



Rightful Policing

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Executive Session on Policing and Public Safety

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Introduction

During the summer of 2009, the nation and the world trained their attention on Cambridge, Massachusetts, a small northeastern city of about 100,000 people abutting Boston and home to Harvard University. That summer, a Cambridge police officer arrested renowned Harvard University African American Studies scholar Henry Louis Gates, Jr., who was attempting to enter his home following a long trip abroad. The media were flooded with stories and accounts of "racial profiling," the nature of the problem and the necessity for a national response. Even President Obama famously commented on the incident.¹

To understand the controversy following Professor Gates's arrest, it is useful to have a factual context: Sergeant James Crowley, the officer who arrested Professor Gates, radioed that he would go to the Gates residence after receiving a dispatch at 12:46 p.m. on July 16, 2009, that a possible breaking and entering was in progress. Crowley arrived to find Gates in his home, and from there the stories diverge. Crowley's version of the events is that Gates was yelling and

in turn are usually described using the same set of tools — the architecture of law and rights.

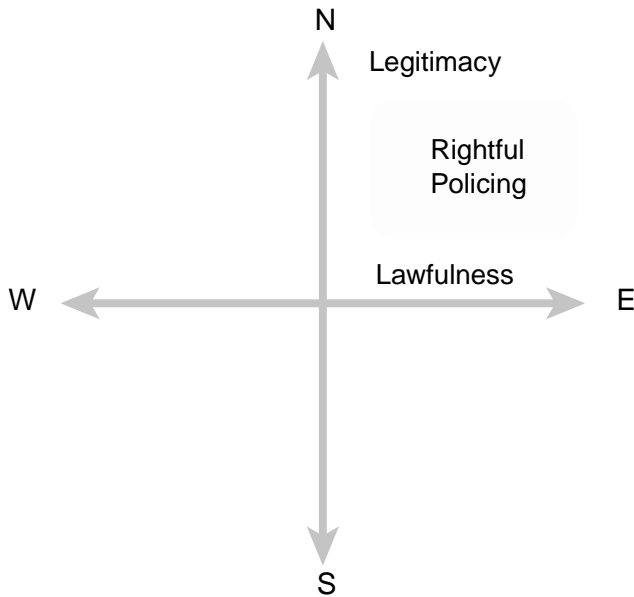
Thinking about police lawfulness in terms of a tradeo between the risk of arbitrary or oppressive enforcement and an individual's right to privacy and autonomy is a dominant approach in the

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treatment — make up what psychologists call “procedural justice.”

Procedural justice matters a great deal in civil society. One important consequence of people’s perceptions of procedural fairness according to these terms is that they lead to popular beliefs of legitimacy. When social psychologists use the term “legitimacy,” they are referring to a

Figure: Rightful Policing as the Convergence of Lawfulness and Legitimacy



Source: Tracey L. Meares, *The Good Cop: Knowing the Difference between Lawful or Effective Policing and Rightful Policing — And Why It Matters*. *BYU L. REV.* 1865, 1879 (2012).

justice in encounters can change public perceptions of policing agencies, leading to lack of trust, ill-will and ultimately less law-abiding.²² Considering both the lawfulness and the legitimacy of police conduct allows both the police officer and the citizen stopped to be right in a way that is not possible when one operates in the single dimension of lawfulness. The possibility of both sides being right can lead to fruitful conversation about the rightfulness of policing.

Putting Legitimacy to Work

This argument raises the question for police of how they can put these ideas into practice. A focus on the procedural

globe, is that too often such policing comprises behavior I would locate in the southeast: police

mission. These two initiatives, however, are not unique. Lorraine Mazerolle and her colleagues recently completed a meta-analysis of legitimacy policing interventions and concluded that “police can achieve positive changes in citizen attitudes to police through adopting procedural justice dialogue as a component part of any type of police intervention.”²⁵

When the Chicago initiative started, the city’s homicide rate hovered near 22 per 100,000. Crime is often concentrated by geography, and in Chicago the neighborhoods on the city’s west and south sides drove the city’s homicide rate. The highest crime area on the west had a homicide rate of 72 per 100,000. Using funds provided by a billion-dollar nationwide federal initiative to combat gun crime called Project Safe Neighborhoods (PSN);²⁶ United States Attorney Patrick Fitzgerald proposed a strategy modeled after Project Exile in Richmond, Virginia, targeting ex-offenders in the high-crime areas with federal penalties for gun possession and other gun offenses. Fitzgerald believed, from crime analysis, that ex-offenders were

