

Procedural Justice

Issues and Concepts for Command

Tom Ross 03.26

ALL Kinds of Justice

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- **Procedural** = Fairness, Due Process
- **Restorative** = Restitution, Apology, Fixing
- **Distributive** = Socialism, “Equal” Re-Distribution
- **Retributive** = Retribution, Punishment, Consequences, Revenge

WHAT DOES PROCEDURAL JUSTICE REQUIRE?

- Fundamental **Fairness** → RESPECT
 - Providing the chance to be heard--**Voice**
 - Helping others to understand “why” & “what next”--**Transparency**
 - Maintaining the “Finder of Fact” role--**Impartiality**
-
- ```
graph TD; Fairness[Fundamental Fairness] --> Respect[RESPECT]; Fairness --> Voice[Providing the chance to be heard--Voice]; Fairness --> Transparency[Helping others to understand "why" & "what next"--Transparency]; Fairness --> Impartiality[Maintaining the "Finder of Fact" role--Impartiality]; Respect --> Transparency; Respect --> Impartiality;
```



FAIRNESS-VOICE-TRANSPARENCY-  
IMPARTIALITY



- Unions demand it
- UPODA
- Contracts
- Grievances
- Overtime
- Fair is fair
- Tie goes to the RUNNER

# Everyone is an expert



FAIRNESS-VOICE-TRANSPARENCY-  
IMPARTIALITY

- You **HAVE** to read me my rights
- You **HAVE** to accept my papers

“You can’t arrest me.”



# What Else? How Far?

- Professional
- Polite
- Discipline
- Accommodating
- Compromising
- Explaining
- Compassion
- Empathy
- Smart
- Sympathy
- Kind
- Trusting
- Legitimacy
- Credible
- Apologize
- Benevolence

Command, Demand, Expect





- Just cause you can...does not mean you should
- Have some compassion
- Let people off the hook
  
- Be fair but firm
- Not a pushover or soft
- Never taken advantage of
- Suffer no fools



# The Public's Perception of Police Legitimacy



**PERCEPTION  
IS REALITY**

# ON *MULTIPLE* FRONTS

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- The public, community, victims & suspects
- The people we work with (discipline cases)
  - Seen as being fair
  - Accountability, responsibility
  - Less focus on the PUNATIVE

- Police legitimacy is <sup>14</sup>DIRECTLY tied to “Officer Safety”



# Paradox?

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There is a paradox in the research: If law enforcement is so good at doing its job, then why isn't the public more supportive, trusting and/or compliant?



# Police Viewed As.....

- Guardians / Warriors
- Protectors of the weak
- Servers
- Paternalistic
- Occupier
- Oppressor
- Ensure the “Status Quo”
- Change Agent (for the better?)

# Some Questions

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- Do any of you believe that there is an us vs. them mentality between us and some of those we serve?
- Do any of you here believe that there is an us vs. them mentality within our own ranks?
- Are you, are we, “legitimate?”

