**The Social Psychological Processes of ‘Procedural Justice’: Concepts, Critiques and Opportunities**

Matthew Radburn\* and Clifford Stott∝

\* College of Policing, United Kingdom

Email: [matthew.radburn@college.pnn.police.uk](mailto:matthew.radburn@college.pnn.police.uk)

Telephone: 44 (0)247 693 1737

Institutional address: College of Policing, Leamington Rd, Ryton-on-Dunsmore, Coventry CV8 3EN

Author biography: Matthew Radburn is currently a Practice Developer at the College of Policing having recently completed his PhD at the University of Leeds titled: “Crowd policing, police legitimacy and identity: the social psychology of procedural justice”.

∝ Keele University, Staffordshire, United Kingdom. ORCID: 5399-3294

Email: [c.stott@keele.ac.uk](mailto:c.stott@keele.ac.uk)

Telephone: +44 (0)1782 734529

Institutional address: School of Psychology, Dorothy Hodgkin Building,

Keele University, Keele, Staffordshire, ST5 5BG

Author biography: Clifford Stott is currently a Professor of Social Psychology at Keele University and founder and Co-Director of the Keele Policing Academic Collaboration (KPAC). His interdisciplinary research expertise focuses on issues of social identity, procedural justice, human rights and group level dynamics as these relate to crowds, riots, hooliganism and policing.

Final word count: 8,841

Correspondence concerning this article should be addressed to: Dr. Matthew Radburn, College of Policing, Leamington Rd, Ryton-on-Dunsmore, Coventry CV8 3EN

E-mail: [matthew.radburn@college.pnn.police.uk](mailto:matthew.radburn@college.pnn.police.uk)

The social and psychological processes of procedural justice: Concepts, critiques and opportunities

Abstract

Contemporary research on policing and procedural justice theory (PJT) emphasises large-scale survey data to link a series of interlocking concepts, namely perceptions of procedural fairness, police legitimacy and normative compliance. In this paper we contend that as such, contemporary research is in danger of conveying a misreading of PJT by portraying a reified social world divorced from the social psychological dynamics of encounters between the police and policed. In this paper we set out a rationale for addressing this potential misreading and explore how and why PJT researchers would benefit both theoretically and methodologically through drawing upon advances in theoretical accounts of social identity, developed most notably in attempts to understand the crowd action. Specifically, we advance an articulation of a ‘process-based’ model of PJT’s underlying social and subjective dynamics and stress the value of ethnographic approaches for studying police-‘citizen’ encounters.

Keywords: Police legitimacy, social identity, procedural justice, crowds, policing

**Introduction**

This paper sets out an argument about how procedural justice theory can be advanced both theoretically and empirically. We begin by exploring conceptual origins in order to demonstrate how early work in the field acknowledged the importance of power relations, group identity and the situational and cultural contingency of fairness ‘rules’. We move on to explore the extension of procedural justice ideas into the realm of policing, pointing out the turn away from understanding the nature and context of situationally embedded interactions with police toward a focus on using surveys to measure cognitions and generalised experiences of encounters with police across populations. Our argument then explores how the field has dealt with the concept of social identity, arguing that the dominant theoretical models convey a very specific and we argue rather limited set of propositions about underlying social psychological dynamics, the range of social categories at work and how encounters with the police relate to these. Drawing upon research and theory in crowd psychology we highlight the importance of historical group level dynamics within specific encounters with police and how these can function to shape identity, perceptions of procedural fairness, police legitimacy and self-regulation. We conclude by putting forward a series of propositions about how procedural justice theory can be developed through fuller recognition of the dialogic nature of encounters with police. In particular, we propose the value of incorporating an ‘elaborated’ or context-oriented model of underlying social psychology and in making a (re)turn toward ethnographic observation as a means of studying the complexity and ongoing nature of interactions with the police.

**The conceptual origins of procedural justice**

***Power and ‘procedure’***

It is Thibaut and Walker (1975, 1978) who are largely credited with the creation of the now highly influential concept of ‘procedural justice’[[1]](#footnote-1). Their seminal work demonstrated that criminal justice procedures which afforded disputants the opportunity to have ‘voice’ within the legal system were perceived as more ‘procedurally fair’ than were those that denied disputants this opportunity (Lind et al., 1997). This preference was maintained even in instances where ‘decision control’ was in the hands of a third party. Thibaut and Walker (1978) argue this motivation for ‘voice’ is a form of process control, based in a desire the disputants possess to shape the consequences of those criminal justice ‘procedures’. Thus, they ultimately imply that individuals value process control because they are embedded in a power relationship and ‘voice’ allows some opportunity to shape the outcomes that they receive.

Leventhal’s (1980) justice judgement model (JJM) similarly emphasises that individuals value process control. Leventhal (1980) advanced six rules that he argued individuals use to judge procedural fairness. These are the extent to which a procedure: (1) is applied consistently across people and time (the consistency rule), (2) it is not unduly influenced by personal self-interest (bias suppression rule), (3) it is based on as much accurate and informed information as possible (accuracy rule), (4) there is the opportunity to change or overturn incorrect decisions (the ‘correctability’ rule), (5) it reflects the views and concerns of all subgroups and individuals affected (representativeness), and (6) the procedure is concordant with an individual’s moral and ethical values (ethicality rule). An important point to take from Leventhal’s conceptual development (1980: 32) is that far from being fixed and universal, individuals apply “…*procedural rules selectively and follow different rules at different times. The relative weight of procedural rules may differ from one situation to the next, and one procedural component to the next*”. In other words, from the early stages of theoretical development within the field it has been acknowledged that the ‘rules’ governing judgements of ‘fairness’ are not fixed but dynamic and contextually bounded.