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every community and shape what people think, feel and do. People want to feel comfort, not fear, when the police are present and to anticipate that they will receive help and professional treatment when they need it. When they do, they become invested in the communities in which they live. Research on popular legitimacy, to which police contribute, suggests that when people evaluate their police and court systems as procedurally fair, they identify more with their communities and engage in them socially by trusting neighbors, politically by voting, and economically by shopping and going to entertainment venues

Commitment to rightful policing can help, but executives cannot be sanguine about its potential impact. The approach requires broadly conceived and coordinated efforts among a variety of contexts — crime reduction, community relations and, importantly, internal discipline⁴⁸ — to effect real change.

Endnotes

1. See Nicholas Graham, *Obama on Skip Gates Arrest: Police Acted “Stupidly”*, *HuffPost*, Aug. 22, 2009, http://www.huffpost.com/2009/07/22/obama-on-skip-gates-arrest_n_243250.html (last visited Nov. 13, 2014).
2. Rachel A. Harmon, *The Problem of Policing*, 110 *MICH. L. REV.* 761 (2011).
3. CHRISTOPHER J. TROTT, *THE NEW POLICE* (2011), <http://www.nij.gov/pubs-sum/232359.htm> (last visited Nov. 13, 2014).
4. DAVID H. BISHOP, *THE POLICE* 3 (1994).
5. For one example criticizing the police lawfulness tradeoff, consider the discussion by Meares and Kahan of the legal struggle regarding searches for guns in Chicago public housing. See THOMAS L. MEARES & DAVID M. KAHAN, *UNLAWFUL POLICE: REFORMING POLICE CONDUCT* (1999).
6. See *id.* at 18–22.
7. SETH STANTON, *supra* note 3, at 1 (noting that accountability is a critical aspect of what they call the “new professionalism,” along with legitimacy, innovation and national coherence).
8. See *id.* at 12. (“The best chiefs speak confidently about ‘the three C’s: crime, cost and conduct. Police departments today are accountable for all three.’”)
9. *Id.* at 12–15.
10. See ANDREW B. D. WATSON, *THE POLICE: CHANGING THE POLICE* (2010).
11. See NANCY R. COOPER, *FUTURE POLICE: THE POLICE* 297 (Wesley Skogan & Kathleen Frydl, eds., 2004); Anthony A. Braga, Brandon C. Welsh & Cory Schnell, *Can Policing Disorder Reduce Crime? A Systematic Review and Meta-Analysis*, *CRIME & DELINQUENCY* (Forthcoming); ANDREW B. D. WATSON, *THE POLICE* (2d ed., 2008).
12. See Transcript, *Bloomberg Vows to Appeal Federal Judge’s Ruling That Stop-and-Frisk Policy Violated Civil Rights in Press Conference*, *N.Y. DAILY NEWS*, Aug. 12, 2003, <http://www.nydailynews.com/news/politics/bloomberg-vows-appeal-federal-judge-ruling-stop-stop-and-frisk-policy-article-1.1424630> (last visited Nov. 13, 2014); John Eterno & Eli Silverman, *Mike Bloomberg’s Fact-Free Defence of Stop-and-Frisk*,

25. See Mazerolle et al., Procedural Justice, *supra* note 24.

26. See Papachristos et al., *supra* note 23

Campbell Collaboration Systematic Review and Meta-Analysis (Paper presented at the annual meeting of the American Society of Criminology, Chicago, IL, Nov. 22, 2013).

41. J. D. M. C. , P. R.
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T (2003).

42. Ian Loader, Policing, Recognition, and Belonging, 605A A . A . P . S .
S . 202, 211 (2006) (citation omitted) (citing Neil Walker, Policing and the Supranational, 12 P S ' 307, 315 (2002)).

43. Sed L A • M , P
C E : M ,
P C (2003). Another primary iconic symbol is the red telephone box, not to be confused with the blue police box.

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