



# Procedural Justice & the Criminal Justice System

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Presented by:

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# Agenda

- Introduction
- Legitimacy & Procedural Justice
- Implicit Bias
- Training
- Research



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# Introduction

[https://www.ted.com/talks/victoria\\_pratt\\_how\\_judges\\_can\\_show\\_respect?utm\\_campaign=tedsread&utm\\_medium=referral&utm\\_source=tedcomshare](https://www.ted.com/talks/victoria_pratt_how_judges_can_show_respect?utm_campaign=tedsread&utm_medium=referral&utm_source=tedcomshare)

# Introduction

“When any part of the American family does not feel like it is being treated fairly, that's a problem for all of us. It's not just a problem for some.”

-- President Obama

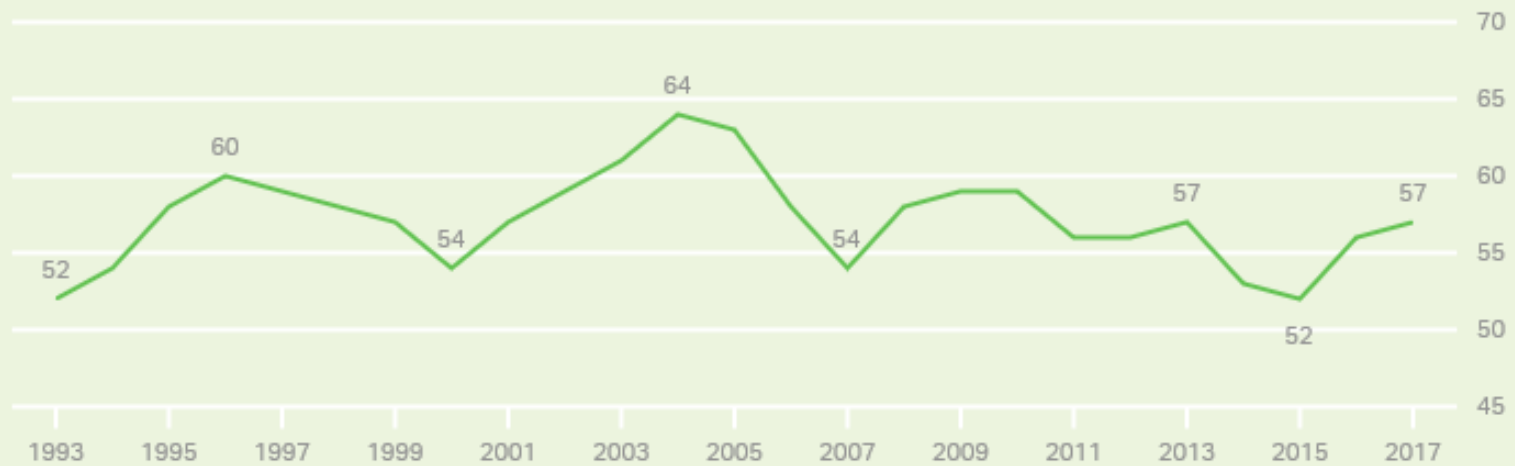
## A paradox:

- *Objective* quality of American policing has improved.  
(Fairness and Effectiveness in Policing, 2004, National Academy of Science).
- Greater ability to fight crime
- Decline in unlawful shootings of civilian

