# POLICE

LEGITIMACY, PROCEDURAL JUSTICE & COMMUNITY RELATIONS

# The Courage to Lead Change

# **Engaging Stakeholders ... Page 2**

You are the first contact of government authority within the various communities of your jurisdiction.

# Make Tough Decisions ... Page 13

You get what you tolerate. You either have the leadership ability to make tough decisions or convinced your motivation ...

### Real Problems/Real Solutions ... Page 16

From front-line officers to command staff, every level is encouraged to think outside the box to engage and resolve concerns at the community level.

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## **ABOUT THE INSTRUCTOR**



Charles Rambo is a recognized leader and instructor in the criminal justice industry. A retired Lieutenant from the Fulton County Sheriff's Office in Atlanta, Georgia, he has over 30-years of expertise in law enforcement, judicial process, corrections, investigative/intelligence, tactical, academy instruction, and human resources. Certified as a Senior Instructor by the Georgia Peace Officer Standards and Training Council, he also has earned management, supervision, intermediate, advance, and senior deputy sheriff certifications.

In February 2001, Charles Rambo, then a national-vice president of the International Brotherhood of Police Officers, received an invitation from the United States Department of Justice to participate in a symposium on racial profiling. The forum included the United States Attorney, senior members of the Civil Rights Division, and leadership from law enforcement organizations. Rambo, after reviewing the findings of the meeting, performed a gap analysis and developed a one-of-a-kind comprehensive lesson plan on the roots of racial profiling. He also lobbied and appeared in national press conferences with key members of the United States Senate and Congress for Community Oriented Policing. He is a frequent newsmaker with mass media on criminal justice issues.

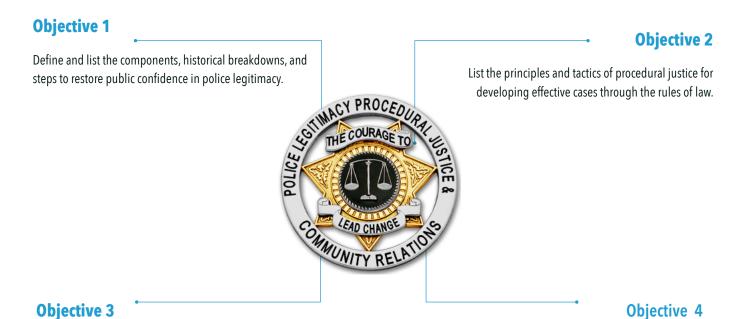
Using a Socratic methodology, Charles Rambo has conducted numerous seminars and served as a panelist on racial profiling at law enforcement academies, colleges, houses of worship, and community forums. He also teaches on the topics of Community Oriented Policing, Criminal Procedure, Constitutional Law, and Introduction to the Criminal Justice System His commitment to authentic organizational culture changes is highlighted through his candid professional lectures.

Rambo's thought-provoking insights have enlightened law enforcement officers and citizens of all ethnicities promoting personal and professional change. With a rule-of-law focus, his goal is to develop the next generation of criminal justice thought leaders to serve and protect communities with unprecedented results.



### **TERMINAL & ENABLING**

In this workbook, the criminal justice leader will be able to master day-to-day law enforcement duties in accordance with industry standards on Police Legitimacy, Procedural Justice, and Community Relations.



Cite conflicting viewpoints of Police Legitimacy through four pillars of public perception to minimize citizen encounters from escalating into an out-of-control incident.

Discuss the integration of Community Relations and Community Policing into the overall mission of the agency.

## IT ONLY TAKES ONE PERSON TO GET THE PROCESS STARTED



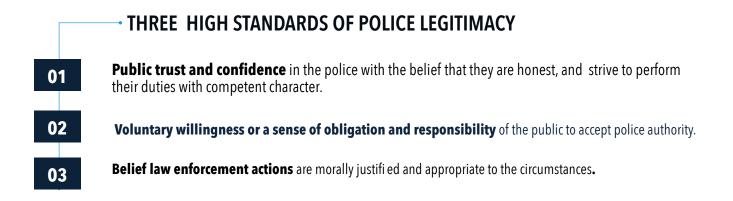
Like any profession in the public sector, law enforcement serves a legitimate purpose. However, when the dynamics of human behaviors flow within its sphere of great authority individual or collective motivations can *positively* or *negatively* influence its legitimate value to the community.

