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# CONCEPTUALIZING JUSTICE: POLICE RESPONSES TO SEX CRIMES IN PARTNERSHIP WITH CANADIAN POLICE DEPARTMENTS

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CONCEPTUALIZING JUSTICE:  
POLICE RESPONSES TO SEX CRIMES IN PARTNERSHIP WITH  
CANADIAN POLICE DEPARTMENTS

by

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## ABSTRACT

Justice exists in and through interpretations of past laws and legal procedures. Justice for sex crimes, however, is particularly complex due to the differences between victim needs and the operations of the criminal justice system. This study, using 70 semi-structured interviews and 2 focus groups from Canadian police departments, shows procedural and distributive justice as the two most prevalent forms of justice police officers use when dealing with sex crimes. The commonalities between the two forms of justice support the notion that police officers have adapted to using multiple methods of justice that are more compassionate to victims of sexual violence. In this paper, I show that Canadian police officers use characteristics from both procedural and distributive justice when responding and dealing with sex victims and their offenders. My analysis shows that police officers are encouraged to use new forms of policing to enhance positive victim relations. Contrary to research that focuses on the adverse treatment of victims, this paper will explore the promising changes in Canadian police officers' conceptualization of justice for victims and their offenders.

**Keywords:** sex crimes, procedural justice, distributive justice, police officers

## INTRODUCTION

As issues of social injustice are increasingly important to the Canadian political and social agenda, conceptualizing justice continues to be a difficult and strenuous task. There is an aperture in current literature that qualitatively investigates how police officers, offenders, and victims recognize justice, and if these understandings are compatible to how justice has been theorized. Jacques Derrida (1989) argues that justice is impossible to achieve; to exercise a free decision is to allow every case to be uniquely interpreted with no existing coded rules on what can or cannot be the outcome. Our criminal justice system, however, is predicated on the belief that justice can be achieved through codified rules and regulations. When police officers interpret a statute, for example, they use other cases as contextualization cues (Vogel, Hamann, & Gauer, 2017). Not only does this reduce ambiguity in legal cases, it provides a foundation for legal procedures to be handled. Nonetheless, understanding justice requires the consideration of multiple theoretical orientations in criminal contexts.

It is important to consider police officers' conceptualization of justice as their beliefs shape how they handle victims and offenders. Previous research has shown that police officers integrate qualities from procedural and distributive justice when conceptualizing justice for sex crimes (Lind, 2001; Walker, Lind & Thibaut, 1979; Thibaut & Walker, 1975). While distributive justice is the perceived fairness of the distribution of outcomes, procedural justice focuses on the perceived fairness through which criminal justice officials make decisions that are manifested by respectful treatment. The examination of police responses to sex crimes offers insight into the need for an integrated approach to justice in response to sex crimes. While current literature explores the benefits of interrelating

procedural and distributive justice, policing practices that investigate how police officers handle sex victims and their offenders is limited. Thus, the literature, in the context of sex crimes, fails to document the advances in police practices and how the changes in police culture has resulted in police officers' responses to sex crimes deviating from traditional approaches.

To study police officers' conceptualization of justice for sex crimes, this paper draws on qualitative data from 70 interviews and 2 focus groups from various police departments across Canada. This qualitative research contextualizes police responses in relation to procedural and distributive justice to show the progression of Canadian police practices of justice. Moreover, this articles explores how investigators, the police, and the courts, respond to sex crime cases using both victim-oriented and offender-focus approaches.

This paper is organized into multiple sections to showcase the findings of the research project. First, I review past literature on the different forms of justice and highlight the relevance of engaging with these perspectives as related rather than distinct. Second, I discuss the methodology used to collect, code and analyze the qualitative data. In the latter sections, I provide an analysis of the coded interviews, which shows the need to transform the mutually exclusive treatment of forms of justice when dealing with sex crimes in Canada. Contrary to the literature, this study shows hopeful findings to police officers' conceptualization of justice, which also shows the potential for enhanced victim satisfaction and better experiences within the Canadian criminal justice system.

### **PROCEDURAL AND DISTRIBUTIVE JUSTICE**

Procedural and distributive justice, taken at face value, are two distinct forms of justice, that differ merely in their focus: procedural justice pays attentions to the perceived fairness

of crime cases with respectful treatment of victims and their offenders while distributive justice focuses on the outcome of the case. Qualities from both forms of justice are evident in sex crime cases where police officers deal with victim and offender needs. To understand the distinct forms of justice, Greenberg (1990) introduces the concept of organizational justice to understand people's attitudes and behaviours to fair decisions. Research on organizational justice has identified three central dimensions to be used to evaluate the fairness of procedures: procedural, distributive and interactional justice (Cropanzano & Ambrose, 2001; Conlon, 1993; Greenberg, 1990). While interactional justice refers to the specific treatment that an individual receives as a decision is made (Bies & Moag, 1986), procedural and distributive justice concern the fairness of decisions and outcomes (Conlon, 1993; Greenberg 1990; Levanthal, 1980).

The earliest studies of justice suggest that the type of justice being used will determine how the decision-making process will be managed (Lind & Tyler 1988; Martin, 1987; Levanthal, 1980; Thibaut & Walker, 1975). To date, procedural and distributive justice are used in a broad array of contexts, including conflict resolution (Karambayya & Brett, 1989), drug testing (Konovosky & Cropanzano, 1991), and performance appraisal (Greenberg, 1986). In these frameworks, characteristics from procedural and distributive justice are evident in the fairness of the procedures leading up to the decision of a case and the outcome that affects both parties involved. It is important to explore differences and the underlying connections between procedural and distributive justice to comprehend how police officers envision justice for sex victims and their assailants. In consideration, procedural and distributive justice will be individually discussed before their connection is explored.

