

# SUBJECT TO DEBATE

A NEWSLETTER OF THE POLICE EXECUTIVE RESEARCH FORUM



**Sir Peter Fahy Joins  
PERF Board of Directors**

PAGE 3

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## PERF and BJA Release 2 Reports Defining Legitimacy and Procedural Justice In Policing

By Chuck Wexler  
Executive Director, PERF

I AM VERY PLEASED TO ANNOUNCE THE RELEASE OF two reports on an important development in policing: the growing recognition of the concepts of legitimacy and procedural justice in policing.

This issue of *Subject to Debate* provides excerpted versions of the two reports, which were produced with support from the Justice Department's Bureau of Justice Assistance (BJA). The full texts of the reports can be found on PERF's website at [www.policeforum.org](http://www.policeforum.org). Special thanks go to BJA Director Denise O'Donnell for supporting PERF's work in this important area.

I first became acquainted with the terms "legitimacy" and "procedural justice" in 2009, when Cambridge, MA Police Commissioner Robert Haas called for an independent committee to review the arrest of Harvard Prof. Henry Louis Gates, Jr. To his great credit, Commissioner Haas wanted the "Cambridge Review Committee" to identify the lessons that all of us in policing could take from that controversial incident.

I chaired that committee, which included some of the best and brightest in policing, such as PERF President Chuck Ramsey; Chief Terry Gainer, U.S. Senate Sergeant at Arms; and former FBI Assistant Director Louis Quijas.

There are two leading academic experts on legitimacy and procedural justice in policing, both at Yale Law School: Prof. Tracey L. Meares, and Prof. Tom Tyler. Professor Meares served on the Cambridge Review Committee, and she educated all of us about why it is important for police agencies to be considered legitimate and procedurally just, and about how these concepts could help us understand what happened in the Professor Gates incident.

The other expert, Professor Tom Tyler, wrote the first paper that is excerpted in this issue of *Subject to Debate*, beginning on page 2. In his paper, Tom provides specific definitions of legitimacy and procedural justice. These terms are being used more and more in policing, but it's important to know exactly what they mean. Tom also tells us about the research demonstrating why procedural justice and legitimacy are important. There is more to this than anecdotes and common sense; there is social science research backing it up. Tom also discusses the stop-and-frisk practices in New York City and Philadelphia, as examples of how legitimacy and procedural justice play out in policing.

Our second paper, which begins on page 3, uses the example of the New Orleans Police Department, and Superintendent Ron Serpas's reform efforts there, as a case study of legitimacy and procedural justice. Ron deserves a lot of credit for his efforts to make the NOPD a first-rate police department, and I'm grateful for the help he gave us on this project.

I also want to recognize Steve Edwards at BJA, who contributed his considerable knowledge of policing to this project, and Craig Fischer of PERF, who oversees all of our publications. Fischer and Edwards worked tirelessly with Tom Tyler and Ron Serpas to develop these important papers.

The Bureau of Justice Assistance generously provided us with funding to explore these issues as part of a project on developing leadership in policing. I am grateful to our colleagues at BJA for sponsoring this important research. PERF will be producing additional reports on issues of leadership as part of this work with BJA.



# Legitimacy and Procedural Justice: A New Element of Police Leadership

By Dr. Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology, Yale Law School

Note: The article below is excerpted from a more detailed report, which is available at <http://bit.ly/1hZiDe0>.



Dr. Tom Tyler

A REVIEW OF POLICING BY THE NATIONAL ACADEMY OF SCIENCES IN 2004 detailed evidence of increasingly professional and effective police departments and of more sophisticated policing practices.<sup>1</sup> There is a new professionalism in policing that benefits the people who have individual encounters with the police, as well as residents who work with local police to reduce crime and disorder.

These improvements in the objective quality of policing notwithstanding, the other consistent finding of studies of the police is that over the last 30 years, public support for the police—often indexed as “trust and confidence” in the police—has *not* increased. The percentage of Americans expressing a great deal of confidence in the police between 1980 and 2009 has generally ranged between 50 and 60 percent. In June 2011 it was at 56%, according to a Gallup poll.<sup>2</sup> By contrast, violent crime rates nationwide have dropped 48% since 1993, according to the FBI’s Uniform Crime Reports.<sup>3</sup>

**This discrepancy between the increasing level of police performance and generally unchanging levels of public support suggests that the police may not be capturing the potential gains of heightened professionalism and improved performance.** What are those potential benefits? Studies suggest that they include: (1) greater public deference to the police when the police have personal interactions with members of the community<sup>4</sup>; (2) increased compliance with the law<sup>5</sup>; (3) higher levels of cooperation with police efforts to manage crime<sup>6</sup>; and (4) stronger institutional support for police departments.<sup>7</sup>

## LEGITIMACY AND PROCEDURAL JUSTICE: DEFINITIONS

In discussing the concepts of legitimacy and procedural justice in policing, it is helpful to give the words specific definitions as terms of art that go beyond their everyday meaning:

**Legitimacy** reflects the belief that the police ought to be allowed to exercise their authority to maintain social order, manage conflicts and solve problems in their communities.

1. *Fairness and Effectiveness in Policing: The Evidence*. National Research Council of the National Academies. Available at [http://www.nap.edu/openbook.php?record\\_id=10419&page=R1](http://www.nap.edu/openbook.php?record_id=10419&page=R1)

2. “Sourcebook of Criminal Justice Statistics Online.” <http://www.albany.edu/sourcebook/pdf/t2122011.pdf>

3. Crime in the United States, 2012, FBI. Table 1. [http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatadecoverviewpdf/table\\_1\\_crime\\_in\\_the\\_united\\_states\\_by\\_volume\\_and\\_rate\\_per\\_100000\\_inhabitants\\_1993-2012.xls](http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/1tabledatadecoverviewpdf/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1993-2012.xls)

4. Tyler, T.R. & Huo, Y.J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. N.Y.: Russell-Sage Foundation.

5. Tyler, T.R. (1990). *Why people obey the law: Procedural justice, legitimacy, and compliance*. Republished with a new afterword (2006). Princeton University Press.

6. Tyler, T.R. & Fagan, J. (2008). *Why do people cooperate with the police?* Ohio State Journal of Criminal Law, 6, 231–275.

7. Sunshine, J. & Tyler, T.R. (2003). *The role of procedural justice and legitimacy in shaping public support for policing*. Law and Society Review, 37(3), 555–589.

Legitimacy is reflected in three judgments:

- The first is public trust and confidence in the police. Such confidence involves the belief that the police are honest, that they try to do their jobs well, and that they are trying to protect the community against crime and violence.
- Second, legitimacy reflects the willingness of residents to defer to the law and to police authority, i.e. their sense of obligation and responsibility to accept police authority.
- Finally, legitimacy involves the belief that police actions are morally justified and appropriate to the circumstances.