## Overall Confidence in Police Rebounds in 2016, 2017

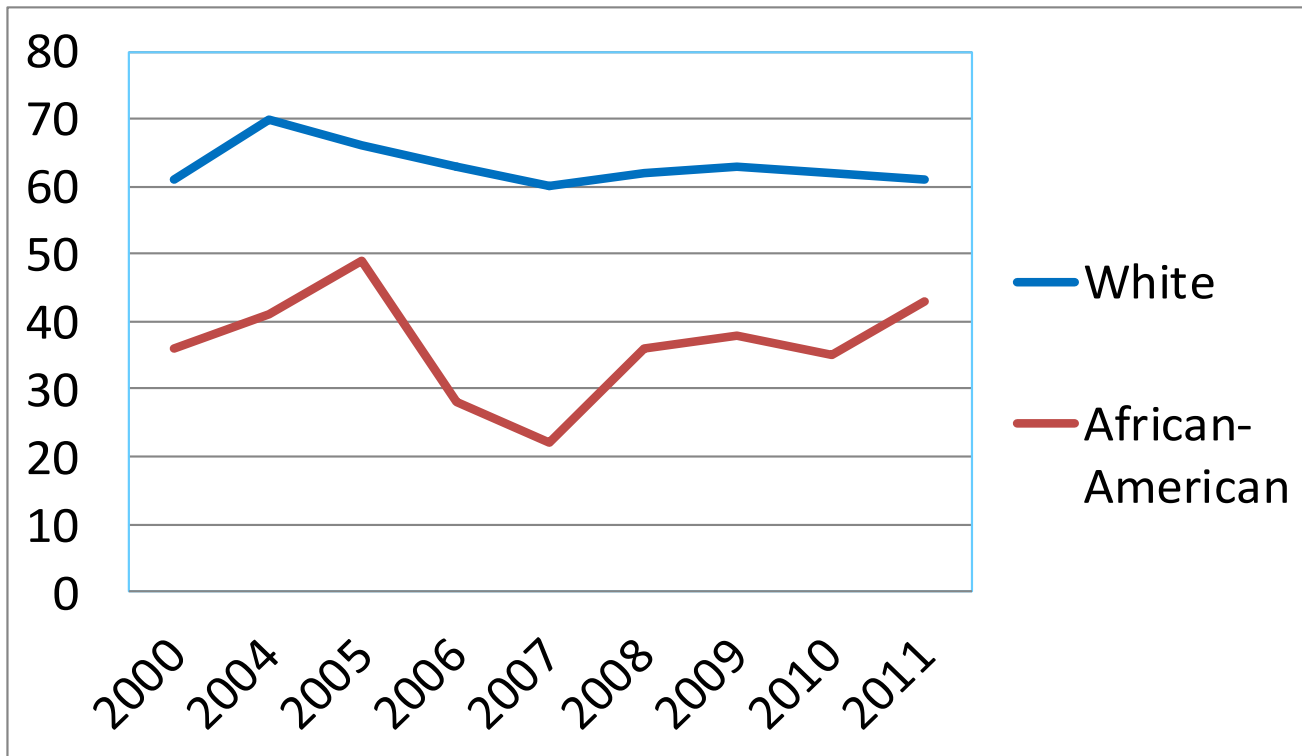
Percentage of all American adults who have "a great deal" or "quite a lot" of confidence in the police

■ Great deal/Quite a lot (%)



GALLUP

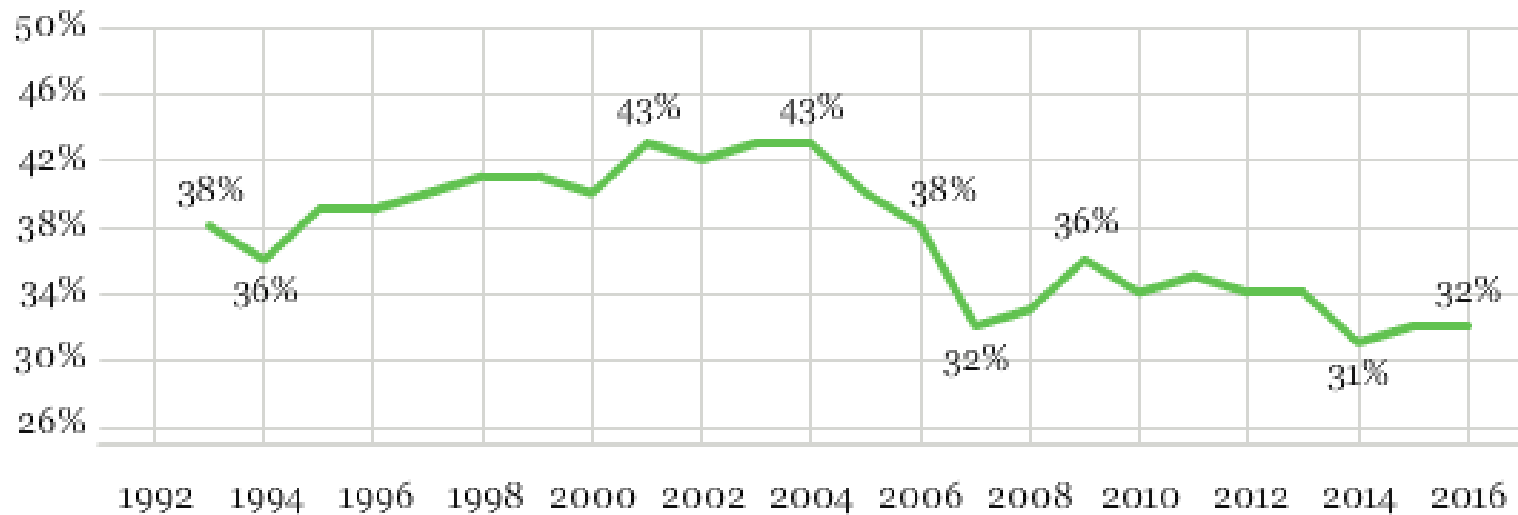
Percent expressing “a great deal/quite a lot” of confidence in police officers





