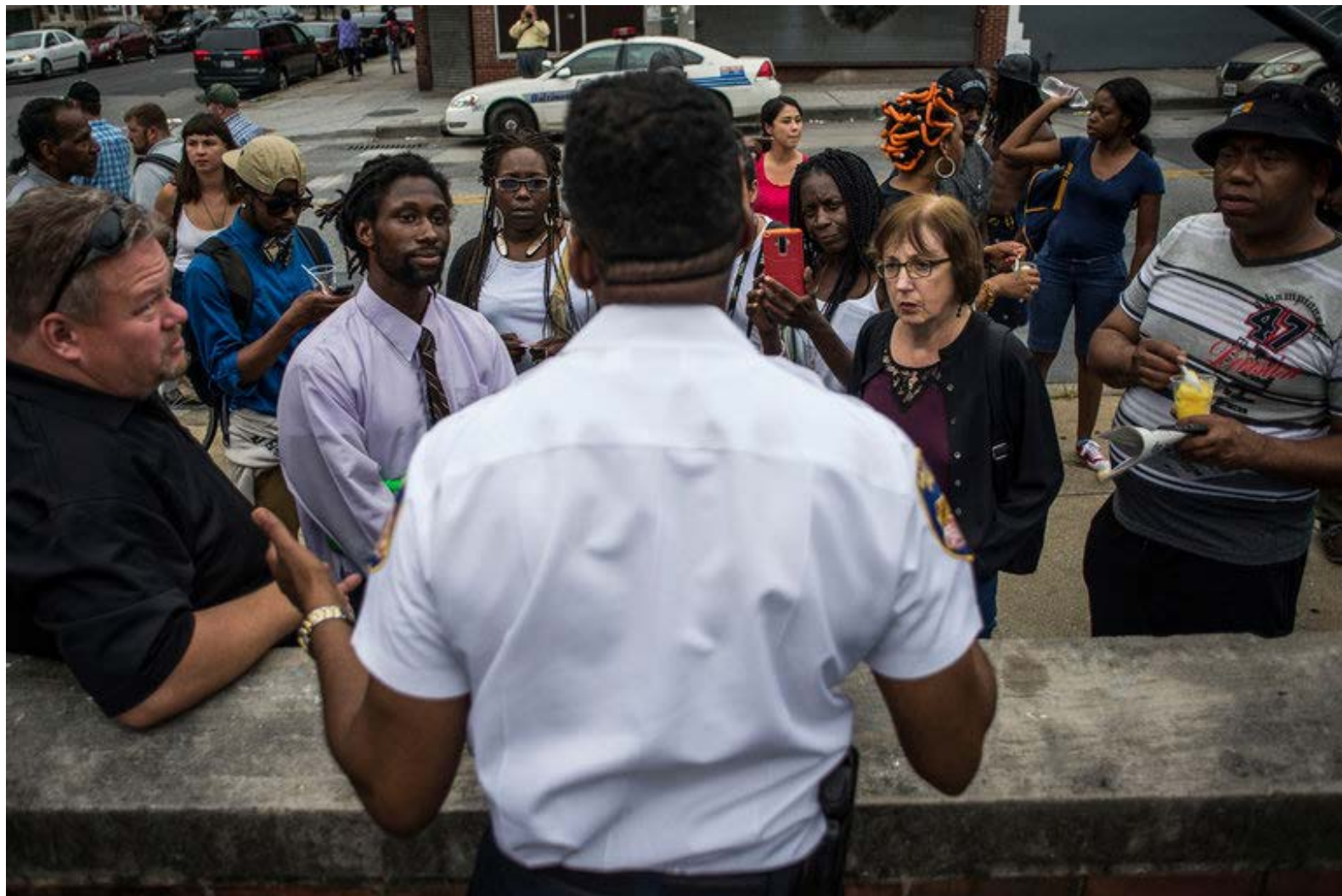

The Opinion Pages

Barriers to Reforming Police Practices



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A Baltimore officer talked to a crowd about the not guilty verdict in the Freddie Gray case.

Second of two articles.

Last week, Baltimore prosecutors dropped all remaining charges against three officers accused in the killing of Freddie Gray in April 2015. Gray died of a neck injury sustained while he was transported — shackled and handcuffed, but unbelted — in a police van, setting off weeks of protests and riots against police brutality, especially killings of unarmed black men. The latest acquittals mean that none of the six officers charged in the case will be punished.

Here's a paradox: Anthony Batts, the police chief when Gray was killed, was a star reformer, widely admired for the progressive, enlightened strategies he had used as chief in Oakland and Long Beach, Calif., ideas he was trying in Baltimore. One innovation Batts championed was procedural justice, the policing strategy I [wrote about](#) last week. It's based on the idea that people follow the law when they believe authorities have the right to tell them what to do, and authorities earn that right by treating the public fairly and with respect.