**Procedural justice** can be viewed as a means to attaining legitimacy and can be defined in terms of four issues.

- First, people want to have an opportunity to explain their situation or tell their side of the story to a police officer. This opportunity to make arguments and present evidence should occur before the police make decisions about what to do.
- Second, people react to evidence that the authorities with whom they are dealing are *neutral*. This involves officers making decisions based upon consistently applied legal principles and the facts of an incident, not an officer’s personal opinions and biases.
- Third, people are sensitive to whether they are treated with  dignity and politeness, and to whether their rights are respected. The issue of interpersonal treatment consistently emerges as a key factor in reactions to dealings with legal authorities. People believe that they are entitled to treatment with respect, and react very negatively to dismissive or demeaning interpersonal treatment.
- Finally, people focus on cues that communicate information about the intentions and character of the legal authorities with whom they are dealing (their “trustworthiness”). People react favorably when they believe that the authorities with whom they are interacting are benevolent and caring, and are sincerely trying to do what is best for the people with whom they are dealing. Authorities communicate this type of concern when they listen to people’s accounts and explain or justify their actions in ways that show an awareness of and sensitivity to people’s needs and concerns.

## THE DIFFERENCES BETWEEN LEGITIMACY AND LEGALITY

The concepts of “legitimacy” and “legality” may be confused or even considered interchangeable by some people, but they are not the same thing. Legitimacy refers to the *judgments* that ordinary residents make about the authority of the police to make decisions about how to enforce the law and maintain social order. *Unlike police lawfulness, which is defined by the text of laws and by administrative and regulatory standards, legitimacy lies within the perceptions of the public. Perceptions of legitimacy are subjective, and will vary among jurisdictions and within specific communities in those jurisdictions.*

>> continued on page 4

# Legitimacy and Procedural Justice: The New Orleans Case Study

Note: The article below is excerpted from a more detailed report, which is available at <http://bit.ly/1luY7aW>.



**New Orleans Police  
Superintendent  
Ronal Serpas**

SINCE TAKING OFFICE IN 2010 AS NEW ORLEANS Police Superintendent, Ronal Serpas has been undertaking a comprehensive overhaul of the Police Department aimed at establishing integrity and accountability mechanisms within the department, while reaching out to solicit residents' views about the kind of police department they wish to have.

Superintendent Serpas brings a mix of experience and skills to the job of reforming the New Orleans Police Department (NOPD): 32 years of experience in three law enforcement agencies, in which he has demonstrated a belief in the principles of community policing and accountability.

A New Orleans native, Ronal Serpas began his career in 1980 with the NOPD and served there for 21 years. Serpas left New Orleans to take a position as chief of the Washington State Patrol from 2001 to 2004, and then as chief of the Metropolitan Nashville, TN Police Department from 2004 until 2010.

Serpas returned to New Orleans and was sworn in as NOPD Superintendent on May 12, 2010. A week earlier, when Mayor Mitch Landrieu announced his choice of Serpas for the top police job, the mayor had requested that the U.S. Department of Justice initiate an investigation of the NOPD. The Police Department was in crisis, with numerous officers facing charges for crimes committed in the aftermath of Hurricane Katrina in 2005.

Mayor Landrieu and Superintendent Serpas were not the first local officials to invite federal investigators to review a local police department. However, Serpas showed leadership by deciding not to wait for the DOJ Civil Rights Division to produce its findings and recommendations. Rather, Serpas immediately launched his own major reform initiative.

## SERPAS'S 65 "FIRST STEPS," STEEPED IN LEGITIMACY AND PROCEDURAL JUSTICE

Several months after taking office, Serpas released a report titled "Rebuilding the New Orleans Police Department—First Steps," in which he listed 65 actions he was taking to reform the NOPD.<sup>1</sup> Of the 65 steps, 32 fell in two categories that have strong connections to legitimacy and procedural justice: "Community Outreach and Transparency" and "Integrity-Accountability." These reforms included the following:

- Opening all Compstat meetings to the public, so residents can observe what police officials are saying and thinking about specific crime problems and solutions in each district and citywide.
- Creating a "Citizen Callback System" in which a random sample of crime victims are contacted every month and asked to assess whether the police handled their cases professionally.

- Creating a new position of "Community Coordinating Sergeant" in each district, whose responsibilities include a variety of tasks related to responding to the community's concerns. Since October 2010, Dr. Michael Cowan, a Professor at Loyola University New Orleans and civil rights leader, has led monthly community relations development seminars for the community coordinating sergeants.
- Creating a "Cops, Clergy and Community Coalition" to improve police services and problem-solving strategies with input from community members.
- Appointing, for the first time, a civilian Deputy Superintendent to head the Public Integrity Bureau.
- Implementing stricter sanctions against officers who lie, make false reports, or fail to report misconduct by colleagues.
- Restructuring the NOPD's Early Warning System, with an emphasis on new training on cultural diversity, ethics, citizen complaint procedures, federal and state laws, police policies and procedures, bias-free policing, and related topics.
- Building trust on a controversial issue by banning cash payments to officers for off-duty paid details, and implementing other controls to document every off-duty paid hour worked by every officer, in order to ensure compliance with regulations governing that practice.
- Expanding the use of in-car video systems and GPS vehicle locator systems in patrol cars in order to ensure officer accountability and provide supervisors with training and/or disciplinary tools.

>> continued on page 8

## Sir Peter Fahy Joins PERF Board of Directors

The PERF Board of Directors has appointed Sir Peter Fahy, Chief Constable of the Greater Manchester Police, UK to serve on PERF's Board, effective immediately.

"Sir Peter has been a longtime active member of PERF," said Philadelphia Police Commissioner Chuck Ramsey, who serves as President of PERF. "He has participated in many PERF projects involving issues like leadership in policing and use of new technologies such as body-worn cameras. In addition to his own participation, Sir Peter has brought other top officials from the Greater Manchester Police to be involved in PERF meetings. He is especially well known for his leadership on issues of race and class as well as innovations in policing and community policing. He heads one of the largest police departments in the UK. We are extremely pleased that he has agreed to serve on PERF's board."

Sir Peter Fahy grew up in East London and began his career in policing in 1981. He served in Surrey, Hertfordshire and West Midlands and was Chief Constable of Cheshire for five years. He was awarded the Queen's Police Medal in 2004 and a knighthood in 2012.

1. [http://media.nola.com/crime\\_impact/other/NOPD-65-point-plan.pdf](http://media.nola.com/crime_impact/other/NOPD-65-point-plan.pdf)



Traditionally, the framework through which policing activities are evaluated has been their legality. Of course, legality and adherence to police agency policy must continue as benchmarks for evaluating any policing practice, just as practices must be evaluated in terms of their ability to control crime, protect officer and civilian safety, and meet cost-effectiveness objectives. **However, the argument being advanced here is that there is an additional benchmark for evaluating police practices: the impact of a policy and practice upon perceived police legitimacy within the community.**

Studies suggest that the public is not generally knowledgeable about law and the legalities of police practices. Hence, the public is not likely to be able to correctly assess the legality of some police practices. Rather, the public evaluates the legality of the police by reacting to how they and others are treated by the police.

A study of reactions to videos in which observers rated police-citizen interactions, for example, shows that people's evaluations of whether the police violated the law are more strongly shaped by whether the police treated the resident with whom they dealt "fairly" than by whether the police action was in fact legal.<sup>8</sup> Other research has found that members of minority groups focus on how they are treated by the police as a central cue to tell them if they are being racially profiled.<sup>9</sup>

These findings suggest that *the public is more willing to defer to legitimate police actions when they believe the actions are reasonable and appropriate.* A key indicator that the police are acting in reasonable and appropriate ways is that they behave professionally—they make decisions in rule-based, factual ways; they listen to people and obtain necessary information from those involved so that they can make informed and intelligent decisions; and they treat people with dignity and respect. When the police act in these ways, they find the public more deferential to and supportive of their actions and more willing to infer that the police are acting within their authority and to trust that their motives are sincere and caring.

