

FROM HARM REDUCTION TO COMMUNITY
ENGAGEMENT: REDEFINING THE GOALS OF
AMERICAN POLICING IN THE TWENTY-FIRST
CENTURY

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ABSTRACT—Society would gain if the police moved away from the goal of harm reduction via crime reduction and toward promoting the economic, social, and political vitality of American communities. Research suggests that the police can contribute to this goal if they design and implement their policies and practices in ways that promote public trust. Such trust develops when the police exercise their authority in ways that people evaluate as being procedurally just.

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INTRODUCTION

The police need a mission. They seek to identify one that will address important public concerns. If they are successful, they anticipate that they will gain public approval and support. In the 1970s, during an era of high crime and widely perceived urban disorder, the police shifted from reacting to crimes after they occurred to proactive models of policing. They accepted the idea that they could play a role in preventing crime and the belief that adopting this mission would lead to popular legitimacy. This proved to be an internally compelling model of policing goals and has provided the police with a model for the mission of policing. It has led the police to concentrate authority and resources in departments, thereby advancing police efforts to become more of a profession. It has also put pressure on the police to in fact stop crime, with the number of “crimes occurring,” rather than the number of “crimes solved,” becoming the metric of police success. To achieve this goal, the police have adopted a series of

increasingly broad investigatory practices through which they have proactive contact with the public, searching for signs of ongoing and likely future criminal activity.

Crime has in fact declined, and the police have argued that their strategies have played a role in this decline. Irrespective of why crime declined, the popular legitimacy of the police has not risen as a result. Consequently, a current focus of concern in America is widespread public distrust of the police. The policy question is how the police should respond to signs of widespread public distrust. One approach is to abandon a proactive model of policing and go back to an earlier era that is more reactive. For example, the police might simply respond to 911 calls for help. This approach is based upon the recent experience of many segments of the public in which the presence of the police has become associated with a greater likelihood of experiencing injustice.

An alternative, evidence-informed approach is to reconceptualize the model of policing that guides police actions. If the goal of the police were to engage in policies and practices that the public judged to be fair, then the police could potentially play a role in building not only trust in themselves but also trust in government and among the people in the community. This model of policing would build reassurance, not fear, and would create a climate in communities that would promote their social, economic, and political development by encouraging identification with and engagement in the community. The police contribute to the development of a community “trust bank” if they make their interactions with the community teachable moments through which they communicate trustworthiness by acting justly.

Research findings indicate that the police have the capacity to play such a role; studies provide a roadmap indicating what the police should do to pursue the goal of creating and maintaining legitimacy. That roadmap is built around exercising authority fairly (“procedural justice”) both during development of police policies and implementation of those policies in the community. After outlining the history of recent policing and the case for building popular legitimacy, this Essay identifies a set of concrete areas for police action that are evidence-informed in that they have been demonstrated to be effective in empirical studies.

I. BACKGROUND

I recently had the opportunity to hear both Vanita Gupta from the Department of Justice and Chuck Ramsey, former police chief of Philadelphia and cochair of the President’s Task Force on Twenty-First

Century Policing, speak about the state of policing in America today.¹ In those presentations, these national criminal justice leaders emphasized that the last several years have been a pivotal moment for American policing. More broadly, people on all sides of the political spectrum acknowledge that there is currently more scrutiny of the police and their role in our democratic society today than there has been at any time since the 1960s.² In that earlier period, a presidential commission produced the 1967 Report entitled *The Challenge of Crime in a Free Society*.³ Today, society is not only scrutinizing the police but also reexamining public policies in the entire criminal justice system, including the police, the courts, and prisons.

Criminal justice leaders' highlight of police policies and practices as well as the public's focus on policing have created a potentially transformative moment in terms of setting new goals for policing. It is an opportunity to rethink the vision of what policing in our democratic society should be about (i.e., to talk about what the mission of the police ought to be). The advantage of having such a discussion about vision is that it focuses on changing what the police believe their jobs are about and what goals they should be trying to achieve. If both police leaders and field officers accept a new set of goals, the police will more willingly change their everyday behavior. In other words, consent decrees or lawsuits are not necessary to compel the police to engage in behavior that they believe reflects their mission.

II. POLICING AS HARM REDUCTION

What has the dominant vision of the goals of policing been in past years? For the last several decades the police have focused upon harm reduction. Specifically, the police have designed their policies and practices to control crime with a particular focus on violent drug- and gun-related crimes. In such efforts, they have engaged in many proactive crime-prevention motivated policies. Whatever their impact upon crime rates,

¹ Vanita Gupta delivered a keynote entitled "Policing Post-Ferguson" to kick off a two-day conference held at Yale Law School on April 16–17, 2015. *Justice Collaboratory Holds Inaugural Conference on Policing Post-Ferguson*, YALE L. REP., Summer 2015, at 1–2. Charles Ramsey spoke in a TED talk entitled "Mending Broken Trust." Charles Ramsey, *Mending Broken Trust: Police and the Communities They Serve*, YOUTUBE (Feb. 8, 2016), <https://www.youtube.com/watch?v=mbNCatXqcLw> [<https://perma.cc/C3HP-Q5KM>].

² The degree of common vision across the ideological spectrum is especially important in the aftermath of the recent presidential election. Clearly, shifting toward a more conservative President may have an important impact on discussions about policing. It is difficult to say what impact the President will have because policing was not a central issue in the campaign and the candidates did not offer detailed policies.

³ PRESIDENT'S COMM'N ON LAW ENF'T & ADMIN. OF JUSTICE, *THE CHALLENGE OF CRIME IN A FREE SOCIETY* (1967), <https://www.ncjrs.gov/pdffiles1/nij/42.pdf> [<https://perma.cc/4CGR-TZK5>].

significant segments of the public, particularly people within some areas of urban communities that are the target of heavy policing, have experienced these actions as unjust.

The police have increasingly recognized that they have not been building and have even been lowering their reservoir of public legitimacy⁴ in at least some communities (i.e., depleting the “community trust bank”) through their proactive crime-control actions. In the past several years, this has led to greater efforts to identify the policies and practices that have undermined police legitimacy and to adjust those practices. One example of such a policy is the widespread stopping of people on the street or in cars to investigate the possibility that they are involved in criminal activity, something often referred to as “stop, question, and frisk.”

A. Levels of Public Trust in the Police

In considering the issue of police legitimacy in America today, it is first important not to overstate the facts. Studies of trust in the police suggest that the level of public trust among Americans has remained more or less constant across the last twenty years. Therefore, the police’s crime-control actions have neither seriously undermined police legitimacy nor promoted it. In 1993, 52% of adult Americans indicated that they have a great deal or quite a lot of “trust and confidence” in the police, while in June 2014, 53% of Americans made that same judgment.⁵ In other words, trust remained relatively constant over a twenty-year period. A recent Gallup poll suggests that in 2016, 56% of Americans expressed trust in the police.⁶ Thus, in the last year confidence has not declined. More broadly speaking, between 1993 and 2016, the proportion of Americans expressing trust in the police has ranged from 50% to a little above 60%.⁷

⁴ Scholars writing about trust and confidence refer to this idea as “popular legitimacy” to reflect that it is concerned with legitimacy in the eyes of the people in the community. Such legitimacy is typically operationalized using three indicators: trust and confidence, obligation to obey, and shared values (normative alignment). For a more detailed discussion of measurement, see Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation, and Engagement*, 20 PSYCHOL. PUB. POL’Y & L. 78, 79 (2014).

⁵ JEFF JONES & LYDIA SAAD, GALLUP, CONFIDENCE IN INSTITUTIONS 3 (June 2016), http://www.gallup.com/file/poll/192623/Confidence_in_institutions_160613.pdf [<https://perma.cc/G9RS-B6N6>].