# Procedural Justice for Supervisors

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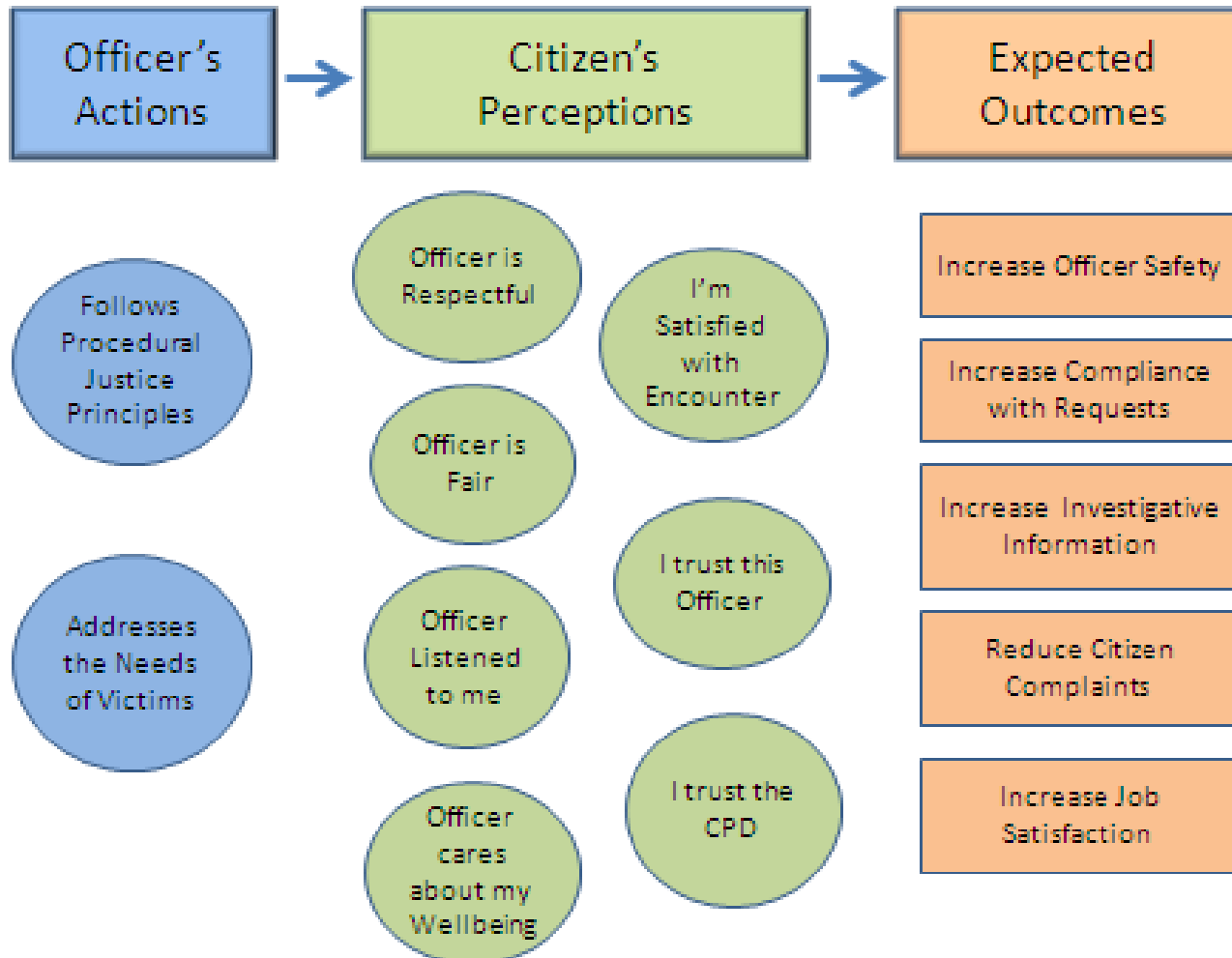
- Internally (tied to ethics, leadership, morale, & discipline)
- Externally

# Where it Began: QIP

## Quality Interactions with People

### Chicago Police Department

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Yale University

YALE LAW SCHOOL



127 Wall St

# President's Council on 21st Century Policing<sup>21</sup>

- The Chicago Model has been chosen as a national model for policing throughout the US

Building  
Trust &  
Legitimacy

Promoting trust and ensuring legitimacy through procedural justice, transparency, accountability, and honest recognition of past and present obstacles

# The National Model

National  
Initiative for  
Building  
Community

TRUST &  
JUSTICE

- Birmingham
- Gary
- Fort Worth
- Stockton
- Pittsburg
- Minneapolis

Northwestern  
CENTER FOR PUBLIC SAFETY

FAIRNESS-VOICE-TRANSPARENCY-  
IMPARTIALITY

# Where are we now in American Policing?

Community Policing Model 1979 to 2026

“**Community policing** is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”

<https://ric-zai-inc.com/Publications/cops-p157-pub.pdf>

Search for: [What is the community policing model?](#)

Community policing consists of two complementary core components, community partnership and problem solving.

*Understanding Community Policing, A Framework for Action, U.S. Department of Justice, Bureau of Justice Assistance, August 1994*

# Where are we now?

The “umbrella” under which many other law enforcement practices are to work is said to be

## **“Community Oriented Policing”**

Procedural Justice

Problem-Oriented Policing

Evidence Based Policing

Data Driven Policing

Area-Based Policing

21<sup>st</sup> Century Policing

# Where are we now?



What is the condition of **Community Oriented Policing**?

What is the C.O.P. purpose?

How has it been defined?

How has it been Implemented?

# WHAT IS PROCEDURAL JUSTICE?

PROCEDURAL JUSTICE

IS NEITHER

 **A NEW IDEA**

NOR

***ROCKET SCIENCE'***

***ROCKET SCIENCE,***

***BUT IT IS CRITICAL***

Because contemporary performance is perceived to be worse than performance in “the good ol’ days”.

# Definitions

- **Legitimacy**: The public view public safety personnel as entitled to exercise authority in order to maintain social order, manage conflicts, and solve problems in the community.
- **Procedural Justice**: The procedures used by public safety personnel where citizens are treated fairly and with proper respect as human beings.