Lind and Tyler (1988) critiqued these early theoretical models because they relied too heavily upon the idea of individual self-interested actors instrumentally controlling procedural decision-making for personal gain, be it equitable or favourable outcomes. Their group value model (GVM) proposed that in contrast, criminal justice procedures carry important identity-relevant information. Put simply, the way authority is exercised ultimately communicates to people information about their status and standing within important social categories. Lind and Tyler (1988) subsequently argue that ‘socialisation’ within nation states or communities engenders relatively stable and universally shared beliefs about what constitutes ‘procedural fairness’. However, while there was a tendency for people to agree with the notion that ‘voice’ or representation in the decision-making of the police or courts was an important constituent of ‘fair process’, the GVM suggests that such perceptions are ultimately open to change as and where different patterns of ‘socialisation’ are in place. The GVM therefore also emphasises that the rules governing perceptions of ‘procedural fairness’ are not fixed and universal but are to some extent socially determined and contextually bounded.

***‘Procedure’, identity and cooperation***

The Group Engagement Model (GEM; Blader and Tyler, 2009; Tyler and Blader, 2003) built upon the GVM and its relational model of authority (Tyler and Lind, 1992) as a means of explaining how a perception of procedural fairness subsequently engenders cooperative behaviours in groups, organisations and ‘society’. GEM’s conceptualisation of social identity clearly draws from social identity theory (SIT; Tajfel and Turner, 1979) with Blader and Tyler’s (2009) suggestion that an individual’s social identity comprises a cognitive and evaluative component. As with SIT, the extent to which an individual feels a psychological sense of belongingness is tied to the emotional value attached to that group membership. Central to the theoretical contribution of GEM is its ‘social identity mediation hypothesis’: that “*procedural justice judgments are…a key antecedent of identity assessments. Identity assessments, in turn, are the key determinant of important psychological and behavioural connections to the group”* (Tyler and Blader, 2003:357).

The GEM therefore explicitly acknowledges that procedural fairness judgments precede and to some extent determine judgements concerning identity. Moreover, the GEM appears to assume that the actions of authorities in their exercise of power through criminal justice ‘procedures’ has direct consequences for the extent to which individuals will or will not see themselves in terms of a specific and available social identity, and that this social psychological process ultimately mediates behavioural outcomes. Therefore, the GEM moves further beyond the implicitly individualistic models of rational self-interest toward an understanding of the centrality of group processes and social identity in shaping behavioural outcomes. Moreover, the GEM also begins to help us to understand that powerful group authorities can shape social contexts in ways that lead ‘subordinates’ to see themselves as active ‘citizens’ and, when they do, to act in a manner that is consistent with, or ‘conforms’ spontaneously to, the identity based norms of that social context and identity.

Thus, early models of ‘procedural justice’ emphasised that individuals value having control in *how* decisions are made since it affords them some power to shape the outcomes that they receive within those procedures. However, these early ‘self-interest’ models were primarily focused at the level of the individual rational actor. By contrast the latter approaches begin to emphasise the importance of social identity and social contexts because they stress that the way in which powerful groups act has important identity-based outcomes. Accordingly, the actions of the ‘powerful’ upon the ‘subjugated’ determines whether the individuals in question sees themselves as a ‘respected citizen’ or ‘valued’ member of a superordinate social category, such as the ‘organisation’, ‘community’ or ‘nation state’. Nonetheless, there was also in this body of work important early recognition of the situational and cultural contingency of ‘fairness rules’. Indeed, while there are likely to be relatively fixed notions of what constitutes ‘procedural fairness’ across large populations it was nevertheless explicitly recognised that these judgements and their behavioural outcomes will vary with the specific socialised values, social contexts and identities in question.

**Procedural justice theory and policing**

***Turn toward social cognitions***

Tom Tyler is credited with being the first researcher to apply the concept of ‘procedural justice’ to the issue of ‘citizen’ encounters and experiences of the police. His seminal book on ‘why people obey the law’ (Tyler, 1990) is widely acknowledged to be the first comprehensive statement of PJT. However, it is important to recognise that PJT draws heavily upon an intellectual heritage and therefore carries with it many of the ideas and assumptions discussed above. In particular, Tyler (1990) sought to overcome the prior distinction between ‘rational self-interest models’ and the GVM’s identity-based approach, through a dual process model of ‘instrumental’ and ‘normative’ compliance (cf., Deutsch and Gerard, 1955). On the one hand, instrumental compliance accepts that people can be individually focused cost-benefit analysers when it comes to deciding whether or not to break the law and thus an external deterrence threat is the primary way to motivate acquiescence. On the other, normative compliance suggests that people also conform with the law because of an internal sense of obligation which is based less on deterrence and more upon judgements of procedural ‘fairness’ and legitimacy.

