

## Chapter 2

# The Link Between Communicative Intelligence and Procedural Justice: The Path to Police Legitimacy

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### **ABSTRACT**

*The public's perception of police legitimacy is viewed through the lens of procedural justice (Tyler, 2003). Legitimacy is a perception held by an audience (Tankebe & Liebling, 2013). Tyler (2006, p. 375) defines legitimacy as "a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just." Four aspects of the police contact that affects a citizen's view: active participation in the decision-making, the decision-making is neutral and objective, trustworthy motives, and being treated with dignity and respect (Tyler, 2004). Accordingly an officer should act in a way that supports citizen's active participation, conveys an air of neutrality, and enhances dignity and respect. One way an officer can transmit his intent is through communicative intelligence. Communicative intelligence is a communication theory based on five capabilities (Zoller, 2015). These authors intend to link communicative intelligence to behaviors officers should engage in to enhance PJ and improve PL.*

### **INTRODUCTION**

As a society there are social norms that prescribe process and outcome and when these are violated, we object (Tyler, 1990). When dealing with the criminal justice system, citizens encounter processes when interacting with officer. That encounter defines a citizen's sense of procedural justice. Tyler (1990) asserts that "the justice of the procedures through which outcomes are distributed and decisions made"

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## ***The Link Between Communicative Intelligence and Procedural Justice***

is procedural justice. The outcomes and decisions made influence the public's perception of police legitimacy (Mazerolle, Sargeant, Cherney, Bennett, Murphy, Antrobus, & Martin, 2014) Police legitimacy is the belief that police are a legitimate authority that the public will defer to and obey (Sunshine & Tyler, 2003b). Police legitimacy allows society to function smoothly. The authors assert that during this encounter, the citizen's experience with the officer defines the level of procedural justice, which in turn, creates the degree of police legitimacy.

America was founded on a citizen's right to procedural due process in regards to "life, liberty, or property". This belief was well founded in common law even before the constitution codified it in the Fifth and Fourteenth Amendments (Orth, 2003). These Amendments ensure fair treatment of an offender when charged with a legal violation. There are three essential features of due process: adequate notice, a fair hearing, and judgment based on evidence (Fogler, Konovsky, & Cropanzano, 1992). Citizens contacted by police officers over a potential violation are at the mercy of the police that they have a fair hearing and a judgment based on unbiased evidence. Officers collect evidence at the scene of the crime, take eyewitness testimony, and often provide testimony themselves. If citizens view the officer as incapable or unwilling to conduct the investigation in fair and equitable manner the citizen will view the encounter as a violation of their procedural due process or procedural justice. By definition, policing is procedural justice. The police make the initial decisions about which procedures and outcomes are distributed to the public (Tyler, 1990). All police/citizen contacts involve procedure and outcomes so every police contact will involve a modicum of procedural justice.

Enforcing the law is one of the fundamental duties of a police officer. To do this an officer must make contact with a citizen and communicate the violation that has occurred. And although they have discretion in their enforcement, often they are required to make arrests or administer citations due to policy or legal concerns. There are four aspects of the police contact that affects a citizen's view: active participation in the decision-making, the decision-making is neutral and objective, trustworthy motives by the officer, and being treated with dignity and respect (Tyler, 2004). "Quality of treatment" and the "quality of decision making process" are the two overarching themes by which the public judges the officer's interaction (Reisig et al., 2007, p.1006). Whether the outcome for the citizen was positive or negative, it is the treatment by the officer that had an effect on the citizen's satisfaction with the police (Tyler, 1990). It is the treatment received by the citizen from the officer that shapes the citizen's perception of police legitimacy. Legitimacy according to Tyler (1990) is "a quality possessed by an authority, a law, or an institution that leads others to feel obligated to obey its decision and directives".

We posit that the level of fairness a citizen has of the treatment by the officer is significantly influenced by how the officer communicates with the citizen. Therefore officers who enhance their communication and build rapport through the development of their communicative intelligence (CI) can have more positive perceptions of procedural justice by the citizen. CI is the integration of cognitive and emotional resources with behavioral abilities that creates experiences and develops relationships to solve problems, catalyze change, and create new meaning (Zoller, 2008). According to Zoller (2015):

*CI focuses on the cognitive and emotional elements of communication. It is behaviorally demonstrated through verbal and nonverbal channels. At its foundation, CI can be used to initiate and maintain rapport. Rapport is a foundation with which to build relationships (p. 305).*

Officers may not have total control over the outcome of a police/citizen contact, but they do have control over the type of treatment the citizen receives from them. As such an officer needs to act in a

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