Policing in the COVID19 space: Authority, legitimacy and adaption in a time of ambiguity

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*UK police forces have a wealth of experience in responding to emergencies but COVID-19 is unprecedented in terms of the speed, scale and complexity of developing doctrine and its implementation by officers across the UK. However, in meeting this adversity lies unparallel opportunity for important learning and knowledge development. Drawing on interviews with senior and operational police officers, this article outlines our research on how the fast-changing legislative and guidance frameworks imposed on policing during the COVID-19 crisis have created immense leadership and operational challenges. Yet, narratives around both ‘self-legitimacy’ and ‘bounded authority’ exemplify the limits of police authority in a rapidly evolving policing context.*

**Context**

On the 23rd of March Prime Minister Boris Johnson addressed the nation to announce measures to slow the spread of COVID-19. Instructing the public to ‘stay at home’, ‘lockdown’ had commenced. Three days later, UK COVID-19 emergency powers were put in place to enable police to enforce the lockdown, although the legislation was not entirely consistent with Government guidance. Nonetheless, it became an offence to leave home without a ‘reasonable excuse’ and the police were given powers to fine or forcibly compel people to return ‘home’. The College of Policing (CoP) and National Police Chief Council (NPCC) jointly issued guidance advising police forces to adopt a [‘4 E’](https://www.college.police.uk/What-we-do/COVID-19/Documents/Engage-Explain-Encourage-Enforce-guidance.pdf) approach to the enforcement of the [coronavirus legislation](https://www.youtube.com/watch?time_continue=250&v=C5D3LDoDTMs&feature=emb_title). First, ‘Engage’ with the public - ask individuals about their circumstances when they are outside and listen to their responses. Second, ‘Explain’ the social distancing regulations and why they are in place, including risks to public health and protecting the NHS. Third, ‘Encourage’ individuals to follow the regulations and return home if they have no reasonable grounds to be outside. Finally, as a last resort, officers may ‘Enforce’ the law, fining people for breaching the legislation and using reasonable force to return individuals home.

Following a reduction in coronavirus cases, on May 10th the Prime Minister announced plans to ease the lockdown, advising the public to ‘stay alert’ and allowing them to be outside of their homes for multiple purposes. Whilst the regulations and Government advice were updated, the core legislation granting the police COVID-19 powers remained unchanged. The CoP and NPCC issued new guidance to officers, retaining the focus on the 4 E’s approach, but advising officers that their role was to enforce the law, not government advice. Many commentators and police leaders expressed concern that the new lockdown rules provided a considerably more complex enforcement challenge. The regulations were further amended on June 1st, allowing people to leave their homes and remain outside for any reason, subject to restrictions on gatherings and overnight stays. Following these easements in May and June, from the 4th July, further businesses and venues will be allowed to open (e.g. pubs, cafes, and restaurants).

Throughout these three phases of the lockdown the core police COVID-19 powers have remained largely unchanged, whilst Government regulations, advice and the CoP/NPCC operational guidance have undergone many iterations. [Operational fluctuations have also been observed](https://news.npcc.police.uk/releases/statistical-update-on-number-of-lockdown-fines-given-by-police-1), with [a dramatic reduction in police enforcement since May 11th](https://www.bbc.co.uk/news/uk-52852498), indicating that factors other than merely legislation are influencing policing of the COVID-19 space.

**Theory & Purpose**

The CoP and NPCC guidance on the 4 E’s followed theoretical assumptions concerning fairness in police-community relations. The procedural justice model developed by [Tom Tyler and colleagues](https://trustandjustice.org/resources/intervention/procedural-justice) predicts that fair and appropriate treatment is key in securing public compliance. Fundamental for engendering trust and legitimacy for the police in the eyes of the public, are four key principles of procedural fairness. These tenets are: 1) that police officers should treat people with dignity and respect; 2) that the police should be transparent in their decision-making; 3) that officers should provide citizens the opportunity for voice (‘to tell their side of the story’); and 4) that the police should demonstrate that they are acting benevolently (that their motives are ‘trustworthy’).