As with Leventhal’s (1980) JJM, ‘procedural fairness’ or ‘procedural justice’, is defined by PJT in terms of core constituent dimensions or ‘rules’, in this case four: participation, neutrality, dignity and respect, and trustworthy motives (e.g., Meares et al., 2014). Taking each dimension in turn PJT asserts that, firstly, people value having the opportunity to *participate* in the police decision-making process by having their say; to tell their side of the story or have ‘voice’. Secondly, people want the police to come to ‘fair’ or objective decisions by behaving with *neutrality* rather than in accordance to their own personal biases or stereotypes. Thirdly, people want to be treated with *dignity and respect* by the police. Finally, in their interactions with police, people want to perceive that officers are acting benevolently or with ‘*trustworthy motives’*. Thus, people are viewed as critically concerned with the (un)fairness of their interpersonal dealings with police officers and the (un)fairness of the way police officers reach decisions.

According to early theoretical accounts of PJT, judgements of procedural ‘fairness’ then play a role in determining perceptions of police ‘legitimacy’ (Tyler, 1990). However, there is little consensus within the PJT literature regarding the precise definition and operationalisation of police legitimacy. Broadly, delineations tend to coalesce around the notion that legitimacy entails a belief that the police are an appropriate, proper and just authority (Tyler, 2006). As such, Beetham’s (1991) threefold typology is often used to operationalise the concept such that for the police to be defined as ‘legitimate’ in the eyes of the policed they must 1) act within prescribed laws; 2) embody shared norms and values, i.e., act in ‘normatively justifiable’ ways; and 3) there must be evidence of expressed consent from ‘the policed’.

For researchers who accept the above definitions of police legitimacy, ‘procedural fairness’ is therefore viewed as an antecedent factor to ‘police legitimacy’. Accordingly, Jackson et al*.* (2011) suggest that perceptions of police legitimacy can be measured empirically by three inter-related constructs, which do not in themselves contain any measures of ‘procedural fairness’. Acting within prescribed laws (or the ‘legality’ of the police action) can be assessed by exploring people’s perceptions of the extent to which police behaviour conforms to established legal principles. The degree to which the police embody shared values can be measured by asking people about their perceived ‘moral alignment’ with the police. Finally, expressed consent can be assessed by statements designed to measure the extent to which people feel an obligation to obey police directives. This conceptual and operational approach has recently been challenged by the ‘police legitimacy model’ (PLM) (Tankebe et al., 2016) that asserts perceptions of procedural fairness, along with distributive fairness, the lawfulness of police action and police effectiveness (e.g., at reducing crime) are all constituent parts of a broader overarching concept of ‘police legitimacy’ rather than potentially ‘legitimating factors’. Moreover, the PLM proposes that a felt obligation to obey the police is not an integral component of legitimacy but an *outcome* of the legitimate exercise of power.

However, it is our contention that this important debate runs the risk of reifying legitimacy and ‘fairness’ by overlooking the dynamic nature of these judgements and the inter-relationships with identity and social context. It is contended that this danger arises partly because the literature has yet to address empirically the *processes* through which fairness rules and perceptions of legitimacy are bounded, socially determined and rendered situationally and culturally contingent. The lack of focus on social process is arguably due, at least in part, to the foundational impact of Thibaut and Walker’s work on the development of PJT.

For example, Tyler and Folger (1980) applied Thibaut and Walker’s key hypothesis to police ‘citizen’ encounters; that is, they tested the notion that there is an important distinction between ‘procedures’ and ‘outcomes’. They focused on two types of police - ‘citizen’ encounters: those where ‘citizens’ initiated a ‘call for assistance’ to the police and those where ‘citizens’ were actually apprehended as a potential suspect. They sought to explore whether judgements of police ‘procedural fairness’ affected ‘citizen’ ratings of satisfaction with the police independently of the favourability of the outcomes they received (i.e., whether the police solved their problem or gave them a ticket for a traffic or motor violation). They noted that whilst it was relatively easy for Thibaut and Walker to experimentally manipulate the more formal and ostensibly objective ‘procedures’ of the courtroom, police ‘procedures’ in their encounters with ‘citizens’ are less formalised and so are less amenable to controlled experimentation.

Thus, instead of ‘manipulating’ aspects of police actions to show the affect that they had on ‘citizen’ ratings of police satisfaction, they instead utilised survey methodology with the assumption that: “...*citizens will differentially perceive the fairness of the manner in which they have been treated, and that these perceptions will affect satisfaction independently of the outcome of an encounter*” (Tyler and Folger 1980: 282). In so doing Tyler and Folger essentially took a turn inwards, treating a measure of the subjective perception of ‘procedural fairness’ as a quasi-independent variable and sought to test its effect on ratings of satisfaction with the police.

This methodological ‘twist’ is a key preoccupation that runs through much of the subsequent PJT work. Accordingly, following this initial study, a large body of survey evidence has been amassed linking the ‘citizen’ experiences of ‘procedural fairness’ to their perceptions of police legitimacy, a willingness to accept police decisions, satisfaction with the police, and to behavioural intentions such as compliance with the law and cooperation with the police (e.g., Sunshine and Tyler, 2003a). Correspondingly, the mainstay of the PJT literature is not so much focused on the precise *nature and context* of an individual’s interactions with the police but rather it centres on *perceptions* of these encounters. In this respect, PJT has essentially become a social cognitive theory, in all but name. Thus, on the one hand, it stresses theoretically the centrality of the social relationships between a police officer and ‘citizen’. On the other, it is empirically concerned with cognitions or how ‘citizens’ perceive these encounters with police. Put slightly differently, the PJT literature often gives primacy to an analysis of an individual’s cognitions about policing at the expense of an exploration of the actual social encounters, contexts and processes through which such cognitions are ultimately understood to be formed.