## **Procedural Justice**

Victims, offenders, and those in the legal arena such as police officers, judges, and social workers, all play a role in determining fairness and treatment of individuals processed in the legal system (Cropanzano & Ambrose, 2001). First developed by Thibaut and Walker (1975, 1978), procedural justice focuses on the perceived fairness through which criminal justice officials make decisions that are manifested by respectful treatment. This can positively influence individual satisfaction with legal personnel encounters. According to Levanthal (1980), there are six rules that constitute procedures as fair: just procedures must be (1) consistent, (2) free from bias, (3) accurate, (4) correctable, (5) representative of all concerns (which is often paralleled with Folger's (1977) "voice effect"), and (6) based on prevailing ethical standards (as cited in Cropanzano & Ambrose, 2001). However, Leventhal's (1980) rules do not explain why individuals strive for procedural fairness. For this reason, two frameworks within an instrumental model have been proposed to understand fairness perceptions: decision control and process control (Thibaut & Walker, 1975). Both frameworks attempt to explain the psychological effect when an individual is given the opportunity to present relevant information to a decision of a case; the ability to have input in a case can enhance judgments of fairness of the decision-making procedure (Lind, Earley, & Kanfer, 1990). These frameworks have been effective on a pragmatic level; they explain the procedural justice phenomena by reviewing the personal experiences of procedures, especially the relationship between legal personnel and the victims and offenders participating.

*Decision* control refers to the extent of a disputant's control over the actual decisions made (Tyler & Lind, 1992). *Process* control (or "voice effect") is the degree to

which those that are affected by a decision are given the opportunity to express their concerns (Koper & Vermunt, 1988; Lind & Tyler, 1988; Thibaut & Walker, 1975). Thibaut and Walker (1978) found that absence of process control decreases procedural fairness judgments because it alters the perceptions of the relationship between legal authority and those that are subject to his or her decision (Tyler & Lind, 1992). In dispute resolution procedures, the key procedural characteristic that shapes people's views about fairness is the distribution of control between disputants and the third-party decision maker (Lind & Tyler, 1992). For example, when a disputant is given the opportunity to express themselves, regardless of whether it results in favourable or unfavourable outcomes, they will consider the process to be fair (Lind & Tyler, 1988; Folgers, 1977).

In a number of studies, scholars found that process control takes a key position in perceived procedural justice (Tyler & Lind, 1988; Levanthal, 1980, Thibaut & Walker, 1978; Tyler, 1988; Tyler, Rasinski & Spodick, 1985). In support, Wemmers, van der Leeden and Steensma (1995) found the decision control approach is the least important variable to the concept of justice for victims. This indicates that the ability for victims to express their thoughts are more imperative to the final decision about the case. In addition, the treatment within legal processes are more concerning than the actual outcome. Some scholars argue that negative outcomes are still amenable when personal expressions have been considered because those involved were given the chance to influence the outcome of the case (Wemmers, van der Leeden & Steensma, 1995). This work suggests that victims feel that fairness is enhanced in legal processes when they are allowed to voice their concerns in a legal system. The notion of process control overlaps with the competing expression of personal satisfaction, especially in procedural justice context; those who are



given the opportunity to participate in respectful legal procedures that will consider their thoughts as vital to the decision of the case.

Some of the characteristics that Lind and Tyler (1988) presented as determinants of procedural justice judgements are standing (e.g., treated with dignity and one's rights respected), neutrality (e.g., absence of prejudice or fact-based decision-making), and trust. Their research suggests that each of these determinants enhance the perceived benefits that individuals will receive which influences how individuals interact with legal authorities. When studying Dutch victims, for example, Wemmers, van der Leeden, and Steensma (1995) found that victims are more concerned with being treated with dignity and respect, than they are with neutrality. This demonstrates that the procedural justice determinants are predominately based on the relationship that is built between legal authorities and victims, and less associated with how the case is further dealt with in the criminal justice system.

Besides satisfaction with fair procedures, procedural justice influences the attitudes that people hold towards police officers and the legal institution (Wemmers, van der Leeden & Steensma, 1995). Lind and Tyler (1988) documented the importance of procedural fairness in the political arena and in the criminal court; fair procedures enhanced the legitimacy of police officers, which allowed them to function more effectively.

### **Distributive Justice**

Past research and theoretical literature have explored the several perspectives on how justice is distributed, and what kinds of victims and offenders are given certain kinds of resources (Miller & Walzer, 1995; Folger, 1986; Greenberg, 1986). Levanthal (1980) defines distributive fairness as “judgment of fair distribution, irrespective of whether the

criterion of justice is based on needs, equality, contributions, or a combination of these factors” (29). The distribution of fairness for criminal cases will impact personal attitudes of justice and societal opinion, in which social standards are frequently being made and reinforced publicly and privately. When individuals are satisfied with how the police and court handle cases, especially when it involves an intimate crime such as sexual violence, they will have more faith in the police for providing fair and necessary treatment to victims and offenders. In return, if these individuals needed the police, they will rely on their help due to their remembrance of police officers past involvement.

The literature on distributive justice is founded on Adams’ (1965) equity theory, which is the belief that people are fundamentally selfish and only make rational choices that will maximize their self-interests (Tyler, 1994). Adams’ (1965) equity theory considers the nature of *inputs* and *outcomes*, the nature of social comparison processes, the conditions that lead to equity or inequity, and the possible responses one makes to reduce a condition of inequity (Pritchard, 1969). For Pritchard (1969), inputs are what someone puts into a product while outcomes are the factors that the person will receive in return. As outcomes and inputs form a ratio, an individual will weigh the “value” of the outcome-input ratio to their perceived importance. The equity component of the theory is determined when the ratios of outcomes and inputs are equal to the input-outcome ratio of other individuals (Pritchard, 1969). In the context of responding to criminality, equity theory examines the fairness of outcomes through proportionality between crime and punishment (Ambrose, Greenberg, & Colquitt, 2005). The relationship between a crime and its punishment is the mainstay of people’s opinions on fairness and justice. When the punishment corresponds with the crime, qualities of justice are recognized.

