

Policing Social Distancing: Gaining and maintaining compliance in the age of coronavirus

Dr Sara Grace, Lecturer in Criminology, University of Salford¹

Abstract

Drawing on motivational posturing theory (MPT) and procedural justice theory (PJT) this paper makes recommendations for how best to secure compliance with social distancing regulations. Applying those theories to – mostly observational – data from a study on the use and impact of penalty notices for disorder, the influences on cooperation during police-citizen encounters are explored. Whilst focusing on the English data/regulations, as both MPT and PJT have been tested internationally, the conclusions have relevance beyond these shores. The paper proposes a sixth posture – compulsion, a form of resistant compliance – to the five set out by MPT. Focusing attention not just on *whether* compliance is achieved but *how*, recognises the risk to future legitimacy posed by only achieving compliance through coercion or the threat thereof. Lessons from the research are applied to policing social distancing, with regards to: securing compliance during interactions, self-regulation and enforcement action and how to preserve police legitimacy.

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The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 give police in England the power to issue £100 on-the-spot fines (up to £3,200 for subsequent offences²) to enforce new rules on social distancing which aim to prevent the spread of the Covid-19.

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² Fines were initially set at £60, up to £960 for subsequent offences but were increased on 13 May 2020.

Officers may also use powers of arrest and remove people to their home. The College of Policing and NPCC (2020, p.17) have called on forces to be consistent and adopt an ‘inquisitive, questioning mind-set’, only using enforcement powers as a last resort. This is underpinned by a four-step approach: *engage* with people, *explain* the risks they are posing to others, *encourage* them to return home – and, if they don't leave, *enforce* the law using on-the-spot fines, arrest and/or prosecution. Policing social distancing is a very particular and peculiar, circumstance. However, there are some parallels with policing anti-social behaviour through existing dispersal powers and penalty notices for disorder (PNDs). The new rules bar public gatherings of more than two people except in certain limited circumstances and impose restrictions on movement ‘*without reasonable excuse*’ (emphasis added, see sections 7(a)-(d) and 6(2), correct as at 13 May 2020). Whilst the Regulations give a non-exhaustive list of such exceptions, the law lacks the specificities of Government advice. For example, guidance, but not the law, initially limited people to just ‘one form of exercise a day’ (Cabinet Office 2020) (see section 6(2)(b)). And, just as there may be disagreement over, for example, whether any given behaviour is ‘likely to cause harassment, alarm or distress’ (in breach of s5 of the Public Order Act 1986 and punishable by PND), so too conflict may occur over whether a person has a *reasonable* excuse to have left home. Given these parallels, existing research on the use and impact of penalty notices for disorder can offer some insight into how best to achieve compliance with the new rules.

This paper brings together research on motivational posturing theory (MPT) and procedural justice theory (PJT) to analyse data on: policing in the night-time economy (NTE) – the first application of MPT in that context³ – and the use of PNDs, before applying these findings to policing of coronavirus. The paper is structured into three parts: firstly, it sets out the literature

³ Searches of various databases, including Proquest, JSTOR, Emerald Insight, Scopus and Google/Google Scholar for the search terms motivational posture/motivational posturing and night-time economy return no results.

on why people comply with authorities. Secondly, it outlines the findings from a study on the use of penalty notices for disorder (Grace 2014a) – drawing especially on observations of police-citizen interactions in the NTE and document analysis of PNDs, as well as interviews and surveys with PND recipients – to explore what influences, in particular, short-term compliance with the police during encounters, as well as payment of PNDs and future offending (i.e. mid- and long-term compliance). In doing so the paper answers calls to draw on observational research in developing our understanding of procedural fairness and its influence on compliance with the police (Radburn and Stott 2019). Observations allow for consideration of the dynamic nature of police-citizen interactions and examination of how, when and why people move from more to less compliant postures (and back). Based on this analysis it is proposed that in addition to the five motivational postures set out by Braithwaite (2003), there is a sixth: *compulsion*. Finally, based on the findings from this research, as well as broader literature on procedural justice and motivational posturing theories, recommendations are made for how we might best police social distancing to secure compliance and legitimacy. Whilst the focus here is on the Regulations in England and data drawn from that context, MPT and PJT are empirically-driven theories which have been tested internationally – in particular, in the UK, US, Australia and mainland Europe – and so the conclusions have relevance beyond these shores.

What affects compliance?

When assessing compliance we are concerned with both when people comply and why. To take the first of these, there are three frames of interest when considering compliance with the Coronavirus Regulations. Short-term compliance with officers during police-citizen encounters; mid-term compliance with (i.e. payment of) the fine (if issued) and long-term compliance with the law/future cooperation with the police. Of particular importance here (and for the police) are: compliance with officers during police-citizen encounters and long-term

compliance, both with social distancing rules and with the police once those rules are lifted. Public messaging on the risk posed by coronavirus, and in turn the risk this poses to the National Health Service, seeks to encourage (voluntary) compliance on normative grounds, whereas instrumental thinking underpins the enforcement strategy. To weight the rational choice in favour of compliance, it is well-publicised that breach of the rules could result in a fixed penalty notice (FPN). There are incentives to accept the notice (such as not getting a criminal record or having to appear in court and a lower fine for quick payment) and disincentives to subsequent breach of the rules, with fines increasing for each offence up to a maximum of £3,200. On summary conviction, fines are unlimited. Fines thus serve as a general deterrent, with specific measures aimed at deterring repeat offenders.

The Government will surely hope that as people adapt to the new Regulations, compliance becomes habitual; people get used to going out less, instead adopting new ways of working and connecting with people online. However, there are questions about whether, and for how long, people might be willing to accept these new ways of living. Early in the lockdown there were already concerns that a minority were ‘breaking the rules or pushing at boundaries’ of acceptable behaviour (Hancock 2020). As time passes, lockdown fatigue may set in making it harder to ensure voluntary compliance. Disparities between law and guidance, as well as changes to the guidance, may also lead to confusion over what is/is not acceptable, making voluntary compliance all the more difficult to achieve (Police Federation 2020). Indeed, “the government was forced to issue a swift correction [following an announcement of changes to the guidance on 10 May 2020] when Dominic Raab [Foreign Secretary] advised the public to break the law” (Dearden 2020). The challenge for the police, who have been tasked with enforcing the Regulations, is both how to gain and maintain compliance. And, crucially, how to do that in a manner that does not cause long term harm to their legitimacy. Procedural justice

and motivational posturing theories offer some guidance for how police forces might achieve those goals.

- **Legitimacy and procedural justice theory**

Normative compliance is related to legitimacy. There is a wealth of research on procedural justice theory which demonstrates that perceptions of procedural justice – which regards the *process* of decision-making rather than the decision itself – are related to perceptions of police legitimacy which, in turn, encourage voluntary compliance, both with the regards to: willingness to cooperate with the police (both in the short- and long-term) and willingness to obey the law (see for example: Tyler 2019; Hough, Jackson and Bradford 2013; Resig et al. 2007). The procedural justice literature outlines four antecedents to procedural fairness:

- Participation (or ‘voice’): allowing people to give their account of events and have their views considered.
- Neutrality: demonstrating that decisions are unbiased, based on the facts of the case.
- Respect: treating people with dignity and respect.
- Trustworthy motives: demonstrating sincerity, benevolence, sharing public concerns.

Emerging research suggests perceptions of distributive fairness – i.e. assessments of equitability, whether people feel they been treated similarly to others and received an outcome they feel they deserve – are related to perceptions of procedural justice (McLean 2018; 2019; Maxwell 2019), and thereby, in turn, legitimacy (and compliance). There is some debate in the literature about what is a predictor of legitimacy and what is a constituent element thereof (see for example Jackson and Bradford 2019; Tankebe et al. 2016). For our purposes it is sufficient to note that perceptions of distributive and procedural justice (as well as police effectiveness and police lawfulness) have been found to be central to police legitimacy and that police legitimacy has been found to predict compliance.