The thought may be counterintuitive, but much research shows that procedural justice works. It's a radical departure from maximum force policing; it argues that tactics the public widely perceives as unfair and demeaning actually create *more* crime, because they diminish the legitimacy of the law. Police departments throughout the country are starting to use it; it was the first recommendation of the [President's Task Force on 21st-Century Policing](#) last year.

Both Tom Tyler and Tracey Meares — Yale Law School professors who are the leading researchers and proponents of procedural justice — told me last year that Batts in Baltimore and Garry McCarthy in Chicago were among the police chiefs most dedicated to the strategy.

That was in April 2015. Three months later, Batts was out. McCarthy was fired in December. Gray's death and the killing of Laquan McDonald in Chicago in 2014, along with rising murder rates, have made Baltimore and Chicago national symbols of police brutality and incompetence. (And in Baltimore, continued impunity. We'll see about Chicago, where the man suspected of killing McDonald has been charged with murder.)

What does this say about procedural justice? If the idea is so transformative,

why are Chicago and Baltimore so broken?

The short answer is that procedural justice is an important tool, but it works slowly. Much else needs to happen simultaneously if the police are to earn a community's trust and use that legitimacy to bring down crime.

Here's the long answer:

All institutions resist reform, but police forces are among the most difficult to change. "Those are relationships and attitudes between police and public that are literally hundreds of years in the making," said David M. Kennedy, a professor at John Jay College of Criminal Justice who directs the [National Network for Safe Communities](#). "The idea that one can completely reset all of that in a year or a couple of months is not reasonable."

In other words, Batts might have been *too* progressive — he never gained the support of a distrustful rank and file. Reform doesn't happen in a straight line.

McCarthy, too, tried some good things. The department developed a multiday course in procedural justice and taught it to every Chicago police officer. Lieut. Bruce Lipman of the Chicago police, who has since retired, [led it](#). Unusually for a training that doesn't involve firearms, 93 percent of officers trained rated it good or excellent. Wesley Skogan, a professor of political science at Northwestern University, studied the course's effects and found it had [changed police attitudes](#).



Chicago police investigating shooting in May. Joshua Lott for The New York Times

But when I interviewed Lipman last year, he also said that department rules and norms didn't reflect the training. He said there was only one department policy, on gang control, that used procedural justice techniques. "That's the only place in any of the orders that it appeared," he said. "What are you doing in your department to show police officers this is the way to do business? Do you promote it? Have it written into your policy? Or are you still doing the stop-and-frisk police? You can say it, or you can do it."

McCarthy spoke often with minority communities. He was frank about abuses. He continued programs like [Project Safe Neighborhoods](#) and [CeaseFire Illinois](#), both of which have been shown to reduce shootings and homicides in the neighborhoods where those policies are used. (See [here](#) and [here](#).)

In 2014, Chicago had the lowest levels of violence in half a century. But the next year, homicides [rose](#) by 12 percent, and so far this year they are up 50 percent from the 2015 rate.

Nevertheless, there is sustained progress on police shootings. Chicago's [Independent Police Review Authority](#), a civilian agency, reports that this year police shootings have dropped, and complaints of excessive force are down. The department has provided more Tasers and training police officers in using them, increasing their use of Tasers instead of shooting in many cases. Officers are also taught how to de-escalate confrontations without violence.

Still, the latest killing was just last Thursday, when two officers shot an 18-year-old man who had sideswiped their vehicle in a stolen Jaguar. There was no report that the man was armed. The Chicago Tribune [reported](#) a witness statement that he was killed while running away from the police.

The CeaseFire and Safe Neighborhoods programs have brought down crime, in the neighborhoods using them, and Safe Neighborhoods have been shown to [lower recidivism](#) among its participants. But only very rarely can any such program show a citywide effect.

In many departments, procedural justice risks becoming one more in a series of halfhearted reform efforts; the police force institutes training and some rule changes, but makes no real attempt to integrate the programs into broader practices.

And even if a force did employ it fully, crime rates would be unlikely to fall quickly.

Meares compares it to fighting obesity. Imagine a successful, proven strategy to get people to lose weight by eating more fruits and vegetables. Now imagine that two years after that strategy began, many people using it were still obese. We wouldn't declare it a failure. We would recognize that obesity is a complex and long-term problem with multiple causes that requires many successful strategies at once. So we might even see a need to expand its use.

That's even more true of crime. Many things affect crime rates, and there is no agreement among experts about which factors have been most important in the two-decade drop in crime we are still enjoying. Common sense and decency tell us that procedural justice is a step in the right direction. We can't go back to treating entire communities as felonious.