In criminal cases, distributive justice or equity issues arise when two or more persons exchange valued resources such as goods, services, money (Cook & Hegtvedt, 1983), or even punishment. Following Adam's equity framework, the offender and victim(s) will be given certain resources and be involved in specific legal processes that are *just* for both parties. Given the flaws within the criminal justice system, which are seemingly subjective to the case, the equity framework helps to determine the legal procedures that should occur and if there should be further resources given to both parties.

With various types of exchange rules and agreements that emerge from norms of distributive justice, consensual notions of fairness can increase predictability and reduce the costs of bargaining outcomes (Cook & Hegtvedt, 1983). With sex crimes, specifically, when victims from similar cases are given different resources and case outcomes, victims may feel that distributive justice has not occurred. For example, Lind and Lissak (1985) analyzed the psychological consequences of legal procedures to see if participants supported the fair outcome of their cases. The outcomes of arbitration hearings are used to see if there was correlation between the perceived fairness of the decision and whether or not participants won or lost the case. The outcomes did not follow normative standards. In this case, participants could not judge if the outcomes of their cases were fair because they did not have a referent standard to compare it to; participants did not know if they had received positive or negative outcomes. The participants based the distributive justice of their case on the procedural fairness that they received, which did not include the outcome fairness (Lind and Lissak, 1985). In this manner, distributive justice cannot be determined when people are not given normative standards that give clear expectations of outcome fairness (Van den Bos, Vermunt, & Wilke, 1997). Other than using normative standards to

assess distributive justice, research indicates that there are multiple factors that can influence people's perceptions of the fairness of an outcome (Venema, 2016; Lind & Lissak, 1985; Cook & Hegtvedt, 1983). Using qualities from one form of justice can be limiting and can produce harmful findings to sex crime research.

### **Interrelation of Distributive and Procedural Justice: The Pluralistic Approach**

Traditional research on organizational justice distinguishes between procedural and distributive justice as distinct constructs (Folger, 1986); however, recent studies suggests that these constructs overlap (Hauenstein, McGonigle, & Flinder, 2002; Cropanzano & Ambrose, 2001). Individuals can make inferences about procedural justice from information provided by distributive justice (Lind and Lissak, 1985), and in return, can make inferences about distributive justice from procedural justice perceptions (Van den Bos, Lind, Vermunt, & Wilke, 1997). In the book, *Procedural and Distributive Justice Are More Similar Than You Think*, Cropanzano and Ambrose (2001) call for a monistic view of organizational justice where the similarities between procedural and distributive justice are more apparent when looking at the economic and socioemotional aspects of outcomes. By highlighting the interaction between different forms of organizational justice, Cropanzano and Ambrose (2001) believe that future research can explore possible avenues that do not treat procedural and distributive justice as mutually exclusive categories.

Although distributive and procedural justice are considered two independent approaches to conceptualizing justice, research reveals their strong correlation (Sweeney & McFarlin, 1997; Walker, Link & Thibaut 1979). Walker, Lind and Thibaut (1979) suggest that the forms of justice should not be seen in juxtaposition, but rather as a cohesive way to evaluate individual beliefs and controlled procedures. This allows for an innovative

way to measure the effectiveness of legal practices—that are not bounded by two different understandings, but rather an inclusive approach. Currently, justice researchers use procedural and distributive justice as correlated variables (Cropanzano & Ambrose, 2001; Sweeney & McFarlin, 1997; Van den Bos, Vermunt & Wilke, 1997), but rarely address the theoretical implications of this relationship (Hauenstein et al., 2002).

Historically, the relationship between procedural and distributive justice, implicitly and explicitly. Given that both forms of justice share meaningful commonalities, they are also likely to capture similar variations within their outcomes (Cropanzano & Greenberg, 1997, Hauenstein, et al., 2002). Cropanzano and Ambrose (2001) suggest that conceptions of procedural and distributive justice are, in some sense, derived from the individuals' expectations about certain outcomes. The distinction between the two forms of justice is more semantic than real (Hauenstein, McGonigle, & Flinder, 2002; Cropanzano & Ambrose, 2001; Lind, 2001). The definitions, or foundations of, the two forms of justice highlight their differences; it does not exclude the possibility that procedural and distributive justice can have interconnected qualities in legal cases. Not only does procedural and distributive justice share meaningful and fundamental commonality, they are also likely to have similar variations in outcomes. By its very nature, looking at the contribution of one form of justice—treating it independently from the other—misjudges its relationships (Hauenstein et al., 2002; Cropanzano & Ambrose, 2001; Brockner & Wiesenfel, 1996).

In dispute resolutions, participants are more likely to see procedural and distributive justice as highly related because the fairness of the outcome is more salient (Hauenstein et al., 2002). Several justice perspectives propose an interactive relationship of procedural

and distributive justice (Hauenstein et al., 2002). Folger (1986), for example, suggests that negative reactions to a decision would happen if both procedural and distributive justice are lacking because individuals can construct a new alternative form of justice that has a more positive outcome. Furthermore, when an individual has perceived an outcome as fair, the conditions related to distributive justice will affect the perceptions of procedural justice (Hauenstein et al., 2002; Van den Bos, Vermunt, & Wilke, 1997; Flinder & Hauenstein, 1996). This reveals the connection between the two forms of justice since they both rely on each other to satisfy individuals' perception of fairness. While the distinction has been conceptually valuable, there is more evidence that suggests that procedural and distributive justice have too much commonality to be treated independent from one another (Van den Bos, Vermunt, & Wilke, 1997; Flinder & Hauenstein, 1996). The relationship between different forms of justice, in the context of sex crime victims and offenders, has been analyzed as independent and dichotomous, which overlooks the effectiveness of merging procedural and distributive justice. Against this backdrop, an increasing number of scholars are recognizing the significance of using a pluralistic approach to understand justice (Hauenstein et al., 2002, Cropanzano & Ambrose, 2001; Lind, 2001; Brockner & Wiesenfel, 1996). Not only will the pluralistic approach provide a new theoretical framework in scholarly work, it will be recognized and used first handedly by police officers who have to conceptualize justice for the sex crime cases they deal with.