## *Average Confidence Rating for All Institutions, 1993-2016*

Average percentage of Americans who have "a great deal" or "quite a lot" of confidence across 14 institutions



Average is based on 14 institutions asked about annually since 1993

Many Institutions Lost Ground in Last Decade

Percentage with "a great deal" or "quite a lot" of confidence in the institution

	June 2006	June 2016	Difference, 2006 to 2016
	%	%	pct. pts.
Military	73	73	0
Police	58	56	-2
Church or organized religion	52	41	-11
Medical system	38	39	+1
Presidency	33	36	+3
U.S. Supreme Court	40	36	-4
Public schools	37	30	-7
Banks	49	27	-22
Organized labor	24	23	-1
Criminal justice system	25	23	-2
Television news	31	21	-10
Newspapers	30	20	-10
Big business	18	18	0
Congress	19	9	-10

## Many Institutions Lost Ground in Last Decade

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Confidence in Police Rebounds for Some Groups, Drops for Others

Percentage who have a great deal or quite a lot of confidence in the police

	2012-2014	2015-2017
	%	%
U.S. adults	55	54
<b>Race and ethnicity</b>		
Hispanics	59	45
Blacks	35	30
Whites	58	61
<b>Ideology</b>		
Liberals	51	39
Moderates	56	53
Conservatives	59	67
<b>Age</b>		
18-34	56	44
35-54	53	54
55 and older	58	63
<b>Party ID</b>		
Democrats and leaners	52	44
Republicans and leaners	64	69

GALLUP



# Introduction

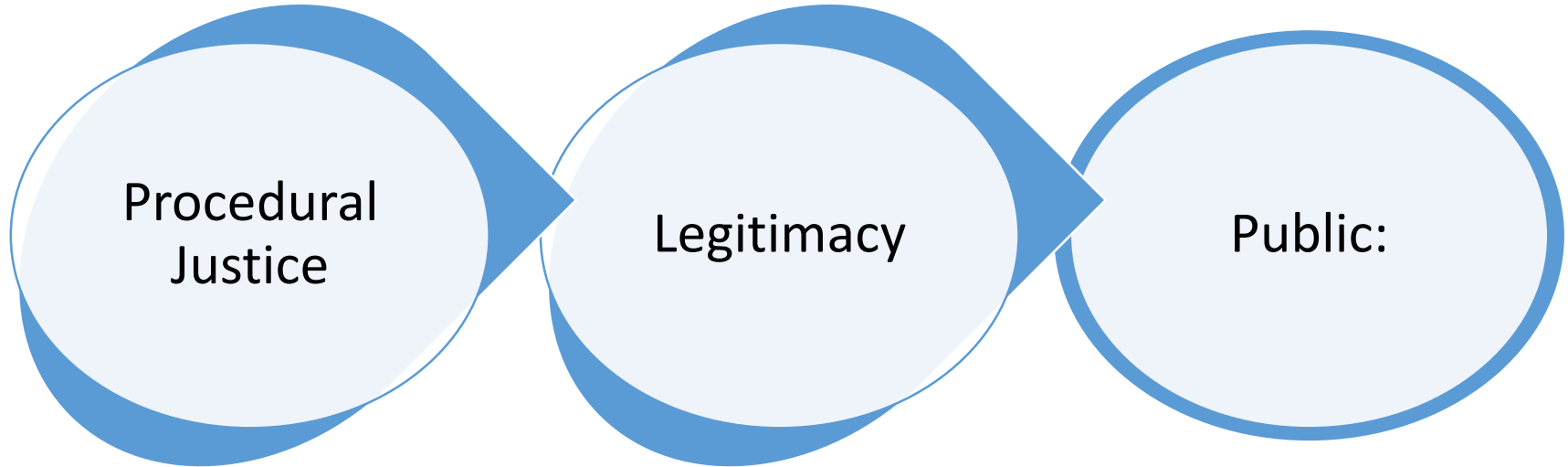
Why do we care what people think of police & other institutions?

## ***President's Task Force on 21st Century Policing*** **Pillar One “Building Trust & Legitimacy”**

### Recommendation 1.1

Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs' departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

# Introduction



Public believes that legal authority is exercised fairly

Public accepts the authority of the agent

- Defers to authority
- Obeys the law
- Cooperates with authorities
- Participates



# Agenda

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- **Legitimacy & Procedural Justice**
- Implicit Bias
- Training
- Research





# Legitimacy & Procedural Justice

<https://www.youtube.com/watch?v=76fkEan5Nj4>



# Legitimacy & Procedural Justice

Legitimacy is shaped by *how* authority is exercised:  
**procedural justice**



# Legitimacy & Procedural Justice

“Quality” of individual interactions determines sense of legitimacy.



