



## Exploring the sanction–crime relationship through a lens of procedural justice



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### ABSTRACT

**Purpose:** Research overwhelmingly explores “kinds of people” as moderators of the sanction–crime relationship (Piquero et al., 2011). This work, on the other hand, focuses on the sanction experience and draws upon the procedural justice doctrine and key ideas in Sherman’s (1993, 2014) defiance theory to test whether individual evaluations of procedural justice condition the effect of legal sanctions on subsequent criminal behavior.

**Methods:** Using a sample of serious adolescent offenders, generalized linear regression models with interaction terms are employed to test whether the effect of legal sanctions on involvement, variety, and frequency of offending is conditioned by procedural justice. Significant interaction effects of legal sanction and procedural justice are illustrated with graphical methods.

**Results:** Results suggest that evaluations of procedural justice condition the sanction–crime relationship. Sanctions lead to a higher likelihood of offending among individuals with low evaluations of procedural justice. However, among those with higher evaluations of procedural justice, there is no significant relationship between sanctions and subsequent offending.

**Conclusion:** Increasing perceptions of procedural justice reduces unintended consequences of sanctioning experiences. In an era of heightened focus on interactions between citizens and criminal justice professionals, enhancing procedural justice is not only ethical but also protects against deviance amplification processes.

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### Introduction

Current criminological theories propose competing processes regarding the relationship between legal sanctions with the criminal justice system and subsequent criminal behavior. Specific deterrence theory claims that sanctions should lead to a reduction in criminal offending, whereas labeling theory suggests that these same sanctions should amplify subsequent criminal behavior. It is also possible that these experiences have no effect on later offending and neither of these two theories on their own adequately explains the relationship between sanctions and ensuing criminal behavior (Huizinga & Henry, 2008, p. 221; see also Sherman, 1993). This conundrum led leading scholars of both deterrence and labeling theory to suggest that the sanction–crime relationship is not invariant across subgroups or contexts (Nagin, 1998; Paternoster, 1987; Paternoster & Iovanni, 1989, p. 381). By in large, the majority of research on the sanction–crime relationship draws attention to the potential import of who the offender is and what resources he or she has in the study of the sanction–crime relationship (e.g., Bernburg & Krohn, 2003; Chiricos et al., 2007; DeJong, 1997), and there is a dearth of research that focuses explicitly on how the

context of the sanction may condition the sanction–crime relationship (Barrick, 2014; Nagin, 2013; Piquero, Paternoster, Pogarsky, & Loughran, 2011). This is an important omission in the study of the effects of sanctions on subsequent criminal behavior because extant theory (i.e., defiance theory) anticipates that the quality of treatment by police and courts during interactions with the criminal justice system is critical to understanding whether sanctions will deter, promote (i.e., deviance amplification), or have no effect on subsequent criminal behavior (Sherman, 1993, 2014). Further, several recent high profile events (e.g., the death of Freddie Gray) catapulted the nature and consequences of interactions between criminal justice system professionals and citizens to a pressing issue of our time—procedural fairness.

In order to better understand why sanctions may curb or promote subsequent criminal behavior, if they have any effect at all, we argue that more attention must be given to the perceived quality of interactions with legal authorities who administer sanctions. The focus on the importance of the nature of contacts with the criminal justice system is not new (see Braithwaite, 1989; Sherman, 1993). The procedural justice doctrine, largely based on the work of Tyler’s (1990) study of compliant behavior, specifically draws attention to the importance of individual evaluations of fairness or procedural justice during interactions with legal authorities; specifically, interactions that are perceived as procedurally just promote cooperative behaviors, including compliance with the law. Although literature examining the significance of

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procedural justice focuses primarily on the direct effect of procedural justice on noncompliance with the law (e.g., criminal behavior) and its indirect effect through perceptions of legitimacy (e.g., Fagan & Piquero, 2007; Fagan & Tyler, 2005; Mazerolle, Bennet, Antrobus, & Eggins, 2012; Paternoster, Brame, Bachman, & Sherman, 1997; Reisig, Tankebe, & Mesko, 2014; Tyler, 1990; Tyler & Huo, 2002), its arguments regarding why the nature of contacts with agents of the criminal justice system promote or inhibit offending complement theoretical efforts to understand the consequences of sanctions on subsequent criminal behavior (Sherman, 1993, 2014).

The focus of this work is to further understand the conditions under which legal sanctions affect subsequent criminal behavior. Building upon the procedural justice doctrine (Tyler, 1990; Tyler & Huo, 2002) and essential elements of defiance theory (Sherman, 1993, 2014) in order to highlight how procedural justice can add to our understanding of how and why sanctions may have variable effects across individuals, we empirically examine whether procedural justice moderates the effect of legal sanctions in the form of involuntary contacts with the criminal justice system on various indicators of subsequent offending behavior. In doing so, this work continues to unpack the heterogeneity in the effects of sanctions on subsequent criminal behavior and further highlights the importance of the sanctioning experience and evaluations of procedural justice in the study of offending.

### The effects of sanctions on criminal behavior

Legal sanctions do not have the same effect on subsequent offending behavior across individuals (Huizinga & Henry, 2008; Nagin, 2013; Nagin, Cullen, & Jonson, 2009; Paternoster & Iovanni, 1989; Sampson & Laub, 1997). Two theoretical perspectives are used to explain these varying effects. Labeling theory suggests that legal sanctions promote subsequent criminal behavior (Lemert, 1951; Paternoster & Iovanni, 1989) through the alteration of one's identity, enhancement of deviant peer networks, and the diminution of access to conventional opportunities (Barrick, 2014; Huizinga & Henry, 2008). Conversely, specific deterrence theory suggests an inverse relationship between sanctions and subsequent criminal behavior; that is, legal sanctions decrease the likelihood of subsequent offending by increasing the certainty of punishment (Nagin, 1998, 2013). Given these competing theoretical perspectives and the finding that the "effect of sanctions on compliance is not one size fits all" (Piquero et al., 2011, p. 238) contemporary scholarship suggests that researchers investigate a general theory of sanctions rather than focus on the labeling or deterrence perspective in order to unlock the black box of the varying effects of sanctions on subsequent criminal behavior.