Lind (2001) suggests that procedural, distributive, and interactional fairness all contribute to the development of a general fairness judgment that guides individual's interpretations of future justice related events. Lind (2001) has acknowledged the distinct forms of justice and their consequences but reveals, "the various forms of fairness are far

more fungible than one would think from existing work on the organizational and social justice judgments” (69). Researchers have called for a greater focus on overall fairness (Folger, 1977; Thibaut & Walker, 1975). Thibaut and Walker (1975) understand that procedural justice often led to and produced distributive justice, but it is “possible for distributive justice to be achieved without the application of any special procedure, as when all parties spontaneously agree about a fair allocation” (3). Although this might be true, the interaction between the two forms of justice still warrant an interrelated investigation that acknowledges the benefits to blending procedural and distributive forms of justice to sex crimes.

### **TREATMENT OF SEXUAL VIOLENCE VICTIMS**

In a Canadian context, the history of sex victim treatment in the justice system has been both alarming and disappointing. Scholars have analyzed the negative impact of the encounters with legal personnel, including police officers, which contributes to further victimization (Regehr, Alaggia, Lambert, & Saini, 2008). For example, Regehr et al. (2008) identified the historically low conviction rates for sexual violence as a clear demonstration of the justice system diminishing the experiences of sex victims. With the advancements of Canadian legislation that focuses on victim rights and treatment (for example, the Manitoba’s 1986 Justice for Victims of Crime), there is still a gap between the actual power that victims have in court and the power victims expect to have (Regehr, Alaggia, Lambert, & Saini, 2008). Consequently, victims endure a judicial process that can result in retraumatization (Regehr, Alaggia, Lambert, & Saini, 2008; Razack, 1991). For Orth (2002), they believed that the “secondary traumatization” within the justice system was based on satisfaction with the outcomes of the cases or due to the failure of the process

being procedurally just (as cited in Regehr, Alaggia, Lambert, & Saini, 2008).

Sexual assault policing is a very unique practice that has to be altered depending on the victim and their needs. However, some police officers are not accustomed to this case-by-case demand. While interviewing rape victim advocates, Maier (2008) found that the police contributed to victims' distress by failing to ask questions in a considerate and sensitive manner. Instead, the police are trained in a way that "obtains the most evidence and clearest testimony, possibly sacrificing victims' need for sensitivity" (Maier, 2008, 801). This literature supports the need for changes in police practices that are more attentive to victims' emotional well-being and further victimization. Hence, this research project explores some of the promising changes in Canadian police departments that influence victim satisfaction and just procedures.

### **METHODOLOGY**

The analysis for this paper is drawn from a larger research project that used semi-structured interviews with 70 Canadian police officers and 2 focus groups that examine police responses to sex crimes. The interviews dealt with two forms of sex crimes: digital sex crimes committed online (i.e. internet chats or distribution of child pornography) and non-digital sex crimes (i.e. physical possession of child pornography, sexual assault, statutory rape or molestation).

#### **Participants**

This study included police officers who had first-hand experience with victims and offenders of sex crimes. Police officers were chosen using purposive sampling: a non-probability research technique where individuals are selected based on characteristics of a population and the objective of the study. The chosen research participants were in Canadian police department for over 2 years, could recount personal instances of dealing



with sex crimes, and signed the consent forms. While collecting detailed descriptions of sex offenders, their victims, and how these crimes were dealt with through the legal realm, the participants were guaranteed anonymity and confidentiality. Victim names were concealed for multiple reasons: privacy for the victim, their family, and the police officers' involvement; some victims were under the age to give legal consent; or some of the cases were still in progress and disclosed information could be damaging.

A minimal amount of personal data was collected for this research to insure a proper sample of the population: gender, educational level, employment, and geographical location. This information enables us to explore how these individual factors contribute to the different responses to justice and their attitudes towards sex crimes.

### **Data Collection**

The research project began in January 2016 after receiving ethics approval from a university Non-Medical Research Ethics Board (REB). The interviews were conducted by two university professors who received exhaustive training on qualitative interviewing. The semi-structured interviews ranged from one to two hours. With permission, each interview was digitally recorded and manually transcribed. The interviews within this research project primarily used open, direct, verbal questions that elicited stories and case-oriented narratives (Rubin & Rubin, 1995). There were multiple questions regarding police officers' expectations of the criminal justice system, how police officers conceptualize justice for sex victims, the goals of their specific police department, and the kinds of support police officers can provide to victims and offenders.

### **Thematic and Data Analysis**

To analyze the responses, the interviews were coded using NVivo, a computerized

qualitative data analysis system, to gather common themes. Through a thematic analysis, this paper will address the following research questions:

*Will recognizable patterns of conceptualizing justice for sex crimes be shown through a thematic analysis of Canadian police officer responses?*

*Will the patterns in the thematic analysis explain the role that police officers say they play in providing justice for sex victims?*

*After analyzing police response to conceptualizing justice, will future changes within Canadian police departments be needed to integrate procedural and distributive forms of justice?*

This research project uses a thematic analysis to explore the responses given by Canadian police officers in semi-structured interviews. Thematic analysis is a qualitative method used to emphasize and examine patterns within a dataset. This project used a thematic analysis described by Braun and Clarke (2006), in which they provide an outline for researchers to follow. There are six stages in the thematic analysis process: (1) familiarizing yourself with your data, (2) generating initial codes, (3) searching for themes, (4) reviewing themes, (5) defining and naming themes, (6) producing the report (Braun and Clarke, 2006, 87).