## HOW DOES LEGITIMACY DIFFER FROM COMMUNITY POLICING?

Some observers have noted that the concept of legitimacy in policing seems similar to the concepts of community policing as they have been developed since the 1980s. Some think of legitimacy as "new wine in an old bottle," or as an updated or higher-powered version of community policing.

It is true that efforts to build legitimacy in policing have much in common with efforts to build community policing. But the concepts are not exactly the same. Community policing is generally seen as a police initiative, while legitimacy is a criterion by which a police department can be judged and, evidence suggests, is judged every day by the people in the community. Community members decide whether to willingly defer to and accept police decisions and policies, and make their own

8. T.L. Meares, T.R. Tyler & J. Gardener (in press). *The two different worlds we live in: Lawfulness and perceived police misconduct.* *Journal of Criminal Law and Criminology.*

9. Tyler, T.R. & Wakslak, C. (2004). *Profiling and the legitimacy of the police: Procedural justice, attributions of motive, and the acceptance of social authority.* *Criminology*, 42, 13–42.

judgments about the extent to which they are willing to work with the police to help them maintain order in the community.

## RESISTANCE TO THE TERM "LEGITIMACY"

When the term "legitimacy" began to be aired in police circles in the late 2000s, it received a cool reception from some police executives. As one big-city police chief expressed it, "I'm not a fan of this term 'legitimacy.' Most of us in policing think we have a very important job, and we work hard at doing it well. And there's no question that policing today is light years ahead of where it was a generation ago in terms of being progressive, evidence-based, and compassionate. So to talk about whether the police are 'legitimate' implies that if anyone criticizes us, suddenly we are 'illegitimate.' And that word doesn't go down well with officers who have made a life's work of protecting the public and trying to do right by people."

*However, this is not what the term "legitimacy" is meant to convey in the context of policing. For purposes of this document and general discussions of this topic, "legitimacy" is a relative term that denotes the extent to which a police department is perceived as morally just, honest, and worthy of trust and confidence.* Often, there will be people in a community who believe that a certain police action or policy is legitimate, while others have the opposite view. *Thus, legitimacy in policing is not an absolute state, but rather a relative measure of people's perceptions.*

Furthermore, taking the views of people in the community seriously is not an indication that one accepts the belief that the police are acting unlawfully or being ineffective. Rather, it is an acceptance of the reality that success in policing depends upon the way the community views and reacts to the police, so the police need to try to understand and respond to community concerns.

## LEADERSHIP AND LEGITIMACY

Because legitimacy and procedural justice are concepts that are relatively new to policing, for today's police executives, the issue of leadership on these issues begins with recognizing their importance to the success of a police department.

It is only in the last few years that a few police chiefs have begun to use the words "legitimacy" and "procedural justice" in national conferences of police executives, where new concepts and approaches are often given their first major airing. General concepts of legitimacy and procedural justice in government have been the subject of research and academic study for a longer period of time,<sup>10</sup> but these ideas are fairly new in the field of policing.

**Thus, the police chiefs who are taking leadership roles on the issue of legitimacy and procedural justice today are those who have read or heard about the concepts and are aware of the research behind them.**

**These chiefs recognize the importance of the concepts in terms of achieving police department goals and producing benefits for everyone in the community.**

**They incorporate the ideas of legitimacy and procedural justice in what they say to police officers, and in what**

10. See E. Allen Lind and Tom Tyler, *The Social Psychology of Procedural Justice* (1988), and John Thibaut and Laurens Walker, *Procedural Justice* (1975).

they say to the public.

And they make the concepts part of their everyday thinking as they plan police operations, develop policies, make speeches, hold community meetings, give news media interviews, and otherwise go about their work.

## “INTERNAL” LEGITIMACY WITHIN A POLICE DEPARTMENT

It is also important to recognize that ideas of legitimacy and procedural justice apply not only to interactions between the police and the public. They are also relevant to the internal dynamics of police departments. Like members of the public, police officers in some departments complain that their superiors do not listen to them, do not explain their policies, and are not concerned about the issues that matter to officers. And, just as is true of the public, studies indicate that officers who feel this way are less likely to follow department rules for behavior on the street, and are less willing to voluntarily cooperate with their superiors in the department’s efforts to manage social order.

What is the primary reason that officers evaluate their superiors and their departments as being legitimate? It is that they feel that they themselves are treated fairly when they deal with their superiors. Hence, legitimacy is not only an issue on the street; it also matters within the department.

## CASE STUDY: STREET STOPS IN NEW YORK CITY AND PHILADELPHIA

There have been expansions in the use of street stops and searches by the police in some American cities in recent years. In New York City, the Police Department’s so-called “stop and frisk” practices became a controversial issue, to the point that it was considered a factor contributing to the election of Mayor Bill de Blasio in 2013.

Proponents of stop-and-frisk initiatives argue that large numbers of stops help police to get guns and drugs off the streets. In some cases, this is accomplished because stops result in arrests. But to a larger extent, the reasoning is that frequent stops of pedestrians or motorists in high-crime neighborhoods *deter* people from carrying firearms, illegal drugs, or other contraband, because they know there is a risk of being stopped by police.

Opponents of large-scale stop-and-frisk practices argue that the large majority of street stops do not yield either guns or drugs, but they often result in the repeated stopping and humiliation of innocent people, which damages police-community relationships.

These issues came to a head in New York City in 2013, as the U.S. District Court for the Southern District of New York heard testimony in a class-action lawsuit regarding stop and frisk practices. The legal action was brought by a group of African-American and Hispanic persons who said they were stopped by police without a legal basis in violation of the Fourth Amendment, and that they were targeted for stops because of their race in violation of the Fourteenth Amendment.

The U.S. Justice Department, in a “Statement of Interest of the United States” in the case, said:

*“[T]here is significant evidence that unlawfully aggressive police tactics are not only unnecessary for effective policing, but are in fact detrimental to the mission of crime reduction.*

*Officers can only police safely and effectively if they maintain the trust and cooperation of the communities within which they work, but **the public’s trust and willingness to cooperate with the police are damaged** when officers routinely fail to respect the rule of law...As systematic violations of civil rights erode public trust, policing becomes more difficult, less safe, and less effective. Therefore, if the Court finds any constitutional deficiencies exist in NYPD’s stop-and-frisk practices, the implementation of injunctive relief would promote, rather than hinder, NYPD’s mission of safely and effectively fighting crime.”<sup>11</sup>*

**The Justice Department’s references to “the public’s trust [in the police] and willingness to cooperate with the police” echo the definition of legitimacy presented in this report.**

The U.S. District Court ruled against New York City on August 12, 2013, finding that NYPD’s stop and frisk practices violated the Constitutional rights of members of minority groups. U.S. District Judge Shira A. Sheindlin’s legal analysis focused mainly on *Terry v. Ohio* and other search and seizure precedents, as well as equal-protection case law.<sup>12</sup> She said that the question of whether the NYPD’s stop and frisk practices are effective in reducing crime was irrelevant for her purpose of deciding whether the practices are Constitutional:

*I emphasize at the outset, as I have throughout the litigation, that this case is not about the effectiveness of stop and frisk in deterring or combating crime. This Court’s mandate is solely to judge the **constitutionality** of police behavior, **not** its effectiveness as a law enforcement tool. Many police practices may be useful for fighting crime—preventive detention or coerced confessions, for example—but because they are unconstitutional they cannot be used, no matter how effective.”<sup>13</sup>*

**Thus, the judge’s ruling supported the proposition stated earlier in this report that legality and legitimacy are different concepts.** Police cannot expect to argue that a policy or practice is legitimate if it is illegal. And even if a practice is found to be legal, that does not necessarily mean that community members will consider it legitimate, unless police executives show leadership by explaining the practice and demonstrating why it deserves the support of the community.