When we think of legitimacy, we find it as the ability to measure the value of something with logic, validity, justification by established laws or rules. Within the context of this course, *Police Legitimacy* is defined as the:

# "Idea/belief that the police have the authority or right to dictate proper behavior and enforce the law."

When put into context, the keywords in this definition of police Legitimacy are *authority* or *right*. Whether you are assuming a position in a public office either through election, appointment, or employment your motivation must be aligned in the formal oath as a sacred trust to the public in exercising authority and rights with competent character. Former United States President Calvin Coolidge makes it plain when he stated:

"No one is compelled to choose the profession of a police officer, but having chosen it, everyone is obliged to live up to the high standards of its requirements."



Consider the discernment of United States Supreme Court Justice Louis Brandeis when he stated:

# "To declare that in the administration of the criminal law the end justifies the means-to declare that the Government may commit crimes in order to secure the conviction of a private criminal-would bring terrible retribution."

What does this mean to you as a peace officer? When a code of law has been broken, you are the first contact of government authority within the various communities of your jurisdiction. Through the precise knowledge of your authority and man's right to be treated according to the rules of justice, while he may not like it, punishment for his behavior will be most acceptable when he feels the accuracy of the criminal procedures brought against him do not infringe upon any rights protected by state and federal constitutions.

Unfortunately, throughout American history, the terrible retribution that has undermined Police Legitimacy is not primarily the criminal element, but branches of governmental authority through its system of checks and balances.



While many ethnicities in the United States have been affected by the police power, research has best recorded past issues with negative impact on black communities who historically have not enjoyed the best relations with the criminal justice system.

#### The Colonial Era of Slave Patrollers and Slave Codes

Where the police power was used to enforce involuntary servitude, racial superiority, and later Fugitive Slave laws.

#### The Reconstruction Period

Where members of the Ku Klux Klan became active in every branch of legislative, executive, and judicial government to restrict the fundamental rights and progresses of freedmen through Black Codes.

#### The Era of Segregation

Where the police power was used to intimidate or suppress even the most basic human rights through Jim Crow or Separate, but Equal laws.

#### **The New Millennium**

Where stereotypes and biases have resulted in serious patterns and practices of racial profiling and unjustifiable uses of force. Most damaging are mixed messages from governmental authorities in how to treat suspects in police custody.

Unfortunately, in the timeline of these events, the majority of dedicated law enforcement officers who choose to exercise the positive definition and mission of Police Legitimacy are overshadowed by the few. Those who take up generational adopted behaviors developed into an occupational arrogance where the law enforcement officer (regardless of his actions being lawful or illegal) believes his authority cannot or should not be challenged or questioned.

Take for example in 2009. The Attorney General of the state of New Jersey while investigating racial profiling by the New Jersey State Police concluded that the "improper attitude and demeanor" of officers toward the public was a nationwide problem.

Taking the most appropriate steps toward restoring police legitimacy in 2016, the Attorney General's Office issued a Law Enforcement Directive establishing a community law enforcement Affirmative Relations Continuing Education Institute.

The order directs law enforcement agencies, at every level, to incorporate training to enhance police-community relations. Similarly, in 2016, Georgia's Governor issued a similar law enforcement reform training program to build relationships with communities through mandatory continuing education.

Candidly speaking regaining the trust of communities is not a program of the month or initiative of the year to pacify the public. My generation inherited a system of law enforcement during the era of the war on drugs which led to mass incarceration and mandatory sentences which were later deemed by higher courts as unconstitutional. *Am I excusing criminal behavior?*Absolutely not! My commitment as a retired Sheriff's Office manager and instructor trainer is to show you the way to success. It begins when you are sworn, it continues throughout your career, and believe it or not Police Legitimacy, Procedural Justice and Community Relations apply when you are both on and off duty.