# What is Procedural Justice?

In action, it has

## TWO-ARENAS REQUIRING ACTION



**Internal Procedural Justice**  
**[Within the organization]**

**External Procedural Justice**  
**[Outside the organization]**

Though it is “FAIR” for police leaders to expect officers to do their job correctly, to ensure they perform **well** they must be **treated with the same level of respect and fairness** which is **expected of them when dealing with the community.**

All Boiled Down to ONE Word

**TRUST**

The most expensive  
thing in this world is

**TRUST**

It can take YEARS to EARN  
and only a matter of  
SECONDS to LOSE

## WHAT DOES PROCEDURAL JUSTICE REQUIRE?

- Fundamental \*Fairness
  - Providing the chance to be heard--\*Voice
  - Helping others to understand “why” & “what next”--\*Transparency
  - Maintaining the “Finder of Fact” role--\*Impartiality
- 
- The diagram illustrates the components of procedural justice. A central node labeled 'RESPECT' is connected to four other nodes: 'Fairness', 'Voice', 'Transparency', and 'Impartiality'. Red arrows point from 'Fairness' to 'Voice', 'Transparency', and 'Impartiality'. Blue arrows point from 'RESPECT' to 'Voice', 'Transparency', and 'Impartiality'.



- **Internal Procedural Justice**
  - Provided by agency management **to its employees**
- **External Procedural Justice**
  - Provided by all agency personnel **to the community/public/partners** (everyone served)

What is the difference between supporting police and supporting community?



Can you envision an officer saying to a citizen, “I’m sorry, I provide police support, not community support.” Or vice versa?

# INTERNALLY



What are the complaints about internal fairness, due process or procedural justice?

# What are “Our Goals” in Policing?

## Professional:

- Maintain social order
- Prevent crime
  - To be fair and impartial
- Ensure constitutional rights
- Effectiveness
- Back each other up
- **Serve and Protect** the public
- Generate and hold public trust
- Go Home Safe

## Personal:

- Get promoted
- Retire
- Not get sued
- Make my family proud
- Live long and prosper
- Get overtime

## INTERNALLY:

“**Procedural justice** refers to the idea of fairness in the processes that *resolve disputes and allocate resources*. It is a concept that, when embraced, promotes positive organizational change, bolsters good relations with the community, and enhances officer safety.”



**BUT, MORE BROADLY....**





***Perceived level of fairness at each level management, involving all forms of managerial decision-making affecting all individuals in the organization.***

Includes:

- ***How processes are constructed.***  
(Hiring, promotion, evaluations, complaint investigations, etc.)
- ***The way processes are applied.***  
(Consistent or inconsistent)
- ***The perception the individual applying an established process.***  
(Untrustworthy, erratic, or inconsistent decision-makers are viewed heavily based on positive or negative outcomes)
- ***The perception of organizational transparency and integrity.***

## Implementing

Is it possible to instruct/order/demand officers to perform with 'procedurally just' behaviors if they are not provided equivalent procedural justice in their workplace?

What are some internal processes, procedures, or management functions which can result in the perception of management **unfairness** (insufficient procedural justice)?

NOTE: Internal Investigations/terminations/selections to special units  
Do we "promote" for taking risks, or being innovative.....or for staying out of trouble – pure – no discipline, no scandal?

## Implementing

How do we integrate internal Procedural Justice into agency functions?

What are the steps necessary to successfully implement and achieve sustained institutionalization of internal Procedural Justice?

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# EXTERNAL



***HOW THE HELL DID  
WE GET HERE?***

# Eyes OPEN!

You **HAVE TO** be aware of the past, and how that impacts today!



KEEP YOUR EYES OPEN

# Golden Rule

- ✓ Compassion
- ✓ Empathy
- ✓ Humanity
- ✓ Understanding

**Remember  
basic  
human  
decency?**

You don't know what you don't know

# The Names

George Floyd  
Stephon Clark  
Tamir Rice  
Laquon McDonald  
Michael Brown  
Eric Garner  
Sandra Bland  
Alton Sterling  
Philando Castile  
Freddie Gray

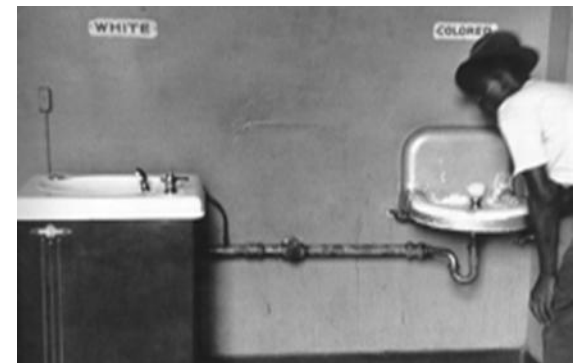


Peacefully bringing AWARENESS to RACISM and POLICE BRUTALITY leading to MURDERS of People Of Color without consequence. We, through PEACE&LOVE, call for JUSTICE and ACCOUNTABILITY!





# Our History



# How Did We Get Here

## Civil Rights Movement: 1960s



# Jim Crow Era

- Elected Sheriffs & Appointed Police Chiefs
  - Used dogs and water hoses
- Enforce “social norms” (white norms)
  - Back of the bus, segregated lunch counters, segregated water fountains, white only bathrooms & waiting rooms, no interracial marriage, discrimination in education, housing, employment, etc.
- Members of the KKK
- Lynching
- Mississippi Burning Case of 1964

# Mississippi Burning

June 1964—the start of “Freedom Summer,” a massive three-month initiative to register southern blacks to vote and a direct response to the KKK campaign of fear and intimidation.