Judge Sheindlin touched on questions of legitimacy and procedural justice in her decision, saying that unconstitutional stops and frisks can hurt police effectiveness:

*While it is true that any one stop is a limited intrusion in duration and deprivation of liberty, each stop is also a demeaning and humiliating experience. No one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life. Those who are routinely subjected to stops are overwhelmingly people of color, and they are justifiably troubled to be singled out when many of them have done*

>> continued on page 6

11. “Statement of Interest of the United States.” *Floyd v. The City of New York*, U.S. District Court for the Southern District of New York. Filed June 12, 2013. Emphasis added. [http://www.justice.gov/crt/about/spl/documents/floyd\\_soi\\_6-12-13.pdf](http://www.justice.gov/crt/about/spl/documents/floyd_soi_6-12-13.pdf)

12. *Floyd et al v. The City of New York*, Opinion and Order, 08 Civ. 1034 (SAS). U.S. District Court for the Southern District of New York. August 12, 2013. [http://www.nylj.com/nylawyer/adgifs/decisions/scheindlin\\_floyd.pdf](http://www.nylj.com/nylawyer/adgifs/decisions/scheindlin_floyd.pdf)

13. *Ibid.*, page 2.

*nothing to attract the unwanted attention. Some plaintiffs testified that stops make them feel unwelcome in some parts of the City, and distrustful of the police. This alienation cannot be good for the police, the community, or its leaders. Fostering trust and confidence between the police and the community would be an improvement for everyone.*<sup>14</sup>

The legal controversy faded as New York City voters elected a new mayor, Bill de Blasio, who had campaigned largely on a promise to scale back stop and frisk in New York.

## PHILADELPHIA'S EXPERIENCE WITH A CHALLENGE TO STOP-AND-FRISK

In June 2011, the City of Philadelphia settled a lawsuit regarding its stop-and-frisk practices. In a settlement agreement filed in the U.S. District Court for the Eastern District of Pennsylvania<sup>15</sup>, the city agreed to a number of requirements, including the following:

- Providing detailed information about past stop-and-frisk policies and statistics;
- Filing new reports about stop-and-frisk incidents in an electronic database;
- Reviewing supervision, training, and discipline policies as they apply to stop-and-frisk incidents;
- Prohibiting stops and frisks based only on anonymous information about criminal conduct or other specified factors, such as “loitering”; and
- Implementing policies to ensure that stops and frisks are not conducted on the basis of race or ethnic origin, except when legally permitted (e.g., in cases where a suspect has been described by his race).

In addition, Philadelphia agreed to regular audits and a monitoring and compliance system in which an independent court-appointed monitor, Temple University Law School Dean JoAnne A. Epps, was empowered to review information in the electronic database and submit recommendations for additional reforms.

On the day the agreement was signed, Philadelphia Police Commissioner Charles Ramsey made a presentation at a community meeting in which he outlined the terms of the agreement, and he made a special point of endorsing the appointment of Dean Epps as independent monitor.<sup>16</sup>

“I welcome the outside scrutiny,” Commissioner Ramsey said, “because it takes that away from us doing it, and having someone say, ‘Well sure, you’re going to say that everything’s OK; you’re not going to be critical of your own department....’ I think this is something that should be done and it’s a good idea.”

**Reforming the complaint process:** Ramsey then noted that Philadelphia Mayor Michael Nutter also signed a separate

14. Ibid, page 3; emphasis added.

15. *Bailey v. City of Philadelphia*, Settlement Agreement, Class Certification, and Consent Decree. C.A. No. 10-5952. June 21, 2011. [https://www.google.com/url?q=http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/baileyagreement.pdf&sa=U&ei=cQgFU4XmI-HNsQT6rYGgDg&ved=OCAUQFjAA&client=internal-uds-cse&usg=AFQjCNHqf6-0lo\\_U1Gc1lGEfqK8c0FD2ww](https://www.google.com/url?q=http://web.law.columbia.edu/sites/default/files/microsites/contract-economic-organization/files/baileyagreement.pdf&sa=U&ei=cQgFU4XmI-HNsQT6rYGgDg&ved=OCAUQFjAA&client=internal-uds-cse&usg=AFQjCNHqf6-0lo_U1Gc1lGEfqK8c0FD2ww)

16. “Ramsey on stop-and-frisk policy.” YouTube video. [http://www.youtube.com/watch?v=dZ\\_ZsE0H5qA](http://www.youtube.com/watch?v=dZ_ZsE0H5qA)

executive order to improve the handling of citizen complaints against the police—an issue that was not part of the settlement agreement, but which is closely connected to the perceived legitimacy of stop-and-frisk policies.

“We’re making it easier for people to file a complaint against a police officer [for] any type of misconduct,” Ramsey said at the community meeting. “The biggest change is in the area of complaints of verbal abuse. The bulk of complaints against police officers that we get are for verbal abuse. And when it’s investigated by Internal Affairs, what usually ends up happening is [that the officer and complainant were the only two people present, so it becomes an issue of] ‘You say I swore at you; I say I didn’t swear at you.’ There’s not enough evidence to prove or disprove the allegation. [So the complaint is classified as] ‘not sustained.’

“But in many instances, *it happened*; we just can’t prove it,” Ramsey continued. “What I want to do is change the behavior and make sure that officers treat everyone with respect. So when these complaints come in, the Inspector from that Division is going to have to whistle that officer down and have a one-on-one with him, after talking to the person who’s making the allegation.”

Thus, Commissioner Ramsey demonstrated leadership in terms of legitimacy and procedural justice not only by accepting the terms of the agreement and endorsing the independent review of the police by a monitor, but by going a step farther. He worked to ensure that residents can file complaints about stop-and-frisk incidents or any other police activity.

Ramsey also contributed to procedural justice by acknowledging that when residents make complaints of verbal abuse by an officer, the complaints often are valid, even when there is not sufficient proof to formally sustain the complaint. And he took action to address the issue of inconclusive investigations by requiring supervisors to discuss such incidents with the officer.

**Thus, even in cases where the department is unable to determine whether a particular complaint is valid, officers are put on notice that complaints are taken seriously by the department, and that the department recognizes the importance of dignity in these interactions.**

## CASE STUDY: RACIALLY BIASED POLICING AND THE HENRY LOUIS GATES CASE

Because economically disadvantaged communities tend to have relatively high levels of crime, and minority status is intertwined with economic disadvantage, minority communities have long been a focus of the police. Disadvantaged communities also tend to rely on police services to a greater extent than do prosperous communities, so members of these communities also have more frequent interactions with police officers.