⁶ *Id.*

⁷ *See id.* One of the challenges in using such polling data is the vagueness of the questions. What does it mean to express “confidence” in the police? As an example, as noted, 56% of Americans expressed confidence in the police in June 2016, up from 52% in June 2015. Another Gallup poll reported that the proportion of Americans who feel a great deal of respect for the police rose sharply from 64% in 2015 to 76% in 2016. Justin McCarthy, *Americans’ Respect for Police Surges*, GALLUP (Oct. 24, 2016), <http://www.gallup.com/poll/196610/americans-respect-police-surges.aspx> [<https://perma.cc/25GJ-Q683>]. The problem for scholars is understanding what people are trying to convey

Although trust may be stable, it is noteworthy that these figures indicate that over 40% of Americans lack confidence in the police. In addition, there exists a striking race-based gap in trust: Nearly two in three white Americans express confidence in the police while only one in three black Americans do.⁸ This gap also has existed for decades and continues to exist today.⁹

Why should the level of public trust be a concern to authorities? Why would it be an issue how the police are viewed within the general public? A particular problem for the police in recent years has been the public's unwillingness to defer to police authority in specific incidents in which public defiance and anger have fueled escalations of force.¹⁰ This is true generally but has been a particular concern when the police interact with minorities. Hence, recent studies suggest that low trust has an important impact upon contemporary events: minority group members are more likely to resist police orders and the minority community is more likely to be critical of police conduct, more skeptical of police integrity, and more likely to want to independently investigate the police use of force. Members of different communities are looking at the same events but not understanding them in the same way. Again, minorities are more skeptical and distrustful of the police.

These differing interpretations are reflected in racial polarization in the police–citizen conflicts developing from civilian deaths as the result of police actions. For example, following the police shooting of Michael Brown in Ferguson, Missouri, the Pew Foundation conducted a postevent survey and found that 80% of African-Americans but only 37% of whites

when they say that they “trust” or “respect” the police. In this case, why has respect suddenly risen dramatically, while trust has risen slightly but remained well within the general range of 50% to 60% trust that has been seen for decades? It is not clear that “trust” and “confidence,” terms used more or less interchangeably in the literature, reflect the same concepts in people’s thinking. The Gallup questions ask about confidence, while many other surveys ask about trust. *See, e.g.,* Tyler & Jackson, *Popular Legitimacy and the Exercise of Legal Authority*, *supra* note 4, at 82–84.

⁸ Tom R. Tyler, Phillip Atiba Goff & Robert J. MacCoun, *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 PSYCHOL. SCI. PUB. INT. 75, 81 (2015).

⁹ For data on race and police trust, see Rachel Gandy, *One Institution, Two Different Views: How Black and White Americans Regard the Police*, PRISON POL’Y INITIATIVE (July 2, 2015), www.prisonpolicy.org/blog/2015/07/02/police_confidence [https://perma.cc/W6ZZ-NWW8]; Jeffrey M. Jones, *Urban Blacks in U.S. Have Little Confidence in Police*, GALLUP (Dec. 8, 2014), <http://www.gallup.com/poll/179909/urban-blacks-little-confidence-police.aspx> [https://perma.cc/GFE8-CDA6].

¹⁰ Jonathan Jackson et al., *Monopolizing Force? Police Legitimacy and Public Attitudes Toward the Acceptability of Violence*, 19 PSYCHOL. PUB. POL’Y & L. 479 (2013).

thought that Brown's shooting raised important issues about race.¹¹ Additionally, about 76% of African-Americans expressed not too much or no confidence in the police to investigate the incident, while 52% of whites expressed confidence in such investigations.¹² Similar racially linked differences can be identified in reactions to the series of recent controversial police-related events including the racial profiling incident of Henry Louis Gates in Cambridge and the Eric Garner death in Staten Island.¹³ Collectively, minority communities are unwilling to trust the police to investigate incidents of police use of force.

More generally, the ability of societal authorities to effectively manage social order is linked to public trust.¹⁴ One key behavior is obeying the law, which declines when perceptions of legitimacy are lower.¹⁵ If the police and courts are not trusted, their clearance rates also go down,¹⁶ e.g., people will not call to report crimes, identify criminals, or be witnesses in court. Further, instead of bringing their grievances into the legal system, people settle them privately through violence and retaliation. The public and the police both suffer from these negative consequences of public distrust.

B. *Social Media and Video's Role in Public Trust in Police*

A conspicuous new aspect of the current American situation regarding policing is the widespread presence of social media and citizen- or police-generated videos of police–citizen encounters. One can hardly turn on the news these days without seeing videos depicting instances of police conduct that some perceive as questionable, if not outright wrong and illegal. It seems likely that these incidents are not a new phenomenon but rather in step with a long history of police violence, particularly toward members of the African-American community. However, such violence—whether justified or not—has seldom been so widely accessible to the

¹¹ PEW RESEARCH CTR., STARK RACIAL DIVISIONS IN REACTIONS TO FERGUSON POLICE SHOOTING (2014), www.people-press.org/files/2014/08/8-18-14-Ferguson-Release.pdf [https://perma.cc/2HKF-H5VQ].

¹² Bruce Drake, *Ferguson Highlights Deep Divisions Between Blacks and Whites in America*, PEW RES. CTR.: FACTTANK (Nov. 26, 2014), <http://www.pewresearch.org/fact-tank/2014/11/26/ferguson-highlights-deep-divisions-between-blacks-and-whites-in-america/> [https://perma.cc/56Y2-EQUY].

¹³ In both cases, African-American males encountered police officers that, according to many people, reflected racial profiling in that police actions would differ if the subjects involved were white.

¹⁴ Tom R. Tyler, *Legitimacy and Criminal Justice: The Benefits of Self-Regulation*, 7 OHIO ST. J. CRIM. L. 307, 314 (2009).

¹⁵ Tom R. Tyler, Jeffrey Fagan & Amanda Geller, *Street Stops and Police Legitimacy: Teachable Moments in Young Urban Men's Legal Socialization*, 11 J. EMPIRICAL LEGAL STUD. 751, 776 (2014).

¹⁶ See Tom R. Tyler & Jeffrey Fagan, *Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?*, 6 OHIO ST. J. CRIM. L. 231, 250–52 (2008).

general public. Furthermore, video carries an emotional impact not present in written news reports. These videos bring the reality of the police use of force to communities that may have little experience with such policing in their everyday lives (i.e., people living in high-income, low-crime areas).

Ironically, while the widespread availability of videos of police shootings may be fueling public concerns about policing, the recent history of policing shows that the police are generally becoming less biased and more professional.¹⁷ While the shootings captured on video are dramatic, there are suggestions that the base rate of police–civilian shootings is down, at least in terms of the number of police officers killed and justifiable police shootings of civilians.¹⁸ Additionally, evidence shows police departments are less corrupt and less likely to use coercion and intimidation than in the past, indicating that police are becoming more professional.

III. REEXAMINING THE ROLE OF POLICING AND POLICE TACTICS AND THEIR EFFECT ON RELATIONSHIPS BETWEEN POLICE AND THE COMMUNITIES THEY SERVE

The fact that the rate of violent crime in America has declined dramatically and steadily over recent decades has created an opportunity to reexamine police policies and practices. Beliefs that crime is rampant and out of control, that cities are crime ridden and dangerous, and that there are violent, largely young “super-predators” who prey upon law-abiding citizens have all diminished; crime has lost importance as a political issue in urban communities. It is hard for people today to recall the fear of violent crime that gripped American cities during an earlier era in which violence seemed more out of control.