A thematic analysis was chosen for this research project because of its lack of a theoretical framework and flexibility in the coding stage of the project. Following the outline provided by Braun and Clarke (2006), there were multiple themes and codes identified in the thematic analysis: procedural justice, distributive justice, flaws within the Canadian criminal justice system (such as slow court processes and revictimization), police officers building progressive relationships with sex victims, and helping victims find closure. Procedural justice was identified when officers expressed their focus on the investigative procedures that would be most beneficial for the victim and the victims'

needs, which includes giving more attention to the victim's story, respecting their choice to not move forward with the criminal process, and other support methods. Distributive justice was measured through police officer's responses that focused on the detainment of sex offenders and their convictions resulting in lengthy sentences. There were key words identified for both forms of justice, which allowed the researchers to thematically separate and categorize the distinct forms. These themes will be thoroughly discussed in the study findings section of this research project. The themes will show great importance to the progression of justice and how Canadian police officers have taken on new roles that give more attentions to the treatment of sex victims.

### **STUDY FINDINGS**

As aforementioned, conceptualizing justice for sex crimes is a multifaceted issue due to the continuous changes in police responses and the management of sex victims in Canada. Using qualitative data from police responses, this section of the research project will illuminate themes using passages from the interviews that show the significance in studying polices' account of justice for sex crime cases. This analysis will give groundwork to a new and pluralistic approach to conceptualizing justice that will have several advantages for future legal cases. Given the flaws of previous approaches to understanding justice, where different forms of justice are treated as distinct entities, the study findings will show the transparency of an interrelated form of justice used by police officers.

There are seven salient themes identified in the interviews that relate to the two forms of justice being used by multiple police officers in Canada: (1) the influence of police language, (2) fulfilling officer duties, (3) offender accountability, (4) victim satisfaction, (5) victim treatment in court proceedings, (6) investigation techniques, and (7) supportive

officer-victim relationships. The themes show the shift in police officers roles and their understanding to how they conceptualize justice for sex victims and offenders. The analysis will contribute to justice literature and encourage future research focuses on the powerful potential of the changes in police performances. The presumed incongruence of police officers being compassionate and exceptional support systems for victims is carefully examined in this project. The findings speak to the importance of reevaluating Canadian police officers' roles when dealing with sex victims and their offenders.

## **DISTRIBUTIVE JUSTICE**

### **Catching 'the bad guy': Police Language**

To me, my biggest reward is who I get at the end of the day. If I get that bad guy...And if he's not in jail forever, we better be babysitting him when he gets out (BA5- Reference 1).

Of the various themes that categorize a police officer's response as distributive justice, the core elements involved the court process and conviction of a sex offender. Especially for offenders who are involved in sexually related crimes, a specific officer emphasized qualities of distributive justice for sex offenders when he stated, 'like of all bad guys, *these* bad guys need to go to jail' (ED2- Reference 1). On multiple occasions, officers used a common phrase to describe sex offenders in their case studies: 'the bad guy'. This type of characterization in police language impacts how the offender is treated in the criminal justice system. The offender can be negatively perceived with 'the bad guy' characterization, which can elicit harsher sentencing and severe treatment. For example, after explaining an incident where a father was sexually abusing his own children, an officer stated,

So, that to me is probably the scariest of the scary that you can deal with, but at the end of the day, the most rewarding because we kick a door open, we arrest the bad guy and he's still in jail, and will be for a very long time (BA5- Reference 2).

The officer placed a great emphasis on the importance of punishment for 'the bad guy'.

For this officer, justice is understood through the offender receiving a lengthy jail sentence. For this officer, the conception of justice is fixated on the offender's management in the criminal justice system. Incapacitation, which is an element of procedural and distributive justice, allows the offender to be held responsible for his/her actions. Fortunately, the risk of future criminality is minimized, at the very least, for a set period of time and the safety of the victim from future victimization perpetrated by that offender.

### **'Doing my job as a police officer'**

An important aspect of police officers' jobs is determining how to fairly administer justice to victims and offenders. When discussing how a person is placed on the sex offender registry or has to submit to a DNA order, one officer admitted that for the police task force and the public, 'those are all positive. That's why we're here, right?' (HX17-Reference 1). The officer acknowledged that having those aspects of the court process are important to ordering justice. An officer from another Canadian police department saw convictions as a positive representation of police officers doing their job properly—conviction rates are taken into consideration when determining police tasks success rate (ED4-Reference 1). Not only did this officer see a conviction as a demonstration of suitable police work, a conviction was able to keep future vulnerable victims from being harmed. The officer stated:

But, when you get the sentence it makes everything better. When you get the 10 years [or] 12 years, you have a little party and it's all ok and you know that the child's safe that child's getting therapy some of the best therapy and you get reports in here how well they're doing and makes it all ok (ED4- Reference 1).

Many police officers gave importance to convictions because they saw it as an opportunity to limit future sexual victimization. For example, there were two officers who thoroughly

explained why convictions are an important part of justice:

But what I do always tell people, though, is that you know, I have 2 jobs. I have to investigate what you're telling me, but the other part of my job is protecting the public—other members of the public um, because sometimes you have people—you don't have it all the time—but I have had it where you know this person is a risk. Like he's going to do this again and trying to talk that person into maybe being part of the justice system for the people in the future—people are very receptive to that (BA2- Reference 2).

The other officer saw the conviction as an opportunity to make society safe because 'you get one of these guys off the street right' (WR3- Reference 3). By limiting their ability to commit crimes, these officers believe that convictions will prioritize public safety and help deter anticipated sex crimes. Justice is reflected in the sentencing; however, the conception of justice is not solely linked to convictions or a police department's ability to successfully punish offenders.