***Officers as mirrors***

Despite the key emphasis on expressive, relational explanations of why procedural fairness matters to people in both the GVM and GEM, there are only a handful of existing PJT studies that have empirically addressed the impact that social identity processes may have in relation to public perceptions of the police and policing (e.g., Bradford et al*.*, 2014). Within this body of literature, there are two primary ways in which social identity is conceptualised. Both are explicitly based in the GVM and GEM accounts outlined earlier and tend to assume that police officers, through the way they treat those they encounter, communicate messages concerning inclusion, status and value within the group that the police are assumed to represent. The social categories invoked in this research are usually conceptualised and operationalised in terms of national, community or ‘citizenship’ identities.

In the studies that draw upon the GVM, emphasis is given to the idea that group identification (e.g., national or community identity) *precedes* interactions with group authorities. For example, Murphy et al. (2015) explored the GVM with a representative sample of Australian residents. They posited that those strongly identifying with Australia will value procedural fairness since the police are important state representatives and so police treatment is especially ‘identity relevant’ to them. However, for those who identify more with their own ‘*ethnic subordinate group*’ (p. 5) procedural fairness ‘*may matter less*’ (p. 5) in explaining their intentions to cooperate, since the police represent a social category with which they do not identify (i.e., the nation state of Australia). Thus, GVM researchers have essentially suggested that people’s perceptions of and reactions to ‘procedural fairness’ will vary depending on the extent to which people already identify with the superordinate category.

By contrast, applied to policing, the GEM suggests that one reason why police procedural fairness is important to people is that police activity is ‘identity relevant’ and can actively shape and alter their subjective relationship to the categories the police are assumed to represent. Accordingly, people value procedurally fair policing as it indicates that they are included in, and a valued member of, some form of superordinate category. This in turn is assumed to encourage people to internalise and legitimise the values associated with membership of that superordinate category, thus engendering cooperation and compliance with its representatives (the police). Conversely, procedurally unfair policing suggests exclusion from this category. Hence, people will tend to reject the category norms and comply less with the group authority’s directives (Bradford, 2014).

There is evidence supporting both accounts. For example, in line with the predictions of the GVM, Huo (2003) reported that amongst a sample of Americans identification with the United States moderated the link between perceptions of procedural fairness and decision acceptance. Those who identified strongly with America placed a greater emphasis on how they were treated by legal authorities (i.e., procedural fairness) and less emphasis on the outcomes of their interactions. In concordance with the GEM, Bradford et al. (2014) conducted a representative survey of Australians and reported that when people felt the police were ‘procedurally fair’ their strength of identification as an Australian citizen and perceptions of police legitimacy were enhanced. Conversely, perceptions of police unfairness were related to a weakened sense of identification and lower levels of police legitimacy.

However, despite this empirical support it is suggested that the contrasting set of assumptions about the underlying relationships between police action and identity exposes various limitations to PJT work both in its GEM and GVM guises. One weakness of the current PJT literature is that researchers have tended to explore issues of social identity by focusing almost exclusively on what appear as relatively fixed and abstract superordinate categories. For example, Bradford’s (2014) measure of social identification involved asking Londoners how strongly they felt they belonged to a) their local area, b) London, and c) Britain. Whereas Sunshine and Tyler (2003b: 158) assessed the extent to which New Yorkers identified with an ‘imagined community’ with statements such as the “*values of most of the people in my neighbourhood are very similar to my own*”. Finally, Bradford et al.’s (2014: 549) measure sought to capture the extent to which Australians viewed themselves as law-abiding citizens of Australia with questions including “*Do you see yourself first and mainly as a member of the Australian community*?” and “*Do you see yourself as an honest, law-abiding citizen?*”.

By focusing predominantly on these kinds of social categories and by assuming police officers act as pre-defined ‘moral arbiters’ of entry to them, PJT research has tended to overlook *relational* identification (Radburn et al., 2016). More specifically, research has tended to disregard the extent to which people identify with the police as a *distinct* social group. Indeed, it seems reasonable to assume that people can identify with the police just as they can with other relevant social categories (e.g., one’s work organization; Blader and Tyler, 2009). Moreover, PJT research appears to conceptualise the normative and ideological content of these categories as relatively fixed and subsequently the police are often constituted un-problematically as being prototypical representatives of them, a prototypicality that is assumed but not often measured. An exception is Sunshine and Tyler (2003b) who explored the degree to which the police were prototypical of the ‘community’s’ moral values. They did this by asking New Yorkers the extent to which they agreed with statements such as “*The police in [my] neighbourhood act in ways that are consistent with [my] own moral values about how people should be treated*” (p. 157). Yet with this measure it is noticeable that there are no direct references to specific police actions. Instead, such statements are aimed at assessing the extent to which the police *in general* represent the moral standards and values of ‘the community’. Moreover, Sunshine and Tyler’s (2003b) underlying theoretical approach explicitly assumes that the police are de facto prototypical group representatives of the community and nation state.