- **Motivational posturing theory**

‘The starting point for motivational posturing theory is that authorities which make regulatory demands threaten our freedom’ (Braithwaite 2011, p.93). The threats to freedom posed by the Coronavirus Regulations are clear to see; they restrict our freedom of movement and assembly, but also more broadly our ability to, amongst other things, earn a living and achieve our goals. Our motivational postures are how we cope with those threats. They reflect the degree of distance individuals wish to place between themselves and an authority (here, the police), which in turn reflects the legitimacy we ascribe them; whether we feel aligned with their goals and trust their means of achieving those goals. People may either have attitudes of deference or defiance. However, even those who defer to regulations may do so either because they think their purpose is sound (*commitment*) or because they have ‘the force of law’ (*capitulation*) (Braithwaite 2011, p.97). Defiant attitudes include: *resistance*, where the individual doubts the intentions of the regulator and *disengagement*, where the individual is disenchanted with the system, believing there to be no point in challenging authority. A disengaged posture could therefore reflect a perceived lack of legitimacy (in PJT terms) and a concomitant defiance of the decisions of the authority. *Game-playing* shares that same disenchantment, but rather than the fatalism of the disengaged, game-players are combative, seeking to ‘beat the authority at its own game’ (Braithwaite 2011, p.97; 2003a).

These five postures load onto two factors or supra-dimensions and people may be high/low on either dimension (Braithwaite 2001). The first, resistance-cooperation, is bipolar with commitment and capitulation at one end and resistance at the other. The second is unipolar, disengagement and game-playing both reflecting *dismissiveness*. Braithwaite (2003b, p.22) has previously noted that postures are not mutually exclusive but are ‘not likely to be equally strong in any one individual at any one time...the assumption of co-existence remains [however] plausible’. In the research presented here resistant attitudes were often coupled with compliant

postures (and behaviour). As such, a sixth posture – *compulsion* – is proposed. It is hypothesised that compulsion would fit into the existing model as set out in Table 1 (Braithwaite 2003c). Compulsion⁴ lies between *capitulation* and *resistance*; it is compliant behaviour, coupled with a resistant demeanour i.e. where people are coerced into accepting officers’ decisions through either the threat or reality of enforcement action, but where they continue to express grievance at officers’ actions. Whilst those who capitulate can be said to acquiesce, accepting the authority of the decision maker, the compelled do not “go quietly” (discussed further below). Unlike the resistant however, they do ultimately comply.

Supra-Dimension	Compliance	Motivational Posture	Enforcement Strategy
Cooperation - Resistance	Compliance/ Deference	Commitment – accepts the purpose of the regulations, sharing the same goals and accepts the authority of the regulator.	Self-regulation
		Capitulation – accepts the authority of the regulator, but does not necessarily share the same goals.	Enforced self-regulation
		Compulsion – accepts the purpose of the regulations, but does not accept they have broken them, thinks power is being used inappropriately/poor decisions are being made.	Negotiated self-regulation
	Non-Compliance/ Defiance	Resistance – accepts the need for a system of regulation and authority of the regulator, but thinks power is being used inappropriately/poor decisions are being made.	Discretionary use of enforcement powers
Dismissiveness	Non-Compliance/ Defiance	Disengagement – does not share the norms/values of the regulator, mistrusts their motives and questions the need for a system of regulation, withdraws and does not follow the rules.	Non-discretionary use of enforcement powers
		Game-playing – does not share the norms/values of the regulator, enjoys finding loopholes to work around the regulations.	

⁴ Compulsion is in some ways akin to ‘dull compulsion’ (Tankebe 2009, p.1280; 2013). Where encounters end in compulsion it shares the same fatalism Tankebe discusses and the idea that ‘it is better to obey police than argue with them’ (Akinlabi and Murphy 2018, p.191). However, that concept, its dullness, fails to adequately capture the active resistance people showed in the face of authority, in this research people *did* argue. MPT encourages a recognition of the, sometimes transient nature of our views of authority and our willingness to comply. People who demonstrated compulsion could move to more/less compliant postures quite quickly. Dull compulsion suggests a more general sense of fatalism. The operationalisation of compulsion should be examined through further research.

Regulation poses a threat to our three selves (Braithwaite (2011)). The *moral self* is the sense that oneself is a “good”, law-abiding person, someone who does the “right” thing. The *democratic collective self* (or *grievance self* (Braithwaite 2017)), values justice and fair treatment. The *status-seeking self* seeks to achieve our personal goals. Blocks, such as those posed by the Coronavirus Regulations, pose a threat to our status-seeking self. MPT posits that a strong moral self will lead to compliance, whereas a strong grievance self (and weak moral self) leads to resistance. Dismissiveness, be it in the form of disengagement or game-playing ‘pits a strong status-seeking self against a weak moral self’ (Braithwaite 2017, p.37). To ensure compliance authorities must therefore engage and buttress the moral self. To address resistance requires procedurally fair treatment, through which the moral self is acknowledged and restored.

Coronavirus presents a unique moment in our social history, there is no guide to effectively police social distancing; instead we must draw from existing research in other contexts. MPT tells us about the ‘signals those being regulated send to regulators around legitimacy and compliance’ (Braithwaite 2017, p.91). PJT tells us about how people assess fair decision-making processes and thus what a fair process entails. These are therefore complementary theoretical frameworks that can offer a guide to practitioners to recognise both when their legitimacy may be contested *and* how they might respond to restore legitimacy when policing Covid-19. This research aims to explore whether and why people comply (or not) with the police; taking lessons from policing in the night-time economy (in the first known application on MPT in that context), and the use of PNDs, and applying them to this new context: policing coronavirus. In doing so, this paper proposes a way forward for gaining and maintaining compliance in these uncharted waters.

Methods

Data analysed here were originally gathered for a study on the use and impact of penalty notices for disorder (Grace 2014a). Field notes from 130 hours observation of police working in the NTE in one English city between January and July 2011 were reanalysed to select 36 case studies on police-citizen encounters (some of which involved numerous people) with sufficient detail to assess compliance. This included 13 cases where PNDs were issued (Grace 2014a, Table 6.5). Motivational postures are empirically-derived ‘composite narratives made up of attitudes, beliefs, emotions, expectations and norms...[however, they are] not hidden from view’ they are statements to be seen (Braithwaite 2011, p.96). They can therefore be inferred through observation and, indeed, it is this same such inference that authorities (in our case the police) would be guided to act on when drawing on MPT in practice. MPT and PJT provide complementary (empirically-driven) theoretical frameworks to assess compliance.

Data analysis was both inductive and deductive, moving between theory and data in an iterative fashion, exploring links between the theoretical categories (Silverman 2010). Case studies were initially subject to analytic induction whereby behaviour was coded for compliance/non-compliance, then within those ‘core groups’ (Bryman 2012), whether it suggested postures of commitment or capitulation (compliance), or, resistance, disengagement or game-playing (non-compliance). The co-existence of resistant behaviour from people who complied with officers’ directions led to the creation of an additional compliant posture – compulsion – explained in the findings below. Data were also subject to thematic analysis to understand the common drivers for compliant/non-compliant behaviour. Whilst the analysis presented here focuses on observation data, and short-term compliance, these are complemented with a document analysis of PND tickets (N=250) as well as a survey of PND recipients (N=73) and semi-structured interviews with eleven survey respondents, with some examination of mid- and long-term compliance (see Grace 2014a for further details). The analysis presented here is limited,

not least because observation data were not originally collected for the purpose of assessing motivational postures or procedural fairness. However, given the novelty of social distancing rules, reanalysis of existing (albeit limited) data from other contexts provides a useful means of developing an evidence-based approach. The particular value of the current research lies in its use of observation data, which is rare both in studies of MPT and PJT. Observation provides a means to consider the ‘dialogic and relational’ character of legitimacy (Bottoms and Tankebe 2012, p. 129). By observing ‘interactions in situ’, the dynamic nature of compliance – which is necessarily lacking from the ‘thin’ data provided by existing, largely survey-based, research on procedural justice (Radburn and Stott 2019, p.433; Harkin 2015, p.604) – can be reviewed.

What affects where PNDs are issued?

