, and collaborating. Ill-structured problems are complex and have multiple alternative solutions, such as a complex community problem. Each section of training includes a reflective journal completed by the student deputy to document the learning activity, instead of a report generated by a grader.[183] The concept is that officers who are able to solve unknown problems by utilizing problem-solving skills and reflection will develop the skills to solve any future problem.[184]

Another core component of the program is the Neighborhood Portfolio Exercise. This assignment is designed to teach the officer community-policing skills by meeting with business owners, community groups, and individuals to understand neighborhood needs. At the conclusion of their fourteen-week training program, officers are required to give a presentation on a neighborhood they have studied and engaged. Components of the presentation include "geographical and demographics, identification of the various neighborhood and cultural communities, crime problems, quality of life issues, problem solving efforts, community groups, resource template and officer's recommendations."[185]

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[180] Reno Police Department, *The Reno Model*.

[181] "PTO," The Police Society for Problem Based Learning, accessed October 6, 2018, https://www.pspbl.org/pbl/pto/.

[182] COPS, *PTO Manual: A Problem-Based Learning Manual for Training and Evaluating Police Trainees* (Washington, DC: Department of Justice, 2001), 6, https://ric-zai-inc.com/Publications/cops-w0358-pub.pdf.

[183] COPS, 27.

[184] Reno Police Department, *The Reno Model*.

[185] Reno Police Department, 27.

In order to complete this project, the recruit has to engage the community, identify the resources in the community, and understand the community culture and the drivers of criminal activity. In evaluating effectiveness, the Department of Justice made an interesting observation. Although the failure rate of these police recruits was consistent with traditional police training, the failures had different features. According to the Department of Justice, "Under the San Jose Model, trainees failed who thought creatively or who did not excel with rote learning methods; under the Reno Model, trainees failed who were too regimented and could not think analytically or outside the box."[186] The skills of a modern police officer, including problem solving and relationship building, components of achieving trust and legitimacy, were better developed and measured under the Reno Model.

The University of Illinois conducted several studies of officers who trained under the Reno Field Training Model to determine its effectiveness. The studies' observations are consistent with procedurally just operations, including increases in problem solving, listening, and leadership. The study identified that "[n]ew officers were better able to think creatively, act autonomously, and solve problems within their communities" and that "[o]fficers frequently completed their duties going beyond the basics to follow-up with members of the community to continue a dialogue, identify and solve problems proactively, instilling community confidence in their local police department."[187] This research demonstrates the development of skills that lead to increased confidence in policing, such as effective communication and problem solving with the community. Based on the evaluations of the San Jose and Reno Model training programs, the Reno Model is better able to develop creative officers who both understand community problems and work to solve them. The Reno Model generates and develops problems solvers rather than officers that follow a set of rote procedures for all situations.

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[186] COPS, *PTO: An Overview*, 42.

[187] Patricia S. Rushing, "A New Strategy for Training Police Officers—The PTO Program," *CALEA Update*, no. 101 (2010), http://www.calea.org/calea-update-magazine/issue-101/police-training-officer-pto-program.

C.   CONCLUSION

Woven throughout each of the case studies are the principles of procedural justice; and in each instance, these principles improved the relationship between the police and the community. Representation and meaningful inclusion at all levels of an organization demonstrate a commitment to building trust and to overcoming the in-group/out-group dynamics. Even when an organization has lost public trust, strategic changes that include a commitment to procedural justice have shown the ability to change community perception and legitimacy. Through creating a relationship based on trust, police are better able to recruit from diverse social groups. Training programs designed to enhance social skills in addition to tactical skills better align with community interests. These programs develop and evaluate officers' skills but also indoctrinate procedurally just interactions by encouraging voice, fairness, transparency, and impartiality. By hiring the right people and training them to be community-aligned problem solvers, legitimacy in the institution of the police agency is positively affected.

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V. RECOMMENDATIONS AND CONCLUSIONS

Procedural justice must be more than an approach to solve a specific problem; it must be woven into all levels of the agency to produce effective hiring and training. Through the application of procedural justice principles, police departments have an opportunity to reestablish the relationships between the police and their communities, and build trust and legitimacy. Therefore, negative interactions can be reduced by creating an environment that increases the likelihood of compliance with both the law and the authority of the officer enforcing the law. This chapter offers a set of recommendations that are designed to help police officers create a relationship with the community that builds legitimacy in policing. These proposals create a systematic approach to realigning police officers and the communities they serve by changing police culture to better meet the needs of twenty-first-century policing.