# Legitimacy & Procedural Justice

The belief that the law enforcer has the right to do so.



# Legitimacy & Procedural Justice

Impacts compliance.



# Legitimacy & Procedural Justice

The extent to which the public views “government agents” as entitled to exercise authority.

# Legitimacy & Procedural Justice

During police-citizen interactions, perceived legitimacy:

- Increases deference.

- Leads to voluntary decision acceptance of police directives (maintained over time)

- Lowers resistance and hostility

- Increases safety

- Increases satisfaction



# Legitimacy & Procedural Justice

- Voluntary compliance
- Cooperation
- Decreases violence
- Other positive benefits





# Legitimacy & Procedural Justice

What shapes legitimacy?

# Legitimacy & Procedural Justice

- Dominant models:
  - Lawful – agents obey the law
  - Effective – agents succeeding (means justify the ends)
- *Neither* central to public trust and confidence



# Legitimacy & Procedural Justice

Lawfulness is . . .

# Legitimacy & Procedural Justice

Lawfulness is . . .





# Legitimacy & Procedural Justice

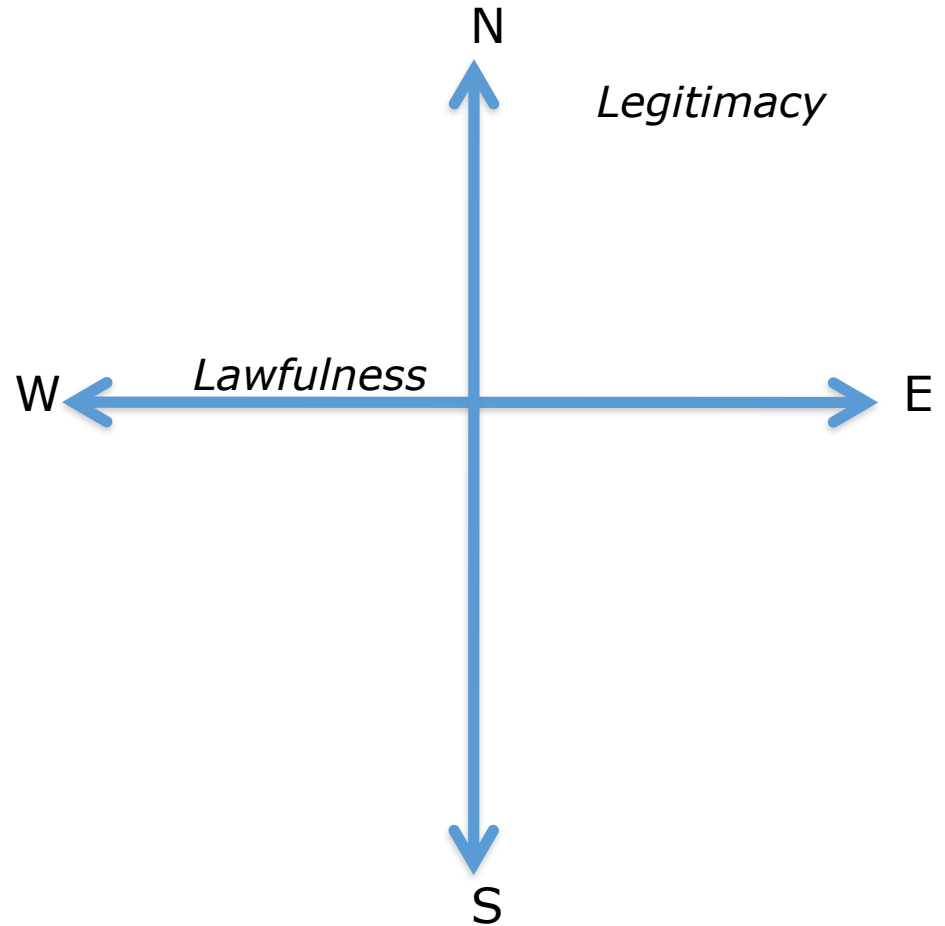
## Constraints:

- Laws and Ordinances
- Rules, Regulations and SOPs
- Court Rulings and Decisions

# Legitimacy & Procedural Justice

Lawfulness is . . .