Minority communities have responded to this focus in mixed ways. According to police executives, some members of heavily policed communities welcome the greater safety and security associated with a high-profile police presence if they think that presence helps to reduce crime. At the same time, police leaders acknowledge that other members of heavily policed communities object to being the focus of policies and



practices that they view as intrusive at best and motivated by racism at worst.

Overall, a large and persistent racial gap in trust and confidence in the police suggests that many members of minority communities, and in particular African-Americans, react negatively to past and current policing tactics. Studies consistently show that African-Americans are less likely than other groups to express confidence in the police, and that this difference has not diminished in recent years.<sup>17</sup>

One of the most highly publicized incidents involving questions of racial bias in policing in recent years was the 2009 arrest of Harvard Professor Henry Louis Gates, Jr. at his home by Police Sgt. James Crowley of the Cambridge, Massachusetts Police Department. The “July 16th Incident” drew national and international attention, in part because the entire incident seemed unnecessary; and observers provided a variety of explanations for what occurred. Because Sergeant Crowley is white and Professor Gates is African-American, the arrest immediately raised questions about racial bias in policing.

Cambridge Police Commissioner Robert Haas quickly responded to the incident in ways that suggested a sensitivity to the concepts of legitimacy and procedural justice. He recommended to the City Manager that an independent panel be convened to identify the lessons that all might learn from the incident, including police agencies across the nation. A 12-member committee was formed that included Yale Law Professor Tracey L. Meares, a nationally recognized expert on legitimacy and procedural justice.<sup>18</sup>

The final report of the Cambridge Review Committee is imbued with the concepts of legitimacy and procedural justice, and one chapter explores how these concepts must be balanced with tactical and officer safety issues.<sup>19</sup> Following are excerpts from that chapter:

*The Cambridge Review Committee members believe that the encounter between Sergeant Crowley and Professor Gates resonated with many law enforcement officers and members of the public because it implicated the concept[s] of “legitimacy” [and procedural justice] in the field of policing, criminal justice, and other institutions that exert authority over people.*

*The Cambridge Review Committee’s interview of Professor*

*Gates left committee members with the impression that Professor Gates believed he was denied procedural justice in July 16th. He believed that at several points, Sergeant Crowley refused to answer his questions, and Gates considered that silence demeaning.*

*However, the concepts of procedural justice and legitimacy must be balanced against tactical and safety considerations. Police officers’ efforts to increase residents’ perceptions of procedural justice must give way, at least temporarily, if they conflict with these tactical and safety issues....*

*The July 16th incident also demonstrates that side of the issue. During the first few minutes of his encounter with Professor Gates, Sergeant Crowley had concerns about his security and the safety of bystanders. He was responding to a 911 call about a possible break-in in progress. Thus, until he saw Professor Gates’ identification cards, he may have had good cause to be guarded in his approach....*

*The way an officer’s actions are perceived can not only shape the community’s judgment of that officer in that particular encounter, but also damage the public perception of other officers and the entire department if too many interactions with the police are viewed negatively.*

*This was evidenced in Cambridge after the July 16th incident. The community was not empowered to judge the arrest of Professor Gates as lawful or unlawful, but many residents expressed a variety of opinions about how the matter was settled....*

*It is therefore critical that police take seriously the responsibility to apply discretion not merely within the strict letter of the law, but also wisely and fairly. When the police make the determination that strict enforcement action is needed to meet a legitimate law enforcement purpose, or, conversely, officers exercise their discretion to refrain from making an arrest because of mitigating circumstances, the cause of their actions must be recognized as fair and appropriate by the public or the perceived legitimacy of the action and the police will suffer. ...*

*The Committee also recognizes that some actions that police take are necessary but may not be perceived as fair or proper. In those cases, the agency’s chief executive should seek out opportunities to explain more fully the circumstances.*

Cambridge Police Commissioner Haas, by calling for an outside review by an independent, broad-based committee, demonstrated leadership and an understanding of the need for a public review of questions of police legitimacy regarding the arrest of Professor Gates. The committee report that resulted from that review was one of the first major discussions of legitimacy and procedural justice in policing to receive national attention. The report provides a case study for efforts to identify procedures that effectively protect officers while also building police legitimacy within minority communities.

## LEGITIMACY AND LEADERSHIP

For police chiefs and other law enforcement executives, the question of legitimacy is an important new element of leadership. In the future, police executives increasingly will consider the building of legitimacy as a key part of their job and a test of their leadership, because the success of police initiatives in key areas, including reducing crime, will depend on the public’s view of whether the police are legitimate and procedurally just.

17. “Views of Law Enforcement, Racial Progress and News Coverage of Race.” Pew Research Center. March 30, 2012. <http://www.people-press.org/2012/03/30/blacks-view-of-law-enforcement-racial-progress-and-news-coverage-of-race/?src=prc-headline>

18. The members of the committee were: Chuck Wexler (Chairman), Executive Director, Police Executive Research Forum; Stacy Blake-Beard, Associate Professor of Management, Simmons School of Management; Marian Darlington-Hope, Assistant Professor of Human Services and Nonprofit Management, Lesley University; John Farmer, Jr., Dean and Professor of Law, Rutgers School of Law; Terrance Gainer, U.S. Senate Sergeant at Arms; John Gallagher, Assistant U.S. Attorney, Eastern District of Pennsylvania; John Kosko, Retired school administrator and community leader, Cambridge, Mass.; Tracey L. Meares, Deputy Dean and Professor of Law, Yale Law School; Jack McDevitt, Associate Dean for Research and Graduate Studies, College of Criminal Justice, Northeastern University; Aaron David Miller, Public Policy Fellow at the Woodrow Wilson International Center of Scholars, Washington, D.C.; Louis F. Quijas, President of North American Operations, Datong Electronics and former FBI Assistant Director; and Charles H. Ramsey, Commissioner of Police, Philadelphia.

19. “Missed Opportunities, Shared Responsibilities: Final Report of the Cambridge Review Committee.” June 15, 2010. [http://www.cambridgema.gov/CityOfCambridge\\_Content/documents/Cambridge%20Review\\_FINAL.pdf](http://www.cambridgema.gov/CityOfCambridge_Content/documents/Cambridge%20Review_FINAL.pdf)

The first page of Serpas's 65-point plan began with the following statement that reflects the principles of legitimacy and procedural justice in policing:

***"The New Orleans Police Department will no longer tell neighborhoods what their problems are; instead, the NOPD will listen, collaborate and respond proactively."***<sup>2</sup>

In March 2011, about seven months after Serpas released his report, the Justice Department issued several reports on various aspects of its investigation of the New Orleans Police Department. The Civil Rights Division confirmed that it found reasonable cause to believe 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, searches, and arrests.<sup>3</sup>

A separate report, "Crime in New Orleans: Analyzing Crime Trends and New Orleans' Response to Crime," funded by DOJ's Bureau of Justice Assistance, made recommendations for reform, and said that Superintendent Serpas had already anticipated many of its recommendations in his 65-point plan, which it characterized as "impressive."<sup>4</sup>