For some police departments, justice is conceived by measuring the success of the unit or the amount of cases 'win' (which are 'based off conviction rates or getting trial or laying a charge' (WR1- Reference 2)). For many police officers, there is a sense of reward when offenders are convicted. These police officers are satisfied with their influence to that outcome. Reflecting the role of concepts of the offender, one officer's comments show the significance to 'getting the bad guy' to their personal job satisfaction. He explains in the context of a shooting:

I want to find the bad guy who shot the guy, because—but is it really, is it the end of the world if I don't convict the bad guy that shot the bad guy? For me, yeah because I'm competitive and I want to get the bad guy... (CA6- Reference 1).

Although it is difficult to quantify success and clearance rates for Canadian police departments, police officers are self-motivated to convict offenders due to the expectations in police forces. Convictions are clear illustrations of police officers adequately doing their job and showcasing their ability to solve sex crime cases. When a sex offender was convicted, another officer states, 'the arrests of those people make it

worthwhile to do this kind of work' (WR3-Reference 1). Without minimizing the importance of protecting sex victims, the effortless way for these police officers to identify forms of justice that reflects their contribution in the process was when offenders were getting harsher sentences.

**Accountability: 'Getting a good sentence'**

Many police officers claim that justice is reflected in sex crime sentencings because offenders are held accountable for their actions. These officers identify 'good jail sentences' as one of the aspects of administering justice for both sex offenders and their victims. More often than not, the police officers in this study identify a 'good jail sentence' as one that justifies the offender's actions. Although it is hard to define a 'good' sentence, due to the misinterpretation of being synonymous to a 'harsh' or 'lengthy' sentence, the officers in this study illuminate the importance of fairness and accountability in sentences.

One officer posited, 'there's justice in knowing that the bad guy's locked up. Now whether I think he's locked up long enough, or the courts, or [victims], they would probably hope he was locked up for many years than what he actually will get, right?' (HX12-Reference 2). This officer recognizes that the Canadian justice system does not always hold these offenders accountable because of some of the lenient sentencing given to some offenders. A recurring emotion from police officers is frustration with the criminal justice system for not giving sex offenders harder treatment and punishment.

Throughout the interviews, there were many officers who criticized Canada's leniency in convictions and lengthy sentences. The issues of improper sentencing do not benefit the victim or the offender and will continue to be a matter of contention if offenders

who have been charged with sex-related crimes do not receive punishment that is relative to the crime. One officer stated,

It's tough for us, because we want to tag everybody we can. And, sorry that's slang. We want to identify as many offenders as we can, you know, people that are out there doing that to people. We, we, we want to make sure they're held accountable for that (HX17-Reference 2).

For some officers, lengthy sentences are an important element of justice in sex-related crimes. The focus on the length of sentence reflects the perspectives in distributive justice. Although it might not be in the best interest of the victim and their needs, this officer explains how justice can be reflected in harsher treatment of these types of offenders.

When asked about how sex crimes should be handled, one officer tells us,

I would like to see it go to court, get a conviction, but at the same time I don't know that that's gonna happen anyway, so it's not my place to decide for someone else to decide what's best for their life even if I would like to desperately would like to see this person behind bars (HX13-Reference 1).

As mentioned above, distributive justice is concerned with the distribution of outcomes, which is irrespective of whether the criterion of justice is based on needs or equality (Levanthal, 1980). As a result, many police officers in this research project have acknowledged that the Canadian criminal justice system has numerous characteristics that can be identified as distributive justice. In response to the question, how do you envision justice for victims, another officer tells us,

The system is not built around victims; it is built around the accused. Yes, we all have rights, we all, everyone tells you that we all have equal rights, but it often feels like the accused gets the benefit of those rights much more than anyone else involved in the investigation does. I think victims' credibility is called into question (SJ9-Reference 3).

For this officer, the larger issue is how the Canada's criminal justice system treats victims throughout the court process. This officer identifies the lack of resources available to victims as a fundamental failure of the criminal justice system. In consideration, the police officers who have demonstrated themes of distributive justice have also given importance to how victims, and possible future victims, are handled, which are qualities



from procedural justice.

## **PROCEDURAL JUSTICE**

### **'...what the victim wants'**

Police officers emphasize the importance of how court procedures and the criminal justice system should center on victim needs. This is an essential quality in police practice because some officers have recognized that 'a big thing with sex crimes is not everyone wants to go to court' (BA2-Reference 1). For many police officers, they understood that not all sex victims need or want to go through criminal procedures to feel as though justice has been served. An officer claims, '[victims] just need help like getting set up with the right people, you know, the right services. Ummm, not everybody needs a conviction over at court' (CW4-Reference 1). On that account, police officers try to consider the victims' needs before determining how to proceed with the case. Officers suggest that alternative methods should be offered for those victims who do not want their case to be handled through the court system. This can depend on a personal decision made by the victim because of the relationship they hold with the offender, the lengthiness of the court process if they decide to pursue the case, and/or the legal fees needed to continue with the case. The alternate resources that are more immediate and intimate will be more beneficial for them—instead of using the court process, victims can receive firsthand counselling and interaction with police officers.

Many officers place victim satisfaction as the main goal of the justice system instead of focusing on the conviction of the case. One officer comments, 'I believe that specifically to sex crimes that if somebody does not think that they can handle going to court but they just wanted to tell their story, you'd be doing more harm than good' (BA2-Reference 2). For this police officer, they understood that the court process is not

propitious for all sex victims. When legal personnel are dealing with victims, they take into consideration the personal stories of the victims and how to further help the victim by providing the best resources and options for them. Later in the interview, the officer explains a recent case he dealt with; the officer's vignette shows the importance of having a justice system that is oriented around the mental health of the victim and their future.