Research shows the public care not only about ‘how’ they are policed, but also about ‘when’, ‘where’ and ‘what’ power is exercised by the police. Accordingly, the four pillars of procedural justice relate to the ‘how’ of policing (i.e., how the police treat people and how they arrive at their decisions). More recently, the concept of bounded authority - defined by [Trinkner and colleagues](http://eprints.lse.ac.uk/87427/1/Jackson_Bounded%20authority_2018.pdf) as acting within the limits of one’s rightful authority - relates to *where, when and* *what* it is that the police are doing and whether or not this is in line with public expectations in that context. In addition, this focus upon public perceptions of policing, fairness, legitimacy and authority is an interactive process that also needs to be considered through the eyes of those *doing* [policing](https://journals.sagepub.com/doi/abs/10.1177/1748895820933912). Increasingly, [research](https://academic.oup.com/bjc/article-abstract/54/6/1023/394753) has highlighted the importance of officer perceptions of their own authority - that is, their sense of self-legitimacy - in understanding police-public encounters in various [contexts](https://psycnet.apa.org/fulltext/2019-36698-001.html).

The COVID-19 context has created a complex and rapidly evolving policing landscape, with novel opportunities for exploring these theoretical concepts. To address these, we have undertaken a series of longitudinal interviews with both senior and frontline police officers across 23 UK police forces over the period of the pandemic.

**Summary of key findings and recommendations**

* While the ‘4 E’ approach is underpinned by theory relating to fairness in police-citizen interactions, its focus in officer talk was on how and when enforcement should be implemented. Rapidly evolving relaxations and a gap between Government policy and legislation were key to this focus.
* Police officer self-legitimacy has been difficult to achieve given the fast-changing legislative and guidance frameworks imposed on policing during the COVID-19 crisis. Leaders have struggled to shape, deliver and track the briefings to officers around application of COVID-19 powers whilst operational officers have wrestled with applying these briefings consistently to the numerous practical situations they have policed.
* Phase 3 of the pandemic raised issues of bounded authority. Officers were consistently encouraged to use enforcement as a last resort, but as lockdown was relaxed the ambiguities created by changing legislation and guidance meant officers were less likely to deploy COVID-19 powers to resolve a situation.
* Police officer narratives around self-legitimacy and perceptions of the boundaries of their rightful authority have been influenced by the evolving context experienced in policing the pandemic. It is recommended that consideration of self-legitimacy and bounded authority should be implemented into guidelines around policing of COVID-19 legislation.
* It is recommended that the disconnect between Government guidance and the law must be attended to and Government should make efforts to align police powers with advice and guidance provided to the public.

Our study

Longitudinal data have shown distinct changes over time in police experiences of managing, responding to, and policing the COVID-19 pandemic. Three phases have been identified as key focal points within the data: phase 1 - stay at home; phase 2 - stay alert; phase 3 – business as usual. Changes throughout these phases were found to influence two core analytical points relating to officer self-legitimacy and bounded authority.

**Phase 1 (March 26th – May 11th): Stay at home?**

During the initial phase of lockdown, the police were required to adapt to a new legislative framework and operational arena. Frontline officers described their knowledge of this new legal framework as obtained from personal readings of the Coronavirus Act 2020, information within Government briefings, CoP/NPCC guidance and subsequent messaging within forces. This was associated with police leader frustration in being unable to access information prior to public announcements and provide pre-planned adaptations to the changing context. Rather, they were required to provide some form of immediate response whilst simultaneously developing a more thoroughly considered approach which lagged behind Government publications. Officers highlighted that this was further complicated by the uncertain and ambiguous public messaging. For example, statute stated that people ‘can leave home to exercise’, yet government guidelines advised people to ‘not go too far from home’ and ‘keep it to about an hour a day’. The guidelines did not always coincide well with legislation, creating confusion for public and those policing the new landscape. This contributed to a lack of police confidence in their own authority that impacted on the way they policed the public.

Despite this initial complexity and confusion, officers described greater clarity and understanding a short number of weeks after the introduction of the new legislation. In this seemingly stabilising policing landscape, officers could more easily identify where restrictions had been violated and described greater confidence in their response to COVID breaches. Indeed, issuing of Fixed Penalty Notices (FPNs) increased significantly between 7th and 11th April ([NPCC stats](https://news.npcc.police.uk/resources/daily-totals-to-8-june)). A consistent narrative of the 4 E’s emerged and reflected the CoP/NPCC guidance that enforcement was a ‘last resort’ option. However, there was significant disparity between forces in the extent to which the final ‘E’, enforcement, was adopted. Senior officers of some forces emphasised that enforcement should only be adopted where the first of the 4 ‘E’s’ had been exhausted *and* it was perceived to be a necessary outcome. Others were satisfied with the use of enforcement activity where the first of the 4 E’s were unable to elicit compliance. Both stances followed the 4 E procedure, but the former was associated with a greater reluctance to turn to enforcement than the latter. There was not a universal consistency in the policing response to this newfound, complex context despite the widespread adoption of the [4 ‘E’s](https://news.npcc.police.uk/resources/force-totals-to-8-june-england). Rather, there was a geographically defined approach developed within police force areas and implemented by frontline officers in their interactions with the public.