Document analysis of officers’ evidence on PNDs issued for drunk and disorderly and breach of s5 of the Public Order Act 1986 (offences largely committed in the NTE), found that whether PNDs were issued on-the-spot or following arrest was strongly related to offenders’ compliance ($\chi^2=34.267$, d.f.= 1, $p<0.001$, $\Phi=-.750^5$). Only 3 non-compliant people were issued with PNDs on-the-spot; two were initially arrested, the other was issued the day after the offence. Compliance was the main driver in where tickets were issued (Grace 2013). Officers cannot issue fines to non-compliant people. Non-compliance was highly correlated with suspect demeanour; only four of the 50 people who were non-compliant displayed no aggression toward officers⁶. Indeed, officers were one of the victims in 60% of s5 and drunk and disorderly offences and the sole victim in 22% (N=78). The importance of demeanour – and its relationship with compliance – was supported by observation data; 7 of the 13 PNDs issued during observations were issued to people who were abusive to, and non-compliant with, officers. Evidence from the case studies presented below offer some insight into why people

⁵ This result should however be treated with caution as one cell (25%) had an expected count of less than 5.

⁶ Including one-sided provocation, directed verbal abuse and physical aggression (Grace 2014, table 6.3)

do/do not comply and thus how officers might avoid such ‘conflict spirals’ (Tedeschi and Felson, 1994, p.258), whereby individuals respond aggressively to police intervention and officers respond with arrest.

Motivational posturing in the night-time economy: a sixth posture?

Of the 36 case studies, people complied at some stage in 32 and, perhaps unsurprisingly, all except one (of the four) case(s) where people did not appear to comply at any stage related to incidents where, for various reasons, the end of the encounter was not observed. In the final one, officers were called to another incident, leaving a pair of (still disgruntled) men who had refused to go home as requested by officers. Most people’s posture changed (sometimes more than once) during an encounter. Whilst overall twenty-six cases involved people who demonstrated either *commitment* (n=21) and/or *capitulation* (n=13) at some stage, only two were committed throughout, both of whom had approached the police for help. A further 15 were categorised as demonstrating a sixth, (new) posture – *compulsion*. With regards to defiant postures, *resistance* (at any stage) was demonstrated in 11 of the 36 case studies. Only two cases involved *disengagement* from/dismissal of authority, with people refusing to engage with officers (both were arrested). Game-playing – the desire to evade justice by finding loopholes and win concessions – was similarly rare. That is not to say it is rare in practice just that (by virtue, if it is successful) it is hard to detect via police observations. Game-playing could be seen in those who, tried to walk/run away when they saw the police approaching (n=3). But also, perhaps too, in those who seemed to ‘turn on the charm’ in an attempt to win leniency (n=3).

Postures changed, sometimes more than once, during most encounters (n=21). Observation Case 7 – a man apprehended for urinating in the doorway of a block of flats – offers a good example of how people could move between postures. Initially officers asked him ‘how he’d

feel if someone did that in his house, he drunkenly agreed he was out of order'. Accepting that the behaviour was wrong, he therefore demonstrated *commitment*. Officers told him such behaviour could lead to a fine. Misunderstanding them to mean he was going to be fined, he replied "fine, give me a ticket then" in a resigned manner'. In light of an (ongoing) lecture, his posture seemed to shift then to one of capitulation – he accepted that the behaviour was wrong, but was merely resigned to, rather than accepting of, the possibility of a fine. When faced with this capitulation, the officers reacted angrily telling him 'well I was about to say as you'd been alright we were going to let you go, but if you want a ticket we'll give you one.' In response to their change in approach, he became more resistant, questioning their decision, repeatedly saying 'but I haven't told you to p-off or f-off' (self-censoring swearwords). He was thus resistant, in that he was pushing back against officers' decision to issue a PND, but ultimately he was still complying with their requests, suggesting a posture of *compulsion*.

In most cases where people's postures became more resistant (N=9), this was as they sought to argue their case and/or resist arrest. Where people moved to more deferent postures (N=16), they were convinced or cajoled into compliance, accepting officers' decisions (voluntarily desisting, dispersing and/or accepting a PND) or else they were coerced into doing this with the threat or reality of a PND or arrest. The former approach was associated with postures of commitment or capitulation whereas the latter were associated with (what I have termed) a posture of *compulsion*. To distinguish between commitment and capitulation, as operationalised in this study: commitment was willing compliance, where people seemed to accept the behaviour/actions of officers as the right ones in the circumstances, complying without any resistance. Whereas capitulation was an acquiescence to the police, an acceptance that (even if they might disagree) the police had the authority to behave/act as they were. The 'sixth posture', compulsion was created due to the numerous cases involving a simultaneous

co-occurrence of compliance with resistance. Whilst capitulation suggests an acceptance of the regulator's authority, compulsion was associated with challenging/questioning authority.

Postures of compulsion share with resistance the same sense of grievance and protest at the regulator's (here, the police's) behaviour but are distinct both behaviourally and attitudinally. Behaviourally, the compelled comply, the resistant defy. For example, in contrast to Observation Case 7 who – whilst pushing back against their decision – answered officers' questions, accepting an on-the-spot PND, in Case 14, having been evicted from bar, a woman refused officers' requests to go home, repeatedly swearing at them until she was eventually arrested. Attitudinally, resistance and compulsion are both associated with a strong grievance, but the former is associated with a weak moral self (Braithwaite 2017, p37). Compulsion however was associated with a strong grievance *and* a strong moral self. Indeed, the grievance stemmed from officers' failure to treat them in a distributively and procedurally fair way and recognise them as a person who had behaved in a morally (if not necessarily legally) acceptable way; for the compelled resistance thus manifest as an appeal to, rather than a rejection of, or attack on, officers.

The role of distributive and procedural (in)justice in (non-)compliance in the night-time economy

Where people were convinced or cajoled into compliance, this was associated with processes that reflect values of procedural fairness: listening to people's accounts of events, empathising, being respectful explaining their response etc. Thus, for example, in Observation Case 16 the man was arrested after refusing to move on and being abusive toward an officer as he sought to find out if they had arrested his friend. His arrest points to an initially resistant posture and refusal to heed officers' warnings. On arrival at the station he became jovial, telling officers 'I'm too old for all this'; rather than an expression of genuine remorse, this seemed to be a

move from resistance to game-playing, looking to charm officers into treating him more leniently. This more compliant behaviour led to him being de-arrested and issued with an on-the-spot PND in the police van. After which he asked after his friend, but was told:

[he] couldn't discuss it as it was confidential...just like [earlier]...he couldn't tell him as perhaps his friend wouldn't want him to know...the man replied 'to be fair if your colleague had told us that at the time we'd be alright, but he wound us up'.

Having initially been arrested, Case 8 moved from a defiant to compliant posture, capitulating to the officer's decision when treated with procedural fairness – the officer explaining his actions and treating the man with respect. During observations, being told they were not going to be arrested or else that they would 'only' receive a PND/dispersal order (when a more serious punishment may have been anticipated) was often coupled with a shift from compulsion to capitulation. People no longer sought to "state their case", their case had been heard.

The research highlighted the context-specific nature of respect. Officers sometimes swore at/in conversation with people, but, as this mirrored the individuals' language, it was "well-received". Tone is everything, but this is difficult to capture in survey-based research. Notably one survey respondent agreed the officer was polite but elaborated in the interview that they were 'aggressively polite', their politeness was seen as a means of exerting authority rather than as a mark of respect (Interview 6). Respect is not just expressed through (polite) words but through body language and tone of voice and most importantly by listening to the individual and explaining why officers were taking the action they were. Positive engagement operationalised officers' respect for the offender, the neutrality of their decision making and their trustworthiness. Resistant behaviours – both compulsion (compliance) and resistance (non-compliance) – manifested as calls to have their version of events heard. Voice, or the denial thereof was central to resistance. It was common, both in interviews and during observations for people to comment 'I - or if they were talking about a friend, they - haven't

done anything!’ People would say this even where they had quite clearly broken the law. Instead disagreement stemmed from a belief that their behaviour was not sufficiently serious to warrant (that/any) action, a rejection of the (implied) label ‘offender’ (they did not *need* to be punished, a warning would have sufficed), that others had done the same or worse, and, more rarely, complaints that they had been provoked by officers. Similarly, participants in Snow’s (2019, p.147) study of (mostly traffic) fixed penalty notice recipients and Wells and Savigar’s (2019) research on driving offenders, found that people might accept they ‘technically’ broke the law but distinguish themselves and/or their circumstances as justifiable and undeserving of punishment. People resist the police when they feel “wronged”. They appear to take cues on distributive fairness, from the procedural fairness of the treatment they (do or do not) receive. Whether police actions (and outcomes, where PNDs were issued) were seen as distributively fair and/or favourable depended on the circumstances of the offence as well as the way officers presented their decision to intervene/take action.