The Klan in Mississippi, in particular, was after a 24-year-old white New Yorker named Michael Schwerner. He’d been especially active in organizing local boycotts of biased businesses and helping with voter registration.

On June 16, acting on a tip, a mob of armed KKK members descended on a local church meeting looking for him. Schwerner wasn’t there, so they torched the church and beat the churchgoers.

On June 20, Schwerner and two fellow volunteers—James Chaney and Andrew Goodman—headed south to investigate the church fire.



5 p.m. , Sunday, June 21: After driving into Philadelphia, Mississippi, the three civil rights workers were arrested by a Neshoba County Deputy Sheriff named Cecil Price, allegedly for speeding.

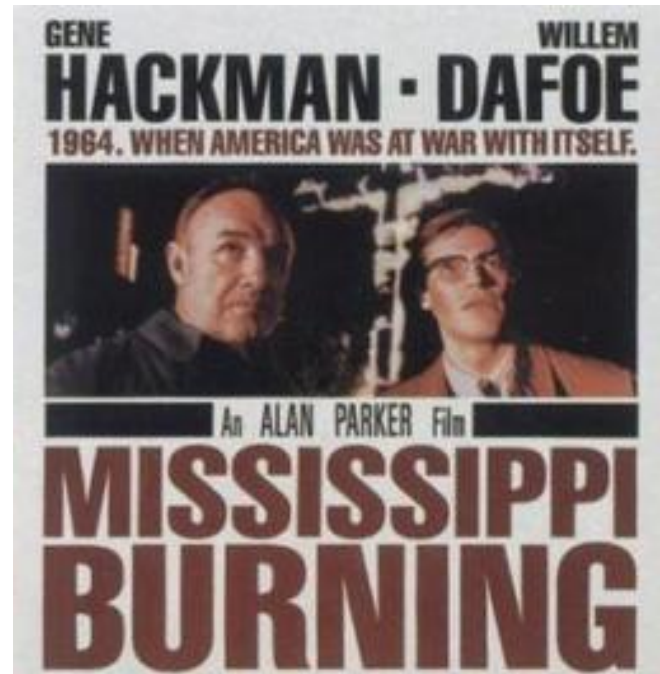
10:30 p.m., June 21: Chaney, Goodman, and Schwerner were released and drove off in the direction of Meridian in a blue station wagon. By pre-arranged plan, KKK members followed. The activists were never heard from again.



Late afternoon, Tuesday June 23: Intelligence developed by FBI agents led them to the remains of the burnt-out station wagon. No bodies were found; the worst was feared. The charred station wagon led to the FBI case name “MIBURN,” for Mississippi Burning.

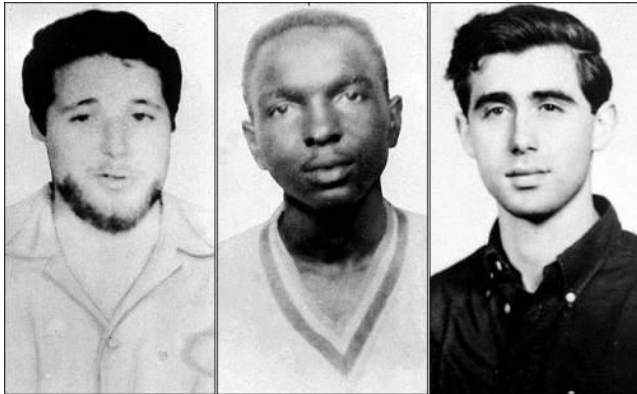
<https://www.fbi.gov/history/famous-cases/mississippi-burning>

# They made a movie in 1988



Stars Gene Hackman and Willem Dafoe as two FBI agents assigned to investigate the fictional case with MANY similarities to the real one.