They stated,

I just had one withdrawn and man did it take me work. It was 3 victims of sex assault by their biological father. He had already been convicted against, um, other child family members—like cousins or nieces or something. But, um, and the one there was just not enough disclosure, but the other one—it would have torn her apart. And the crown recognized that. Like, she had to get admitted to the hospital when she heard of the new court date, she was going offside just for having to come for a prelim. The crown recognized that she can't do this. She can't testify, she can't be cross examined—we're going to drive her nuts. And it had to be withdrawn. He's guilty. That man was guilty. Sometimes I don't always know—reasonable grounds is 51%. He was guilty. But to push that, you could've broke her and that's not the name of the game, right? (BA2-Reference 2).

In cases like the one above, police officers consider how the punishment and treatment of an offender whose victim is someone they have a personal relationship, whether biological or intimate, has to be treated uniquely to avoid potentially hurting the victim more. If the court process has traits of revictimization, where the victim has to recall and re-experience their traumatic events in front of multiple legal persons, it might not be in the best interest of the victim to prosecute the offender. Another officer justifies the importance of this outcome when they state, 'there's a lot of advantages to looking after, more holistically, the victim's needs' (ED2- Reference 5). Even when an offender should be held accountable for their actions, reflecting procedural justice this officer gives more consideration to the victim's healing rather than the conviction of the offenders. If we put the victim's needs as the main focus of sex crime cases, the outcome of the case will not render as much importance. Instead, victims and their future healing will be a crucial factor into how case should be handled and proceeded.

**‘respect the victim’s wishes on that stuff, right?’**

For procedural justice, the perceived fairness is based on the victim’s satisfaction with legal personnel, which are centered around on respect and trust (Thibaut & Walker, 1975). One officer states, ‘They have to trust us. They have to trust the police and the courts to try to make life easy for them’ (SJ5-Reference 2). This officer supports that building trust with victims allowed the victims to open up to police officers and hopefully allowing them to express themselves has the potential to influence how they perceive the justice in this process. For example, Folger (1977), identifies “voice effect”, the degree to which someone is given the opportunity to express their opinion, as a beneficial tool for victims who want to tell their story, or experience (Thibaut & Walker, 1975; Koper & Vermunt, 1988; Lind & Tyler, 1988). For some victims, officers realize that having ‘a good sit down conversation with them’ or an ‘environment to be able to tell their story’ promotes procedural fairness (HX14- Reference 2). One officer asserted that,

I think there’s a lot of people that just want their stories to be believed and they want to be supported and they want some sort of closure whether or not that means, ya know I think in policing, everything, and that would be all for a lot of police officers, is a file – do you get a file out of this? Are you gonna get a criminal charge or whatever, to me that’s not been a measurement for me it’s not a big thing for me it’s whether I can build a relationship and I can help someone do something and so whether I think it’s going to be justice in the criminal law where somebody is charged for something or it’s providing support and closure to a file so they can move on and live a healthy life and not be defined by being victimized (HX4-Reference 2).

The above discussion suggests that victims’ stories are important for officers who use victim-focused forms of justice—procedural justice. Not only does this respect the victim’s wishes, but also gives victims a significant role in the justice system. For another police officer, who used qualities from procedural justice, they realized the complexities with sex crime cases since ‘the victim needs a little more power, the victim needs more say’ (HX6-Reference 4). If there is more attention on the victim’s treatment and needs, the end results will be in their best interest, and the results do not always end with a conviction or charge.

Another officer acknowledged that justice is not necessarily about the charge that the offender gets. They suggest justice should be about the satisfaction of the victim? The officer tells us,

...I think it's important I always sit down with the victim and I say tell me your story and then I kind of say what do you want to get out of –you know where do you want this to go, it's not always necessarily a charge... so if that victim comes in and they tell me and they think that's enough and they just want it on file, then I think that's enough for them um justice to me is not forcing someone to do something they don't want to (HX6- Reference 2).

For this officer, the voice of victim requires increased attention. This officer's comments demonstrate that she conceived justice as victim centers where victims are provided time to tell their stories to police officers. These officer's comments demonstrate an appreciation for the victim and their individual needs. This perspective reflects procedural justice because investigators can provide a safe place for victims to talk about their personal experience. An officer states,

Because these are personal things. This is stuff that happens—this is like reading someone's diary...I appreciate you being here and I'm thankful for you telling me your story—before we even get started and I let the personal space—so it's a lot more work. It is victim focused because you're trying to make them comfortable enough to allow them to trust you to tell you their story (BA1-Reference 2).

A victim-focused effort is a progressive way that Canadian police officers are handling sex crime cases, which supports the need for further research into the improved initiatives of police forces who aim to support victims and their needs. Police officers are more aware of how vulnerable and open victims become when they are sharing their story, since victim's story is a personal recount of the trauma they faced or continue to face. Police officers in this study try to make this process as comfortable as possible. When discussing a specific experience with a victim they dealt with, another officer states,

...she didn't get anybody but she ended up opening up to me about it and we ended up getting her out of that situation which was sort of a sidebar of everything else but if I hadn't have had that good experience with her and court wasn't a good experience for her and nothing about the investigation –it's all been hard but it's just, I felt good that she was able to build up trust with someone who was a police officer and then was able to –at least say something about the situation

she was in um and was able to like get her a place and get her away from him and that sort of stuff so... (HX19-Reference 2).

These comments show that this officer tries to do what is in the best interest of the victim. Officers explain that there needs to be an opportunity for victims to ‘work on themselves and their own lives’ with the help of compassionate officers who are able to empathize with their situation (HX19-Reference 3).

### **A Good Investigation**

Unlike distributive justice that relies on a good jail sentence or conviction, procedural justice focused on a good investigation techniques that enhance the benefits of the victim and the offender. One officer claims that ‘by doing a good investigation, I mean by doing the best investigation you can...I think that’s the best justice we can do. I mean on our end and hopefully they get some, uh, satisfaction in that whether or not there’s a conviction later on’ (CA10-Reference 1). The officer understands that ‘a lot of victims want different things’ and officers need to ‘take into account what the victim wants, especially in sex crimes [because] we know that court is an arduous process and extremely stressful’ (CA10-Reference 1). Having a good investigation can help alleviate some of the damaging aspects that the court processes have on victims and, instead, an investigation can provide a victim with the appropriate tools and resources to further deal with the aftermath of their experiences.

