

Trust and Legitimacy Built through Structured, Fair, and Objective Decision Making

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Trust and confidence in law enforcement reached a low in 2015. This was likely due in part to a number of high profile police-involved shootings. According to the 2015 Gallup poll of more than 1,500 Americans, only 52 percent of all Americans had “quite a lot” of confidence in police, the lowest level in 22 years.¹ Just 18 months later, however, confidence in law enforcement was at a near record high.²

During those 18 months the change in perception may have been impacted by national news stories that included the San Bernardino and Orlando terror attacks and the ambush in Dallas that left five police officers dead and nine wounded. Such shifts indicate the tenuous and complex relationship between the police and the public, and raise the question of what can maintain a stable and high level of public confidence and trust in law enforcement.

Recent discourse suggests that successful and stable relationships between the police and the public are built on trust and legitimacy through fair, equitable, and respectful treatment in law enforcement’s effort to control crime, disorder, and even terrorism. At the center of these discussions are the examination of police use of force practices, the discretionary use of police authority, and the potential biases that might result from uncontrolled discretionary police practices. Evidence-based policing is fundamental to these issues.

Significant research has been done on use of force, as well as implicit bias and disparity that provides important guidance for discretion and decision making for the police. One important area in this regard is a police officer’s decision to arrest a young person. We now know that arresting and detaining a young person may do more harm than good, potentially leading to recidivism as well as cumulative social disadvantage. To address this issue, the Brookline Police Department (BPD) and the University of Massachusetts Medical School have collaborated to develop an innovative approach for decisions about arresting juveniles.

Juvenile Arrest and Detention in Brookline

The Brookline, Massachusetts, jurisdiction is about seven square miles, with 60,000 residents almost completely surrounded by the City of Boston. It is a wealthy enclave with nationally renowned schools, a number of well-known residents, and a population that is about 77 percent white, with Asians as its second largest racial group (18 percent) according to the 2010 U.S. Census. BPD is a police service with a sworn force of 137.

In 2008, as a part of a review of juvenile arrests for a new reporting system initiative, BPD analysts found a noticeable trend in the juvenile population. Youth from the City of Boston were overrepresented in Brookline’s arrest statistics, as were youth from racial and ethnic minorities. Many of the youth had been arrested for minor offenses (e.g., shoplifting, theft, status offenses, etc.). Indeed, regardless of race, the analysis indicated that the department consistently arrested youth under the age of 17 for low-level offenses.

These findings led the police department to dig deeper. At the time, the department was also motivated by its participation in Massachusetts’ inaugural efforts with the Juvenile Detention Alternative Initiative (JDAI), a program spearheaded by the Annie E. Casey Foundation. Department researchers found a significant number of Boston youth arrested had past encounters with law enforcement. These past encounters could be formal (arrest or court appearances) or informal (field interrogations), and appeared to be influencing the officers’ decisions to arrest them.

As part of the JDAI effort and with this wealth of new knowledge and research, BPD decided it would attempt to limit prior involvement of youth in the juvenile justice system as a deciding factor. To do this, the department focused on understanding and measuring a youth’s risk of reoffending in the near future, rather than simply their prior involvement

1 See <http://www.gallup.com/poll/183704/confidence-police-lowest-years.aspx>.

2 See <http://www.gallup.com/poll/196610/americans-respect-police-surges.aspx>.

in the system. Specifically, was there a risk to public safety if the department decided not to arrest a youth?

These discussions led to a number of early versions of a Police Risk Assessment Instrument and a collaboration with Gina Vincent of the University of Massachusetts Medical School (UMMS). In Massachusetts, the purpose of arrest is to positively identify and ensure appearance before the trial court. If the youth did not appear to be at risk to reoffend, and was likely to appear in court, a different path with the youth could be taken that did not involve formal processing.

Based on research including more than 300 youths who had been arrested from four separate jurisdictions in and around the city of Boston, researchers were able to identify tendencies and trends that were predictive of re-offense and failure to appear. Through these analyses researchers were able to also identify variables that were indicative of juveniles who were not at risk to reoffend and were not at risk to abscond or default from court. With this knowledge, the collaboration between BPD and the UMMS led to the development of the Massachusetts Arrest Screening Tool for Law Enforcement (MASTLE).