To address the unsettled status of the sanction–crime relationship, recent evaluations of both labeling theory and specific deterrence theory dedicate substantial attention to characteristics that potentially moderate the effect of legal sanctions on crime to further untangle the sanction–crime relationship (Barrick, 2014; Nagin, 2013). The primary focus of these inquiries uses a "kinds of people" framework (Piquero et al., 2011) and focuses on how individual factors such as demographic characteristics, social bonds, and individual propensities for offending condition the effect of sanctions on crime (e.g., Berk, Campbell, Klap, & Western, 1992; Bernburg, 2003; Bernburg & Krohn, 2003; Chiricos et al., 2007; DeJong, 1997; Jackson & Hay, 2013; Klein, 1986; Krohn, Lopes, & Ward, 2014; Loughran, Piquero, Fagan, & Mulvey, 2012; Morris & Piquero, 2013; Pogarsky, 2007; Sherman et al., 1992; Ward, Krohn, & Gibson, 2014). It is important to note that a full review of this body of literature is beyond the scope of this work and exists elsewhere in detail (see Barrick, 2014; Huizinga & Henry, 2008; Nagin, 2013; Nagin, Cullen, & Jonson, 2009). However, many leading scholars who assess the overall effect of different contingencies to the sanction–crime relationship argue that further investigation and attempts at theoretical refinement of the sanction–crime relationship are still necessary (Barrick, 2014; Bernburg, 2009; Jackson & Hay, 2013; Huizinga & Henry, 2008). More

specifically, more attention should be given to the context of the sanction and how it may speak to the conditions under which the effect of sanctions on crime is positive, negative or null (Huizinga & Henry, 2008; Sherman, 1993, 2014). Therefore, we hone in on the nature of the sanction experience(s) and, more importantly, how it is perceived by an individual, in order to identify another possible contingency that leads to differential effects of sanctions on offending.

### Procedural justice and the sanction–crime relationship

The procedural justice doctrine is based largely upon the work of Tyler (1990) and colleagues who argue that evaluations of how decisions are made in terms of procedural justice are more important than evaluations of distributive justice (fairness of outcomes) in decision acceptance and subsequent cooperative behaviors (Fagan & Tyler, 2005; Sunshine & Tyler, 2003; Tyler, 1990; Tyler & Huo, 2002). Importantly, procedural justice refers to the fair and ethical treatment of individuals by authorities during decision-making processes (including the decision to sanction an individual) and encompasses the quality of decision-making and the quality of interpersonal treatment by authorities (Tyler & Blader, 2003; Leventhal, 1980). The first insight into the importance of procedural justice came from the work of Thibaut and Walker (1975) who found that people defined their experiences in court as "fair" to the extent that they had the ability to express their "voice" or state their case regarding the matter at hand. In addition to having a voice, the notion of procedural justice also includes the concept of neutrality or the use of facts and transparency in decision-making processes by authorities (Tyler, 2004; Tyler, Jackson, & Bradford 2014). Another key element of procedural justice is trustworthiness or the ability of authorities to convey that their motives are genuine (through honesty and sincerity). The final and arguably most important element of procedural justice includes authorities treating people with respect and dignity by showing a genuine respect for citizen rights regardless of social status or previous interactions (Mazerolle et al., 2012, p. 347; Tyler & Lind, 1992).

Personal, subjective judgments of procedural justice are significant for many reasons. First, they are important assessments of the general activities and behavior of the police and other legal authorities including court officials such as judges (Fagan & Piquero, 2007). Second, they are a key component in supportive values towards authorities, such as legitimacy, which in turn influence general cooperative behavior with authorities (Sunshine and Tyler, 2003; Tyler, 2003). Third, judgments of procedural justice are important in their own right because cooperation and deference to legal authorities result when people feel they are being treated fairly (Tyler & Huo, 2002). The majority of research on procedural justice focuses on the interrelationships between procedural justice, perceptions of legitimacy, and cooperative behavior (e.g., Augustyn, 2015; Fagan & Piquero, 2007; Fagan & Tyler, 2005; Mazerolle et al., 2012; Penner, Viljoen, Douglas, & Roesch, 2014; Piquero et al., 2005; Reisig, Tankebe, & Mesko, 2014; Reisig, Wolfe, & Holtfreter, 2011; Sunshine & Tyler, 2003). Notably, this body of research focuses on these relationships among offenders and non-offenders alike as well as those with and without recent sanctioning experiences.

Tyler and Blader's (2003; Blader & Tyler's 2009) group-engagement model of cooperative behavior (e.g., compliance with the law) serves as the current theoretical foundation for the importance of procedural justice. The core principle of the group-engagement model is that an individual's subsequent behavior is influenced by how a person thinks and feels about oneself in relation to the larger social group (Blader & Tyler, 2009, pp. 445–446; Tajfel & Turner, 1979). Individuals who identify with a group are more likely to behave in line with the group's best interests as identified by rules and regulations (or laws) whereas those who do not identify with the group often act in a manner that is contradictory to the rules and regulations (e.g., crime). According to the group-engagement model (Tyler & Blader, 2003; Blader & Tyler, 2009), procedural justice, as evaluated by the quality of decision-making and quality of treatment by authorities of the group, is

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