Here are five Pillars of Police Legitimacy you can incorporate as an individual or collective officers to further influence trust and police legitimacy?



When you put these five steps into real time performance, "People are more likely to obey the law when they believe that those who are enforcing it have authority and right that is perceived as legitimate."

In support of transforming the culture of the agency toward Police Legitimacy, we reflect on the wisdom of Plato:

"In a republic that honors the core of democracy—the greatest amount of power is given to those called Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy."



Consenting to being governed by positive and procedural laws, and within a reasonable expectation of privacy, the sovereign man has the absolute right to pursue his life's objectives. However, when he lacks self-discipline and commits a wrong, he becomes amenable to the Courts of Justice through proper and necessary codes for punitive action. As stated by diplomat and legal expert Emer de Vattel in the Golden Rule of Sovereigns:

# "One cannot complain when he is treated as he treats others."

One of the best definitions of Procedural Justice comes from the California Commission on Peace Officers concerning the fairness and the transparency of the processes by which decisions are made, and may be contrasted with distributive justice (fairness in the distribution of rights or resources), and retributive justice (fairness in the punishment of wrongs). Further, as cited by former King County Sheriff Sue Rahr and Stephen K. Rice in Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals:

# "Unfortunately, many have forgotten that protecting constitutional rights is the mission of police in a democracy."

From the time you received the call for service, you are the first point of the criminal justice system in communities. Now, not every officer-citizen encounter will always result in a person's arrest or the use of force. However, the responding officer will be compelled to demonstrate a neutral balance that the arrest and the level of force used were the final resort and consistent with the rule of law. Not only to the agency, but ultimately to the courts.

# Two Critical Thoughts Toward Procedural Justice Before you answer the next call for service, ask yourself Am I legally here? Will you be able to justify your presence with a valid search or arrest warrant or response based on a plain sight crime in progress? Can I legally take into my custody persons or items incident to a search or an arrest? If you are unable to satisfy both questions affirmatively, you are most certain to be in violation of a person's civil liberties. If you can answer both questions affirmatively, performance of the law enforcement functions paves the way for effective procedural justice.

# FOUR CORE PRINCIPLES OF PROCEDURAL JUSTICE

- The public requires decisions to be made in a just, fair, and equal manner.
- Your decisions must be objective.
- **Your actions must not be influenced** by bias or prejudice.
- Your decisions and actions will extend beyond the initial encounter.

Think about it this way. With the overload of dockets in the criminal justice system, the very person you thought you put away for good, will be the same person you might see back in the community because of some failure in your case.

As a law enforcement manager and senior academy instructor, I can't count the numerous times expressing these principles to law enforcement personnel, especially in completing a competent incident report. No process of criminal justice can begin without a concise incident report built on probable cause. Solid facts and circumstances. Most importantly, how will those facts and circumstances meet constitutional standards for the district attorney or solicitor general to make recommendations for restorative or punitive justice to the offender? This is why Procedural Justice does not begin with the courts. It comes alive through every *constitutional chronological element of your case* in how you received the call to verdict and sentencing.



If you are unable to answer the first question affirmatively, under *Two Critical Thoughts Toward Procedural Justice* chances are you will not be able to justify any further reasonable articulable suspicion or probable cause:

- 1. Fourth Amendment
- 2. Fifth Amendment
- Sixth Amendment
- 4. Eighth Amendment
- 5. Fourteenth Amendment

## **4TH AMENDMENT**

PROBABLE CAUSE



The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### **Application**

The two most critical components of this important right of the citizen is a *reasonable expectation of privacy* and the *exclusionary rule*. It's not what you obtained from the person or crime scene, but how you obtained it. Not only will you have wasted valuable resources of your agency, but also valuable time of judges, prosecutors and jurors trying to make sense out of your case.