As noted above, reducing crime has been a central concern of the police for the last several decades. This has been based upon the reasonable belief that the public is concerned about crime and wants the police to focus on lowering the crime rate. It has certainly been the expectation of many police chiefs that the public would appreciate and support the police

¹⁷ NAT’L RESEARCH COUNCIL OF THE NAT’L ACADS., FAIRNESS AND EFFECTIVENESS IN POLICING: THE EVIDENCE (2004).

¹⁸ Franklin E. Zimring & Brittany Arsiniega, *Trends in Killings of and by Police: A Preliminary Analysis*, 13 OHIO ST. J. CRIM. L. 247, 249–50 (2015).

if the crime rate declined.¹⁹ Indeed, the crime rate has declined in ways that are striking and consistent across major American cities.²⁰

Although criminology experts disagree about the actual degree of association between the strategies used by the police and the rate of crime, the public and experts would probably generally accept the argument that the police have played a role in reducing crime. Studies suggest that the level of police presence in crime hot spots is linked to crime reduction.²¹ Certainly the public controversy over policing in recent years does not focus on concerns about the crime rate; there is little or no criticism of the police for being unable to control the overall level of crime, although there are critiques of how the police handle their efforts to deter the behavior of the specific people with whom they are dealing. However, irrespective of whether police leaders reasonably expected that crime declines would lead to heightened public trust in the police, evidence suggests that this has not happened.²²

While the decline in crime has not led to increases in trust and confidence, the lower crime rates have justified efforts of police critics, ranging from the ACLU to Black Lives Matter, in opening a broader era of discussion about policing.²³ During an era of high crime in the 1970s, police justified their actions as efforts to control crime. For the most part, political leaders were reluctant to question law enforcement for fear of being seen as soft on crime. For example, it was President Clinton (a moderate Democrat) who initiated many tough-on-crime measures, including using federal funding to put more police officers on the street.²⁴ Today, with “spiraling crime rates” off the political agenda, it is possible to have a more open discussion about how policing might best function in a democratic society.

¹⁹ This is my personal observation based upon discussions at a number of forums at which I have spoken with police leaders.

²⁰ Matt Ford, *What Caused the Great Crime Decline in the U.S.?*, ATLANTIC (Apr. 15, 2016), <https://www.theatlantic.com/politics/archive/2016/04/what-caused-the-crime-decline/477408/> [https://perma.cc/WU59-EYLR].

²¹ See, e.g., David Weisburd & Anthony A. Braga, *Hot Spots Policing as a Model for Police Innovation*, in POLICE INNOVATION: CONTRASTING PERSPECTIVES 225, 229–34 (David Weisburd & Anthony A. Braga eds., 2006).

²² Jim Norman, *Americans' Confidence in Institutions Stays Low*, GALLUP (June 13, 2016), <http://www.gallup.com/poll/192581/americans-confidence-institutions-stays-low.aspx> [https://perma.cc/S38D-BP3B].

²³ Interestingly, the lawfulness of police conduct has similarly not emerged as central to public mistrust. Tracey L. Mears, Tom R. Tyler & Jacob Gardener, *Lawful or Fair?: How Cops and Laypeople Perceive Good Policing*, 105 J. CRIM. L. & CRIMINOLOGY 297, 300 (2015).

²⁴ See Harry A. Chernoff et al., *The Politics of Crime*, 33 HARV. J. ON LEGIS. 527, 578–79 (1996).

A. If Trust Is the Issue, Fighting Crime Is Not the Answer

The focus on trust raised the question of what the police should be doing. The recent effort to lower the crime rate through proactive police behavior stands in contrast to the traditional perception that the police play a primarily reactive role (i.e., investigating crimes after they have occurred). In recent years, the police have focused on preventing crime. Police assert that the public also thinks that the police can manage social order. Hence, police link political accountability with the ability to control crime. This proactive crime-control agenda parallels police efforts to build public support by providing services via mechanisms such as 911 calls.

The key point is that the police make efforts to stop crimes, rather than investigating crimes that have already happened. This means that the police are drawn into contact with members of the community who are suspected of being current or future criminals but who often turn out to be innocent of any crime. Both service provision and crime control develop out of the belief that the public reacts to the police by assessing the nature and quality of the services they provide. This is an instrumental view of policing that links public support to tangible benefits that the police provide to people in the community.

The focus on gaining public support through proactive crime control has led the police to try a number of tactics, each broader in its approach to the community than the last. They began with the original broken windows approach. This approach argued that by proactively targeting deviants in local communities, the police demonstrated initiative in responding to community concerns and would, therefore, gain support from the general community. The zero tolerance policy followed upon this strategy, and pursuant to it the police widely arrested people for minor lifestyle crimes. Finally, this strategy led to today's stop, question, and frisk approaches, a widespread proactive contact model that involves stopping large numbers of people—many of whom are not committing any crimes—and searching for weapons or drugs.

These strategies have led to two consequences. First, they broadened the range of people who have investigatory contacts with the police, i.e., encounters with the public initiated by the police because they believe that the targeted person is or is about to be involved in criminal conduct. The original broken windows model argued that the police should target a small group of deviants generally agreed to be marginal community members, such as prostitutes and drug dealers. The zero tolerance approach broadened the scope of such stops considerably to include everyone in the community involved in some form of lifestyle crime. These crimes varied widely and included drinking beer in public places, public urination, low-

level drug use, rowdiness, and other such crimes. Those involved not only often received a citation but also spent a brief amount of time in jail before their cases could be disposed. This broad scope of interventions culminated in a policy of widespread stop, question, and frisk interactions that stopped broad segments of the community who had previously largely avoided negative interactions with law enforcement.²⁵

Second, police investigatory stops increasingly involve people who are not engaged in wrongdoing. The early models (broken windows, zero tolerance) were based upon the assumption that those with whom the police interacted were engaged in crime, albeit minor crimes that might in an earlier era have been handled by an informal admonition or warning. But this approach has gradually morphed into today's era of pretextual stops, almost all of which do not identify any wrongdoing.²⁶

This expansion of the scope of police contact means that increasing proportions of the community have experienced stops in which the police communicate suspicion. Such widespread stops imply the imputation of deviant criminal character to previously law-abiding citizens. This damages people's self-esteem and self-image. Not unexpectedly, such stops not only engender anger and resentment but also promote cynicism. More importantly, they undermine police legitimacy and contribute to the issues of distrust that suggest the need to change policing policies and practices.

It is important to recognize the interplay between the police focus upon proactive crime reduction and potentially harmful effects on the relationship between the police and community members, as well as on the identities of people in the community and the strength of the social dimensions of the community they live in. If 100 people are stopped and one gun is found, this is a step against crime. However, there are also ninety-nine people stopped and subjected to suspicion and stigma when they have not been committing any crime. Furthermore, neighbors observe these people and hear about such incidents from family and friends. Taken together, repeated stops of large numbers of people in a neighborhood convey powerful messages of disrespect and exclusion. However, the

²⁵ The problems minorities have had with undue stops are addressed in *Floyd v. City of New York*, 959 F. Supp. 2d 540, 559 (S.D.N.Y. 2013).

²⁶ As an example, a study of stops in New York City indicated that 1 in 1,000 yielded some tangible evidence of wrongdoing (e.g., a gun). See Robert Gearty & Corky Siemaszko, *NYPD Stop-and-Frisk Policy Yielded 4.4 Million Detentions but Few Results*, N.Y. DAILY NEWS (Apr. 3, 2013, 9:22 PM), <http://www.nydailynews.com/new-york/nypd-stop-and-frisk-detains-millions-results-article-1.1307179> [<https://perma.cc/2DGX-48TU>] (“Over the last decade, we have taken 70,000 to 80,000 weapons off of individuals who were stopped for questioning by police Seven thousand to 8,000 of those weapons were illegal guns.” (internal quotation marks omitted)).

consequence of these messages is outside of the framework of immediate crime control and therefore easy for the police to miss.