Procedural fairness *may* then help inform judgements about distributive fairness by informing people’s understanding of officers’ reasoning and motives. Officers sometimes “sold” their decisions⁷. For example, in Case 10 a man who was stopped for urinating in public was told he could get a ticket, but as he had been discreet and his attitude was ‘spot on’ they would not this time, but that if they saw him again he would be in trouble. Decisions were also sold by presenting formal action as the only/“least worst” outcome. Such sales pitches might generate a sense that officers are acting with neutrality and trustworthiness as well as appealing to the individual’s moral self and promoting a sense of voice/participation as officers are essentially saying “I am recognising you as a person who ‘only’ needs this (less serious) intervention”. This might also appeal to game-players who will feel that they have won a concession.

⁷ Schafer and Mastrofski’s (2005, p.232) research on traffic enforcement encounters in the US also found officers used ‘sales pitch(es)’.

However, attempts at a sales pitch did not always “hit the mark”. In Case 13 a woman received a drunk and disorderly PND and written direction leave the area after slapping a doorman who had ejected her from a bar. She was told she could be arrested and charged with assault but instead would “just” get a PND. She was compelled to accept these punishments, but demonstrated ongoing grievance, arguing she had been warranted in her actions due to the bouncer’s behaviour toward her.

The importance of distributive fairness, and its relationship with procedural fairness, found here is supported by research from McLean (2018; 2019) and Maxwell et al (2019). Procedural fairness might encourage a sense of distributive fairness (and vice versa), however, a procedurally fair process cannot overcome the (legitimate) sense of unfairness that comes from being treated differently to others i.e. experiences of distributive unfairness. Whilst distributive and procedural fairness might be conceptually distinct they are inherently linked. Apparent distributive unfairness raises concerns about officers’ neutrality, their motives and their trustworthiness (i.e. their procedural fairness). The sense of distributive unfairness might be particularly acute during police-citizen interactions which happen in public places if people can see they are being treated differently to others. For example, in Case 19, two men resisted officers on the grounds that they had been held back whilst the group they had argued with had been allowed to walk off without comment.

Long-term compliance: A(nother) special case?

A survey of PND recipients (N=73) – who received tickets for a range of offences including s5, drunk and disorderly, theft and possession of cannabis – found that, in keeping with the observation data, procedural and distributive justice were significantly associated with short-term compliance (measured as self-reported willingness to accept the officer’s decision). However, contrary to much of the PJT literature, neither procedural nor distributive justice

were associated with perceptions of (legal) legitimacy. Nor were measures of procedural or distributive fairness directly associated with payment of the PND (mid-term compliance) or long-term compliance, measured as self-reported reoffending (Grace 2014a, pp.295-300). Whilst 40% of respondents agreed they were more wary of being *caught* breaking the law (N=70), 44% agreed that, were they in the same situation again they would behave the same way (N=69) and 34% admitted that they *had* committed the same offence subsequently (N=59), with repeat offending most commonly reported by respondents who had received PNDs for possession of cannabis, drunk and disorderly and public urination. This tension between PNDs on the one hand, providing an awareness of the possibility of being punished, whilst on the other, not necessarily affecting behaviour was highlighted in Interview 6:

I haven't done it again, I er, that's a lie [sounds incredulous, as though he's surprised at himself] I have done it again, I'm just really careful to look out for police officers beforehand ...

The distinction between the PND survey and existing literature (discussed above) with regards to the role of procedural justice in long-term compliance may, of course, simply reflect deficiencies in data gathered from a small convenience sample. Equally however, these findings do mirror Jackson et al.'s (2012) and Bradford et al.'s (2015) findings for traffic offences where compliance was – unlike in other contexts – similarly unrelated to procedural fairness and legitimacy. Jackson et al. (2012, p.10) reasoned that traffic offences' failure to fit with the existing model, might reflect that such offences are not seen as “truly criminal”. Whilst people might be generally law-abiding, traffic offences were not seen as ‘real’ law. For traffic offences, compliance was driven by personal morality and, to a lesser extent, perceived risk of being caught. Disorder offences and cannabis possession might too present a “special case” with regards to the (lack of) influence of procedural justice on police legitimacy and long-term compliance. Legitimacy rests, in part, on normative alignment, but this may be harder to

achieve for disorder given the contested nature of “order”. Distributive fairness might also be more important in contexts where whether behaviour is ‘wrong’ is contested and police responses vary. Months, and sometimes years, after the ticket had been issued, some survey respondents and interviewees still felt passionately that they had been harshly treated (Grace 2014a, pp.261-268). As summed up by one survey respondent:

I was treated like the scum of the earth. I’m 34 I’ve worked my whole adult life in public services. I’ve never treated anyone so disrespectfully over something so trivial (ON8, on-the-spot, urinating in public, paid).

These findings highlight FPNs’ potential for generating long-term grievances against the police. However, it must be recognised that the ongoing anger of survey respondents may well have been the reason they chose to participate in the research; this was not a representative sample. The possible distinction between crime and disorder in the applicability of the PJT model needs to be explored through further research, using larger, representative samples.

A note on mid-term compliance

The focus in this paper is on short- and long-term compliance as these are more pressing issues for policing social distancing, however it is worth noting that both the ticket analysis and survey data suggest that whether or not people pay their PND i.e. their mid-term compliance, may be driven by their ability to pay (Grace 2014a; 2014b). Document analysis of PND tickets found that students (77%, N=22) and the employed (68%, N=62) were significantly more likely to pay their PND than unemployed recipients (33%, N=87) ($\chi^2=23.893$, d.f.=2, $p<0.001$, Cramer’s $V=.374$). Similarly, a survey of PND recipients (N=73) found ability to pay was the only factor associated with whether the PND was paid or registered as a fine. Neither procedural nor distributive justice were associated with whether people paid (Grace 2014a pp.284-291). This was a small, convenience sample, which over-represented those that paid their PND as compared to national data, so these findings should be treated with caution, but they do

highlight concerns about the choice of financial penalties as an enforcement strategy – particularly the use of *fixed* penalty notices – given their inequitable impact. The burden of punishment will fall more heavily on those who are less well off (i.e. those already likely to be most detrimentally affected by coronavirus). This was starkly highlighted by one survey respondent who described the fine as “exploiting[,] my fine was £80 suddenly £120 I was [on] £128 per fortnight jobseekers [employment benefit]...I thought fair enough I will do a few days in prison” (SN32, in custody, theft PND, unpaid). People’s ability to pay could therefore lead to very different outcomes. Whilst whether or not people pay fixed penalties is not an immediate concern for police forces, such distributive unfairness could offend the democratic collective self and encourage resistant and/or dismissive postures making it harder for officers to secure voluntary compliance in the short- and/or long-term.

Policing Social Distancing

The research presented here suggest proposals for policing social distancing, both during encounters and with regards to longer-term compliance with the Coronavirus Regulations. It also highlights the ways in which policing social distancing may impact on police legitimacy beyond the virus. These lessons will be considered in turn.