# Mississippi Burning

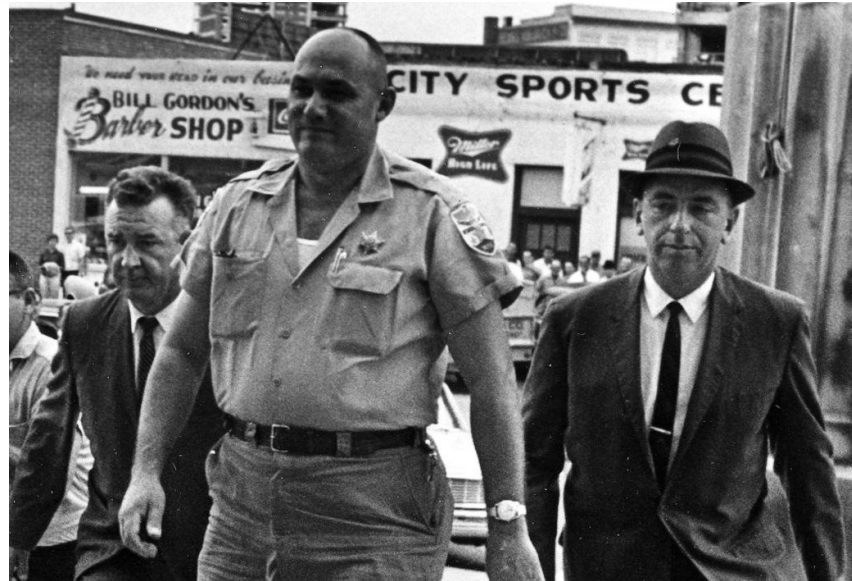


Michael Schwerner, James Chaney, and Andrew Goodman



Lawrence A. Rainey and his deputy Cecil Price





December 4. More than a dozen suspects, including Deputy Price and his boss Sheriff Rainey, were indicted and arrested.

October 20, 1967. Following 3 years of court battles, seven of the 18 defendants were found guilty—including Deputy Sheriff Price—but none on murder charges.

One major conspirator, Edgar Ray Killen, went free after a lone juror couldn't bring herself to convict a Baptist preacher - Killen eventually got his due; he was convicted of manslaughter on June 21, 2005, the 41st anniversary of the crimes.

# How Did We Get Here?

- ✱ Throughout the world, police are sometimes seen as the enemy of the people.
  - Not to be trusted
  - Part of the establishment
  - Goal to maintain power
  - Or worse?



# How Police Are Used

- Protective “Shield”
- Oppressive “Sword”
  - Karen and her friends
  - I don’t like you/your behavior
  - I will call 911 on you!
- Police have to investigate & NOT be used that way
  - Suspicious person calls
  - What is suspicious about them?



# Race

- Race and discrimination has always been a central issue of American life and policing since BEFORE the United States was a nation.
- Throughout history, immigrants and minorities have paid the heaviest price.

# National View

- National incarceration rates per 100,000 residents
  - Whites: 799
  - African Americans: 5,082
  - Hispanics: 1,964
- These figures mean that
  - 0.8% of whites are incarcerated
  - 1.96% of Hispanics are incarcerated
  - 5.1% of African Americans are incarcerated
- African Americans are incarcerated at more than **six** (6.36) times the rate of whites
- Hispanics are incarcerated more than **double** (2.46) the rate of whites

-Bureau of Justice Statistics.

# Reality

- 1 in 9 (11.7%) African American males between ages of 25 and 29 is currently incarcerated in a prison or jail
- Long-term consequences for individuals and communities:
  - ✓ Employment prospects
  - ✓ Family formation
  - ✓ Stability
  - ✓ Safety
  - ✓ Future



# Marginalized Groups

Latinx, Muslims, Middle Eastern, LGBTQ, and a long list of other groups all have disparity issues with the CJ system.

# African Americans

***African Americans have a distinctly  
DIFFERENT experience***

*Slavery* is America's  
original sin.