The widespread reports of humiliation and disrespect at the hands of police officers during these stops are additionally troubling. Even if stops are viewed as a reasonable way to cull through the general population to identify a small group of offenders, the crime control justification for bullying and lack of courtesy is harder to articulate. This has led to speculation that many officers view their efforts as part of a general strategy of domination and control. Such a strategy is designed to first communicate the risk of getting caught and create a fear of detection by the police within targeted communities.²⁷ This may also be part of a broader but less professional proactive crime control strategy involving social control via intimidation. Such systematic disrespect suggests that the people stopped are correct in inferring that the police view them as criminal types and deviants who will commit crimes. Police need to reevaluate these type of stigmatizing strategies to increase the public's trust. This highlights the question of what type of changes can and should be made.

B. Suggested Police Responses

One approach to lowering the rate of public mistrust is to minimize police investigatory contacts with the public. Ironically, these expansions of the range and scope of police activity occur at the same time that research increasingly indicates that such strategies were never an effective way to fight crime. Even in high crime communities, only a small proportion of the people and places are criminogenic.²⁸ Focused deterrence is a better use of police resources and more effectively fights crime. Focused deterrence concentrates police attention toward particular areas of a neighborhood or upon particular people. The development of network analysis, a tool that allows the police to identify any particular person's network of associates and friends, increases police ability to concentrate on particular people and places.

Another possible reaction to the high level of distrust of the police is for police to respond to concerns about their legitimacy by reshaping types of contact. For example, the police can emphasize service delivery when

²⁷ See Ben Bradford & Ian Loader, *Police, Crime and Order: The Case of Stop and Search*, in THE SAGE HANDBOOK OF GLOBAL POLICING 241, 254 (Ben Bradford et al. eds., 2016).

²⁸ See, e.g., Anthony A. Braga, Andrew V. Papachristos & David M. Hureau, *The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-Analysis*, 31 JUST. Q. 633, 635 (2014); Andrew V. Papachristos, *The Network Structure of Crime*, 8 SOC. COMPASS 347, 354 (2014); Andrew V. Papachristos & Christopher Wildeman, *Network Exposure and Homicide Victimization in an African American Community*, 104 AM. J. PUB. HEALTH 143, 143 (2014).

dealing with the general population and deemphasize investigatory stops. While police can decide to limit proactive contact, they have only a limited ability to determine what types of problems they react to because they need to respond to whatever 911 calls and emergency or criminal situations occur in their community. Nonetheless, the police have huge amounts of discretion over how they handle low-level crimes. Accordingly, the police could use this discretion to lower the rates of investigatory contact with the public, particularly the large portions of the public not involved in serious criminal activity. They could focus upon new approaches to lifestyle crimes and minor drug or alcohol crimes.

Further, they can use diversionary approaches, such as directing people toward counseling or support services and avoiding arrests whenever possible. Instead of arresting a mentally ill person, for example, the police can take them to a mental health clinic. Evidence from similar efforts in the courts (e.g., restorative justice hearings, drug courts, veterans' courts, mental health courts)²⁹ suggests that such nonadjudicatory approaches aimed at solving problems by providing support services and aid can both lower the long-term rate of crime while enhancing the legitimacy of legal authorities.³⁰

C. Procedural Justice

The purpose of limiting police investigatory stops is to decrease instances of experienced injustice among members of public, especially since the strategy of contact, at least as currently practiced, is shown to contribute in the aggregate to the lowering of legitimacy. Limiting police investigatory stops is focused upon generating the absence of injustice because at least as currently practiced such stops have the overall effect of diminishing trust.³¹ This is especially true among adolescents. Studies indicate that, currently, contact with the criminal justice system generally undermines police legitimacy and increases the likelihood of future criminal behavior.³² This is particularly true when people are repeatedly

²⁹ For a discussion of court reforms, see Tyler et al., *The Impact of Psychological Science on Policing in the United States*, *supra* note 8, at 92–93.

³⁰ For discussions of this literature, see Denise C. Gottfredson, Brook W. Kearley, Stacy S. Najaka & Carlos M. Rocha, *How Drug Treatment Courts Work: An Analysis of Mediators*, 44 J. RES. CRIME & DELINQ. 3, 4, 10 (2007); Natalie Kroovand Hipple, Jeff Gruenewald & Edmund F. McGarrell, *Restorativeness, Procedural Justice, and Defiance as Predictors of Reoffending of Participants in Family Group Conferences*, 60 CRIME & DELINQ. 1131, 1132, 1151 (2014).

³¹ Tyler et al., *Teachable Moments*, *supra* note 15, at 751, 757–59, 774.

³² *See id.*

stopped.³³ Studies indicate that people with stop histories are more likely to rate their most recent stop as lacking justification and as involving police unfairness.³⁴

Alternatively, some argue that it is not police contact per se that is the issue but rather the crime-control focused, sanction-oriented, aggressive “command-and-control” style of policing that currently predominates. This style of policing casts suspicion and communicates that the police view people as having suspect character and criminogenic features, including but not limited to their race.³⁵ In contrast to trying to change the nature of contact in instances when they are constrained by events in the community, the police have considerable control over how they interact with community members on a routine basis. People can always be treated with fairness.

The key issue is whether police-initiated stops are inherently alienating or whether it is the style of policing that is at issue. It is important to ask whether it is possible for the police to interact with the public using a different style and take a preventative approach while maintaining, or even enhancing, their legitimacy. Unfortunately, prior studies of the police often conflate the mere fact of police contact with the police’s style during that contact and fail to address or explore the effects that a different policing style might have in these interactions.³⁶

The current policing style is generally one of command and control, in which the police dominate people and situations. It has been described as “aggressive order-maintenance.”³⁷ If the reports of young people are accepted, it is often characterized by the threat or use of force, humiliation and embarrassment, and what is perceived as unjustified harassment.³⁸ As has already been mentioned, those who have dealt with the police widely report that they experience police efforts as controlling and police encounters as aggressive, threatening, and harassing. People express fear of the police and widely report trying to avoid them.

³³ CHARLES R. EPP, STEVEN MAYNARD-MOODY & DONALD P. HAIDER-MARKEL, *PULLED OVER: HOW POLICE STOPS DEFINE RACE AND CITIZENSHIP* (2014).

³⁴ Tyler et al., *Teachable Moments*, *supra* note 15, at 776.

³⁵ Tom R. Tyler, Jonathan Jackson & Avital Mentovich, *The Consequences of Being an Object of Suspicion: Potential Pitfalls of Proactive Police Contact*, 12 J. EMPIRICAL LEGAL STUD. 602, 631 (2015).

³⁶ See Tyler et al., *The Impact of Psychological Science on Policing in the United States*, *supra* note 8.

³⁷ K. Babe Howell, *Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing*, 33 N.Y.U. REV. L. & SOC. CHANGE 271, 274 (2009).

³⁸ See Brett G. Stoudt, Michelle Fine & Madeline Fox, *Growing Up Policed in the Age of Aggressive Policing Policies*, 56 N.Y.L. SCH. L. REV. 1331 (2011).