The Massachusetts Arrest Screening Tool for Law Enforcement

The MASTLE is an objective, validated screening tool that gauges the likelihood a youth taken into police custody for a delinquent offense will be arrested for the commission of another offense in the future or will fail to appear for arraignment.³ The MASTLE's development study indicated its scores were significantly associated with later violent and nonviolent reoffending for both African American and Hispanic youth.

This information gives police supervisors and commanders additional information to make appropriate pre-processing decisions using objective empirical data. It can lead to structured, accurate, and consistent decision making, eliminating the perception of bias and unevenness in enforcement of juvenile laws. The tool is not intended to eliminate police discretion. Rather, it is additional information to help guide discretion based on objective, tested, and validated criteria.

In November 2015, after years of research, testing, and re-testing, the BPD implemented the first-of-its-kind policy using a structured decision-making tool to assist with pre-arrest screening and detention decisions. The department reasoned that arrest and detention of juveniles required thoughtful consideration and examination, and that referral rather than arrest could have a profound impact on low-risk youth.

A review of case files found many of the youth arrested were already being serviced by multiple social service agencies including law enforcement, and the treatments or punishments often crossed multiagency lines. To reduce harmful outcomes, save valuable resources, and decrease the likelihood of recidivism, a more structured discretionary approach by the police seemed plausible.

3 See Vincent, G. M., Gropman, M., Moreno-Rivera, F., & Perrault, R. (2015). *Massachusetts Arrest Screening Tool for Law Enforcement*. Retrieved from www.nysap.us/MASTLEbrief%20Nov%2015.pdf.

The innovative policy recommended for the first time that the department's goal was to "coordinate juvenile justice and delinquency prevention that meets the needs of juveniles while holding juveniles accountable for their actions. When appropriate, referral to local service agencies will be the preferred Department response." (BPD Policy # 2015-21, 2015).

A Positive Future

In 2016, following the adoption of the MASTLE and police diversion policies, a total of 48 juveniles were serviced in the Town of Brookline by BPD. Twenty-eight of these youths were diverted and dismissed through the Brookline Trial Court and Brookline Police program with no permanent juvenile record and no irrevocable Criminal Offender Record Information. Only four youth were processed and prosecuted in the trial court.

An additional 16 were diverted and serviced through other programs within the vast array of the local social services network. More importantly, these juveniles were able to avoid building official records that could potentially impact their future school and employment opportunities.

The law enforcement mandate is vaster than ever today. Beyond the normal range of services associated with policing, responding to, investigating, and arresting for criminal behavior, law enforcement must now engage in social work, drug counseling, medical services, mental health counselling, and even victim advocacy. Law enforcement leaders understand they must adjust their focus to help eradicate the underlying disease rather than treat observable symptoms that mask themselves in illicit behaviors.

However, these efforts are slowed, due to time, personnel, funding, and a never-ending demand for police assistance. It is compounded by systems that lack coordination and collaboration because they do not share the same mission. The greatest danger for law enforcement is to throw away kids into a juvenile justice system that often aggravates rather than mitigates symptoms and underlying diseases.

However, in many cases, it's the only system that is established and functional. If we are to remove the focus on arrest and detention for low-level offenses committed by low-risk youth, we begin to gain greater trust and legitimacy from the communities from which they come. It is a universal value that we all want the best for our children. This assess, divert, and dismiss approach has shown great promise in supporting this established principle.

When we use objective assessment to ensure we are putting the "right kids in the right place at the right time for the right reasons,"⁴ we demonstrate to our communities we share this universal value with them. We also save children from the roadblocks created by an official record and offer a future of possibilities instead of struggles. This is the most worthy of causes and creates a community based on shared values.

4 See Annie E. Casey Foundation, 2011, *No Place for Kids: The Case for Reducing Juvenile Incarceration* (<http://www.aecf.org/resources/no-place-for-kids-full-report/>).