**The DOJ report added: "It is encouraging to note that the preamble to the NOPD plan to rebuild the department begins with a commitment to community policing, with 10 principles that lay the foundation for achieving community respect and collaboration to address community problems.**

... The Department has made remarkable strides in implementing the comprehensive plan released on August 23, 2010. This plan contains many of the most innovative and effective strategies that are being used today to reduce crime and violence in other cities."<sup>5</sup>

## **"INTERNAL" LEGITIMACY: DEVELOPING TRUST AMONG EMPLOYEES**

In Serpas's "65-Point Plan," 10 of the 65 points have to do with improving procedures for hiring, training, and maintaining good relations with employees and ensuring that there are systems to ensure that employees are treated fairly. Recruit training and in-service training are being expanded in several ways. And one of the 65 points provides details about the NOPD's new Job Performance Improvement Plan, which is designed to create clearly defined performance objectives for employees. Another point establishes a new transfer selection process policy. "The purpose of the selection process is to promote the fair, equitable, and transparent selection of applicants for positions within the department," the plan states.<sup>6</sup> "The policy will provide applicants with a defined set of standards so that an applicant can prepare himself/herself with the qualifications for a preferred position."

2. Ibid.

3. "Investigation of the New Orleans Police Department." U.S. Department of Justice, Civil Rights Division. <http://nolaipm.org/main/inside.php?page=materials>

4. "Crime in New Orleans: Analyzing Crime Trends and New Orleans' Responses to Crime." Bureau of Justice Assistance. <http://nolaipm.org/main/inside.php?page=materials>

5. Ibid., p. 27.

6. "Rebuilding the New Orleans Police Department – First Steps." Point No. 63. [http://media.nola.com/crime\\_impact/other/NOPD-65-point-plan.pdf](http://media.nola.com/crime_impact/other/NOPD-65-point-plan.pdf)

Other points of the Serpas plan mandate monthly meetings of NOPD management with police labor organizations, and a new "In Touch" anonymous communication system that allows employees to communicate directly and freely with the police superintendent.

**Superintendent Serpas said that these formal, written policies and systems will help to ensure that employees believe they will be treated fairly and rewarded for their initiative and work.**

**Furthermore, Serpas and Mayor Landrieu said that most NOPD employees endorse the elements of the 65-point plan that are designed to prevent corruption, because police officers, like the public, want to believe that the NOPD has integrity.**

Mayor Landrieu has noted that the hard-working and honest members of the NOPD were never given adequate credit for their response to the Hurricane Katrina disaster of 2005, because the news media (understandably) were focused on the crimes being committed by a relative handful of NOPD officers at that time.

Similarly, Superintendent Serpas noted that officers in Nashville and New Orleans have supported his zero-tolerance policy for lying by police officers. "I have found that that resonates with the hard-working cops, because that attitude [of zero tolerance] is what they want to be around," Serpas said.<sup>7</sup>

## **A SERIOUS APPROACH TO INTERNAL AFFAIRS AND DISCIPLINE**

The NOPD has taken steps to demonstrate its commitment to increasing confidence in the agency, both among its officers and the public, most notably by reorganizing the internal affairs and disciplinary processes. As mentioned above, in June 2010 Serpas altered the Public Integrity Bureau (PIB) by appointing a civilian Deputy Superintendent to lead this unit.

The PIB also has established a partnership with the FBI. Beginning in September 2011, two FBI agents have been located in the PIB to be involved in investigative strategies. They are provided with unrestricted access to the PIB leadership in order to coordinate with or monitor any PIB investigation.

The PIB also performs proactive integrity checks to ensure that training, policy, and disciplinary processes are functioning properly. The PIB conducted 243 "integrity checks" in 2011—undercover operations in which officers are offered bribes or otherwise tested in various types of scenarios. This is a major increase over the 40 checks that were conducted in 2010.

In addition, the NOPD implemented three new policies concerning employee truthfulness, which reflect the strict view of lying that Serpas has advocated:

- An "Honesty and Truthfulness" policy that calls for the presumptive termination, without progressive discipline, of any employee who makes, allows, or causes to be made a false or inaccurate oral or written report of an official nature.
- A "Failure to Report Misconduct" policy that requires all employees who observe or become aware of misconduct by another employee to immediately report that incident to a supervisor.

7. Interview of Superintendent Serpas conducted by PERF Executive Director Chuck Wexler. See next section of this report.



- A “Failure to Cooperate/Withhold Information” policy that forbids employees from withholding information, interfering with, or disrupting an authorized investigation.

In another development, the NOPD “Professional Performance Enhancement Program” (PPEP) was rewritten in 2011. The PPEP is a 40-hour training session designed to give needed follow-up to officers identified in the Early Warning System for behavior that may be unprofessional, complaints about behavior and attitude, or other indicators of potential problems. The curricula development involved the assistance of the U.S. Attorney’s Office, the Independent Police Monitor, and others, and a review of training programs in other similarly sized cities.

These changes give employees a message that the NOPD will not tolerate misconduct. By building integrity into department procedures, the NOPD is attempting to create a situation in which open and honest communication can occur when dealing with the public. Transparency and honesty are central to creating and maintaining police legitimacy in the eyes of the people of the New Orleans community, and transparency can be achieved only if the NOPD is perceived as a department that no longer has misconduct to hide.

### **ENGAGING THE COMMUNITY TO FIGHT CRIME**

One view of policing (often seen in news media articles) is that communities have to choose whether to accept police tactics that produce safety, even if they are viewed by at least some in the community as unfair, or else to accept high levels of crime in their community.

Advocates of procedural justice in policing reject this premise, and say that fairness in how people are treated is not at odds with crime reduction. They argue that police can engage in focused interventions in high-crime districts if they do so within a procedural justice framework.

### **“LABORATORIES OF COMMUNITY POLICING”**

The department has designated two of the eight districts as “laboratories” of community policing, where commanders are encouraged to experiment with programs to improve interactions between residents and officers while reducing crime and increasing residents’ feelings of safety.

One of these districts—District One—serves as an example of how efforts by the police to improve their relations with residents, even in simple ways, can have a significant impact. Centrally located, District One includes the Tremé historic district, many of the city’s hospitals, the city courts and jail, and the Iberville Housing Development, the city’s last remaining Section 8 housing. Just 4.4 square miles, District One, with a population of approximately 40,000, is the most densely populated police command, as well as the most economically and racially diverse. Historically, District One has generated the highest number of calls for service.

District One Commander Bobby Norton developed and implemented a plan to improve communications between his officers and residents. He instructed his officers to “treat people with dignity and respect,” and initiated a series of meetings with some of the district’s vocal critics of the police. These

meetings helped to reduce the public criticism of the department and eliminate issues of conflict.

For example, a long-standing point of contention between the police and the community was over the “second lines,” the traditional New Orleans brass band parades. Often operating without permits, the impromptu parades occurred on many Sundays throughout the year. To police officers not raised in New Orleans, the second lines were viewed as illegal street parties, and they repeatedly caused friction between the police officers and second-liners. Norton, a native New Orleanian and son of a New Orleans police officer, saw these parades as an opportunity to create goodwill. Relying on local historians and veteran second-liners, he developed a training and awareness program for officers and asked the second lines to alert police about upcoming events. Today, the once contentious second lines provide an opportunity for positive interactions with the police. Officers can sometimes be found walking alongside the parades, rather than breaking them up as they did in the past.