- **Achieving compliance during police-citizen interactions**

Existing research on motivational postures and procedural justice theory are supported by the data presented here: when officers act in ways that are perceived as being procedurally fair, people are more likely to cooperate/comply with them, procedural fairness discourages resistant postures. This further highlights the importance of a procedurally fair approach. Analysis of observational research allows for consideration of the relational and interactive nature of ‘compliance’; exploring when and why people move between different motivational postures. If authorities can understand people’s motivational postures, they can tailor their

response to increase the likelihood of compliance. MPT sets out five postures, this research proposes a sixth: ‘compulsion’. Whether there is a distinct sixth posture that people hold in relation to authorities remains to be tested empirically via survey research. What this observational research suggests is that when trying to assess others’ motivational postures – as the police would be tasked with doing during encounters – it may be useful to think of six. In this extended model, there are three compliant postures, which might be best summarised as signalling: this is fair (committed), this is fair enough (capitulated), this is not fair (compulsion). Resistant postures also signalled that sense of unfairness, but this was coupled with a defiance of officers e.g. refusing to answer questions, heed warnings etc. whereas the compelled do (ultimately) do as told. In policing the Coronavirus Regulations, if the police focus purely on achieving compliance, rather than how (and why) that compliance achieved, they might secure cooperation in the short-term but, according to the wider evidence on MPT and PJT, negatively impact on perceptions of police legitimacy (see further below). This sixth posture ‘compulsion’ therefore helps focus attention not just on *whether* compliance is achieved but *how*, recognising the risk to future legitimacy posed by only achieving compliance through coercion or the threat thereof.

The College of Policing and NPCC (2020) have adopted a four-step strategy of: engage, explain, encourage, enforce. Whilst four stages are set out, fundamentally they boil down to: step one – persuade, step two – enforce. Persuasion – or, to fit the existing enforcement model (see Table 1), what we might term, negotiated self-regulation – should bolster the moral self and encourage postures of commitment (and compliance). Where officers are met with resistance, procedural fairness, that is, demonstrating neutrality and trustworthiness, giving people a voice and behaving respectfully, may make recourse to coercive measures to enforce compliance less likely. The terms engage, explain and encourage highlight the strategy’s roots in procedural fairness, however the guidance focuses largely on officers as information-givers

e.g. they will ‘educate people’ and, amongst other things, ‘emphasise the benefits to the NHS by staying at home’ (Brown 2020, p.7). Whilst this explanation will be important, procedural fairness requires a two-way dialogue. It will be equally (if not more) important that officers listen to people’s accounts of why they are out and, recognising subjectivity of the concept of a ‘reasonable excuse’, appreciate that people may not be intentionally breaking the rules.

To enforce social distancing rules, officers have been given the power to issue fixed penalty notices. This research however questions officers’ ability to issue such fines on-the-spot to (non-compliant) pedestrians. The dynamics may be different when stopping people in vehicles. When issuing PNDs, people who failed to follow informal warnings were more likely to be arrested; non-compliant people do not/cannot accept tickets. For those displaying *compulsion*, who only comply once threatened with and/or issued with a FPN, MPT (as well as the, albeit very limited, data here) would suggest a “sales pitch” – highlighting the potential (more severe) sanctions (e.g. prosecution and much higher fine) they are avoiding – might appeal to their inner (status-seeking) game-player, encouraging a posture of capitulation (over compulsion). However, observations in the NTE suggested such sales pitches may not always “hit their mark”, especially where people have a strong (and perhaps justified) sense of distributive unfairness because they can see others not being punished. Such as, for example, where the police walk past three middle aged people to intervene in a group of young men playing football at a public park.

Selective law enforcement is not only routine, but necessary to the functioning of the police and the criminal justice system as a whole (Goldstein 1960). In keeping with existing laws, not all breaches of the Coronavirus Regulations will be visible; officers will receive reports from third parties and come across (potential) breaches during patrols. Officers will have the discretion to decide when, and where, to intervene, who to fine and/or arrest. Whilst there is a notable gap between the law and the, more comprehensive (and far more widely publicised),

Government guidance, ‘even the most precisely worded rule of law needs interpreting in concrete situations’ (Reiner 2010, p.207). Officers will, understandably, rely on their existing ‘working rules’ and cultural values to navigate this vacuum; despite calls for consistency, enforcement action may therefore fall more heavily on some groups/locations than others, with, as we have seen, differences between forces (Charman 2017; NPCC 2020). Where officers meet resistance, cultural norms may encourage them to punish those who fail the ‘attitude test’ (Loftus 2010, p.10). This research suggests however that such resistance, rather than coming from a rejection of the rules, may instead reflect people’s feelings that have behaved acceptably in the circumstance and that officers have failed to take on board (what they see as relevant) mitigation and, as a result, mis-labelled them as an “offender”. Their resistance is thus a plea to be re-categorised as a law-abiding citizen and have their moral self appeased.

Existing cultural norms may encourage officers to focus attention on ‘the usual suspects’ (Medina Ariza 2014). Conversely, the need to prioritise public health may lead them into interactions with people who normally avoid police censure. Such people may have a strong moral self and thus be particularly aggrieved by police attention, leading to resistance. Equally, in the absence of a history of conflict, they may be less likely to come to the encounter from a posture of defiance and be better placed to navigate it in a way that wins leniency. They could also be more inclined to interpret officers’ treatment as procedurally fair and/or receive such procedurally fair treatment (Sargeant et al 2018). Initial data show that, in England, 13,445 FPNs were issued between 27 March and 11 May 2020, 81% to men and 69% to people aged under 34 (NPCC 2020). Whether FPN use mirrors the disproportionality seen in stop and search is difficult to gauge as 25% of tickets omitted ethnicity data. However, elsewhere, in New York and New South Wales for example, “minority communities are disproportionately targeted by ramped-up policing that has accompanied the enforcement of lockdown measures”

(Letin 2020). New powers may thus exacerbate existing distributive unfairness in police attention and existing tensions.

In policing social distancing there is a risk of resistance not just from the individual(s) initially approached, but from bystanders (and subsequently the wider community), creating the potential for public disorder and/or collective disorder. This was seen in a Manchester case; an officer threatened to use incapacitant spray on a person accused of breaching social distancing rules (Busby 2020). The democratic self will be attuned to how, where and when these new social distancing rules are enforced. In that case, the person's neighbours (one of whom filmed parts of the encounter, which was later published [Lachey 2020]) started to resist the officer and ultimately there were a group of people and a second police car at the scene. Complaints can be heard from neighbours that the officers' intervention, particularly his threat to use PAVA (incapacitant spray), was excessive. Voice will be central to policing social distancing with legitimacy; officers need to be open to suspects' explanations for any assumed breaches of the rules. Threats of force, as seen in the Manchester case, may be met with resistance, not least because whether people's behaviour falls within (the permitted) "reasonable excuses" is subjective. If officers' assessments of what is "reasonable" fail to match those held by the communities they police, resistance is likely to follow. If they consistently do this there is potential for major rioting (Reicher and Stott 2020). Engaging with communities to develop a shared understanding of "reasonable excuses" and explaining the reason for police interventions when they occur should help operationalise neutrality and trustworthiness as well as the distributive fairness (perceived deservedness) of receiving police attention. Wherever possible, officers should abide by the Regulations themselves i.e. keeping a safe distance (2 metres), not gathering in groups etc. This is not only necessary for officers' safety but to operationalise respect, by minimising the risk to citizens (a point that was noted by the videographer in the Manchester video, who commented they were 'all risking corona[virus]

because of him [the officer]’). By respecting the rules they are seeking to enforce, officers can further demonstrate neutrality and trustworthiness, appeasing the democratic collective self.

In the short-term, whilst procedurally and distributively fair policing may encourage voluntary compliance, for those who refuse to heed officers’ informal directions, my research suggests it is unlikely that officers will be able to issue them with fines *on-the-spot*; only 3 (of 49) non-compliant offenders were issued with PNDs on-the spot, two were initially arrested, the other received a ticket the next day. Non-compliant people are unlikely to willingly accept fines, although they may be compelled to do so. In those cases where people remain non-compliant despite officers’ attempts at persuasion,, arrest remains an option but a decision needs to be taken about the relative risks/rewards of enforcing the rules via arrest given the risk this poses to officers’ health and the risk that officers inadvertently become super-spreaders during subsequent contacts with the public. Forces should heed the NPCC’s suggestion, that enforcement action be a last resort. As Platts-Fowler (2013, p.24-25) notes with regards to riots ‘arrests in the imminent or early stages of unrest, of people deemed to be doing little wrong by their peers, become symbolic’. To return to Manchester case, the force’s quick public response – that the officer’s actions were wrong, and he was now under investigation – should appeal to local citizens’ democratic collective self as well as reducing the likelihood that the police will be cast as an ‘out group’ (Reicher and Stott 2020, p.1).