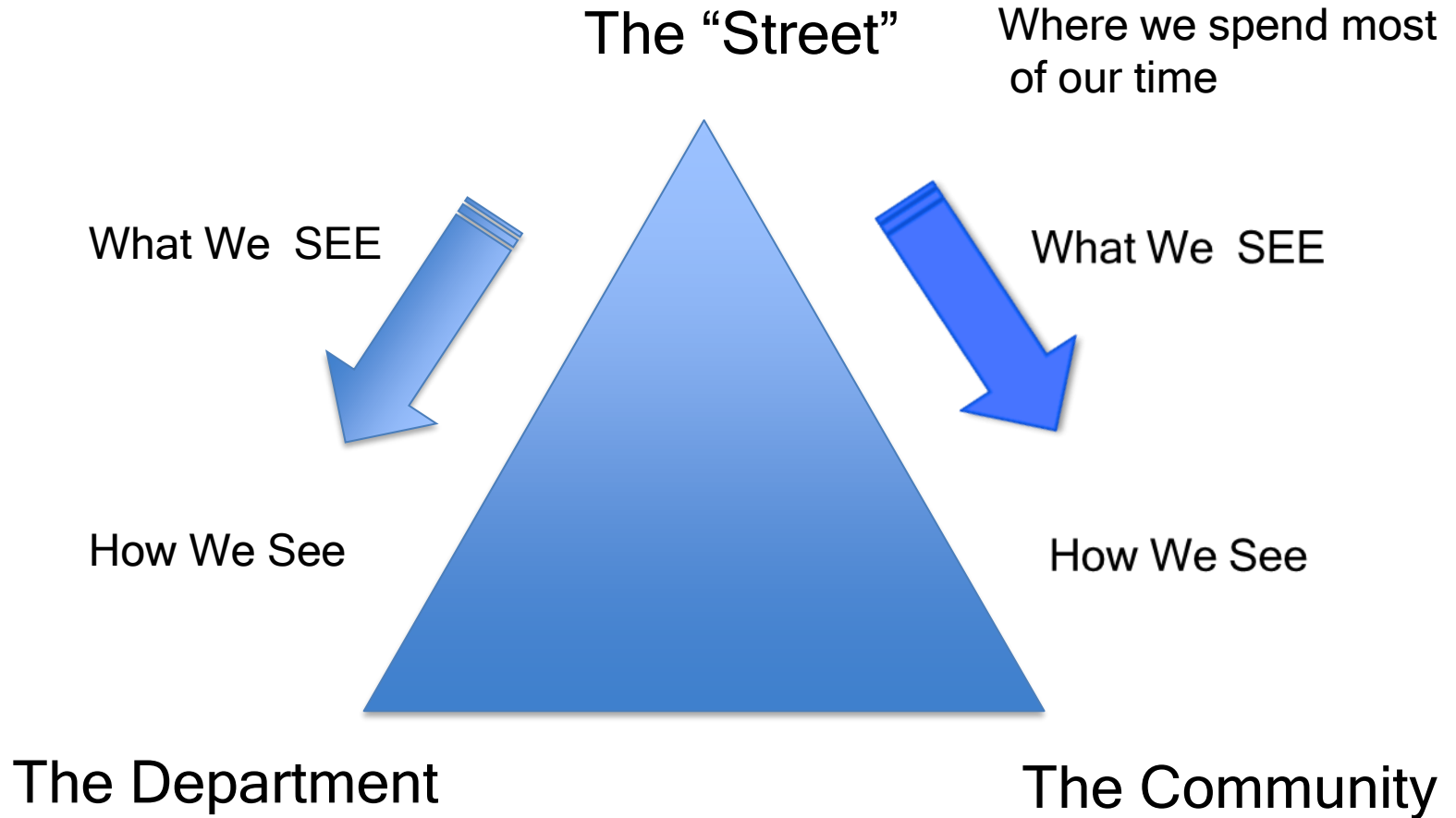
# Emotions

People are.....

- Tired of being
  - unseen,
  - misunderstood,
  - and suspected
- Frustrated
- Angry
- Afraid



# Cynicism: How We See Things



# Us Vs. Them



**"Real World"  
for police=  
3-6% of the  
population**

**In reality, 94-97%  
of the population is  
law abiding**



What are the complaints about fairness, due process or procedural justice from the public?

# The community expects.....LEGITIMACY

- ❑ Service, Protection
  - Peace Keeper
- ❑ Lawfulness
  - Enforce Laws
  - Exemplary Behavior
- ❑ Fairness
  - Impartial process
  - Unbiased policing
- ❑ Partnership
  - Respect
  - To solve problems
- ❑ Trust



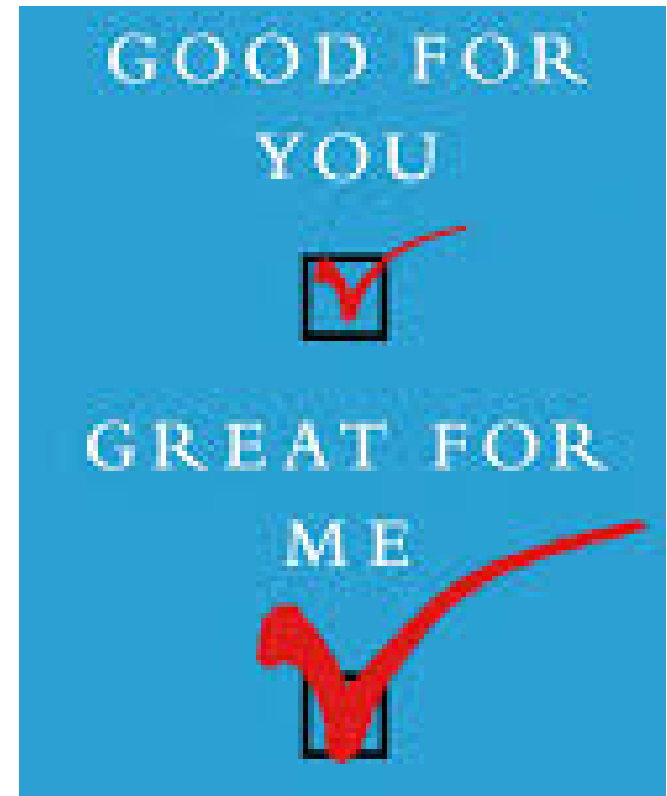
## Police officers expect...

