

Procedural justice



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Procedural Justice is based upon the idea that fair treatment is a precursor to the fair outcome of a trial. The procedures through which processes are carried out are generally considered heavily by the public whenever any person is involved in legal matters. While many factors drive citizens in their involvement with the legal processes of their state or country, it has been shown through much research that such factors as justice, process, voice, and the treatment of citizens are major interests for litigants (McCoun, 2005).

Procedural justice therefore involves the formulation and implementation of decisions that follow a pattern of fairness. The persons involved in processes that are procedurally just are generally better able to feel themselves respected as citizens of their state or country, regardless of whether the outcome of the legal process is favorable to them. The achievement of fairness in any procedure begins with the appearance of consistency within the justice system.

Cases that are similar in their circumstances should be seen by those involved as being treated in a similar fashion. Here, the establishment of and adherence to precedence is of great importance. According to Buttram, Folger and Sheppard (1995), if distinctions can be made between similar cases, they must reflect differences that are inherent in the individuals involved rather than in the mechanism that deals with the case. For this to be achieved, it is necessary for the police (or other persons) in charge of executing the procedures to display disinterested neutrality.

The actions of the private individuals should be based upon an assumption that the servants of the state are gracious and desire to treat them with fairness to aid the accurate outcome of the case. These assumptions of fairness should be grounded in fact and demonstrated at every level of the process, and that involves the consideration of the needs of the individuals as well as according them all the rights they are due under the Constitution. As mentioned before, the individuals involved in the case are interested in having a voice in the proceedings (Sunshine & Tyler, 2003).

The justice system is also interested in granting them this voice, and this is facilitated through the supply of representation for these parties. This representation has the effect of underscoring the respect that the system has for individuals (and groups) and it reinforces their trust in the system as a whole. This kind of representation is most important for those persons who are members of minorities or otherwise weaker groups, especially if their voices have long been silenced.

Procedural justice has the effect of causing citizens or group members to feel a sense of loyalty to their group as well as a sense of respect for the authorities that govern them (Tyler & Belliveau, 1995). These sentiments are important because they help to garner cooperation with the police (and other law enforcement personnel) as well as obedience to the rules of procedure as set out within the particular justice system. Since this effect occurs even in situations outside of the legal system, procedural justice is involved in a wide range of decision-making processes.

In the legal world, its primary concern is with the performance of fair trials that include such principles as impartiality, transparency, and consistency. The justice being sought through these proceedings is retributive—and it ensures that all parties involved are given their due according to the relevant actions they have performed in the past. It also ensures that the decision-making bodies within police departments are disinterested and fair (Sunshine & Tyler, 2003). The negotiation processes are also heavily reliant on procedure so that justice might be achieved.

It is important to note that these traditional processes have been so established as to seek out the most relevant and complete information that is necessary for negotiation and fair decision making. They have also been traditionally researched and implemented as procedures that impinge the least on the human rights accorded to the citizen in the Constitution. People are more likely to be in favor of having their cases handled by police departments that adhere to traditional procedures, once those procedures continue to yield fair results.

These ideas of fairness and inclusion are extended internationally in the settling of conflicts in international policing (Sunshine & Tyler, 2003; Tyler & Belliveau, 1995). There is a need for the Florida police departments to change their approach to complaints by providing these forms as a method of reducing the intimidation that comes with face-to-face complaining. When it comes to the procedures involved in filing complaints against police officers, citizens are often intimidated when they have to deal directly with the persons against whom they are filing complaints.

This kind of intimidation is natural, especially then the person against whom the complaint is being filed is someone in authority. Because of these persons are the ones individuals have to trust to deal with the problem, it is necessary that some internal checks and balances exist and are visible to individuals so that they know their complaints will be treated with respect. The use of complaint forms in lieu of speaking directly to the officers is a procedural mechanism that has been developed to decrease the effects of intimidation that might be felt by the average citizen who wants to complain against an officer.

The fact that these complaint forms were not present (or even in existence) in all but three South Florida police departments reduces the confidence and security that Floridians have in their justice system (CBS4, 2006). Historically this problem has no place in the American society that grants freedom and justice to all its citizens. The procedures of most South Florida police departments have apparently been allowed to deviate from the standard, and this has occurred in the crucial mechanism that is supposed to keep the justice system in check.

When the previous chief of police was in office, he became lax with his officers. He had a tendency to rule with an iron hand and was of the despotic belief that those in authority held rights that were elevated above those of the public. It is most likely because the breach exists in the complaint system why the problem has been allowed to become so entrenched. Fewer complaints are likely made because of citizens have come to have a general understanding that justice can hardly be served in such a way in South Florida.

There appears to have been no successful previous interventions. When a class action suit was attempted approximately a decade earlier, the lack of any documentation of complaints made against the police officers made a weak case for the plaintiffs. This new effort by the CBS news crew has rejuvenated the efforts at procedural justice. In fact, the ability of the CBS news crew to get this information to the chief of police has greatly increased the chances of improvement (CBS4, 2006).

The stakeholders in this situation are the citizens of South Florida, the senior members of the law enforcement agencies, and the police officers themselves. The citizens have an interest in feeling secure about the way justice is handled for them and their fellow citizens. The chief of police has an interest in this to demonstrate that his leadership has existed to improve or maintain the standard with which the citizens (for whom he works) are treated.

The police officers also have a stake in the improvement of procedure as they too are citizens of South Florida (and the United States) who will ultimately benefit from having a fair justice system. Upon analysis of the procedural system it becomes clear that the way in which the testing persons were treated shows a breach of procedure that has most likely eroded the rights of countless individuals who have had reason to complain against police officers.

When citizens are treated in this manner, it becomes clear to them that many those persons acting in the office of justice are themselves immune to the law. It gives the impression that police officers and other law persons

have the right to treat citizens however they choose and will most likely get away with any wrongdoing they perpetrate on the public. Such persons are not likely to trust the legal system. In fact, this kind of behavior encourages citizens to become a law unto themselves—and this ultimately leads to anarchy if citizens feel it necessary always to take the law into their own hands.

The kind of and tyranny that results from the lack of procedural justice is evident in the treatment of the testers by many of the police officers who dealt with them. Many of the police officers actually became confrontational and abusive to the testers, who merely asked for a form to file a complaint. These citizens had their right to privacy encroached upon over and over when the officers insisted on learning the nature of the complaint before they would be given a chance to file it. Some testers who insisted on using a complaint form verbally abused and threatened.

The officers made it very clear that the citizens would not be treated fairly and their cases (if they ever got to present them) would be treated with a bias that would make the outcome more favorable to the police regardless of the situation. Citizens have little choice but to distrust those who behave in such a way. No citizen would be able to have faith in a system that has no systematic procedure for filing complaints against and punishing officers that threaten innocent persons with bodily harm when they are merely trying to exercise their rights. Several barriers to change exist within this situation.

When this situation is viewed in light of the purpose of procedural justice, it becomes evident that citizen trust of and cooperation with the Florida justice

system must be heavily undermined within that state. First of all, the denial of the citizens their access to the complaint form strips them of their voice on more than just one level. Not only are these persons unable to make it known that they consider themselves wronged, but they are also denied access to any hearing or formal trial before a judge—which would normally occur after the filing of the initial complaint.

Yet, the chief of police, John F. Timoney, offers a support for change. He expresses his disapproval of policies that do not take into consideration the important and indispensability of the complaint procedure to the proper working of Florida's police departments. He understands that any police department that does not offer the necessary forms for citizens to freely and without intimidation make complaints exercises tyranny over the public.