Raising the question of the procedural style used by the police acknowledges that there have been changes in policing over time. Moreover, the use of instrumental mechanisms for compliance in recent policing is different than the older idea of police officers as “street corner politicians” who know how to interact with and manage interpersonal conflicts and other issues that arise when dealing with people in the community.³⁹ This older conception of policing imagines a more interpersonally sensitive style of policing linked to efforts to manage community problems informally and as much as possible without the use of force. As Jack Greene notes, “the premise of the police as ‘philosopher, guide and friend’ . . . which characterized much discussion on policing in the mid-twentieth century[,] . . . focus[ed] . . . on balancing the social control and social facilitation roles of the police.”⁴⁰ Similarly, William Muir talks about police officers as civic educators, i.e., in the role of teaching people about the obligations of living in a democracy.⁴¹

Fortunately, police research can draw upon the large empirically based literature that strongly supports the centrality of procedural justice as the key antecedent of legitimacy, suggesting that it is the most important aspect of experience that shapes generalizations to trust and confidence.⁴² Hence, a focus on contact-based, legitimacy-enhancing strategies for what happens during contact fits better with the elements of interaction under police control. The procedural justice literature points to a clear set of principles of conduct that the police can use; studies suggest that the police can both engage in contact and build trust by employing such principles.⁴³ However,

³⁹ See WILLIAM KER MUIR, JR., *POLICE: STREETCORNER POLITICIANS* (1977).

⁴⁰ Jack R. Greene, *Zero Tolerance and Policing*, in *THE OXFORD HANDBOOK OF POLICE AND POLICING* 172, 173 (Michael Dean Reisig & Robert J. Kane eds., 2014).

⁴¹ William Ker Muir, *Police and Social Democracy*, 18 *POLICING & SOC’Y* 18, 21 (2008).

⁴² TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* 3 (2006); Jason Sunshine & Tom R. Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 *LAW & SOC’Y REV.* 513, 519 (2003); Tom R. Tyler, *Psychological Perspectives on Legitimacy and Legitimation*, 57 *ANN. REV. PSYCHOL.* 375, 378 (2006); Tyler & Fagan, *Legitimacy and Cooperation*, *supra* note 16, at 240–41, 252–53; Tyler et al., *Teachable Moments*, *supra* note 15, at 758; Tyler et al., *The Impact of Psychological Science on Policing in the United States*, *supra* note 8, at 83–84; Tyler & Jackson, *Popular Legitimacy and the Exercise of Legal Authority*, *supra* note 4, at 81; Tom R. Tyler & Cheryl J. Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority*, 42 *CRIMINOLOGY* 253, 276 (2004).

⁴³ See Lorraine Mazerolle, Emma Antrobus, Sarah Bennett & Tom R. Tyler, *Shaping Citizen Perceptions of Police Legitimacy: A Randomized Field Trial of Procedural Justice*, 51 *CRIMINOLOGY* 33 (2013); Tyler & Fagan, *Legitimacy and Cooperation*, *supra* note 16. It is important to acknowledge that studies do not always find that fair contact builds trust, suggesting the importance of considering social context when considering the possibilities of change through altered styles of policing.

recent experimental and nonexperimental research findings make clear that fair contact can build police legitimacy.⁴⁴

A fundamentally different approach to policing is to focus on the positive effects of procedural fairness, i.e., on building trust through justice, and purposefully designing policies and practices that create higher levels of legitimacy. The President's Task Force incorporated this approach in its discussion regarding the transition from a warrior to a guardian model.⁴⁵ Similarly, the vernacular change from police "force" to police "service" incorporates the same notion. Fundamental to this model of policing is not to create fear of the police in the community but to communicate reassurance through the presence of the police. People need to feel that if they engage themselves in their community, they will be doing so within a climate of justice. Those feelings promote identification with and engagement in the community.⁴⁶ Studies show that both having fair procedures when determining policies and implementing those policies fairly distinctly influence feelings of trust and confidence within the community.⁴⁷ People first react to fairness in policy creation, then in addition react to policy implementation.

The core point about crime is that you cannot "arrest your way out of crime." The most effective long-term approach to grappling with crime focuses on building the social, economic, and political capital within a neighborhood.⁴⁸ If people feel solidarity with their neighbors, have viable economic opportunities, and engage with the community, then the community becomes one in which crime becomes a less important problem. Persistent poverty, in contrast, leads to high rates of crime.⁴⁹ Procedural justice leads to community identification and engagement. Police and courts create a framework of reassurance that promotes identification and engagement. This connection extends between people and their government as well as among the people within any given neighborhood.

⁴⁴ Edward R. Maguire, Belen V. Lowrey & Devon Johnson, *Evaluating the Relative Impact of Positive and Negative Encounters with Police: A Randomized Experiment*, 12 J. EXPERIMENTAL CRIMINOLOGY 1, 15–16 (2016); Tyler et al., *Teachable Moments*, *supra* note 15, at 774.

⁴⁵ WASH., D.C. OFFICE OF CMTY. ORIENTED POLICING SERVS., FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING 1, 11–12 (2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf [<https://perma.cc/8JS6-65RA>].

⁴⁶ Tyler & Jackson, *Popular Legitimacy and the Exercise of Legal Authority*, *supra* note 4, at 2–3, 5, 13–14.

⁴⁷ Tyler et al., *Teachable Moments*, *supra* note 15, at 774.

⁴⁸ Tyler et al., *The Impact of Psychological Science on Policing in the United States*, *supra* note 8.

⁴⁹ *Id.*

Like recent police efforts to control crime, the procedural justice model is not only proactive but also aims at positive goals. The legal system as well as its actors and institutions do not need to focus solely upon reducing the harms of crime; they can also facilitate human development and community well-being. The climate created by the police affects the many people in the community who may themselves have infrequent contact with the police and courts as criminals. This includes the large middle class and the overwhelming majority of people in high-crime and low-income areas. As a result of a climate of reassurance, the community believes that if they did have a problem involving unlawful behavior, faced a situation where they needed police help, or were drawn into court seeking justice, the processes they would encounter would be fair and managed by people who were benevolently motivated and wanted to do the right thing, who were trying to address people's needs and concerns, who would be consistent and rule-based decisionmakers, and who would be courteous to people and respectful of their rights. These beliefs are central to people's willingness to actively interact with others by identifying with their neighborhood or community and their willingness to involve themselves in their community.

Three types of behavior from members of the community are important in helping to perpetuate the positive model of procedural justice and positive proactive policing. Each of these types of behavior is motivated by beliefs within the members of a community that the police treat people in their community fairly. These beliefs build legitimacy and encourage community involvement. The three key types of behavior are comanaging social order, enacting behaviors that build the community, and cooperating with neighbors to build social capital.

First, people can cooperate with the police and courts to comanage social order. This includes reporting crimes and criminals, being a witness or a juror, and otherwise cooperating with the legal system. More broadly, it involves voluntarily accepting the authority of the police and the courts, willingly accepting government decisions, and following laws without being primarily motivated by the probability of punishment.

Second, people can commit to the community by behaving in ways that build its vitality, including shopping locally, working in the community, and otherwise supporting economic development to help the community evolve toward a prosperous and viable collectivity. This type of engagement flows from identification with the community, including its

members and its governmental and legal authorities, all of which is facilitated by procedural justice.⁵⁰

Finally, the framework of reassurance promotes cooperation among the people living within a community. A framework of reassurance facilitates the development of community social capital, as people work together to address community issues. These may begin with, but spread beyond, efforts to maintain social order to include informal social control, solidarity and cohesion, and joint efforts to address common economic and social concerns. Collective efficacy refers to the belief among the members of the community that their neighborhoods can and will act to maintain order. Therefore, the need for more aggressive policing directed toward investigating people in the community diminishes.