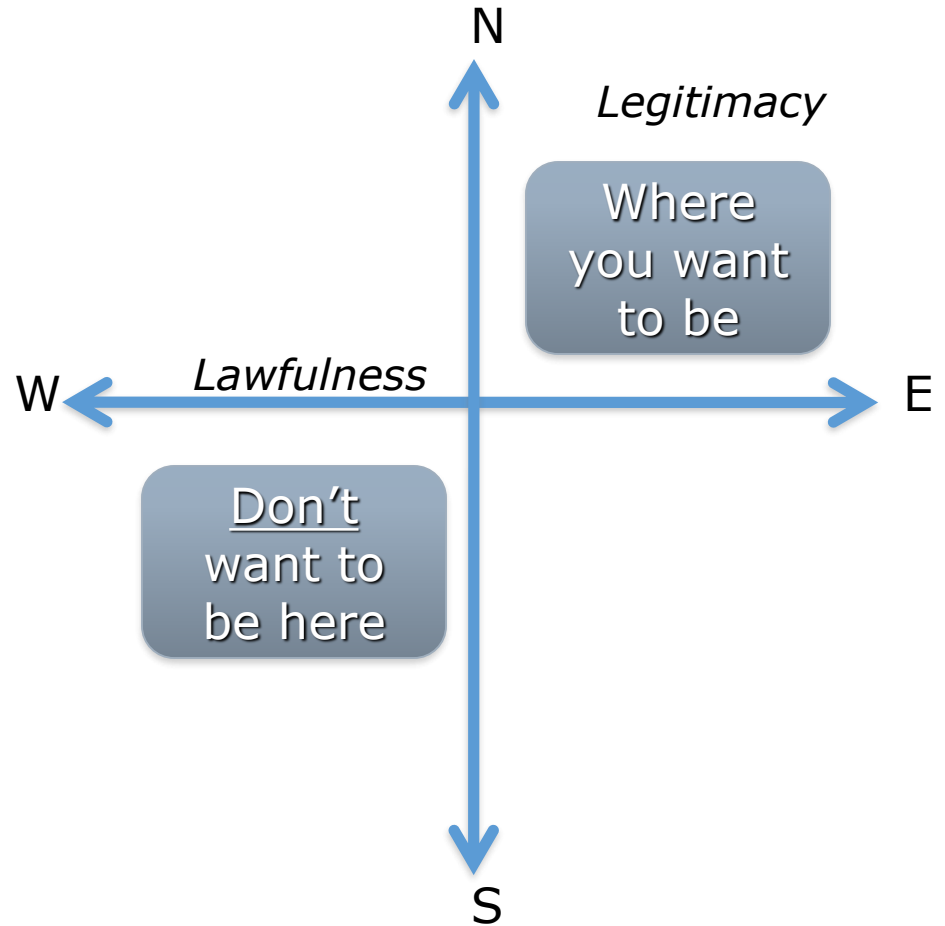
Legitimacy is . . .



# Legitimacy & Procedural Justice

Lawfulness is . . .

Legitimacy is . . .





# Legitimacy & Procedural Justice

Exercising their authority in fair ways - **procedural  
justice**



# Legitimacy & Procedural Justice

## Quality of **decision making**

1. Voice
2. Neutrality, Transparency, Factuality

## Quality of **treatment**

3. Respect for people and their rights
4. Trustworthiness

An opportunity to “tell their side of the story”

*“The judge/police officer/attorney did not listen to me.”*

An opportunity to participate / provide input

*“Who made that rule? That doesn’t make any sense.”*

# Voice in Practice

Allow people to state their case *before* making decisions.

Create “forums” in which they can **voice** their side of the story.

# Neutrality, Transparency

Decisions based on facts and rules, not personal opinions, rules applied consistently across people and over cases.

*“My neighbor did the same thing but they didn’t get a ticket.”*

Transparency (Evidence)

*Being neutral is not the same as **being seen** as neutral.*

# Neutrality in Practice

Explain:

what is happening

why it is happening

**basis** upon which decisions are being made

what will happen next

what they can / should do

# Respect in Treatment

## Demonstrate respect

- for people
- for their concerns

*“The officer didn’t even get out of the car, just yelled at me to come to them.”*

*“The judge didn’t know my name.”*

# Respect in Practice

## Courtesy, politeness

- Offer greeting

- Make eye contact

- Address people by name.