# **5TH AMENDMENT**

RIGHT TO REMAIN SILENT



No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ..."

#### **Application**

Foremost, today's grand juries are composed of persons who may come from the same communities you may serve or, who may or may not be persuaded by positive or negative portrayals of current law enforcement events. The best persuasion for a True Bill of Indictment must be based upon your legitimate actions. The best persuasion for a True Bill of Indictment must be based upon your legitimate actions.

This includes how you treated persons in custody when being questioned about a crime. But suppose you question a person in custody without a *Miranda Consent Form* or worse with *illegally obtained or planted evidence?* 

## **6TH AMENDMENT**

DISCOVERY AND SPEEDY TRIAL



In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

#### **Application**

Candidly speaking in short term, *sloppy police work is what slows down a speedy trial*. This especially holds true when the Defendant and Defense Attorney in the process of Discovery compare the comedy of errors and omissions in how the crime scene was processed, inability to locate key witnesses and other variables of the case against him. The most important part of Discovery is every element of the case you presented at trial is being used:

**Inculpatory:** by the prosecution to prove guilt

**Exculpatory:** by the defense attorney to prove innocence

## 8TH AMENDMENT

CRUEL AND UNUSUAL PUNISHEMENT



Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### **Application**

Specifically to officers who are employed within correctional facilities, a person convicted of a crime may not be arbitrarily subjected to use force for punishment of a crime. The standard would be met if the force was applied maliciously or sadistically for the purpose of causing harm to the arrestee.

# **14TH AMENDMENT**

**DUE PROCESS** 



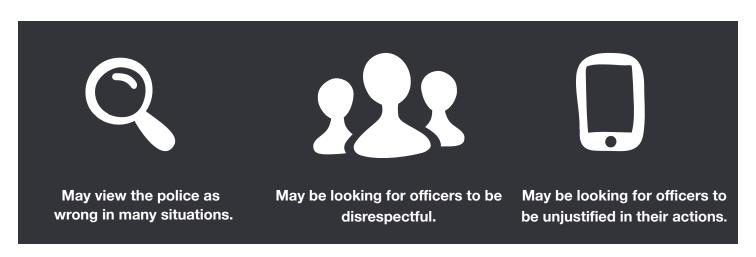
All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### **Application**

Ensuring every person is treated fairly and with consistency according to the rules of federal and sate constitutions.



The grim reality of recent officer-citizen interactions have developed conflicting View Points of Police Legitimacy where citizens in various communities:



In the pursuit of Police Legitimacy, Procedural Justice and Community Relations, *nothing in this course will suggest you as a law enforcement officer must sacrifice your safety in the process.* Even when you may be exercising every diligent effort to respect the rights and dignity of a person, when the use of force is *necessary* and *justified* you should not hesitate to act within *objective reasonable standards* according to the *totality of* circumstances.

Once an incident involving the questionable use of force becomes public, you cannot immediately repair the damage.

Think of recent cases where the officer-citizen interaction escalated into out of control events. While the facts and circumstances of each case might remain a matter of great public scrutiny, one thing is certain, nearly all resulted in civil actions for police misconduct and wrongful death lawsuits. Failures of training, policy, and supervision resulting in million dollar settlements.

In the pursuit of Police Legitimacy, Procedural Justice and Community Relations, your *lawful presence* makes room for your authority. Whether the encounter is casual or requires arrest there are Four Pillars of Public Perception you can exercise to minimize the encounter from escalating into an out of control incident. Profoundly cited by former Sheriff Thomas Gilmore of Greene County Alabama:

# "When I arrest someone, I believe my approach is more important than my authority."

# FOUR PILLARS OF PUBLIC PERCEPTION

01

#### Voice in the process

- Everyone wants their story to be heard.
- b. Allow them to tell you their side of the story.

02

#### Transparency in the decision-making process

a. People want to know what is happening, and why.