- Acceptance of our authority
- Compliance
  - With the laws
  - Orders
- Cooperation
- Information
  - Informant?
- Responsibility
- Respect
- Trust

# Why are we here?

❖ When utilizing Procedural Justice and gaining legitimacy, police benefit:

- ✓ Safety increases
- ✓ Stress levels lower
- ✓ Fewer complainants
- ✓ Greater cooperation from public
- ✓ Voluntary compliance gained
- ✓ Crime is reduced



## External Procedural Justice

Generally interpreted broadly as:

*Perceived level of fairness of the entire organization and every member, involving all activities or inactivity affecting the **community served by the law enforcement organization.***

Includes:

- Responsiveness to requests/understanding
- Perception of equal treatment
- The laws enforced, manner of enforcement,
- The perceived fairness of the outcome
- The ability to affect the outcome
- The ability to determine the deciding factors for the outcome
- The perception of the impartiality of the servant officer
- The perception of fairness in the applied processes



## External Procedural Justice

A simple equation:

**PROCESS + OUTCOME = ASSESSMENT**

Procedural justice is concerned with *what* officers do, and the *way* they do it, in order to affect *how* it is perceived.

*Quality of communication is critical*

*Words—Attitude—Body Language—Tone—Actions*

Source: “What is Procedural Justice?” fact sheet, Center for Public Safety and Justice, n.d., [http://cops.igpa.uillinois.edu/sites/cops.igpa.uillinois.edu/files/pj\\_fact\\_sheet.pdf](http://cops.igpa.uillinois.edu/sites/cops.igpa.uillinois.edu/files/pj_fact_sheet.pdf).

# More Than The Golden Rule

- Asking the question, not just, “*How would I like to be treated in this situation?*” but, *How would I like a family member to be treated in this situation?*” is an integrity guideline for any situation.
- It can be used to create common ground with any reasonable person.

# Factors Influencing Compliance

People voluntarily obey the law when:

- 1) *It is instrumental* – creation of a credible risk that people will be caught & punished for crime;
- 2) They believe in the moral rightness of the law;
- 3) They believe in the *legitimacy of the authority* enforcing the law

# Factors influencing the acceptance of police decisions

- 1) The degree to which the police were generally regarded as legitimate.**
  - 2) The degree to which decisions were regarded as favorable & fair.**
- Residents are more willing to cooperate with the police by engaging in community activities, reporting crimes or identifying suspects when they view the police as legitimate.**

# Gaining Legitimacy

**The police can gain legitimacy when they provide:**

- 1) PERFORMANCE: Effectively control crime & criminal behavior.**
- 2) DETERRENCE: Creating a credible risk of detection & apprehension of offenders.**
- 3) DISTRIBUTIVE JUSTICE: Establishing a fair distribution of police services across citizens & their communities.**

## THE 4 BASIC PILLARS

1. Fundamental **Fairness** → RESPECT
  2. Providing the chance to be heard--**Voice**
  3. Helping others to understand “why” & “what next”--  
**Transparency**
  4. Maintaining the “Finder of Fact” role--**Impartiality**
- 
- ```
graph TD; F[Fairness] --> R[RESPECT]; F --> V[Voice]; F --> T[Transparency]; F --> I[Impartiality]; R --> V; R --> T; R --> I;
```

REALITY

Fairness in law enforcement includes:

- A basis for problem solving, fact finding, and truth seeking
- Communicating reasons for decisions and actions
- Communicating information about processes and rights to suspects/offenders
- Communicating information about processes to victims, witnesses, experts
- Respect & Dignity
- Mediating where application of the law is insufficient or contrary to the interests of the community or the parties involved
- Communication to community to develop support, address chronic problems or specific complaints, and explain information about police operations and function

Fairness

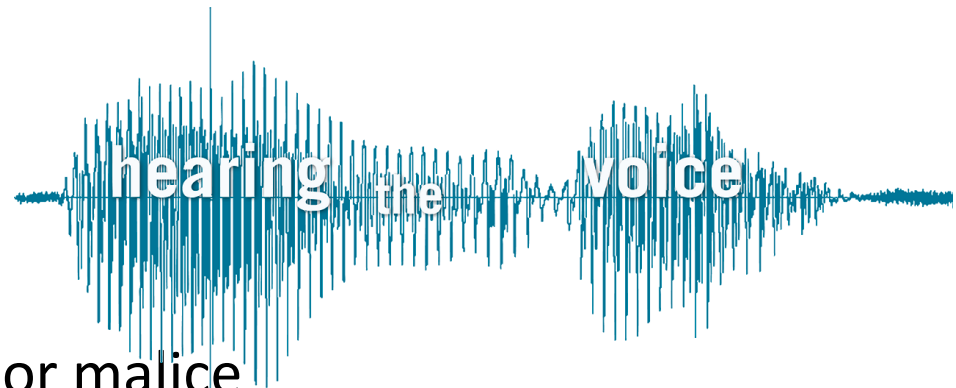
PERCEPTION

What drives perception?

