Searching for Justice in Frontline Workers:
A Thirty Year Retrospective

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Formal law held sway into the 1980s in both socio-legal studies and in public policy studies as the conceptual marker of the delivery of justice by the state. Scholars from both fields were locked into a structure of inquiry that granted formal social policy, both legislative and judicial, this standing. The focus of scholarship was on the impact of public policy, particularly the degree of compliance secured when legal intent was to curb deviant behavior and the extent of benefits allocated when the intent was to improve client wellbeing. Using quasi-experimental designs, institutional data, and sophisticated time-series analytic techniques, scholars almost always found less than optimal impacts, often far less (e.g., Campbell and Ross 1968; Glass, Tiao and Maguire 1971; Ross 1973), and thus, turned to field studies to explore gaps between the law on the books and the law in action (e.g, 1967; Hall and Loucks 1977; Bardach 1977). Law was subverted; justice was interrupted by the administrative state. The task was to discover the source of this disruption, the reasons for it, and join social science knowledge with modern management tools in the correction of bureaucratic processes and disciplining a public workforce of bureaucrats (e.g., Pressman and Wildavsky 1979).

Using surveys, interview protocols, and participant observation, socio-legal scholars undertook gap studies while public policy scholars engaged in implementation studies, both converging on "discretion" as the construct for organizing thought about how and why justice, in the form of legal mandates, was being subverted (e.g., Davis 1971; Yin 1977; Fyfe 1979) . Clearly, big normative issues related to western thought about justice were at stake. Absent routine implementation, both the rule of law and democratic accountability were undermined by the administrative state and its workforce (see Maynard-Moody and Portillo 2011: 253). Social science knowledge about discretion was forged with a normative project that first sought

to eliminate it, to kill it, and later to channel discretion, both moves intended to achieve legal conformity and restore justice.

A body of conceptual work emerged from empirical studies of legal gaps and policy implementation in the late 1970s and early 1980s, most notably Michael Lipsky's now classic book, *Street-Level Bureaucracy* (1980), undermining the formal law-justice paradigm. Essentially, Lipsky and colleagues claimed that discretionary decision-making by "line staff" was inevitable, or structured by the face-to-face nature of the work. Line personnel enter their jobs with the intent of doing good for people and communities, but their idealism erodes quickly due to the structure of work, giving way to "creaming" or grabbing on to citizen-clients most amenable to demonstrating success, an empirical sign of an administrative state driven by the pursuit of worker and organizational interests. Discretionary decision making was re-presented as a site for the exercise of rational choice, a means-end calculation of "people processing" to advance individual and organizational interests (Prottas 1979). With line workers driven by self interest and steeped in discretionary freedoms, they were normatively constituted as shirkers of the needs of citizens. Legal impact and compliance was erased as a reliable measure of the diffusion of justice to people or communities due to the discretionary powers inherent in the administrative state. Cynicism ruled in the academy and political attacks on "big" government were given another venue – an uncontrollable administrative state and a self-indulgent, bureaucratic workforce.

My own career followed the path outlined above. With colleagues, I imagined law and justice as convergent, utilized sophisticated time-series analytic techniques to calibrate the degree to which reform policies redounded on the lives of targeted citizens and communities as

intended, and employed qualitative methods to discover the administrative roadblocks to

"good" policies (e.g., Aaronson, Dienes and Musheno 1978; Musheno, Levine and Palumbo

1978) . Grafting onto the discretionary paradigm, I initially looked closely for incentives and

disincentives that might bring worker and organizational interests in line with policy intent (e.g.,

Levine, Musheno and Palumbo 1980; Aaronson, Dienes and Musheno 1984). However, as my

work took me deeper into the field, replacing institutional data with field notes and time-series

analysis with thematic analysis, I became uncertain of the depiction of street-level workers as

shirkers and saboteurs (see Brehm and Gates 1997 for summary of this depiction). There was a

quality in my observations of the everyday performance of line workers that seemed "beyond

self interest" (see Mansbridge 1990) for fully grasping their decision-making. I first turned back

to the scholarship on discretionary decision-making and found traces of something else. While

Lipsky noted that street-level workers have little to lose if they shirk their clients' needs, he also

pointed out that their daily work is steeped in normative judgments (1980: 159). At about this

time, I came across writings in social psychology that offered evidence of a "justice motive" in

human behavior (Lerner 1975; Lerner 1980; Lerner and Lerner 1981). The possibility of a justice

motive embedded in street-level decision-making came to me and due to the good fortunes of

winning a two-year fellowship to Yale University to study law and psychology, I was able to

concentrate on fusing my growing interest in street-level decision-making with readings on

justice and human behavior, and the sociology of organizations.

In 1986, I published a conceptual piece that drew upon my readings on justice, field-

notes from encounters with frontline workers, and interactions with scholars at Yale interested

in organizational behavior. The gist of the article was a claim that front-line decision making is

driven, in part, by a "justice motive," a focus on fair distribution, both a macro-justice concern, or what is fair to the group, and a micro-justice concern, or what is fair to the individual (1986: 701). Further, I posited there would be variation in how the justice motive structures front-line decision-making depending on two organizational contexts, the nature of the work (e.g., social work, law enforcement) and the nature of the workplace (participatory, bureaucratic). Finally, I reasoned that the asymmetry of power relations, worker to citizen, was such that interactions among workers more than worker-citizen interactions would more likely determine the shape of the distribution of burdens and benefits.