03

#### **Neutrality in the decision-making process**

- You must make decisions free of bias, cynicism, or prejudice.
- b. Be fair in your treatment of citizens.

04

#### Respect for the person's rights and dignity

a. Treat others with dignity and respect.

# Further To Minimize Inaccurate Perceptions of Your Legitimate Authority and Right to Enforce the Law:

- Remember, even when acting in the most professional manner you are under constant scrutiny.
- Your actions are scoured over for any perception of mistake or injustice.
- Remain above reproach. Be just and unbiased in your actions.

Last, but most important is how law enforcement executives, managers and supervisors monitor and take the most appropriate corrective actions.



Candidly speaking, I know it will be a challenge in dealing with the organizational culture, but frankly speaking, **You get what you tolerate!** You either have the *leadership ability to* make tough decisions or convinced your motivation for promotion is to ride the pay scale until retirement. But just imagine having that dream of retirement interrupted by a civil lawsuit for negligence of supervision. Vicarious liability for failure to *train*, *direct* and *supervise* officers in the legitimate performance of duties.

#### PRACTICAL EXERCISE



Reflect on what local issues of the past have left a lasting negative impact on police legitimacy in your jurisdiction? Please write a one paragraph essay on how you (in your capacity) can take next action steps to resolve those community concerns.

You have fifteen (15) minutes to complete this exercise.




Essentially, Community Policing and Community Relations fall within the same definition as *philosophies promoting* organizational strategies or open channels of communication through partnerships and problem-solving techniques to proactively address immediate public safety issues such as crime, social disorder, and the fear of crime.

We turn to Sir Arthur Peel, one of the most prominent influencers of reforming criminal law and modernizing policing under nine principles. Of these nine principles, the one that must squarely fit our lesson for integrating the goals of community relations and community policing is #7:

"Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

Within context of this principle comes a more authentic way to engage the public in communicating critical information to the community aids in crime prevention and fear reduction.

#### Now take a moment and review your essay in Lesson 2 and ask yourself the following three questions:

- **1.** Does the community support our agency?
- 2. Are officer-citizen encounters positive?
- **3.** Are citizens confident our agency is in the community to help?

Depending on your answers to these questions reflects your agencies commitment to getting the process to identify real problems and collaborate on implementing real solutions.



C.O.P.S

01

#### **Community Partnerships**

Establishing collaboration between the law enforcement agency individual citizens or community groups helps to develop solutions to problems while at the same time building trust. Some examples of community partnerships include: collaborating with other government agencies or community-based organizations that provide essential services that do not require criminal justice intervention. For example, in some agencies having a working relationship with mental health professionals, homeless shelters or mentoring programs for youth.

02

#### **Organizational Transformation**

Decentralizing agency management, and decision making processes from agency executives to division commanders, first line supervisors and front line staff. While this approach may change the climate and culture of the agency, it supports a proactive approach to hands-on problem solving and partnerships. For example, in some agencies, front-line officers are given more decision-making authority to make timely decisions in the field.

03

#### **Problem-Solving**

From front-line officers to command staff, every level is encouraged to think outside the box to engage and resolve concerns at the community level. Not just simply responding to crime, but proactively engaging the community in a structured and disciplined approach.

Crime prevention is only as good as the quality of information gathered and analyzed to make timely decisions at the community level. One of the best approaches where information plus analysis equals reliable intelligence under the model of S.A.R.A.



01

**Scanning -** *Identifying and prioritizing problems.* 

An accurate picture of the problem, what is happening in the community, the nature and extent of the problem, the trends, and where the main threats are occurring.

02

**Analysis -** Researching what is known about the problem.

As part of the analysis phase, it is important to find out as much as possible about each aspect of the crime triangle by asking who, what, when, where, how, why, and why not just about the hot spots, but the victim, offender.

03

**Response -** Developing solutions to bring about lasting reductions in the number and extent of problems.

The goals of the response can range from either totally eliminating the problem, substantially reducing the problem, reducing the amount of harm caused by the problem, or improving the quality of community cohesion.