D. Strategies for Building Legitimacy Through Procedural Justice

Research suggests that it is the presence of procedural justice that promotes trust.⁵¹ If people believe that when they interact with the police they will receive fair and responsive treatment from officers who are sincere and benevolent, they are more likely to trust the institution of the police. In particular, people need to believe that the police respect them and their rights, and that if they deal with the police, those authorities will have trustworthy, caring, sincere, and benevolent motivations, i.e., they will make efforts to understand and respond to their problems, concerns, and needs.⁵²

⁵⁰ TOM R. TYLER, *WHY PEOPLE COOPERATE: THE ROLE OF SOCIAL MOTIVATIONS* (2011).

⁵¹ Tyler et al., *The Impact of Psychological Science on Policing in the United States*, *supra* note 8, at 86, 88.

⁵² While this discussion is focused upon the police, a similar model is central to discussions of the courts. Both Justice Stephen Breyer and Justice Sonia Sotomayor recently wrote about the importance of creating a framework of justice within which communities can develop socially, economically, and politically. Justice Breyer noted the “universal need present in every society, that for some method for resolving disputes among individuals.” STEPHEN BREYER, *MAKING OUR DEMOCRACY WORK: A JUDGE’S VIEW* 138 (2010). Justice Sotomayor similarly discussed “the problems inherent to discretionary governmental decisions to target and track individuals . . . in terms of the impact of government actions on the ‘relationship between citizen and government.’” Tracey L. Meares & Tom R. Tyler, *Justice Sotomayor and the Jurisprudence of Procedural Justice*, 123 *YALE L.J. F.* 525, 525 (2014) (quoting *United States v. Jones*, 565 U.S. 400, 416 (2012) (Sotomayor, J., concurring)). In a James A. Thomas lecture, delivered at the Yale Law School on February 3, 2014, she “argued that the goal of the law is to express our shared ideals as a society—and, through doing that, to enable everyone to identify with law and with our democracy and its political and legal institutions.” *Id.* at 526. Toward this end of her argument, she urged for transparency in decisionmaking, and the need for judges and the Court to identify with the needs of the public. *Id.* She argued that transparency and the humanization of judges build support for the courts, which in turn promotes participation in and engagement with government. *See id.*

IV. APPROACHES TO TRANSFORMING POLICING

A. *Recruitment*

One important aspect of policing is the change in the composition of police forces, which are becoming more diverse in terms of race, gender, and sexual orientation.⁵³ This diversity has two elements: optics and dynamics. In terms of optics, having diverse police officers is important to building public trust in a police department. Enacting diversity is one approach to encouraging public trust.

Unfortunately, diversity has had a limited impact on the internal dynamics of police departments because there has been a strong and narrow police culture in most departments. Officers are not white or black but blue. In other words, their views and behaviors reflect the dominant police culture, rather than any unique experiences as minorities or women. To capture gains from diversity, it is important to change the culture of police departments to make them more open to diverse group participation and more cognizant of diverse experiences and perspectives.

Rethinking recruitment and retention is one clear strategy for trying to bring a broader range of perspectives into policing. In particular, it is important to try to create internal dynamics that allow diverse perspectives to be heard and considered. One way to achieve this is through police training of the command staff emphasizing the importance of creating procedures within the department that officers experience as being procedurally just.

B. *Training*

Training officers in procedural fairness is an important way to build legitimacy in the community because it changes the way officers think about how to police.⁵⁴ Officers need to think of each encounter with the public as an opportunity to educate people about law and legal authority (i.e., a “teachable moment”). Put another way, officers need to recognize the importance of considering how the people in the community experience them and whether they are negatively or positively influencing community

⁵³ David Alan Sklansky, *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*, 96 J. CRIM. L. & CRIMINOLOGY 1209, 1211, 1213 (2006).

⁵⁴ See Rick Trinkner, Tom R. Tyler & Phillip Atiba Goff, *Justice from Within: The Relations Between a Procedurally Just Organizational Climate and Police Organizational Efficiency, Endorsement of Democratic Policing, and Officer Well-Being*, 22 PSYCHOL. PUB. POL'Y & L. 158 (2016); see also Maarten Van Craen & Wesley G. Skogan, *Achieving Fairness in Policing: The Link Between Internal and External Procedural Justice*, 20 POLICE Q. 3, 16 (2017).

trust in the police. If officers carry this idea into their everyday work, legitimacy will improve.

Training is not just for street officers. Sergeants and command staffs can also benefit from training on procedural justice. In management settings, training for supervisors and managers is widespread and based upon the recognition that internal organizational procedural fairness determines employee conduct. In policing, it is the fairness of an officer's immediate supervisor that most strongly shapes his or her conduct.⁵⁵ It is important that leaders both embrace the idea of procedural justice and communicate its value through training.

Police departments would further benefit from developing models of continual education and training. This includes but goes beyond procedural justice training. In many departments, current training around the issues in this Essay is punitive. Education is viewed as a punishment, not a mechanism for doing better work. When officers make mistakes, they are retrained. Such efforts are a good idea, but ongoing training is also important. The availability of video from body cameras or car cameras provides the chance for periodic discussions with officers about their approach to managing different situations. And trainers can identify good examples and use them as models for everyone to see. This not only educates officers but also provides a chance to recognize model officers for their interpersonal skills, as opposed to for their crime-fighting work.

C. *External Policies and Practices*

The point of training is to reorient officers' views about how to police in the community toward a concern about how their actions shape public views about the police. This can also be achieved through altered policies and practices. One approach, already noted, is to limit investigatory stops, which are known to be a source of mistrust. Officers should have a high bar of suspicion to justify such stops.⁵⁶

Police contact does not inherently undermine trust. As examples, responses to citizen requests for help or even routine traffic stops are not found to be major contributors to mistrust. People are more comfortable in traffic stops because they follow a familiar pattern and people feel that they are in fact (typically) guilty of rule breaking (e.g., speeding). Thus, they understand why they have been stopped and know they can control whether

⁵⁵ See Tom R. Tyler et al., *Armed, and Dangerous (?): Motivating Rule Adherence Among Agents of Social Control*, 41 LAW & SOC'Y REV. 457, 482 (2007).

⁵⁶ Evidence suggests that raising the bar would also lead to more stops that yielded crime related evidence. See John MacDonald, Jeffrey Fagan & Amanda Geller, *The Effect of Local Police Surges on Crime and Arrests in New York City*, 11 PLOS ONE, no. 6, 2016.

such events occur by changing their behavior and obeying the law. It is investigatory stops that are key to mistrust since people feel they are uncontrollable. Obeying the law does not stop the police from stopping people on the street. And the behavior of officers is often reported to veer off of a professional script into actions that are humiliating and threatening. Hence, a focus more upon responses to requests for help and on situations like traffic stops is one way to build a pattern of police contact that is more likely to build public trust.

It is important for the police to know that researchers have found that contacts with traffic or small claims courts over issues that the legal system might label as minor are important to the public, and in consequence, are an important source of systematic mistrust.⁵⁷ Encounters with judges or police officers are seldom minor events in the lives of citizens and, in particular, people remember experiences of disrespect or perceived indifference for many years. Studies suggest that encounters with government and its actors shape people's understanding of their inclusion and standing within the community. Such understandings shape perceived self-worth and well-being. Hence, authorities need to remember that their actions shape the legitimacy of the institutions they represent. Major drug busts or high-profile mob takedowns may be the type of police work that hits the papers, but it is the everyday contacts with officers that over time carry great weight in shaping public trust.