Robert Peel described a relationship in which police are a part of the community rather than a military force invading the community. While he did not have the luxury of the scientific research produced in the last thirty years, the idea that the police-community relationship was instrumental to success was obvious 200 years ago. A recent International Association of Chiefs of Police article in *Police Chief* magazine stated, "Persistent and consistent focus on processes that are procedurally just is the foundation on which legitimacy is built."[188] It holds to reason that if legitimacy is achieved, citizens' underlying willingness to comply with the law and the authorities who enforce it will increase, leading to fewer negative outcomes after interactions between police and the public. Mark Twain once said: "Travel is fatal to prejudice, bigotry, and narrow-mindedness, and many of our people need it sorely on these accounts. Broad, wholesome, charitable views of men and things cannot be acquired by vegetating in one little corner of the earth all one's

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[188] Katie Holihen et al., "Procedural Justice: A Training Model for Organizational-Level Change," *Police Chief*, November 8, 2017, http://www.policechiefmagazine.org/procedural-justice-a-training-model-for-organizational-level-change/.

lifetime."[189] While he was referencing international travel when he said this, the same lesson applies to police officers in working with minority communities.

A.   PROCEDURALLY JUST HIRING PRACTICES

The first step for any law enforcement agency is to hire the correct people for the job. Gordon Graham observes pointedly:

> If you allow the hiring of idiots and thugs, they will not disappoint you—they will always be idiots or thugs. In view of the consequences that can occur when things do not go right in your complex, high-risk job, this may end up being the cause of a future tragedy. We have learned this lesson time and time again, but somehow seem to forget it all too often. And please don't tell me that you have nothing to do with the hiring process. Each of you has a role in recruitment and each of you has a role in the probationary process of each employee.[190]

The lessons learned from the case studies show that hiring and maintaining a racially representative agency is more than a recruiting effort: it is a commitment to diversity at all levels of an organization. It also requires police departments to develop a relationship with the community such that there is pride in becoming a police officer, particularly in minority communities.

1.   Recommendation: Train All Officers in Implicit Bias and Cultural Competency

Police departments should design and implement a training program that enhances officers' knowledge of their biases and how biases affect their actions. The training should include a component of IAT and MRS testing to help officers understand their own biases as part of an effort to overcome them in the exercise of their legal authority. A component of this training should include cultural awareness training—taught by members of the diverse groups represented in the service area of the police department. This training

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[189] Mark Twain, *The Innocents Abroad* (Hartford, CT: American Publishing Company, 2004), https://www.gutenberg.org/files/3176/3176-h/3176-h.htm#CONCLUSION.

[190] Gordon Graham, "Affairs in Government 2016: Some Thoughts on Real Risk Management," Moreton & Company, accessed October 7, 2018, 3, https://www.urmma.org/wp-content/uploads/2016/03/Gordon-Graham-2016-Handout.pdf.

provides an opportunity for dialogue between police and minority groups, including a better understanding of the needs and interests of these groups; ultimately, it assures a greater level of understanding and empathy. As described in Chapter II, this training creates positive exposure with minority groups and self-reflection on bias, both of which have demonstrated lasting impacts in reducing implicit bias.

(**Pillars affected: fairness and impartiality**)

2. Recommendation: Support that Community Engagement Is Recruiting

Police departments should create community engagement plans focused on building relationships with minority communities. Programs should include directed efforts to create positive contact between minority youths and police officers, as they represent the future candidates for hiring. This program should be focused on positive, non-enforcement contacts, such as sports coaching, participation in school projects, and outreach at social events in the community. The community engagement plan should include all officers, not just a selected community engagement officer, allowing for officers and youths to build individual relationships. Departments should create a formal mentoring program for those who show interest in becoming police officers, including diversity among the mentoring group. Exposing youth to police culture better prepares them for the job. These relationships also increase trust by ensuring transparency in police procedures and hiring practices. Community-based recruiting presents the opportunity to break down the in-group/out-group dynamics, as those involved in the mentoring program are not police but are allowed access to the police social group.