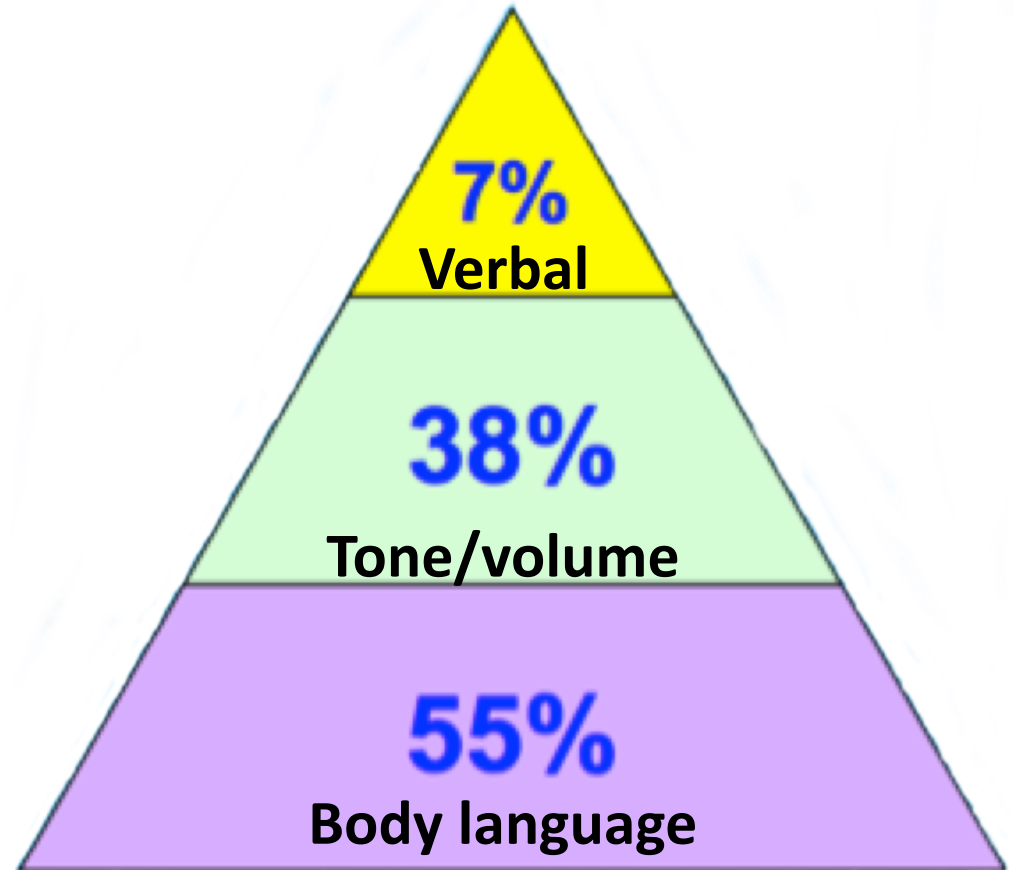
## Respect rights

- Provide information about rights

- Emphasize that they have the right to fair treatment

# Respect in Practice

In stressful situations, non-verbal communication takes over:



Percent of information communicated



# Trust in Treatment

Trust based on perceptions that officials are:

Listening / considering expressed views

Serious consideration

Trying to do right

Acting in interest of individual

# Trust in Practice

- Trying to do what is right.
- Communicating that you are concerned about the people involved (benevolence).
- **Acknowledge** the importance of the issues to the people involved. Consider people's arguments.
- **Account for decisions** showing responsiveness to concerns. Concerns have been listened to and taken into account.

# Trust in Practice

Demonstrate listening & serious consideration  
Eye contact, not distracted OR multitasking

Acknowledgement, even when you cannot act as they would want

Express awareness of / empathy for the situation

Treat the matter seriously

Explain your decision.

Demonstrate that you considered people's arguments by



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# Implicit Bias

- Human brains shortcuts
- Necessary to function in a complex world
- Without them difficult to respond quickly