04

**Assessment -** Dependent upon the severity of crime and disorder in the various community, determining the effectiveness of the approach.

This is usually done in a control meeting where commanders of the agencymake presentations about operations in various communities. *The control meeting is also the ideal place where the community can see transparency and* accountability in real-time.

# COURSE NOTES

# COURSE NOTES



d. Both a and c

Match	tne tollowing competencies	to criminai justic	e leaders. Write the ap	opropriate letter on the b	iank line.
1	Inculpatory Evidence	a. The author	rity or right to dictate pro	per behavior and enforce th	e law
2	Police Legitimacy	b. Used by th	he Defense to prove inno	cence.	
3	Exculpatory Evidence	c. Used by th	he Prosecution to prove g	juilt	
4	Procedural Justice	d. Fairness a	and transparency of proce	esses (distributive or retribut	ive).
Circle	the appropriate letter thats a	nswers the multi	iple choice question.		
5.	the police are the public	and the public a to duties which a	re the police; the poli	ce being only members	the historic tradition that of the public who are paid to of community welfare and
	<ul><li>a. Protocol 22 of the Police</li><li>b. Objective #4 by Abraham</li><li>c. Fourth Amendment of th</li><li>d. Principle #7 by Sir Arthur</li></ul>	Lincoln e U.S. Constitution			
6.	Criminal justice leaders l people and processes.	nave a	and	on behalf o	f the agency to interact with
	<ul><li>a. limited and minimal role</li><li>b. visible and public relation</li><li>c. liability and fall guy role</li><li>d. responsibility and legal re</li></ul>	ns function			
7.	Which of the following p the nature and extent of		•		ppening in the community, ring.
	<ul><li>a. Scanning</li><li>b. Analysis</li><li>c. Response</li><li>d. Assessment</li></ul>				
8.	Which of the following a balance the officer-citize		Four Core Principles of	f Procedural Justice in th	ne sphere of Neutrality to
	<ul><li>a. The public requires decidents</li><li>b. Your decisions must be</li><li>c. Your actions must not be</li></ul>	subjective and biase		anner.	

9.	То	minimize inaccurate perceptions about your legal and lawful presence:
	a.	Remember, even when acting in the most professional manner you are under constant scrutiny.
	b.	Your actions are scoured over for any perception of mistake or injustice.
	C.	Remain above reproach. Be just and unbiased in your actions.
	d.	All the above
10.	Wh	nich of the following is not a part of the S.A.R.A. model
	а.	Scanning
	b.	Adjudication
	C.	Response
	d.	Assessment
11.		m front-line officers to command staff, every level is encouraged to think outside the box to engage and olve concerns at the community level.
	a.	Question session
	b.	Problem Solving
	С.	Community Partnerships
	d.	Organizational Transformation
12.	Pro	cedural justice begins with the
	a.	first appearance in court
	b.	supervisor approving an incident report
	C.	initial response and actions of the responding officer
	d.	sentencing and conviction of the defendant
Write i	True o	r False before each statement. Correct those statements that are false with an appropriate sentence.
13		Police legitimacy involves the belief law enforcement actions are morally justified and appropriate to the circumstances.
14		
		that is perceived as legitimate.

15	The public requires decisions to be made in a just, fair, and arbitrary manner.
16	Concerns for police legitimacy, and the pursuit of procedural justice should over-ride an officer's safety.
17	Once an incident involving the questionable use of force becomes public, you can immediately repair the damage.
18	Community Policing and Community Relations essentially are philosophies promoting organizational strategies or open channels of communication through partnerships and problem-solving techniques to proactively address immediate public safety issues such as crime, social disorder, and the fear of crime.
19	Occupational arrogance is a state of mind where the law enforcement officer (regardless of his actions being lawful or illegal) believes his authority cannot or should not be challenged or questioned.
20	Crime prevention is not dependent upon quality of information gathered and analyzed to make timely decisions at the community level.

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