Thus, while the models of underlying psychology in PJT research recognise the centrality of ‘social identity’ processes they are grounded in the identity-based models of the GVM and GEM, which convey a very specific set of propositions for how these forms of psychology function. First, in theorising police-‘citizen’ encounters, PJT researchers have focused almost exclusively on the extent to which police activity affects an individual’s sense of relatively fixed and abstract social categories such as national, community or ‘citizenship’ identity. Therefore, PJT is currently somewhat limited in its capacity to understand the processes at work in more complex and dynamic intergroup encounters involving differing forms of identity (e.g., political affiliation, football fandom etc.) where perceptions of police (il)legitimacy and levels of instrumental and normative compliance with the law can and do change. Second, it is largely taken as self-evident that the police are representative of these superordinate categories (Pehrson et al., 2017). As such, there is a danger of discounting the idea that by engaging in 'unfair' or 'illegitimate' actions the police may equally render themselves as unrepresentative state or community actors. For example, consider Reicher’s (1984) analysis of the St. Pauls’ riot in Bristol. Far from the police reflecting and being prototypical representatives of the St. Pauls’ community, the police were seen by crowd participants as hostile and racist outsiders attacking the ‘black community’ by raiding the Black and White café, an important community hub.

***Intergroup contexts, identities and interaction***

Despite the historical lineage of the theory being rooted in “*in efforts to understand and explain riots and rebellion*” (Tyler and Blader, 2003: 351), there has been a paucity of PJT research focussing specifically on the emergence of criminality within or police management of crowds (Stott et al., 2011). Indeed, to date there has been only one study that has formally examined issues of procedural fairness, police legitimacy and social identity specifically in the context of policing crowd events. Stott et al. (2011) sought to utilise PJT and the ESIM of crowd behaviour to explain the presence and absence of collective conflict during football crowd events involving Cardiff City football fans. Undertaking a 3-year longitudinal ethnographic study, their analysis showed that fans’ perceptions of police legitimacy were associated with a policing approach that sought to enhance communication and dialogue with fan groups. In this context, where fans adjudged their intergroup relations with the police as being legitimate, fans were more likely to comply with police directives and even ’self-regulate’ - to essentially police themselves - psychologically marginalising potential ’trouble-makers’.

This work in many ways validated PJT’s central ideas and findings within the context of policing crowds, particularly regarding the importance of police treatment and perceptions of police legitimacy in encouraging ‘compliance’. Thus, Stott et al. (2011: 15) suggested, that “*the processes we have identified here are consistent with the theoretical principles of both ESIM and PJT...”.* Whilst agreeing with this broad assertion, it is argued here that there are conceptual limitations that emerge when applying PJT to the policing of crowds that merit exploration. Perhaps most significantly, as we have argued above existing PJT work is predominantly individualistic and interpersonal in its orientation, in the sense that the model of police-‘public’ interactions often assumed is that of a dyadic relationship between a ‘citizen’ and a police officer. While categories such as ‘citizen’ themselves come loaded with assumptions, Tom Tyler and colleagues argue that the *“model of legitimacy we offer reflects the reality that interactions with the police are interpersonal experiences...”* (Meares et al., 2014: 114)*.*

Yet the social identity approach in social psychology arose, in part, out of dissatisfaction with reductionist individualistic approaches to group processes and as such draws a qualitative distinction between individual and group level psychology. Moreover, the approach also conceptualises crowd events as fundamentally intergroup encounters. Therefore, to gain a fuller theoretical understanding of crowd-police relations there is a requirement to recognise that PJT must also be explicit that interrelationships between police and ‘citizens’ can be *intergroup* rather than merely interpersonal in nature. In this sense, Taylor and Brown’s (1979) influential criticism of social psychology in the 1970s - that the study of interpersonal phenomena tended to be divorced from the wider social and historical context - rings true for the PJT literature. For instance, Armaline et al. (2014: 2) argues that PJT work does not tend to consider “*...the long and burdensome history of aggressive policing practices embedded into the social fabric of urban communities of color.*” Indeed, Tyler and Lind (1992: 143) make clear that: “*Unlike Tajfel and Turner...we focus on the search for information about one’s position within**one’s group, rather than on the position of one’s ingroup vis-a-vis other groups”.* We contend that this form of ‘de-contextualisation’ has important implications for the explanatory power of PJT, particularly when applying it to crowd policing.

As suggested above, these conceptual issues appear to be interrelated to methodological ones. For example, most PJT research within a policing context comprises large population surveys that are utilised to identify national trends between people’s judgements towards their encounters with police officers and to their behavioural intentions such as their propensity to cooperate with the police or toward conforming to the law. As such there is a reliance on individuals’ self-reported views of policing independent of an in-depth investigation of the actual nature and context of these interactions. Thus, PJT researchers, through their methodological choices, often “...*have no way of knowing what the police are doing…the beginning point of our analysis is the self-reports of community residents – policing as they experience it*” (Sunshine and Tyler, 2003a: 528).

These issues also have implications for the study of police legitimacy. As Smith (2007) argues, the vast bulk of PJT work has been focused on three concerns: a) the extent to which an *individual* perceives the police’s actions to be fair; b) how these judgements are related to the *individual’s* perception of whether the police are legitimate; c) how these perceptions of the police relate to an *individual’s* behavioural intention to comply with the law and/or cooperate with the police. In other words, the focus has been on seeking an explanation for inter-individual differences in perceptions of police legitimacy and to establish its psychological antecedents (e.g., procedural fairness) and consequences (e.g., compliance with the law or cooperation with the police). Such research therefore tells us little if anything about the processes through which people come to perceive policing as illegitimate, do not comply with the law and otherwise go on to engage in violent confrontation with the police or other forms of *collective* criminality, such as the looting witnessed during the 2011 English riots (see Reicher and Stott, 2011; Stott et al., 2018).