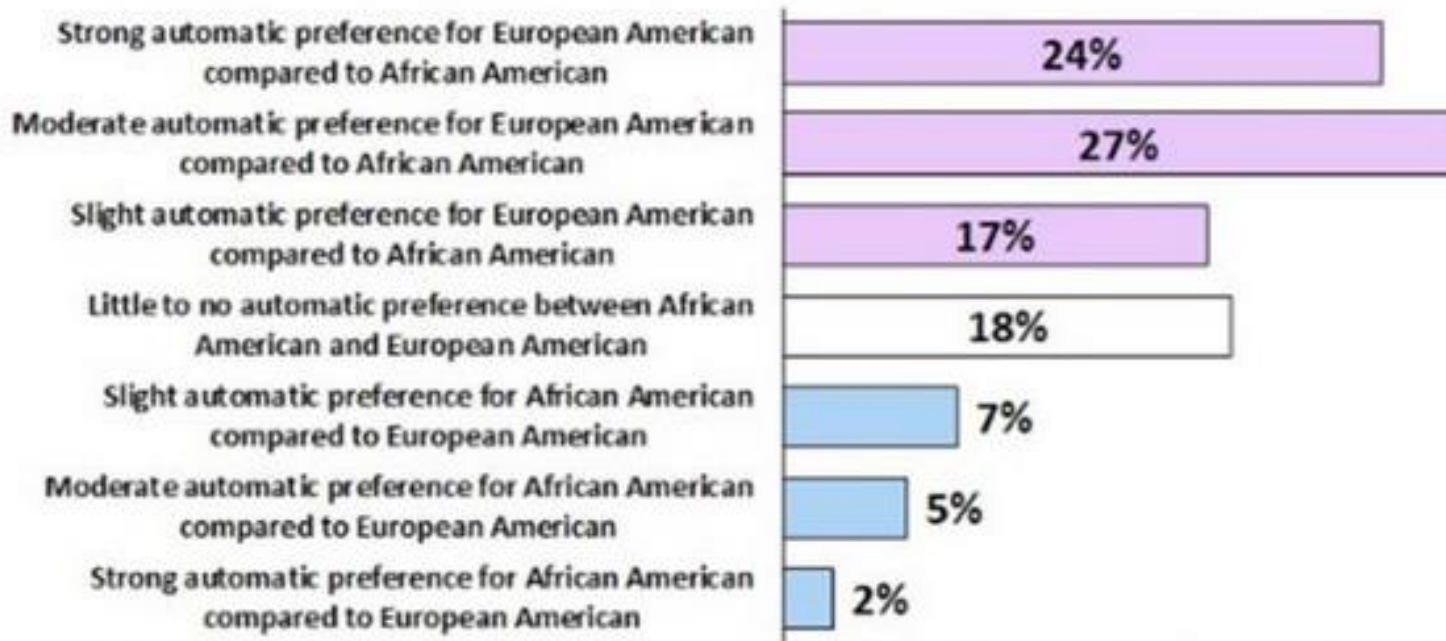
# Implicit Bias

<https://www.youtube.com/watch?v=lsV8kiDtN78&t=26s>

# Implicit Bias

- Overt hostility in decline
- Equality remains elusive
- Not all biases are explicit.
- Everyone have implicit biases to some extent

Percent of web respondents with each score



This distribution summarizes 3,314,277 IAT scores for the Race task completed between December 2002 and December 2015.



## Implicit Bias

**MYTH:** Implicit bias is nothing more than beliefs people choose not to tell others. They know how they feel; they just know they cannot or should not say those beliefs aloud, so they hide them.

**BUSTED**

Implicit bias differs from suppressed thoughts that individuals may conceal for social desirability purposes. **Implicit biases are activated involuntarily and beyond our awareness or intentional control.** Implicit bias is concerned with unconscious cognition that influences understanding, actions, and decisions, whereas individuals who may choose not to share their beliefs due to social desirability inclinations are consciously making this determination.

**BUSTED**

**MYTH:** Having implicit biases makes me a bad person.

Bias is a natural phenomenon in that our brains are constantly forming automatic associations as a way to better and more efficiently understand the world around us. **No one is a “bad” person for harboring implicit biases; these are normal human processes that occur on an unconscious level.** Some implicit biases are even positive in nature. In terms of the existence of unwanted, negative implicit biases, fortunately our brains are malleable, thus giving us the capacity to mitigate their effect through research-based debiasing strategies.

**MYTH: It's a waste of time to try to mitigate my implicit biases. They do not impact anyone anyways.**

**BUSTED**

Extensive research has documented the real-world effects of implicit biases in the realms of health care, criminal justice, education, employment, and housing, among others. For example, implicit biases can affect the quality of care a patient receives, the level of encouragement students receive from their teachers, whether or not an individual receives an interview or promotion, and more. **Implicit biases have huge implications**; thus, it is important to identify your own biases and then actively engage in debiasing techniques to address them.

**MYTH: I am not biased; I have diverse friends and I believe in equal treatment.**

**BUSTED**

**Actually, we all have implicit biases.** Research shows that all individuals are susceptible to harnessing implicit associations about others based on characteristics like race, skin tone, income, sex, and even attributes like weight, and accents. Unfortunately, these associations can even go as far as to affect our behavior towards others, even if we want to treat all people equally or genuinely believe we are egalitarian.

# Implicit Bias

- Impact heavily dependent upon contexts
- When basis for judgment is vague, implicit bias more likely to creep
- Explicit, concrete decision criteria protects



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# Training

- Department of Justice COPS Office
- Office of Justice Programs Diagnostic Center
- National Initiative for Building Community Trust & Justice
- Center for Court Innovation



# Training

- Can build legitimacy and trust
  - Can be helpful and reassuring
- Goal of PJ training
  - To foster positive
  - Increase compliance with law
  - Increase officer safety

- Before training, prepare the organization
  - Pre-training messaging
- Community involvement in design, delivery
- Trainer quality
- Ongoing evaluation
  - Future iterations

## Exercise

- Words that others (non-police) use to describe police.
- Words that the police use to describe others (non-police).