I put aside the next step of configuring a logic and method of inquiry to systematically put these propositions to a test and moved on to another project. However, one of my long time collaborators, Steven Maynard-Moody and his doctoral student at the time, Marisa Kelly, reasoned that the collection and analysis everyday work stories could serve as an appropriate line of inquiry for uncovering the judgments of frontline workers as they see it. Drawing in part on the ideas of Shearing and Ericson (1991), they reasoned that front-line decision making is both patterned and improvisational, that the patterns are established informally rather than formally, and that decisional schemas are conveyed through storytelling, usually passed along to unseasoned workers by seasoned workers. They piloted this line of inquiry and later, the three of us joined with Trish Oberweis, one of my doctoral students at the time, in collaboration and secured a National Science Foundation grant to pursue how justice informs the judgments of frontline workers in five local organizational settings focusing on three types of frontline workers – cops, teachers, and social workers.

After a year of refining and piloting our line of inquiry, three years in the field, and a couple devoted to analysis, Oberweis and I wrote a culminating book focusing on one set of state workers, cops, and taking a socio-legal tact (2001) while Maynard-Moody and I published a culminating book (2003) focusing comprehensively on the data and taking a public policy tact to address our perspective of whether and how justice figures into the judgments of frontline decision-making. Oberweis and I attended to the complex ways that power and identity are structured in frontline decision-making. Workers do exercise power over citizens; they have the right to be right. Drawing on a lesser known work of Michel Foucault (1980) who suggests that power, right and truth form a triangle, we summarized our perspective of power and frontline normative judgments as follows:

Where there is power, there is the right to determine what is true. The three come as a set. Moreover, the triad holds when 'right' is taken in either of two ways, first as a set of freedoms, as in 'a right to' do something (or not) and also in its normative sense, as contrasted to what is 'wrong.' Both of these senses are important in placing the state and state actors within this triangle of power, right and truth. This is the sense in which we want to bring a notion of 'right' to bear on state agents' discretionary decisions, as a double entendre which fuses truth and power (2001:2).

Rather than action following rules, Oberweis and Musheno found that frontline workers engage in practical reasoning, they constitute or infuse law with cultural content, deciding the right thing to do by judging how closely or distantly citizens' web of identities (e.g., as Latino, female, single-parent) aligns with their own identities. We view this asymmetrical play of identities wherein workers both interpret and impose identities as an extension of Crenshaw's thinking about the "intersectionality" of identities (1991). Rather than having a macro-justice orientation (deciding how to distribute burdens or benefits to one in relation to all other similar encounters), frontline workers focus almost exclusively on the individual in front of them at the

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time. But, their judgments, why they do what they do, are filled with moral content (goodness/badness of people) as much, if not more, than concerns about what is fair for the individual (see, also, Yngvesson 1988). The burden or benefit extended to the citizen, at least for cops, is driven more by judgments about who people are (their identities) and their moral worth than any construction of justice, distributive or procedural.

Maynard-Moody and Musheno interpreted the stories of all three types of workers (cops, teachers, counselors) in five organizational settings. They anticipated variation in the normative foundations of frontline decision-making between types of workers, but found more similarities than differences in their judgments. Across the board, frontline workers are oriented towards the individuals in front of them at any given time. Their judgments are intertwined with perspectives about who people are (their identities) in relation to their own identities and their judgments are filled with moral content more than a sensitivity to legal rules or distributive fairness as I had anticipated in my initial conceptualization . Law is the vehicle they use to impose a moral judgment and the result is an individualistic decision about the authoritative allocation of a benefit or a burden. In the decisional reasoning of frontline workers, doing justice is the outcome of judgments driven by concerns about identity and morality. Maynard-Moody and Musheno pull together their analysis of 157 stories in the form of a meta- narrative, the "citizen-agent" narrative and depict it as follows:

Fixing and enforcing citizen-client identities forms the premise for street-level workers' judgments. Their stories reveal how street-level decision making is complexly moral and contingent rather than narrowly rule bound and static. Cops, teachers and counselors first make normative judgments about offenders, kids, and clients and then apply, bend, or ignore rules and procedures to support the moral reasoning. Identity-based normative judgments determine which and how rules, procedures, and policies are acted on; who gets what services and who is hassled or arrested; and how rules, procedures, and policies are enacted (2003: 155).

In conclusion, 30 years of research on frontline decision-making points in the direction of conceptualizing justice in practice as a contingent, rather than absolute, construct, one that is likely to manifest uniquely, but still identifiably, in relation to social power and cultural meaning making contexts. In the context of frontline work, the contingent factors appear to be the condition of asymmetrical power, or the right of workers to be right, the significance of identities, or the play of identities between workers as agents and citizen as clients who themselves are not without agency, and a focus on fairness to the individual over a concern about fairness for the group as the outcome of judgments. A second overarching observation points in the direction of precision in distinguishing among human normative or evaluative frames, namely self interest (gains/losses; costs/benefits), morality (notions of good/bad; worthiness/unworthiness) and justice (fairness of process/outcomes), and how they relate one to the other, in a particular context.

In the setting of frontline work, moral judgment trumps justice and law. Fairness is subservient to morality in shaping decision-making. Law, in the form of rules and state authority to impose them, is the instrument for enforcing a moral judgment that frontline workers deem to be fair to the individual. Delivering justice to the individual, a micro-justice concern about the fair distribution of burdens and benefits is what frontline workers see as the outcome of their decision-making.

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