### **CHANGING OPERATIONAL PROCEDURES: “SELLING THE STOP”**

A number of protocols about police interactions with residents have been found to be helpful in building police legitimacy. One major effort launched by Superintendent Serpas was a department-wide campaign of training, and constant reinforcement by commanders, directing officers and investigators to “sell the stop.” Under these protocols, when officers stop someone on the street, they should respectfully explain the reasons for the stop, which often are about deterring crime in the neighborhood. Officers should emphasize their concern for the well-being of the people they are dealing with. They should provide opportunities for the person to respond, and should emphasize that any complaints about mistreatment will be investigated.

### **MEASURING POLICE PERFORMANCE TO BUILD LEGITIMACY**

Quality control has become a point of emphasis in the NOPD, and is being implemented through a variety of telephone and in-person follow-up contacts with residents that focus on quality control and officer integrity.

Traditionally, in most police agencies officers on the street and commanders are evaluated against a set of metrics related to their performance in combating crime. These include street stops, citations, arrests, and levels of crime within a particular area. All of these indices remain important, but the new model of legitimacy and procedural justice in policing provides additional metrics of police success that could be called “customer service” metrics.

For example, telephoning people who have requested police services, several days after the police responded—to ask if they are all right and if they received what they needed from the police—not only helps to build trust and confidence in the police; it also provides a new metric that allows a department to measure how well officers are doing in terms of building legitimacy. The performance of individual officers (or groups of officers under a certain command) can be assessed according to how often they interact with residents in ways that leave the residents satisfied or pleased.

>> continued on page 10

## CONDUCTING COMMUNITY SURVEYS TO GAUGE LEGITIMACY

The NOPD also conducts community surveys in order to reach a broader range of residents who have not necessarily had recent direct contacts with the Police Department. And for survey respondents who *have* had recent contact with the police, the NOPD surveys include questions about how the respondent was treated by the police and other indicators of legitimacy and procedural justice.

The surveys, conducted by the New Orleans Crime Coalition (NOCC), have been conducted eight times between August 2009 and August 2013. They have fluctuated but have shown a general upward trend in overall citizen satisfaction with the NOPD. In August 2009, 33% of respondents answered that they were satisfied with the NOPD. This rating increased to 60% by February 2011, but fell back to 47% in August 2011, which the NOPD attributes to extensive news media coverage of the trials of officers charged with wrongdoing following Hurricane Katrina. Satisfaction levels bounced back to 61% in February 2012, and then declined slightly to 56% in August 2012, perhaps because an NOPD officer was indicted by a local grand jury for the shooting death of an unarmed citizen while the officer was serving a search warrant for drugs. By August 2013 the overall satisfaction rating had climbed back somewhat to 58%.

The surveys also explore residents' feelings about particular aspects of the Police Department's level of service. In August 2013, 56 percent of respondents said they were satisfied with the honesty and integrity of NOPD officers; that figure had improved steadily from the initial finding of 40 percent in 2009. Similarly, the positive ratings for "professionalism" of NOPD officers rose from 49 percent in 2009 to 66 percent in 2013. And 61 percent of the August 2013 survey respondents said they were satisfied with "the general attitude and behavior of officers toward citizens," compared to 50 percent in 2009. Finally, 61% of New Orleanians citywide perceive that the NOPD is cooperating with them to address their concerns, up from 41% in August 2009.

These surveys also measure satisfaction levels with individual police officers. Among residents who had had a recent contact with police officers (either because they or a member of their household had been a victim of crime, or because they had called police or visited a police station or had had other contact with officers), the level of satisfaction has been climbing. Among that group, 72% of the survey respondents in August 2013 said the police encounter was "very pleasant" or "somewhat pleasant," compared to 53% in August 2009.

Finally, an NOCC survey conducted in August 2013 showed that 87% of the respondents who had been a victim of crime in the previous 12 months said they reported the crime to the Police Department. That is an increase in New Orleans from a rate of 79% in August 2010. It also compares favorably to national statistics; according to the Bureau of Justice Statistics' most recent crime victimization survey, only 49% of violent crime victimizations nationwide and 37% of property crimes were reported to the police.<sup>8</sup>

8. Bureau of Justice Statistics. "Criminal Victimization, 2011." NCJ 239437, October 2012, page 8. <http://www.bjs.gov/content/pub/pdf/cv11.pdf>

Superintendent Serpas believes that the high rate of reporting crime in New Orleans is a result of Community Coordinating Sergeants telling community members at every meeting that the department will be more effective if the community reports all crimes to the police.

"I think this is an important issue that speaks to the topic of legitimacy," Serpas said. "It shows that we can try to convince the public that we care about them and we want to know what's affecting them. And when they respond by giving us critical information about crime, it suggests that community members do trust that we will use the information to try to help them, which is a big part of legitimacy."

**Measuring Reaction to "Selling the Stop":** In order to advance legitimacy in policing by assessing whether New Orleans officers are "selling the stop," Superintendent Serpas in 2013 added several new questions to the survey instrument, specifically asking residents who had had encounters with the police during the previous 12 months whether the officers had *explained the reason* for the contact.

The results were encouraging. In March 2013, among residents who had had some contact with an officer, 61 percent said the officer had explained the reason for the contact very clearly or somewhat clearly, compared to 19 percent who said the officer had not explained the reason clearly. By August 2013, the favorable rating had climbed from 61 percent to 70 percent.



*PERF Executive Director Chuck Wexler interviewed New Orleans Police Superintendent Ronal Serpas regarding his efforts to reform the NOPD and his views about legitimacy, procedural justice, and police executive leadership:*

**Wexler:** Superintendent, you've been working to fix the NOPD for several years, and you played a role in the earlier reform efforts back in the 1990s. What differences do you see between those two eras, in terms of leadership and the reforms that were undertaken?

**Serpas:** In each era, we were up against significant problems. But the problems back then were not nearly as endemic as they are in this 2010 era. In the 1990s, we had a handful of officers in the department who just ran amok. Antoinette Frank robbed a restaurant and murdered three people. Len Davis directed a drug dealer to shoot a woman who filed a brutality complaint against him. Michael Thames robbed a bank twice. But these people were lone wolves. In 2010, we had much more systemic problems to deal with.

**Wexler:** When you went back to New Orleans, did you correctly read what you were coming back to?

**Serpas:** I'll tell you what I missed: the depth of the destruction of the systems that any local police department should have. Going into it, I didn't know how badly the discipline system had fallen apart, the policy and procedures system, the training systems, promotional practices—every system that you need to hold a police department together had completely disintegrated. The DOJ report recognized this—that every system that you would expect to see in a well-running police department had completely come off the tracks. The systems

were there in name only, not in reality. We had people purposefully creating conspiracies and engaging others up the chain of command to cover up the Glover and Danziger killings. How does that change so fast? It was only in 2004 that the Justice Department had finally closed the file on its 1994 investigation and given the department its OK. And then in 2005 Katrina hit and we had these murders and conspiracies and cover-ups. That's the amazing thing to me.