- **Achieving compliance with social distancing rules**

MPT and PJT have developed largely separately, however the importance of – what Braithwaite terms – the moral self is also supported by procedural justice literature which (whilst highlighting the relationship between legitimacy and compliance) has found personal morality to be the strongest predictor of law-abiding behaviour (Hough et al. 2013). This relationship is particularly strong with regard to traffic offences, where police legitimacy was

not related to compliance (Bradford et al. 2015; Jackson et al 2012). The best route to compliance with the social distancing rules is therefore by bolstering people's normative alignment with the Regulations. Officers can do this to an extent through their strategy, of 'engage, explain, encourage' but promoting moral alignment with the rules is not the sole remit of the police (and is therefore largely beyond the scope of this paper). Suffice it to say, such widescale posture-building activity is reflected, for example, in the state support for, and promotion of, the (initially community-led) weekly "clap for carers". Conversely, news that the Prime Minister's most senior advisor, Dominic Cummings had travelled 260 miles so as to isolate in closer proximity to suitable childcare whilst, at the same time, the Government were instructing people to 'stay home' might undermine commitment and promote dismissive postures, making defiance more likely and the Regulations harder to police (BBC 2020). Indeed, that this news may have bred a sense of disjuncture between the Government and the people was perhaps best illustrated by the (usually pro-Conservative) Daily Mail front page, which asked '...the question the whole country is asking...What planet are they on?' (Groves 2020). The above section suggests means of dealing with "pockets of resistance" from small groups. However, there is a risk that over time, growing resistance and/or dismissiveness would see a mass evasion of the rules. This would suggest most people are no longer committed to them, thus questioning their legitimacy. This is reminiscent of the mass evasion of poll tax in the 1990s (Hoggett and Burns 1991 p.106):

The crucial thing about the poll tax...was that it offered everybody the opportunity of making an individual act of defiance. In this way 'not paying' became a direct and immediate personal statement, a 'fingers up' to the 'powers that be', a focus for the suppressed hatred that so many people felt for Thatcherism.

There is a very real risk, particularly in light of the news of, and public response to, Dominic Cummings' apparent breach of Coronavirus Regulations (BBC 2020a), that mass defiance becomes similarly symbolic. In such an event, just as with poll tax, the rules, rather than the policing thereof, may need to be revised. Public anger rests on an apparent distributive

unfairness in the application of the rules, that it is one rule for us (the people) and another for them (the elite) (BBC 2020b); being seen to address this inequity will be important in (re-)building commitment.

As set out in Table 1, motivational posturing theory suggests that effective regulation requires different enforcement strategies depending on the regulatee's posture. This reflects an approach of responsive regulation, which proposes an enforcement pyramid (J Braithwaite 2020; 2011):

[beginning] with respectful and cheaper strategies at the base. This allows virtuous actors to voluntarily comply with reminders about standards, while rational actors calculate that it is in their interests to comply (Healy 2017, p.603).

The responses of the regulatee to interventions drawn from the base of the pyramid are the ones that determine if, how far and when the regulator escalates up the pyramid (Drahoš and Krygier 2017, p.5).

Research on deterrence in fields as disparate as corporate crime and gang violence have highlighted the value of having multiple levers to pull, with multiple treatments being more effective than any single intervention (Schell-Busey et al. 2016; J Braithwaite 2016). 'An integral part of...[responsive regulation] is to provide opportunities for dialogue' (Braithwaite et al 2007, p.154). Procedural justice is thus important not only in individual encounters, but in the design of the regulatory system; key stakeholders from the community should be involved in developing the enforcement strategy and enforcement should be coupled with education. Enforcement options for the Coronavirus Regulations are limited to FPN or prosecution (and a fine on conviction). A more reintegrative and/or restorative, tiered, approach – drawing on existing powers, using (different) community resolutions (nearer the bottom of the pyramid) and conditional cautions (nearer the top) – is likely to present a better deterrent, than solely financial penalties. The introduction of deferred FPNs – cancelled on completion of the

conditions set out, operating in much the same way as existing PNDs with an education option – could offer a better interim measure, reducing the unnecessary criminalisation that would occur from using conditional cautions. A restorative approach would see conditions which require offenders to contribute to the coronavirus relief effort in some way. This could appeal to the individual’s moral self, allowing them to “do the right thing” and make a recognised, valuable contribution. Being more distributively fair than financial penalties – which disproportionately affect poorer people – this might also appeal to the democratic collective self (although distributive fairness also depends on whether powers are used disproportionately against some groups). It might, too, enable officers to engage with offenders’ status-seeking self. If someone is breaking the rules – going for a drive because they were bored, for example, as in one early case (Williams 2020) – giving them a community resolution (in that case a legitimate reason to travel, by delivering supplies for example) satisfies the offender’s desire to find loopholes. Their status-seeking self may also value the social capital to be gained from contributing to much-needed relief efforts. Avoiding more severe penalties, might also appeal to their sense of competition. Adopting a partnering approach such as this, is the alternative to domination when trying to secure compliance for the dismissive (Murphy 2016). Financial penalties and prosecution could then be reserved for those who fail to meet these conditions.

- **The challenge of policing social distancing: preserving legitimacy**

The wider evidence on procedural justice highlights that perceptions and experiences of procedural justice affect police legitimacy, which in turn is related to future willingness to cooperate with the police and to comply with the law; the impact of policing coronavirus may therefore be felt long after the Regulations are lifted. From the existing MPT and PJT literature, as well as the research presented here, a number of different hypotheses follow about how policing social distancing will affect police legitimacy. In the absence of lockdown-specific, evidence the following (empirically-derived) hypotheses might serve as a (temporary) guide

for how to police social distancing in a manner that can best preserve legitimacy. In sum: if officers act with distributive fairness (follow the rules and apply them even-handedly) and procedural fairness – listen to people (allow them a voice), treat them with respect and demonstrate neutrality and trustworthiness by explaining their actions – this will promote a sense of procedural fairness and, in turn, police legitimacy, encouraging compliance at the scene. Whether this will promote future cooperation with the police and long-term compliance with the law in general – as seen in other police legitimacy research (e.g. Reisig et. al 2007) – is unknown. Early research however suggests that – as with traffic offences (Bradford et al. 2016; Jackson et al. 2011) and, as suggested here, disorder offences – voluntary (long-term) compliance with Coronavirus Regulations is not related to legitimacy (Jackson et al. 2020). Social distancing rules may be contested. The key to long-term compliance would seem to lie in building public commitment to the Regulations (which is largely outside of the remit of the police). Compliance may therefore rest on the legitimacy of these rules specifically, rather than the police or law in general. The Regulations serve an expressive function, communicating to people both how they ought to behave and setting expectations about how others will behave (Jackson et al 2020). Ordinarily ‘law-abiding’ people, balancing competing pressures, may choose to break rules in an attempt to satisfy other (seemingly to them, legitimate) goals, (unlawfully) using a mobile phone to call home whilst driving in order to be a ‘responsible parent’ for example (Wells and Savigar 2019, p.243). The Prime Minister’s defence of Dominic Cummings’ breach of the Regulations, praising him for acting on his ‘instincts’ as a ‘parent’ may thus undermine commitment to social distancing rules providing, as it does, a state-sanctioned ‘alternatively constructed “good” citizen’ beyond the simply law-abiding one and, thereby, providing justification for defiance of the rules (Wells and Savigar 2019, p.263; BBC 2020b).

During interactions with the public, officers should be attuned to people's motivational postures. Procedural and distributive fairness should reduce resistance. Distributive justice *may* also reduce dismissiveness (but this hypothesis is previously untested). Personal morality is the strongest predictor of compliance. Officers can bolster the moral self by appealing to people as 'good citizens' during encounters, treating them with procedural fairness and more generally by public education campaigns promoting the virtue of adhering to the rules. A lack of clarity in the rules, such as that seen in the move from a message to 'stay at home, protect the NHS, save lives' to 'stay alert, control the virus, save lives' will likely make officers' job more difficult (Department of Health and Social Care 2020; Police Federation 2020).