- Subjective assessment based on totality of circumstances
- Outcome—influences but does not control assessment of fairness *as much as quality of law enforcement contact.*
- Perception of law enforcement Fairness can be driven by prior experience, *but can be overcome by future contacts.*
- Quality and effectiveness of communication.
- Openness to questions and provision of explanations in sufficient detail to provide understanding.
- Failure to be perceived as thorough. Arbitrariness or lack of proper investigation in decision making process is viewed as unfair.

Voice

- “Giving voice” is giving an opportunity to affect the situation, a **(real or perceived)** role in the event. Enabling them to give their “Side of the story”.
- Respect of people through *appropriate* communication. Who does the agency serve? Who does the agency have responsibility for?
 - Community (both)
 - Members (both)
- Avoid
 - Perception of prejudice or malice
 - Perception of indifference
 - Undermining agency objectives
 - Conflicting with agency purpose



Transparency

- Openness of Process
 - Reason or criteria used to make decisions
 - Reason for actions
 - Outcomes sought as the result of specific goals/objectives
 - Reason for policy, rule, or procedure creation
 - Intent of organizational changes and restructuring
 - Reasons for internal staffing assignments and agency structure

THE “WHY”

Explain the reasoning, variables considered, and the link from outcome to the stated objective(s)

Explaining why a person has been stopped. Explain the process



Impartiality

Perceptually Impartial Decisions

- OBJECTIVE-ORIENTED
- Data based
- Intelligence based
- Demographic neutral

THE “HOW”

Explain how decisions are made (and the criteria used to make them). Ensure the ***Perception of fair decision-making*** matches the **reality of fair decision-making**

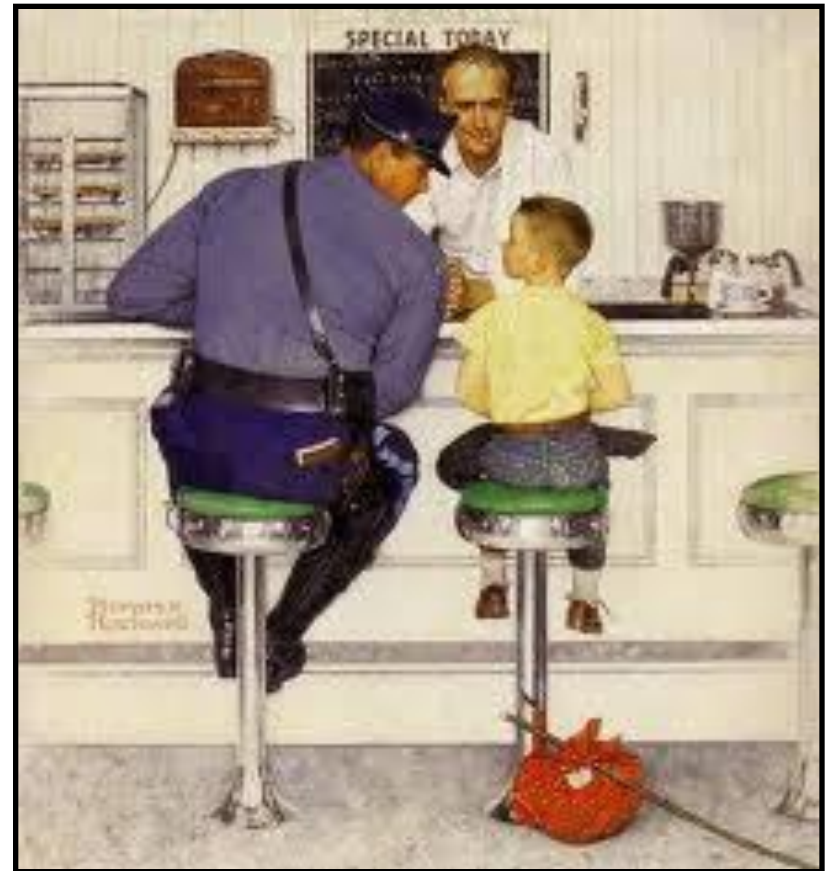
Community Bank Account

Community Bank Account

- Are we making deposits or withdrawals?
- What is the impact of a withdrawal to YOU? The Department? The community?

What impact does our policing have on future generations?

➤ **Procedural Justice is a deposit!**



The Runaway – Norman Rockwell

Deposit or Withdrawal?

Every encounter is either a **deposit** or a **withdrawal**

- ❖ Every contact is an opportunity to increase our legitimacy - BUILD TRUST
- ❖ Are you making a deposit or withdrawal with the way you police?
- * How many deposits does it take to make up for a withdrawal?
- * Does one encounter affect how future generations view the police?

Sources:

- *Procedural Justice for Law Enforcement: An Overview*. Kunard, Laura, and Charlene Moe. 2015. Washington, DC: Office of Community Oriented Policing Services.
- “What is Procedural Justice?” fact sheet, Center for Public Safety and Justice, n.d., http://cops.igpa.uillinois.edu/sites/cops.igpa.uillinois.edu/files/pj_fact_sheet.pdf.