During the early days officers were acutely aware that their COVID-19 intervention could quickly become a national media story, such as the [Derbyshire Police drone footage of walkers in the Peak District](https://www.bbc.co.uk/news/uk-england-derbyshire-52055201) and the [overturned conviction of a woman who didn’t engage with officers at Newcastle railway station](https://www.bbc.co.uk/news/uk-england-york-north-yorkshire-52148020), and so avoided formally applying the new powers. Additionally, in mid-May [the majority of the enforcement orders given in phase 1 of the pandemic were overturned](https://news.sky.com/story/coronavirus-dozens-wrongly-charged-under-lockdown-laws-cps-says-11988865). The media and public scrutiny of police responses placed added pressure for senior officers in police forces who described a need to justify or adapt their policing approach – it is not *only* the legislative context that influences police thinking and practice. Alongside trying to learn the COVID-19 powers, officers were nervous about using the powers and attracting unwelcome headlines to them/their force, particularly where they were linked to police fairness and had the potential to influence public perceptions of legitimacy.

**Phase 2 (May 11th – June 1st): Stay alert?**

Changes in the regulations and guidance as the Government message switched from ‘stay home’ to ‘stay alert’ created additional complications in the legislative framework that forces were required to adapt to. During this phase there was greater ambiguity in officer talk of what *could* and *should* be policed that contributed to the decreasing confidence police officers recounted of their own authority. Officers described policing a ‘grey zone’, not knowing whether certain citizen actions constituted an offence or breached COVID guidance. This was combined with a discomfort in policing some areas of private life, such as birthday parties and family household visits which further complicated the policing of COVID-19 legislation. Subsequently, there was an even greater focus on the first of the 4 E’s and frontline officers described a reluctance to adopt the final ‘E’ of enforcement in relation to COVID breaches. Some officers experienced the rescinding of FPN issuing, adding to a reluctance to respond to such breaches with enforcement.

Officers described an increase in some forms of traditional criminality that coincided with, or were exacerbated by, breaches of COVID restrictions, such as anti-social behaviour in rural and recreational areas. Senior officers, however, described a hesitancy in utilising traditional policing methods, such as dispersal orders and stop and search to tackle such criminality. There was concern for how the public would perceive police practice, and therefore the legitimacy of the police, in the current uncertain context in which the police were seen to be under public and media scrutiny. Senior leadership showed that they were cognizant to public perceptions and its link to police legitimacy, and were concerned about disproportionality (for example amongst young adults and BAME groups), but that [did not](https://www.telegraph.co.uk/news/2020/06/03/met-police-data-shows-bame-people-almost-50-per-cent-likely/) necessarily result in a more proportionate policing.

Some geographically-distinct policing strategies and practice also continued. In certain forces, frontline officers sought advice from supervisors and were required to obtain authorisation to use enforcement for COVID breaches, whilst in others they were simply encouraged to police with discretion. Despite a concern for public perception, there was no universally agreed-upon strategy for moving forward in this policing landscape that emphasised the value of neutrality and consistency. Forces were adapting to the changing landscape using different approaches that reflected their geographies and local issues.

**Phase 3 (June 1st – now): Business as usual?**

With regulations relaxing further, officers began to describe a return to ‘business as usual’. Criminality was seemingly returning to a rate that starts to resemble pre-lockdown and traditional policing strategies were increasingly being implemented (e.g. dispersal orders were put in place and stop and search practices were adopted). Police officers thus highlighted concern about the boundaries of their rightful authority to continue to police COVID in the same way as before.

Despite the narrative of a return to business as usual, forms of ‘traditional’ criminality were influenced or exacerbated by lockdown relaxations, and COVID-specific criminality also continued to be a feature of officer workloads. Large gatherings of groups of more than 6 people and indoor gatherings became particularly problematic following relaxation around gatherings. This posed new challenges to officers who were required to police significantly sized groups and private spaces. Rather than describing simply a reluctance to use enforcement in response to the breaking of COVID regulations, officers were now emphasising its impossibility – that it was not possible to obtain details of individuals gathered in mass groups in order to provide FPNs, nor was it always possible to enter private premises to identify any indoor group gathering. For example, the Black Lives Matter protests were described by police to be an impossible situation. The protests were clearly a COVID breach but police had to weigh that with people’s right to protest peacefully and with the nature of the protests (for example, in relation to police brutality). These protests were therefore not possible to police in COVID terms given people’s right to protest peacefully and the nature of the protest itself which gained precedence over COVID in this instance.