Departments are often very creative in finding ways for officers to interact with community residents in desirable ways. These include summer camp programs, bikes for kids' giveaways, picnics and social gatherings bringing the police and the community together, and other forms of noninvestigatory contact. Contact that minimizes differences in status and which is cooperative is more likely to undermine negative stereotypes on both sides and promote positive attitude change.⁵⁸

On the other hand, there are also policies and practices that have the potential to undermine community trust. The militarization of the police leads the public to increasingly deal with officers who are heavily armed and armored, which communicates mistrust in the community and undermines efforts at low-stress dialogue about community issues. Similarly, the addition of armed police officers to middle and high schools

⁵⁷ The state of California conducted public surveys and found that a key input into public distrust of the court system was the experience that people have with high-volume, low-stakes courts: traffic, family, and small claims. See NAT'L CTR. FOR STATE COURTS, TRUST AND CONFIDENCE IN THE CALIFORNIA COURTS: A SURVEY OF THE PUBLIC AND ATTORNEYS (2005).

⁵⁸ See John F. Dovidio, Samuel L. Gaertner & Kerry Kawakami, *Intergroup Contact: The Past, Present, and the Future*, 6 GROUP PROCESSES & INTERGROUP REL. 5, 6–8, 11–12, 16 (2003).

makes those environments more adversarial and legalistic, and encourages the criminalization of disciplinary issues that were previously handled informally. As noted, these trends are not intrinsically linked to undermining trust and a great deal depends upon how officers implement their roles in these situations.

D. *Internal Policies and Practices*

Early discussions of procedural justice focused upon procedural justice as a mechanism for the police to use in building popular legitimacy. However, studies of street officers found that the officers themselves often felt that their departments lacked basic features of procedural justice. Hence, one clear area of change needs to be a focus on how to create and sustain procedural justice in the internal dynamics of police departments. Studies show that officers who feel fairly treated by their superiors within the department are more likely to view their department, as well as its policies and leaders, as legitimate. Thus, they are more likely to comply with organizational rules and policies, feel organizational commitment and a desire to stay with the department, and work cooperatively with their supervisors.⁵⁹ They are also less likely to use force on the street and more likely to view treating the community fairly as important.⁶⁰ Thus, promoting internal procedural justice facilitates the employment of external procedural justice in the community.

E. *Recognition and Reward*

The police chief signals his or her views about what real police work is by the people they recognize and reward. Who does the chief give achievement awards to and who is written up in the newsletter? To sustain a procedural justice model, the command structure needs to provide visible

⁵⁹ See, e.g., Ben Bradford, Paul Quinton, Andy Myhill & Gillian Porter, *Why Do 'the Law' Comply? Procedural Justice, Group Identification and Officer Motivation in Police Organizations*, 11 EUR. J. CRIMINOLOGY 110, 123–24 (2014); Joseph De Angelis & Aaron Kupchik, *Citizen Oversight, Procedural Justice, and Officer Perceptions of the Complaint Investigation Process*, 30 POLICING: INT'L J. POLICE STRATEGIES & MGMT. 651, 666–67 (2007); Joseph De Angelis & Aaron Kupchik, *Ethnicity, Trust, and Acceptance of Authority Among Police Officers*, 37 J. CRIM. JUST. 273, 278 (2009); Suzanne J. Farmer, Terry A. Beehr & Kevin G. Love, *Becoming an Undercover Police Officer: A Note on Fairness Perceptions, Behavior, and Attitudes*, 24 J. ORGANIZATIONAL BEHAV. 373, 373–74, 383 (2003); Christopher J. Harris & Robert E. Worden, *The Effect of Sanctions on Police Misconduct*, 60 CRIME & DELINQ. 1258, 1263–64, 1282 (2014); Faye S. Taxman & Jill A. Gordon, *Do Fairness and Equity Matter?: An Examination of Organizational Justice Among Correctional Officers in Adult Prisons*, 36 CRIM. JUST. & BEHAV. 695, 705–07 (2009); Tyler et al., *Motivating Rule Adherence*, *supra* note 55, at 482; Scott E. Wolfe & Alex R. Piquero, *Organizational Justice and Police Misconduct*, 38 CRIM. JUST. & BEHAV. 332, 349 (2011).

⁶⁰ Trinkner et al., *supra* note 54.

signs of support for those officers who emphasize building legitimacy within the community. If real police work is equated with arrests or SWAT team actions, or if officers are told that taking time to speak with community residents is not a good use of their time, officers will not engage in such activities.

F. Metrics

CompSTAT became highly popular among police departments because it uses metrics to direct policing activity. The concept has become enshrined with the metric of crime rate. But it is important to separate the idea of metrics of performance from crime rate as the metric of concern. If police departments broaden their metrics, they can reward officers for achieving other goals. One goal is popular legitimacy. Officers or supervisors can not only manage their activities around metrics but also promote a broader set of goals through community surveys, post-contact cards, objective measures such as the number of citizen help tips, calls for service, or the absence of complaints.

Whenever police departments are developing policies and practices, they can focus on the impact of those policies and practices on officers' actions—i.e., on what goals the police are trying to maximize. As already noted, one focus is impact on communities. In addition, what officers do with their time also influences how they understand their jobs. For example, in the stop and frisk era, New York Police Department officers begin their careers in high-crime areas, stopping, searching, and potentially arresting community residents. In New Haven, officers begin their careers embedded in a high-crime community but with the goal of getting to know people and building relationships. These different activities lead to a different understanding of policing roles. For example, officers become more appreciative of something that is also a finding of research: Even in high-crime neighborhoods, almost all of the residents are not involved in criminal activity. When officers deal primarily with a neighborhood because they are responding to calls, they view the people in the neighborhood as those who either need help or cause problems. They have little everyday contact with people who are law-abiding and would potentially be willing to help the police. One consequence of this program has been an increase in police clearance rates that officers attribute to heightened community cooperation.⁶¹

⁶¹ These observations come from conversations with NHPD officers during training sessions at the NHPD Training Academy.

G. System-Wide Change

Finally, it is important that changes are implemented throughout the system. This includes initial police contacts, pretrial engagement, case disposition processes and trials, and any subsequent penalties or incarceration, including probation and parole. At each stage, authorities need to consider whether their policies and practices, both as conceived and as implemented, build trust and confidence in the legal system. To this end, states' intrusions into people's lives need to have clearly explained justifications and should be enacted respectfully. At the community level, policies and practices need to be developed with meaningful community input and transparency and, if needed, should be correctable.

V. SUMMARY

The key to transforming policing is redefining the vision of police goals. In particular, the police need to move from a harm reduction model to a community engagement approach. The type of harm reduction strategies that have undermined trust need to be reduced or eliminated. However, this is only the beginning. The police need to turn to positive and proactive approaches that build trust.

Fortunately, the science of trust is now well understood. People's trust responds to their evaluations of the fairness of procedures through which the police exercise their authority. This is true both when police officers are personally dealing with a member of the community and when people in the community are evaluating the overall policies and practices of the police in their community.

Beyond efforts to build legitimacy, the police need to conceptualize their role differently. Their focus should not be simply on harm reduction via crime control. Similarly, their efforts to engage the public should not be only in the interest of managing crime better through increased cooperation through actions such as witness participation. Beyond these crime-fighting goals, the police should view an important part of their role as creating a climate within which people and communities can flourish and develop. This includes creating a framework of reassurance that when problems arise, people can count on the police and the courts to manage them fairly. This expectation of justice leads to a willingness to identify with and engage in communities by working with neighbors and government authorities to promote the social and economic development of the community.

An excellent example of the potentially positive role of the police is found in the case of adolescents and their development.⁶² Adolescence is a time during which a relatively large number of crimes are committed. Those crimes are mostly minor in nature. Involvement in such activities, even crimes, is a normal and necessary part of the development processes through which children learn about rules as they mature into adults, learn through their experiences how to manage their impulses, make good judgments, and resist peer pressure. If developing adolescents are not drawn into the criminal justice system, almost all of them will “mature” into normal functioning adults who generally obey rules.