- **Future research in relation to policing social distancing**

The above hypotheses should be tested; there is an urgent need for research in this field. Direct observations will not be possible – due to the current restrictions – analysis of body-worn camera footage and citizen journalism would provide a means to assess (the dynamic nature of) compliance in situ. Panel surveys would allow for examination of the factors which affect legitimacy and/or compliance over time (see for example Jackson et al. 2020). Data on where, when and against whom enforcement powers are used should also be collected; it will be necessary to consider the both how the powers granted by the new Regulations and existing powers (such as PNDs and other out of court disposals), are used in policing social distancing. The above hypotheses follow from the research presented, however the wider evidence suggests perceptions of police effectiveness and lawfulness will also impact on legitimacy (Jackson and Bradford 2019; Tyler 2019). These should be examined also. In future it would be worth comparing the policing social distancing with other scenarios, to consider whether issues of fairness, legitimacy and compliance play(ed) out differently in that new context (as they appeared to in the PND survey discussed here, and prior research on traffic offences (e.g. Jackson et al. 2012)). Whether the sixth posture – compulsion – is evident in other contexts

should also be tested. It may be that compulsion, whilst useful for assessing compliant behaviour in situ, is less applicable when measuring people's attitudes to authority more generally. This concept, and the operationalisation thereof, should be examined through further research.

Conclusion

The purpose of these new powers is the promotion of public health. That fact should be at the forefront of any/all attempts to formally enforce social distancing regulations. There is no blueprint for policing in the age of coronavirus, the dynamics will be different to other circumstances with which the police are familiar, but we can learn lessons from when police forces have successfully maintained legitimacy and gained compliance. Whilst tasked with enforcing the rules on *social distancing*, in practice, lessons from existing research on the use of PNDs, procedural justice and motivational posturing theory suggest that it is (physical distancing and) *social alignment* that should be the goal. A PJT/MPT informed approach provides a model, rather than a script for working, (as ever) officers will need to tailor their approach to the person(s) before them. In doing this, these theories suggest, in the short-term, officers should be attuned to the different motivational postures people are demonstrating, adjusting their response accordingly. If forces want to (gain and) maintain legitimacy, then it is at best *commitment* they should seek, or at least *capitulation* i.e. willing compliance "this is fair" (capitulation) or "fair enough" (capitulation). The posture of *compulsion* has been introduced here to reflect the constraint-based (unwilling) compliance that officers should seek to avoid: compulsion would be suggested by people who continue to challenge officers' assessment that they are in breach of the rules, arguing they have not done anything wrong. Enforcing the rules through the threat or use of an FPN or arrest should, in such cases, be avoided and further dialogue sought. Compulsion is likely to damage legitimacy long after regulations are lifted. Procedural justice can reduce such resistance and enhance legitimacy.

Perceptions of distributive justice are related to procedural justice (see also McLean 2018, 2019; Grace 2014a). Voice is central: allow people to tell their side, explain their actions/motivations, by doing so (i.e. by being procedurally fair) officers demonstrate they are being distributively fair (i.e. even-handed/proportionate).

Enforcement should be reserved for those with dismissive postures, those with an unwavering attitude of “you can’t tell me what to do”. Even here, the value of financial penalties is questioned; better to first seek punishments based on principles of restorative justice. Whilst officers have been given powers to enforce the Regulations, coercion and voice offer very different means of achieving the same ends, with very different consequences for police legitimacy in the long-term. Persuading – from a safe distance – rather than coercing compliance is a prudent, less-resource intensive and, fundamentally, safer approach than resort to coercive powers. Heavy-handed enforcement risks triggering resistance in individual police-citizen encounters, but also more broadly within communities leading to collective disorder (Reicher and Stott 2020). The police have been given a difficult job, but it is vital they get it right. Whilst (long-term) voluntary compliance with social distancing rules may rest on building public commitment to the Regulations, in the short-term, the research suggests procedural and distributive justice will be key to reducing resistance during police-citizen encounters and policing social distancing with legitimacy and by consent.

Reference list

- Akinlabi, O. M., and Murphy, K. (2018). Dull compulsion or perceived legitimacy? Assessing why people comply with the law in Nigeria. *Police Practice and Research*, 19(2), pp. 186-201
- BBC (28 May 2020a). *Dominic Cummings 'might have broken lockdown rules' – police*. Retrieved From: <https://www.bbc.co.uk/news/uk-politics-52835982>
- BBC (25 May 2020b). *Dominic Cummings row: The families who stayed away in lockdown*. Retrieved From: <https://www.bbc.co.uk/news/uk-politics-52798032>
- Bottoms, A., and Tankebe, J. (2012). Beyond procedural justice: A dialogic approach to legitimacy in criminal justice. *The Journal of Criminal Law and Criminology*, pp. 119-170.

- Bradford, B. (2016). The dog that never quite barked: Social identity and the persistence of police legitimacy. In Bosworth, M., Hoyle, C. and Zedner, L. (Eds) *Changing Contours of Criminal Justice*. Oxford: Oxford University Press, pp. 29-41
- Bradford, B., Hohl, K., Jackson, J., and MacQueen, S. (2015). Obeying the rules of the road: Procedural justice, social identity, and normative compliance. *Journal of contemporary criminal justice*, 31(2), pp. 171-191
- Braithwaite, J. (2020). *Responsive regulation*. Retrieved from: <http://johnbraithwaite.com/responsive-regulation/>
- Braithwaite, J. (2016). In search of Donald Campbell: Mix and multimethods. *Criminology and Public Policy*, 15(2), pp. 417-437
- Braithwaite, J. (2011). The essence of responsive regulation. *UBC Law Review*, 44, pp. 475-520
- Braithwaite, V. (2017). Closing the gap between regulation and the community. In Drahos P (Ed) *Regulatory Theory: Foundations and Applications*. Action: ANU Press, pp. 25-41
- Braithwaite, V. (2003a). Dancing with tax authorities: Motivational postures and non-compliant actions, In Braithwaite, V. (Ed) *Taxing democracy: Understanding tax avoidance and evasion*, Aldershot: Ashgate, pp. 15-40
- Braithwaite, V. (2003b). Dancing with tax authorities: Motivational postures and non-compliant actions. *Taxing democracy*, pp. 15-39.
- Braithwaite, V. (2003c). A new approach to tax compliance, In Braithwaite, V. (Ed) *Taxing democracy: Understanding tax avoidance and evasion*. Aldershot: Ashgate, pp. 1-14
- Braithwaite, V. (2001). Tensions between the citizen taxpaying role and compliance practices, Centre for Tax System Integrity Working Paper 13, Australian National University.
- Braithwaite, V., Murphy, K. and Reinhart, M. (2007). Taxation threat, motivational postures and responsive regulation, *Law and Policy*, 29(1), pp. 137-158.
- Brown, J. (2020). *Coronavirus: Policing the instruction to stay at home*, Briefing Paper Number 8875. London: House of Commons Library
- Bryman, A. (2012). *Social research methods, 4th Edition*. Oxford: Oxford University Press.
- Busby, M. (11 April 2020) UK lockdown: police apologise after man threatened with pepper spray. *The Guardian*. Retrieved From: <https://www.theguardian.com/uk-news/2020/apr/11/uk-lockdown-police-apologise-after-man-threatened-with-pepper-spray>
- Cabinet Office (2020). *Guidance: Coronavirus outbreak FAQs: what you can and can't do*. Retrieved From: <https://www.gov.uk/government/publications/coronavirus-outbreak-faqs-what-you-can-and-cant-do/coronavirus-outbreak-faqs-what-you-can-and-cant-do>
- Charman, S. (2017). *Police socialisation, identity and culture: Becoming blue*. Palgrave MacMillan

College of Policing and NPCC (2020) *Covid-19 - Policing Brief in Response to Coronavirus Legislation*. Retrieved From: <https://www.college.police.uk/News/College-news/Pages/Health-Protection-Guidelines.aspx>

Dearden, L. (11 May 2020) *Coronavirus: Police attack government's 'lack of clarity and mixed messages' on lockdown changes*. Retrieved From: <https://www.independent.co.uk/news/uk/politics/coronavirus-lockdown-uk-police-boris-johnson-speech-a9508201.html>

Department of Health and Social Care (2020) *Promotional material: Coronavirus: stay at home, protect the NHS, save lives - web version*. Retrieved From: <https://www.gov.uk/government/publications/coronavirus-covid-19-information-leaflet/coronavirus-stay-at-home-protect-the-nhs-save-lives-web-version>

Drahos, P. and Krygier, M. (2017). Regulation, institutions and networks. In Drahos P (Ed) *Regulatory Theory: Foundations and Applications*. Action: ANU Press, pp. 1-22.