Police abuses are a different matter. Forces that use procedural justice well — teach it to their entire force, integrate it into rules, consider it in evaluations and promotions — can expect to see less everyday mistreatment.

But other department policies also affect police behavior and community trust. Few are as harmful as widespread stop-and-frisk. In 2011 the New York Police Department carried out 650,000 such stops. More than 90 percent of those stopped were [nonwhite](#). And a vast majority of stops were a waste of time: In 88 percent, the police found nothing. They found guns in just one of every 500 stops, according to the [New York Civil Liberties Union](#).

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That was the peak, a decade into the mayoralty of Michael R. Bloomberg; but then it began a decline that accelerated in 2013 after a federal judge found such stops discriminatory. The judge ordered changes that included oversight by a federal monitor. Last year, instances of stop-and-frisk in the city dropped to 23,000 — less than 4 percent of the 2011 number. And major crime hit another historic low, even though the most serious crimes, such as homicide, rape and robbery, rose slightly. (Homicides and shootings have resumed dropping this year.)

Baltimore and Chicago have used stop-and-frisk far more intensively than New York. At the peak of “zero tolerance” in 2005, the Baltimore police made 108,000 arrests — one for every four residents, but highly concentrated in young black men. A vast majority of those arrested were never charged; the purpose was purely to intimidate. In April, Batts’s replacement as commissioner, Kevin Davis, [told Baltimore’s WYPR](#) that zero-tolerance policing “didn’t work and arguably led in part to the unrest that we experienced in 2015.”

And in the summer of 2014, Chicago was stopping people at four times the rate of New York City at its peak, according to an American Civil Liberties of Illinois analysis of police data on stops that did not end in arrest. (Stops have dropped since, as a result of a lawsuit and public outrage over other abuses.)

Last year, Skogan [led a survey of a representative sample](#) of Chicagoans. He found that 68 percent of young black men reported being stopped in the past year. Minorities were more likely than whites to report being treated badly during investigative stops — handcuffed, roughed up or threatened. For African-Americans, that treatment included physical force or threats to use a weapon about half the time. Officers reported being pressured by their superiors to come back daily with more and more stops — what Skogan called “round up the usual suspects” policing.

Skogan also asked people how much they trusted the police. For whites, trust in the police was at the same high level for people who had been stopped and those who hadn't. But black people's trust was 25 percentage points lower than whites if they hadn't been stopped, 50 points lower if they had. That's a major blow to the legitimacy of the law. Procedural justice proponents would argue that stop-and-frisk could create more crime than the stops prevent.

Procedural justice is designed to improve the everyday interactions between the police and the public. But it can't touch the most serious abuses, such as shootings of unarmed men, which are carried out by a small number of the worst cops — who are then often shielded by their departments.

In October 2014, a Chicago policeman shot 17-year-old Laquan McDonald 16 times. McDonald was walking away, posing no threat, and he was shot several times after he was already down. The police stood by false statements by the shooter that McDonald tried to attack him, and the department held on to the damning dash-cam video for 13 months until a court ordered its release.

The first-degree murder charges brought against the shooter, Jason Van Dyke, were the first such charges brought since 1980; the Chicago police who kill people are almost never disciplined in any way.

Meanwhile, in Baltimore, where no one will be found guilty for Gray's death, the state's attorney, Marilyn Mosby, argued that the cases failed because she had to rely on the police to investigate their own. Her office “could try this case 100 times and cases just like it, and we would still end up with the same result,” she [said](#) at a news conference.

Procedural justice won't help here; what's needed is accountability.

Jamie Kalven is a Chicago writer and activist with a long history of investigating police abuses. He uncovered a man who said he witnessed the

McDonald shooting, and the damning autopsy report showing that McDonald was shot 16 times. ([Here](#) is his exposé in Slate.) He also founded a journalism production company, the [Invisible Institute](#), which holds conversations with minority teenagers about their interactions with the police.

“Young black men say repeatedly that when they have an encounter with the police, mostly random stops, they know two things going into the encounter,” said Kalven. “First, the police have all the power. And second, if anything happens, they won’t be believed. They have no means of curbing that power, addressing grievances, no means of being heard when something happens.

“The procedural justice stuff is fine in itself,” Kalven said. “But accountability should have priority. If people don’t have confidence there are limits to police power, the absence of that confidence just undermines initiatives like procedural justice — if it doesn’t impeach them altogether.”

Tina Rosenberg won a Pulitzer Prize for her book "[The Haunted Land: Facing Europe's Ghosts After Communism](#)." She is a former editorial writer for The Times and the author, most recently, of "[Join the Club: How Peer Pressure Can Transform the World](#)" and the World War II spy story e-book "[D for Deception](#)." She is a co-founder of the [Solutions Journalism Network](#), which supports rigorous reporting about responses to social problems.

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