The trajectory of research development in the field of PJT is of course completely understandable given that the primary theoretical concern to date has been on the validity of some of PJT’s central contentions. There can be little dispute that this work has done a good deal to validate some of the theory’s core hypotheses. Our critique is therefore to focus debate on how the approach needs to develop in order to expand on its explanatory power. In this sense, it is contended that by ignoring the immediate contexts of people’s interactions with police it is impossible to explore and ultimately explain the dynamics of change. For example, actors can enter a crowd event with a sense of police legitimacy but then develop very strong perceptions of police unfairness and illegitimacy during the event, perceptions that may last well beyond this specific encounter (Vestergren et al., 2017). Through the paucity of studies exploring the group level dynamics of actual encounters between ‘citizens’ and police it remains unclear how PJT currently helps understand these fundamental and enduring transitions.

***Legitimacy, relational identification and the dialectics of ‘procedure’***

Research on the policing of crowds at international football tournaments has demonstrated that reductions in ‘public disorder’ were associated with policing approaches designed to facilitate the expressions of fan identity (Stott et al., 2007, 2008). Moreover, Stott et al. (2008) showed how England fans who were planning to attend the 2004 UEFA European Championships in Portugal displayed strong negative correlations between measures of in-group identification (as an England fan) and a measure of identification with the police. In other words, prior to the tournament seeing yourself as an England fan meant that you tended to see the police as ‘nothing like me’. Given their long history of antagonistic relations with police at that time, this was perhaps unsurprising. However, during the tournament England fans collectively experienced their intergroup relations with the police as broadly legitimate, both directly and vicariously. In a post tournament survey, taken in the weeks immediately following the event, the pattern of this correlation reversed, so measures of in-group identification among England fans now showed a strong positive correlation with the measure of identification with the police.

What this suggests is that the collective experience of legitimacy with police during the tournament related directly to contextually and historically derived identity norms and values. Put slightly differently, England fans perceived policing as legitimate because it facilitated what ‘we’ want to do and was different to the ‘heavy-handed’ policing ‘we’ have experienced elsewhere. The data also suggests that such identity-based interactions during these crowd events then transformed previously antagonistic inter-group relationships. Thus, when the police acted toward these crowds to facilitate the expression of their group identity (across time and events), the emerging perceptions and experiences of police legitimacy appear to have shifted the boundaries and normative content of the identities involved. The experience of police legitimacy may have in turn functioned to lead fans to see the police as ‘us’, and act collectively in terms of facilitating the carnival of football by ‘self-regulating’, to prevent disruption by anyone seeking to create ‘disorder’ (‘them’)[[2]](#footnote-2). To draw on Peelian clichés, by acting with perceived ‘legitimacy’, at that moment in that context for that time, the police were ‘the public’ and ‘the public’ were the police.

This finding does suggest that identity, legitimacy and intergroup interaction are intimately intertwined and as such it is important to understand how perceptions of police legitimacy and identity change through and within interaction. An opportunity that is concordant with Bottoms and Tankebe’s (2012) call for criminologists to explore the ‘dialogic’ nature of legitimacy dynamics between ‘power-holders’ and ‘audiences’. Drawing on the work of the sociologist Max Weber and moral/legal philosopher Joseph Raz, they argue that essentially all political regimes lay ‘claims’ to being legitimate, that ‘power-holders’ always attempt “*to establish and to cultivate the belief in* [their] *legitimacy*” (Weber, 1978: 213). Bottoms and Tankebe (2012) suggest that there are two important implications to be derived from these assertions. Firstly, that to ‘claim’ legitimacy is suggestive of the fact that authorities such as the police are often dealing with different social groups who may have opposing interests and perspectives, what may be legitimate for one group may be illegitimate for the other. Secondly, that the notion of ‘cultivating’ legitimacy is suggestive of an active and on-going relationship between police officers and ‘citizens’. Thus, far from being an objective – even reified – given, fairness and legitimacy judgments are perhaps fundamentally inter-woven elements of an on-going, dynamic and historical *process*.

Finally, there is the question of power. Within the interpersonal relationships between police officers and ‘citizen’ PJT suggests that the power resides with the police officer by virtue of their position. As Bottoms and Tankebe (2012) put it the police officer is the ‘power-holder’ and the citizen the ‘audience’. Yet, the power relationship between police and crowds is not so simple. Crowds are places where such routine architectures of power can be reversed. According to the elaborated social identity model of crowd behaviour (ESIM), collective conflict with the police is only possible when there is a shared sense of empowerment experienced by crowd members by virtue of their situationally determined shared self-definition that is demarcated, at least in part, by their united opposition against the police. The challenge that ESIM’s perspective on crowds and social identity processes confronts PJT work with is to articulate “...*how power emerges from and functions within social relationships with a definite social, ideological and historical content rather than reifying it as an abstract external force producing generic psychological effects”* (Turner, 2005: 1).

**Towards an elaborated social psychology of procedural justice**

There has been an interdisciplinary conceptual relationship between the social identity approach and PJT since the emergence of the GVM and GEM. However, the early models of social identity from which PJT originally drew have advanced considerably since those early dialogues. In particular, a radically different ‘process’ based account of identity and group process has emerged through the development of self-categorisation theory (SCT; Turner et al., 1987; Turner et al., 1994), particularly as it has been applied to understanding crowds. This ‘process’ based account conceptualises social identity as a collective self-representation, the form (boundaries) and content (norms) of which are intimately tied into and part of a dynamic and historical intergroup context.