As it stands, the more adolescents are drawn into the criminal justice world, the less likely they are to continue on a positive trajectory toward a normal adult life. One approach is diversion away from arrests and detentions. It is important to try whenever possible to manage problems informally and without the intervention of law and legal authority. This is one reason that the rapid and massive growth of police officers in high schools is alarming. It increases the tendency to treat discipline problems as criminal and to respond to them with expulsion or even arrests. However, the point of this discussion is to emphasize that the police can and ought to play a positive role in development by viewing normal development as the goal and building a framework of support and reassurance around adolescents.

Knowing that almost all adolescents will mature out of crimes, the police should seek to facilitate this process and build their legitimacy and that of the legal system through demonstrations of fairness. Research makes clear that this period is an important one for the development of attitudes about law and legal authority.⁶³ It is also a period during which self-esteem and self-worth develop. These are keys to flourishing as an adult. Similarly, patterns of acceptance or alienation from law begin through interactions with initial contacts with the police and the courts. Instead of viewing adolescents as dangerous and in need of control, the police can recognize that most of them need a climate of support and reassurance within which they can identify with and engage in their community and its institutions.

Finally, this perspective fits well within a model of democracy. It is well established that one consequence of involvement in the criminal

⁶² TOM R. TYLER & RICK TRINKNER, *WHY CHILDREN FOLLOW RULES: LEGAL SOCIALIZATION AND THE DEVELOPMENT OF LEGITIMACY* (2017).

⁶³ Jeffrey Fagan & Tom R. Tyler, *Legal Socialization of Children and Adolescents*, 18 SOC. JUST. RES. 217, 236–37 (2005).

justice system is withdrawal from civic engagement.⁶⁴ Similarly, in discussing criminal justice policies, Justice Sotomayor presented them in the framework of “the impact of government actions on the ‘relationship between citizen and government in a way that is inimical to democratic society.’”⁶⁵ More broadly speaking, the actions of legal authorities, whether police officers, judges, or others, play a role not just in maintaining social order but in establishing the atmosphere of civility and respect within which democracies flourish.

Rather than undermining people’s feelings of inclusion and value within the community by communicating suspicion, deviance, and social marginality, the police can make clear that being part of a democratic community is living in a society in which the authorities and institutions communicate through policies and practices that show that they value the people in the community. Based upon research, this would mean acting in ways that lead the people in the community to feel that the police are procedurally just when they make policies and when they implement them in the community.

CONCLUSION

A crisis is also an opportunity. In this case, the opportunity is presented by an era in which crime is not creating a widespread feeling of insecurity and threat within American communities. In the absence of this perceived threat, people are more open to asking questions about the appropriate role for the police in our communities.

This Essay draws upon the considerable amount of research in recent years to articulate a new evidence-informed model for twenty-first-century policing. This model applauds the move of the police from reactive to proactive and suggests that the police should continue to be proactive. However, they should change their proactive goals by focusing on building the social, political, and economic vitality of the communities they serve.

⁶⁴ Vesla M. Weaver & Amy E. Lerman, *Political Consequences of the Carceral State*, 104 AM. POL. SCI. REV. 817, 824 (2010).

⁶⁵ Meares & Tyler, *supra* note 52, at 525 (quoting *United States v. Jones*, 565 U.S. 400, 416 (2012) (Sotomayor, J., concurring)). “Justice Sotomayor further developed this theme of avoiding distrust and alienation, and . . . focus[ed] on how to further a desirable relationship between people, law, and government in her recent James A. Thomas lecture . . .” *See id.* and accompanying text. Although “Justice Sotomayor did not cite to social science evidence as a justification for her position on these matters,” *id.* at 526, she could have cited the literature on procedural justice referenced here. A commitment to procedural justice supports Justice Sotomayor’s aims for decisionmaking that builds greater commitment to and trust in law and government. *Id.* at 528. Her goal is a noble one that police forces throughout the country should adopt in order to facilitate trust in law enforcement and to build community.

To do so, the police need to change their style of policing, i.e., police in ways that build, rather than undermine, trust.

As the research reviewed suggests, such a shift in policing is consistent with two important findings of research. First, most crime is committed by a very small group of people, so targeted strategies make sense. General strategies diffuse police resources and lead to investigatory contacts with law-abiding members of the community. These strategies, at least as currently enacted, undermine trust. Further, the police need to emphasize justice—which is the key issue shaping public trust—when dealing with the general community. This is true both for police contact with the law-abiding majority and when the police are dealing with people engaged in wrongdoing. Both groups are found to be responsive to fair treatment.

Why focus on reconceptualizing policing? The police are an existing institution and are unlikely to disappear. Their disappearance is not desirable since the absence of the police would lead to social disorder. Such absence goes against both the need and desire for the majority of people in any community to be protected against crime. It is important not to move from overpolicing to underpolicing.

The key is to give to police a continuing role in society in an era of low crime. Such continued relevance comes at a time when the police are seeking a clear and important public mission in a difficult time for police forces facing shrinking city, county, and state budgets. To fund themselves, the police have recently used fines and other penalties, assessed court and incarceration costs, rented out jail space, and seized and sold property. They increasingly compete with private police forces or face pressures for consolidation. For all these reasons, the police have reasons to embrace a new role for their departments in an era of lower crime.⁶⁶ The new role constitutes a strategy that combines fewer and more targeted contacts, with a change in style toward emphasizing service and providing help and reassurance.

In other words, the better solution to the question of how the police should police is to change how the police think about their mission so that the existing police forces can become police services whose goal is to communicate fairness and benevolence. If people suffer harm or have emergency needs, there are people in the community to whom they can turn with a reasonable expectation of receiving fair treatment, and a benevolent

⁶⁶ It is sometimes argued that the police are not social workers and should not try to become social workers. However, perhaps a clear political reality is that the police exist, and their institutions are supported politically and are unlikely to be significantly downsized. Hence, trying to diversify police functions may be the most realistic way to increase support for community development.

and concerned effort to respond to their needs and concerns. Believing this to be true encourages the willingness to trust and engage with others to collectively address community problems. It also leads people to work, shop, and otherwise participate in their communities that support a community's economic and social development. The police recognize the reality that one cannot arrest one's way out of crime. Lowering the crime rate is linked in the long run to improving communities.

Proactive policing is consistent with the broader goal of institutional design. Institutional design uses empirical studies to evaluate policies and practices in terms of their impact upon societal goals. As noted, the police have used this approach to achieve harm reduction. It can also be used to achieve community engagement. The advantage of the proactive approach is that it directs attention to the conditions that give rise to problems, rather than to post hoc attention to punishing rule breaking and wrongdoing.⁶⁷ Over time, proactive attention to the conditions underlying problems such as crime can lead to changes in those conditions and reductions of crime that are related to improvements in the social, economic, and political conditions within and among communities.

⁶⁷ After a crime has occurred the traditional approach is to apprehend, adjudicate, and punish. This is a reactive model that focuses upon the wrongdoer. Increasingly, the criminal justice system has sought alternatives to punishment, such as compensation. But this is still a reactive approach. In contrast, a proactive model seeks to prevent crimes from occurring in the first place. But instead of doing this by broadening deterrence through greater investigatory policing, the model being advocated here has the goal of lowering crime rates by increasing the economic and social vitality of the community. This approach is consistent with research showing that money invested in creating desirable jobs has more impact upon crime than similar amounts of money invested in increased policing. See Aaron Chalfin & Justin McCrary, *Criminal Deterrence: A Review of the Literature*, 55 J. ECON. LITERATURE 5, 32 (2017).