As a result of the changes to the legislative context in this phase, officers described a focus on traditional criminality and the utilisation of enforcement practices that relate to those crimes. Where groups had gathered and were posing an anti-social threat, the policing response would focus upon ASB rather than COVID. In addition, police forces began to remove themselves from the policing of some COVID guidelines. Businesses were informed that they must themselves manage social distancing guidelines as that was no longer of police focus. There was largely a shift in the policing focus from COVID to ‘traditional crime’ – an area where there is less ambiguity and officers report greater confidence in their role, authority and response. The 3 E’s remained for COVID breaches but the final ‘E’, enforcement, was more often associated with other forms of criminality that coincided, but took precedence over, COVID breaches. Whilst Coronavirus legislation continued to play some role in police work, particularly where clearly evident breaches occurred, there was a greater focus on other criminality and policing of that criminality above and beyond the COVID landscape.

**Implications**

* **The quality of police contacts matters**

Guidance concerning the policing of COVID-19 usefully consisted of a 4 E approach that emphasized the importance of fair policing principles. Police officers highlighted the general success of such an approach which allowed most interactions to avoid escalation to the 4th ‘E’, coercive enforcement. Nonetheless, other factors relating to self-legitimacy and bounded authority also influenced the nature of police-public interactions

* **Building officer self-legitimacy**

What we have also shown is that it is vital in the current fast-evolving legislative context that officers themselves continue to be confident in the authority vested in them. Or in other words, that they continue to believe in their own (or ‘self’) legitimacy and consequently in their ability to do their job effectively. Research suggests that this can be achieved by instituting forms of internal procedural (or organisational) justice. For example, [Bradford and Quinton](https://academic.oup.com/bjc/article-abstract/54/6/1023/394753) demonstrated that officers’ commitment to democratic or procedurally just forms of policing practice related in important ways to the extent to which those officers themselves felt that they were treated fairly by senior management.

In order to institute organisational justice, police leaders must communicate clearly and effectively with their staff and listen and take on board their perspectives. We reported that forces in which leaders provided front line officers with short but consistent and frequent updates around the changing nature of the situation and policing response appeared most effective. Local as well as force-wide updates would combine the directly relevant with the wider picture. It is also vital in the current fast-evolving legislative context that officers themselves continue to be confident in the authority vested in them.

The gap between Government advice/announcements and the law must be closed to reduce ambiguities for both the public and the police officer; not least because the police are tasked to enforce the law, and not Government guidelines. The police must be afforded sufficient powers to allow for necessary intervention when enforcement becomes necessary.

* **Respecting the boundaries of police authority**

As we move further into phase 3 (what we have termed ‘business as usual’) another important part of the procedural justice model became crucial: bounded authority. Officers should use any newly granted COVID-19 related powers (e.g., entering private premises) sparingly and be aware of the potential for such actions to be viewed as an example of police encroachment on citizen rights and expectations. Whilst the use of such powers may be legal there is a need to also question the extent to which members of the public will view such use as legitimate. Maintaining use of the first 3 E’s remains key to procedurally just policing.

Fair policing and officer self-legitimacy also tie into a clear understanding of limits to one’s authority – without knowledge of those limits, officers may struggle to develop a belief in their own authority and police fairly according to those limits. Where possible, legislation powers and guidance for police action should provide clarity towards and target all three theoretical concepts.

**Conclusion**

UK police forces have a wealth of experience in responding to emergencies but the current COVID-19 crisis is unprecedented and national in scale. Guidance in the policing of coronavirus regulations has provided universal thinking concerning an approach that begins with engagement and ends with enforcement, reflecting important principles of procedural justice. However, that guidance has been implemented differently in practice as police forces have adapted locally to the complex COVID context. Continuous changes to lockdown restrictions and associated regulations further complicated the policing landscape, creating reservation and reluctance in responding to breaches of COVID regulations that were guided by the ‘4 E’ approach. Subsequently, police forces have been quick to return to a sense of ‘business as usual’, responding to ‘traditional crime’ with ‘traditional policing strategy’ that may not be as usefully guided by evidence-informed principles of procedurally just policing. To avoid the anomaly of the police policing guidance rather than the law, the Government should make every effort to constantly align the police powers with the advice and guidance they are providing to the public. The research team suggest that the 4 E approach is effectively being underpinned by Procedural Justice Theory, but that insights will be achieved by exploring in greater detail concepts such as police officer self-legitimacy and bounded authority.

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