For example, on 31st March 1990 a large demonstration in central London against a new form of taxation began peacefully but developed into a major riot. Stott and Drury (2000) argue that at the start of that demonstration the social identity enabling and limiting collective actions was such that violence was anti-normative among crowd participants and anyone understood to be provoking conflict seen as an ‘outgroup’. However, following a sit-down protest, police interpreted the crowd as dangerous and attempted to coercively disperse it. In so doing police actions then altered intergroup relationships for protestors reshaping their collective identity in both form and content. Correspondingly, conflict against the police came to be seen by many protestors as legitimate or normative and those engaging in such confrontation as prototypical for the ‘ingroup’. The indiscriminate nature of police coercion meant protestors became united and as such felt empowered to act. Such collective action in turn confirmed police fears of the hostility and danger posed by the crowd and as such they increased the scale and intensity of their intervention, drawing other protestors into an escalating dynamic of conflict. When understood in this way it becomes apparent that police legitimacy, identity and intergroup interactions are intimately intertwined within an on-going and historical process realised, at least in part, through the contextually bounded dynamics of group level interaction.

While we do not pretend to yet understand how these social psychological processes work outside the context of crowds, our critique here is merely a call to recognise the utility of drawing once again upon an interdisciplinary dialogue between social psychology and criminology to develop an ‘elaborated’ and context-orientated social psychology of procedural justice, that seeks to integrate but also build on the insights of the GVM and GEM. Specifically, the extent to which the police are perceived as ‘fair’ should not be conceptualised merely as an intra-psychic judgement divorced from the dynamics of the wider social, cultural, and situational context in which such perceptions are formed.

Secondly, perceptions of police legitimacy are not merely fixed or universal judgements but can be dynamic within and between interactions with police officers. Accordingly, such judgements are emergent properties of interactions – interactions that involve a power dynamic where there is a constant *process* of negotiation and renegotiation between the police and ‘policed’ (Bottoms and Tankebe, 2012). This evokes Tyler’s (2012) notion of the teachable moments; that every interaction with a police officer serves to build or undermine perceptions of police legitimacy. However, a truly *process and context* orientated reading of PJT needs to try and unpack these ‘teachable moments’, to acknowledge and study police- ‘public’ interactions *in situ*. In so doing, the dialogical ‘claim and response’ nature of police- ‘public’ interactions can be explored, and research can seek to capture the complexity and on-going nature of evaluations of police behaviour. By relying on generic ‘post interaction’ judgements, the survey studies that characterise the PJT literature are insensitive to the on-going yet historical nature of an individual’s evaluations of their encounters with police officers.

Thirdly, we contend that there are currently powerful limitations relating to how social identity has been researched and how it is theoretically conceptualised within PJT. As currently configured, PJT suggests that police officers are the ‘moral arbitrators’ of a fairly static conceptualisation of ‘the nation state’ or ‘the community’. Accordingly, police behaviour (e.g., fair or unfair decision-making and treatment) indicates the extent to which a ‘citizen’ is included or excluded as a member of these superordinate identities.

By contrast, this paper has argued for the need for PJT researchers to embrace a more complex, dynamic and relational understanding of social identity processes. Correspondingly, there needs to be a shift from researchers viewing and empirically exploring self-categories as relatively fixed cognitive mechanisms to a perspective that recognises and studies the dynamic interplay between self-categorisations and context. As currently configured, the models of identity assumed within the GVM and GEM articulate a relatively limited account of identity change. This is because the GVM postulates the pathway of identity to context whilst the GEM articulates the pathway from context to identity. That there is evidence supporting both accounts suggests that these models capture different ‘moments’ within a complex and dynamic identity based historical process involving the police exercise of power. Since researchers have chosen either the GVM or GEM as their theoretical starting point, existing work has necessarily only offered a partial account of how these social identity and intergroup processes interact.

In this respect, the development of PJT reflects the theoretical developments of the social identity model of crowd behaviour (SIM; Reicher, 1984) as it was into the elaborated social identity model of crowd behaviour (ESIM; Reicher, 1996; Stott and Drury, 2000). Presently the identity model offered by PJT resembles the SIM, in that it is focuses on the exploration of relatively static social identities and how such identities (e.g., ‘community’) affect thoughts and behaviour. Yet the SIM was developed into the ESIM to more fully capture and study the dynamic and bi-directional interplay between identity (e.g. norms, legitimacy) and context (intergroup interaction, power, history) to explore and understand identity change (the shift from compliance into rioting). It is contended here, that what is needed is a similarly elaborated model of PJT, an elaboration that draws us back toward the process model implied within the early theoretical heritage from which PJT ultimately emerged.

Our argument is not merely theoretical but also epistemological. Such an ‘elaborated’ social psychology of PJT must acknowledge and study the context-dependent nature of the identity of ‘the policed’ and how people’s identities change in form and content in the context of their interactions with police officers. Moreover, PJT must consider the fact that the police *are* a distinct social group and that people in their interactions with police officers can and do (more or less) identify with the police in such relational terms[[3]](#footnote-3). Therefore, shared group membership between ‘the policed’ and the police is not a pre-given but something that the police constantly have to affirm and reaffirm in the context of their interactions with ‘the public’. However, there is very little in the way of existing PJT research that achieves this and points toward the need and value of utilising observation as a means of studying these interactions in situ.