**Wexler:** Were there lessons you learned during the earlier reforms of 1996 that you have applied again in 2010?

**Serpas:** The most important thing for me has always been winning over the community. It's a day-to-day effort to get the community on your side, especially when the community has been injured by the department. [Then-Superintendent] Richard [Pennington] is one of the best in the world at that. He helped me to understand it. I watch and learned. You've got to work to get the community support, because the people inherently want a good police department. They want to work with the police department; they want to believe in the police department.

**Wexler:** Specifically, what did Superintendent Pennington do to restore public confidence?

**Serpas:** He was out in the community, he was very visible, he was perceived as deadly honest, and he was perceived as 100 percent committed to making the department better, not protecting the status quo.

**Wexler:** For example?

**Serpas:** In early '97 the news media took a good hard run at our crime reduction numbers and tried to discredit them. They found a few reports that supported their case, ignored the thousands that didn't support their case, and accused us of fudging the numbers to make it appear that crime was going down more than it was. But Richard did a smart thing. He didn't just deny there was a problem; he went on TV and said, "I will fire any officer who lies about a crime." That was something new. Automatic termination for lying had never been made part of policy before then.

**Wexler:** On the day you were sworn in, the Mayor announced he had called in the DOJ Civil Rights Division. Was that a surprise?

**Serpas:** No, I knew the DOJ was coming, and I was all for it, because I knew what it was like when we went through it in 1996, and given the state of affairs in the NOPD in 2010, I knew we needed that resource. But I told the Mayor, "I don't want to wait for them," and he agreed, so we did the 65-point plan, which is completely in place now.

**Wexler:** Let me ask about a couple missteps you've had in New Orleans. You started putting out information about the criminal records of homicide victims. What was the idea behind that?

**Serpas:** We were trying to show to the community that the police need help in dealing with the homicide problem. We have young men being killed on the streets of New Orleans who have themselves been in and out of jail all their lives. For many of these victims, there are plenty of clues along the way that they need help, and they don't get the help they need to stay out of trouble. Parts of the city responded well to the idea; they said, "Keep doing this, because it helps us to understand the nature of the murder problem in New Orleans." But others

did not support it. Clergymen told me, "Chief, we understand what you're trying to do, but we should hate the sin, not the sinner." To end the divisiveness about it, I stopped it.

**Wexler:** What about the posting of notices on drug houses indicating that police had served a drug-related warrant at the location? The idea was to let the neighborhood know that the police weren't ignoring residents' complaints about drug dealing going on, right? But it provoked a mixed response.

**Serpas:** That was strange. That was one of the most successful things we did in Nashville; people loved it there. But here, I miscalculated people's perceptions of what that would look like. So we backed off when we realized it was going to be a red herring. It wasn't worth it. My mistake was relying on my experience in another city and not spending enough time to find out how it would be received here.

**Wexler:** For your entire career, you have been promoting community policing, accountability, transparency, decentralization—all of these things that figure into the next big thing in policing: legitimacy and procedural justice. Do you feel like you were ahead of your time on this?

**Serpas:** [laughter] I wish I could say I've had an original thought in my life, but I really haven't. I learned from Richard Pennington how important it was to win back a community.

When I went to the State Patrol, I stated getting another perspective about talking to the community in terms of "selling the stop." In the training academy, it was presented in terms of officer safety. They tell you, "You're by yourself all the time. When you pull someone over, don't say something stupid and get yourself hurt." But I also started to see the value of "selling the stop" in terms of getting community support. We made the troopers go out and do more work, and they increased traffic stops 20 percent. And yet our independent surveys conducted by Washington State University found that the people had greater respect and confidence in the state troopers. So increased enforcement was compatible with increased respect for the police.

The way we explained that to the troopers was to say, "The people want you to do your job, but they want you to do it in a way that's professional and reliable."

**Wexler:** How do you know whether you are getting support from the public?

**Serpas:** In Nashville we used a company to conduct citizen surveys about the police every six months. In New Orleans there's an independent group that does that same survey. One of the findings that excites me is a question that's put to people who have had a recent contact with a police officer in the field—how they feel about it. And we're above 70-percent approval on that, which tells me again that public support is not inconsistent with high levels of enforcement.

So my statement to the department and to the community is, "We're rebuilding the Police Department one officer at a time. One cop at a time is going to go out there and, by doing the right thing, build one more supporter for us." If you ask about the department as a whole, the positive numbers are lower. But when you ask about individual officer contacts, the people in New Orleans are satisfied. That's a finding I use to increase morale in the department when officers feel the department as a whole is unfairly criticized. ■■■

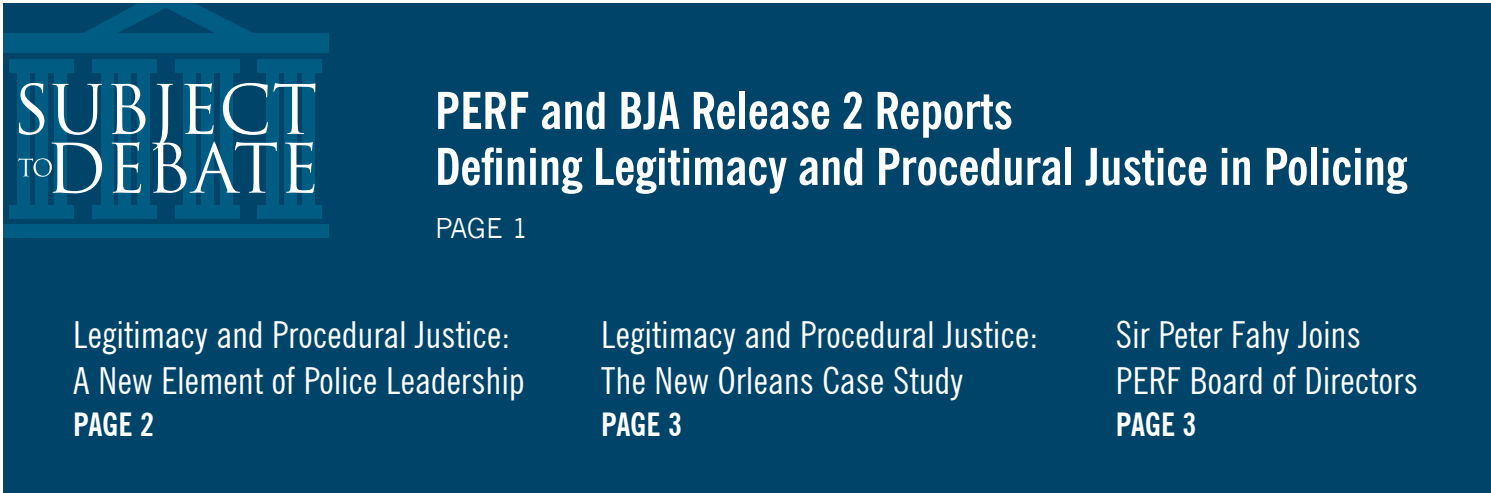




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Defining Legitimacy and Procedural Justice in Policing**

PAGE 1

Legitimacy and Procedural Justice:  
A New Element of Police Leadership  
PAGE 2

Legitimacy and Procedural Justice:  
The New Orleans Case Study  
PAGE 3

Sir Peter Fahy Joins  
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PAGE 3



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