Goldstein, J. (1960). Police discretion not to invoke the criminal process: Low-visibility decisions in the administration of justice, *The Yale Law Review*, 69(4), pp. 543-594

Grace, S. (2014a). *Swift, simple, effective justice? Examining the use and impact of penalty notices for disorder*. Thesis (PhD). University of Sheffield

Grace, S. (2014b) 'Swift, Simple, Effective Justice?' Identifying the aims of penalty notices for disorder and whether these have been realised in practice. *The Howard Journal of Criminal Justice*, 53(1), 69-82

Grace, S. (2013). Police decision making and the drunk: Exploring penalty notices for disorder, In Ponsears, P., Crawford, A., de Maillard, J., Shapland, J. and Verhage, A. *GERN Research Paper Series Vol. 1, Crime, violence, justice and social order: Monitoring Contemporary Security Issues* Antwerp: Maklu

Groves, J. (25 May 2020). What planet are they on? *Daily Mail*, p.1

Hancock, M. (2020). Coronavirus: Public urged to follow 'mission-critical' rules. *BBC News*. Retrieved From: <https://www.bbc.co.uk/news/uk-52172035>

Harkin, D. (2015). Police legitimacy, ideology and qualitative methods: A critique of procedural justice theory. *Criminology and Criminal Justice*, 15(5), 594-612.

Healy, J. (2017). Patients as regulatory actors in their own health care. In Drahos P (Ed) *Regulatory theory: Foundations and applications*. Action: ANU Press, pp. 591-609.

Hoggett, P., & Burns, D. (1991). The revenge of the poor: The anti-poll tax campaign in Britain. *Critical Social Policy*, 11(33), pp. 95-110

Hough, M., Jackson, J., and Bradford, B. (2013). Legitimacy, trust and compliance: An empirical test of procedural justice theory using the European Social Survey. In Tankebe, J. and Liebling, A. (eds.) *Legitimacy and Criminal Justice: An International Exploration*. Oxford: Oxford University Press, pp. 356-352

Jonathan, J., Posch, C., Bradford, B., Hobson, Z., Kyprianides, A. & Yesberg, J. (2020) *The lockdown and social norms: why the UK is complying by consent rather than compulsion*.

British Policy and Politics at LSE. Retrieved From: http://eprints.lse.ac.uk/104145/1/Jackson_the_lockdown_and_social_norms.pdf

Jackson, J. and Bradford, B. (2019). Blurring the distinction between empirical and normative legitimacy? A methodological commentary on 'police legitimacy and citizen cooperation in China'. *Asian Journal of Criminology*, 14(4), pp. 265-289.

Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P. and Tyler, T. R., 2012. Pre-print of Why do people comply with the law? Legitimacy and the influence of legal institutions. *British journal of criminology*, 52(6), pp. 1051-1071, Retrieved from: <https://ssrn.com/abstract=1994490> or <http://dx.doi.org/10.2139/ssrn.1994490>

Lachey, C. (2020, 10 April). *Greater Manchester Police threaten to pepper spray then arrest a man moving a tree for his mum* [Video file]. Retrieved from <https://www.youtube.com/watch?v=G0u5wvR33YM>

Letin, A. (12 May 2020). Coronavirus is the ultimate demonstration of the real-world impact of racism. *The Guardian*. Retrieved From: <https://www.theguardian.com/commentisfree/2020/may/12/coronavirus-racism-bame-pandemic-race>

Loftus, B. (2010). Police occupational culture: classic themes, altered times. *Policing and society*, 20(1), pp. 1-20

Maxwell, C. D., Moore, A. M., Fontaine, J., and Smith, J. (2019). Status influences on perceptions of procedural justice: a test of the group value model among intimate partner violence arrestees. *International Journal of Comparative and Applied Criminal Justice*, pp. 1-17.

Medina Ariza, J. J. (2014). Police-initiated contacts: young people, ethnicity, and the 'usual suspects'. *Policing and society*, 24(2), pp. 208-223.

McLean, K. (2018). *The Importance of Outcome Fairness: Revisiting the Role of Distributive Justice*. Thesis (PhD). University of South Carolina

McLean, K. (2019). Revisiting the role of distributive justice in Tyler's legitimacy theory. *Journal of experimental Criminology*, pp. 1-12.

NPCC (2020). *Fixed penalty notices issued under COVID 15th May*. Retrieved From: <https://news.npcc.police.uk/resources/fixed-penalty-notices-issued-under-covid-15th-may>.

Platts-Fowler, D. (2013). Beyond the loot': social disorder and urban unrest. *Papers from the British Criminology Conference*, 13, pp. 17-32

Police Federation. (2020). *PFEW position on lockdown guidance*. Retrieved From: <https://www.polfed.org/news-media/latest-news/2020/pfew-position-on-lockdown-guidance/>

Radburn, M., and Stott, C. (2019). The social psychological processes of 'procedural justice': Concepts, critiques and opportunities. *Criminology and Criminal Justice*, 19(4), pp. 421-438.

Reicher, S., and Stott, C. (2020). Policing the Coronavirus Outbreak: Processes and Prospects for Collective Disorder. *Policing: A Journal of Policy and Practice*.

Reiner, R. (2010). *The politics of the police*, 4th Edition. Oxford: Oxford University Press

Reisig, M. D., Bratton, J., and Gertz, M. G. (2007). The construct validity and refinement of process-based policing measures. *Criminal justice and behavior*, 34(8), pp. 1005-1028.

Sargeant, E., Murphy, K., and Madon, N. S. (2018). Is dissatisfaction with police inevitable? Testing an integrated model of motivational postures and procedural justice in police-citizen contacts. *Police Practice and Research*, 19(2), pp. 125-137

Silverman, D. (2010). *Doing qualitative research: A practical handbook*, 3rd Edition. London: Sage

Schafer, J. and Mastrofski, S. (2005). Police leniency in traffic enforcement encounters: Exploratory findings from observations and interviews. *Journal of Criminal Justice*, 33(3), pp. 225-238

Schell-Busey, N., Simpson, S. S., Rorie, M., and Alper, M. (2016). What works? A systematic review of corporate crime deterrence. *Criminology and Public Policy*, 15(2), pp. 387-416

Snow, A. (2019). Receiving an on the spot penalty: A tale of morality, common sense and law-abidance. *Criminology & Criminal Justice*, 19(2), pp. 141-159

Tankebe, J. (2013). Viewing things differently: The dimensions of public perceptions of police legitimacy. *Criminology*, 51(1), pp. 103-135

Tankebe, J. (2009). Public cooperation with the police in Ghana: Does procedural fairness matter?. *Criminology*, 47(4), pp. 1265-1293.

Tankebe, J., Reisig, M. D., and Wang, X. (2016). A multidimensional model of police legitimacy: A cross-cultural assessment. *Law and Human Behavior*, 40(1), pp. 11-22

Tedeschi, J. and Felson, R. (1994) *Violence, aggression and coercive actions*, American Psychological Association: Washington DC

Tyler, T. (2019). Procedural Justice Policing. In: Lind, E. A. (Ed.). *Social Psychology and Justice*. Oxon: Routledge. pp.131-164

Wells, H., & Savigar, L. (2019). Keeping up, and keeping on: Risk, acceleration and the law-abiding driving offender. *Criminology & Criminal Justice*, 19(2), pp. 254-270.

Williams, R. (30 March 2020). Coronavirus: Police turning parts of UK into 'dystopia' after prosecuting shoppers and people driving 'due to boredom'. Sky News. Retrieved From: <https://news.sky.com/story/coronavirus-police-turning-parts-of-uk-into-dystopia-after-prosecuting-people-driving-due-to-boredom-and-shoppers-11965903>