Of course in saying this, it is acknowledged that such an ethnographic or observational approach is not without its drawbacks. For example, time and practical constraints often dictate a quicker and easier (often quantitative and survey-based) method of data collection. Moreover, there is the concern that in seeking to ‘contextualise’ specific police-public interactions by the use of observational and other qualitative means of data collection, researchers have to sacrifice the generalisability and applicability of their work, thus limiting the scope of their theoretical and empirical claims to the specific contexts from which they are derived. However, the argument here is one of relative balance such that analyses of ‘naturally occurring’ data pertaining to specific police-‘citizen’ interactions can and should also inform theory development. Just because observational work is time and resource intensive does not mean it should not be undertaken or is not useful. Moreover, whilst observational and ethnographic approaches to data collection cannot produce the statistical generalisability of large representative samples garnered for quantitative survey research, such approaches can achieve ‘naturalistic generalisations’ (Tracy, 2010) and inform wider policing policy (e.g., the ESIM).

Since shared group membership between ‘the policed’ and the police is not a given, the police cannot be viewed as uncomplicatedly symbolic of the idiosyncratic moral and normative values of a given group identity of ‘the policed’. Instead the relative prototypicality of police action may largely emanate from the extent to which the police can position themselves as ‘identity advancing’. That such facilitation of in-group norms and values by police has been associated with emerging perceptions of police legitimacy (Stott et al., 2007, 2008) suggests that researchers should be wary of conceptually separating perceptions of police legitimacy from identity, and from the dynamic social contexts within which such judgements pertain. In other words, perceptions of police legitimacy, as well as perceptions of procedural “.*..‘fairness’ and identification with the police are relative and inter-related judgements that emerge within and relate directly to a specific group level social relational context*” (Radburn et al*.*, 2016: 15).

**Conclusions**

In this paper, we have outlined the theoretical and empirical trajectory of PJT from early pioneers such as Thibaut and Walker and Leventhal, to its current application in policing by Tyler and colleagues. In so doing, we have highlighted that there are certain conceptual limitations that relate to how the theory can ‘make sense’ of or otherwise explain police–public interactions, in particular within the context of crowd events. In making such claims, like other important critiques of PJT (Bottoms and Tankebe, 2012; Harkin, 2015; Radburn et al., 2016; Tankebe, 2013; Waddington et al., 2015), the intention is not to reject or jettison the theory but to point to opportunities to develop and extend its theoretical reach and to argue for the importance of methodological diversification. An unwanted consequence of largely relying on cross-sectional survey data is that the emphasis is on empirically linking a series of ‘interlocking’ cognitive concepts. It is our contention that such research is in danger of conveying a reified and mechanistic social world divorced from the ‘lived experiences’ of ‘the policed’ and the actual operational practices of the police. By relying almost exclusively on cross-sectional survey data, PJT work has uncoupled the dynamic relationship between cognitions about policing and the (changing) contexts within which these judgements are formed. We have argued that this trend is problematic. ‘Public’ perceptions of police ‘fairness’ and legitimacy are contextually specific judgements that are shaped by and shaping of the *dynamic* social relationships within which they are embedded. Moreover, if we are to advance then it is important that PJT researchers once again enter interdisciplinary dialogue with social psychology by drawing on the theoretical advances of the last few decades, particularly with respect to the development of a process-based model of social identity, established principally in attempts to understand the rioting crowd.

**Funding**

The first author received a scholarship from the University of Leeds that enabled the research, authorship, and publication of this article. This paper also grew out of a workshop funded by the Faculty of Natural Sciences at Keele University in February 2017 that brought together PJT and ESIM scholars to discuss the relationship between the two theories. We would like to thank Ben Bradford, Jon Jackson, Marcus Beale, Karolina Urbanska, Jenna Milan, Brandon Langley and Richard Harris for their respective contributions.

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1. Throughout this paper we use the terms ‘procedural justice’ and ‘procedural fairness’ interchangeably. In line with Lind and Tyler (1988: 3), both of these terms are used to broadly “...describe a social situation in which norms of entitlement or propriety are fulfilled...”. Conversely, ‘procedural injustice’ or ‘procedural unfairness’ are terms used to describe social situations where norms of entitlement or propriety are not fulfilled. [↑](#footnote-ref-1)
2. Of course, the processes of identity change (in both form and content) within police-‘citizen’ interactions are not limited to ‘those being policed’. Police officers’ sense of identity is also situationally, culturally and historically contingent (e.g., Charman, 2017) and can (positively or negatively) impact their behaviour relating to their dealings with ‘citizens’. For example, Bradford and Quinton (2014) reported that police officers’ level of organisational identification (i.e., their sense of loyalty to their police force, in this case Durham Constabulary in England) was the primary predictor of their sense of ‘self-legitimacy’ (i.e., their belief or confidence in their own authority as a police officer) which in turn was linked to their level of support for democratic forms of policing. [↑](#footnote-ref-2)
3. It is important to note that we are not suggesting that the police are a homogenous social group with a singular social identity. Like those being policed, police officers have complex and multiple social identities. Furthermore, as Charman (2017) demonstrates, police officers’ beliefs and attitudes relating to their identity and role as a police officer are not uniform and can change over time. Our argument is that in regards to policing, and particularly the policing of large crowd events, it may be that successful police-‘public’ interactions and enhanced police legitimacy are related to a police officer’s ability to emphasise their ‘*non-police*’ identities that they share with those they police. Of course, this could include an abstracted sense of ‘citizenry’ or national identity that typifies measures used by PJT researchers but equally, and in certain circumstances more importantly, this could also include other situation specific group identities (e.g., their shared perspective of being a football fan). [↑](#footnote-ref-3)