### **Open Relationships: ‘...she was able to build up trust with someone who was a police officer’ (HX19-Reference 2)**

A recurring change in police practices, that is acknowledged above, is the affirmative treatment of victims and their needs. For the Canadian police department in this study, many officers had open relationships with victims to allow for more intimate and

constructive support. Some of the victims used the police officers who were involved in their case as a positive outlet to communicate with, even after the case has gone through its legal requirements. An officer encountered a victim and her mother in the community and was able to 'pick up from day one and talk about all the good things in our lives' (CW1- Reference 1). Not only is the officer rewarded with appreciation from their victims, the victims are able to maintain and bond with legal personnel who help them through a traumatic personal experience and possibly an exhausting, both emotionally and mentally, court process. It is important for police officers to have continuous relationships with victims, especially those involved in sex crimes, because it shows their adaptation of more compassionate and cordial qualities; this progression supports the notion that police officers are changing their reputation and their roles within the legal system. Given the flaws that allow victims to feel detached from legal personnel, the changes within police practices illuminate the promising adjustments in multiple Canadian police departments.

At one of the police departments, they use technological measures to stay in touch with work demands, and more specifically victim relationships. One officer stated, 'we have cellphones that are given to us as work cell phones that we carry with us all the time and that I give out to my victims...I always keep it as an open relationship' (BA5-Reference 4). The officer understood that the demand of his job required him to use a work phone, but it was also beneficial for victims, in which they could have an open line of communication with someone handling their case. When explaining the involvement in a case, another officer stated,

I try to as much as I can when I know court is coming up, this is something that I learned when I was with the [XXX] police, is that if you are working a file- that is your file. You should make every effort to be in court every time that court comes up. Because you know what? If mom and dad are there it shows that you care. The police do care (SJ5 -Reference 2).

This officer gave high-priority to the involvement in the court process. Victims need to be supported by multiple outlets, especially when they do not have support from close family and friends. This officer, and many others within this study, are condemnable examples of legal personnel who give more initiative to victim treatment and needs. One officer joyfully explained going to work to find an envelope of appreciation from a victim, where the mother “thanked me for keeping her girls safe” (ED1-Reference 7). The officer further stated, ‘our work may not be glorious and glamourized like some of the stuff you see on policing, but we do make a difference. And we are not always told that, but when we do, it sure means a lot’ (ED1- Reference 7). Keeping an open relationship with victims to ensure favourable feelings towards legal procedures is a thorough example of procedural justice. The police officers are more concerned with remaining positive connections with their victims than the final outcome of the case or fate of the offender. Aside from Canadian police officers using more support methods for their victims, the expectations of police officers continue to incorporate a victim-focused ideology.

### **CONCLUDING REMARKS AND DISCUSSION**

In this article, I introduced a newer approach to understanding, analyzing, and describing how police officers conceptualize justice for sex victims and their offenders. More specifically, qualities from two different forms of justice, procedural and distributive justice, were used by Canadian police officers who dealt with victims of sexual violence. The police officers in this research project developed a pluralistic approach to victim needs and offender treatment. Contrary to traditional approaches to handling victims in the criminal justice system, the interviewed police officers have adapted new methods to conceptualizing justice for sex victims. The police officers in this particular study show

hopeful results of change within Canadian police practices.

In this research project, the identified themes showed integrated characteristics of procedural and distributive justice that emphasized the change in police behaviour and beliefs. Not only will these changes enhance victim satisfaction (in terms of fairness and justice), more individuals will trust police officers because of their more compassionate and thoughtful qualities. My research shows the need to reconsider police attitudes towards sex victims in a progressive light. My research also shows the ability for police officers to adapt different forms of justice for the best interest of victims and offenders.

This study empirically emphasizes the complexity of treating different forms of justice as distinct rather than interrelated. The passages used in the analysis show that despite the reports of damaging effects that victims of sexual violence endure in the criminal justice system and with police encounters, the police officers within this study are adapting to better techniques that benefit victims long term. Some of these methods are within the investigation stage, while others are through the court proceedings. Police officers are less likely to encourage victims to follow through with court procedure; instead, they rely on a case-by-case method where victim needs differ. Also, many police officers explained some of their support methods for victims that can be indistinguishable to the role of support workers, legal counsellors, and personal therapists. That is to say, police officers have put more care elements into their role by having better relationships with victims and offering more comforting and consoling traits. For example, some officers were willing to keep in contact with the victim after the legal process, which kept that intimate relationship for the victim to have—becoming an emotional resource for victims of a very personal and traumatizing crime.



Despite the various complexities in justice literature, this study showcases the powerful potential and benefits of treating different forms of justice as allied concepts when dealing with sex victims and their offenders. It is an apparent task to reorient justice studies to pursue an interrelated form of justice as a legitimate and essential initiative. While justice studies have bifurcated forms of justice in criminal cases, developing a credible and interrelated approach to justice is essential for advancing literature and investigation of sex crimes and their victims. David Garland (1990) once wrote, “theory is not some kind of flight from reality...Theoretical work seeks to change the way we think about an issue and ultimately change the practical ways we deal with” (277). For police officers, their theoretical and empirical understandings will continue to change as they adapt to new methods of handling sex crimes.

Although there are complexities to conceptualizing justice, it is valuable to explore how justice affects sex victims and how beneficial it is for forms of justice to be reformed from pre-existing notions. As procedural and distributive fairness seem to be dichotomous, the characteristics between the two forms of justice are useful in exploring how police officers envision justice for sex crimes.

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