(**Pillars affected: transparency and impartiality**)

3. Recommendation: Have Community Representation in Hiring Processes

Throughout the hiring process, there are multiple opportunities to engage the community. Police departments should engage the community in the selection criteria for officer candidates. This can be accomplished though focus groups, community surveys, or the police advisory panel, all of which could provide valuable input. The community should

have a voice in defining the desired skills for the job to assure the criteria utilized are consistent with the desires of the community. Community members should then have a voice in officer testing and selection processes, including having representation on the hiring board and hiring panel. This recommendation reduces bias in the hiring process. It also allows opportunity for community input in hiring decisions, assuring transparency and voice in the decision-making process.

(**Pillars affected: voice, fairness, and transparency**)

B.   PROCEDURALLY JUST TRAINING PRACTICES

In any industry, the goal of training is to produce a desired outcome that supports the mission of the organization. Once police departments hire the correct officers, how the new officers are trained influences how they act within the community. A focus on the risks of policing during training produces a mindset that failure to protect oneself all the time will have fatal consequences. Seth Stoughton, a former police officer and law professor at the University of South Carolina, observes, "Police training starts in the academy, where the concept of officer safety is so heavily emphasized that it takes on almost religious significance. Rookie officers are taught what is widely known as the 'first rule of law enforcement': An officer's overriding goal every day is to go home at the end of their shift."[191] This messaging is deeply engrained in all training and becomes a basis for community interactions. It is impossible to become part of the community if an officer fears for his or her safety in all interactions with the community.

1.   Recommendation: Structure Academy Training to Develop Soft Skills

The academy training setting indoctrinates new officers into the culture of policing. The structure of the academy must support the development of technical, tactical, and soft skills. Soft skills include effective communication skills, de-escalation, and cultural awareness. The Washington State Criminal Justice Training Commission provides a model

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[191] Seth Stoughton, "How Police Training Contributes to Avoidable Deaths," *Atlantic*, December 12, 2014, https://www.theatlantic.com/national/archive/2014/12/police-gun-shooting-training-ferguson/383681/.

for accomplishing this balance. How officers are trained is how the public can expect them to perform, including how they treat the community. An academy that focuses as much effort on teaching officers how to interpret the Constitution as it does how to shoot a firearm creates officers who are better equipped to function in field settings—a focus on twenty-first-century century policing. This change in approach builds relationships with the community and builds legitimacy.

(**Pillars affected: fairness and impartiality**)

2.   Recommendation: Implement Reno's Field Training Model

The training model developed in Reno was designed to be tailored to and implemented in agencies across the county. By focusing on the development of the officers' technical and community policing skills, it better equips officers to address the needs of a community. The model also develops critical thinking and flexibility, which are necessary for the complexity of policing. A training program that focuses on adult learning principles respects the diversity of those hired as police officers, allowing for diversity to remain after training instead of forcing new employees to conform to rigid practices based on tradition. By allowing greater independence and diversity of thinking, the in-group/out-group dynamics can become less pronounced, allowing for diverse officers to belong to both social groups simultaneously.

(**Pillars affected: voice, transparency, impartiality, and fairness**)

3.   Recommendation: Engage the Community in Enhanced Neighborhood Exercises

The Reno model training program has an exercise called the Neighborhood Portfolio Exercise in which a new officer has to engage with a community and report back on the needs of the community. That report is presented to a board of police officers. The exercise would be more effective if presented to the affected communities, and if the department gathered feedback on the officer's presentation and insight into the community. This exercise and report would force the officer to develop a meaningful relationship and understanding of the community in order to produce a meaningful project. It would also give the community a voice in the successful completion of the police training program.

This recommendation enhances the relationship with the community and has the ability to further reduce the impact of bias, and furthermore supports procedural justice principles.

(**Pillars affected: voice and transparency**)

C.   CONCLUSION

Procedural justice is the driver of legitimacy in policing. There is clear evidence that increasing legitimacy and decreasing bias can increase the number of positive outcomes in policing encounters. Each individual recommendation is good policy, but collectively they create a structure that allows a systematic approach to hiring and training a police department that mirrors both the outward appearance of the community and the values of the community. This systematic view enables employee-led recruiting, pride in the profession, response to community problems, and engagement with communities of all color. It also enhances community acceptance of police and police actions. There will continue to be negative outcomes during individual police encounters, but increasing the use of procedural justice in all aspects of hiring and training has the ability to reduce the frequency and severity of negative outcomes. Emphasizing procedural justice in the systems of policing creates a synergistic effect. It is time to bring back an environment where the people are the police and the police are the people.

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