- Good models exist at no cost
- Training programs with strong fidelity to the underlying theory demonstrated success
- Models should be created with input from social scientists, theorists
  - Theory is foundation; if theory unsound, whole house will be unstable
- Leadership training (e.g. Blue Courage) not a substitute for PJ or IB training



# Training

- To be taught by police officers
- Train-the-trainer
- Internal police department buy-in
- Departments should adapt to fit their history, specific issues



# Training

## **Completed Procedural Justice Training - Police:**

Chicago, IL

Oakland, CA

Salinas, CA

Stockton, CA

Birmingham, AL

Fort Worth, TX

Gary, IN

Minneapolis, MN

Pittsburgh, PA

New York, NY



# Training

Credibility is key.

Chicago, IL - 95% percent rated “Excellent,” “Very Good,” or “Good”

Stockton, CA - 95 % rated “Excellent” or “Very Good”

“...helped open the floor for peer support and better communication.”

“I was pleasantly surprised;” “encouraged by it;” and “this is the right direction we need to be going.”

Oakland, CA - 98% “Excellent,” “Very Good,” or “Good”

“...reminded us why we’re here.”

“...reminded me of how my attitude affects my interactions.”

- Increased officer support for all of the procedural justice dimensions
- All effects were strong
- Longer-term, officers continued to be more supportive of three of four PJ principles
  - Effect of training on trust *not* statistically significant.

- Changes in attitudes difficult, only moderately predictive
- Goal of IB training not to *reduce* but to *interrupt*
- Can / will hold implicit biases without acting on them

- Developed by Center for Policing Equity staff in collaboration with Chicago Police Department and New York Police Department
  - one-day (eight-hour) training consisting
  - 4 Modules that cover how and when racial disparities arise even in the absence of bigotry
- Scenarios, interactive exercises, and repetition
- Train the Trainers



- “Identity traps”  
Situations that allow psychological factors to allow behavior inconsistent with values.
- Behaviors unrelated to character or *conscious intentions*
- Issues of racial disparities not to “hearts and minds” of officers



# Training

- Commitment beyond training
- Policies and practices
- Internal procedural justice
- Efforts to incorporate PJ throughout CJS



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Research

 **SAGE** journals

**Criminal Justice and Behavior**

Volume 43, Issue 1, January 2016

Special Issue: Procedural Justice and Legitimacy Across the Criminal Justice System

- Prevents crime and recidivism
- Prevent arrest, use of force
- Prevent abuses in jailing
- Promote fairness in prosecution
- Prevent wrongful convictions
- Reduce corrections populations
- Build stronger communities

## Objective / Author(s)

Prevent crime &  
recidivism

Tyler 1990, 2006

Jackson et al., 2013;

Papachristos et al., 2013

## Findings

- Perceived police legitimacy decreases approval for the use of violence among private citizens
- Legitimacy-based programs reduce previously incarcerated individuals likelihood of recidivism and increase the length of time they spend out of jail.
- Perceptions of fairness can increase citizens' cooperation with legal authorities and reduce their likelihood of supporting or engaging in criminal activities themselves.

## **Objective / Author(s)**

Prevent arrest, Use of Force

Owens et al, 2016

Trinkner, Tyler, & Goff, 2016

## **Findings**

- Officers with regular procedural justice training were 26% less likely to end encounters with arrest (short-term), 50% less likely to be involved in a use-of-force case (long-term).
- Internal procedural justice, leads officers to be more likely to endorse the value of fair policing in their own encounters with citizens (Trinkner, Tyler, & Goff, 2016).

## Objective / Author(s)

Prevent abuses in jailing

Lambert et al., 2007

Kop et al., 1999

Taxman & Gordon, 2009

## Findings

- Corrections officers' perceptions of organization as procedurally just predict greater commitment to work and reduced stress; both factors reduce proclivity for violence on duty.
- Corrections officers who perceive workplace operating with less procedural justice lead them to feel more afraid of their inmates, which may promote what they mistakenly consider pre-emptive force .



## **Objective / Author(s)**

Promotes fairness in  
prosecution

Casper et al., 1988

## **Findings**

- The amount of time spent with one's lawyer predicts stronger feelings of procedurally fair treatment.
- Procedurally fair treatment by prosecutors—feeling listened to and treated in an unbiased way—leads people to feel more satisfied with the outcome of their case, independent of sentence severity.

## Objective / Author(s)

Prevent wrongful conviction

Barret-Howard & Tyler,  
1986

Ask et al., 2008

Tyler & Huo, 2002

## Findings

- Using the same criteria consistently is a hallmark of procedural justice. Bias is the definition of inconsistently applying criteria, yet bias can affect all aspects of the conviction process. For example, police rate exonerating evidence as less reliable than guilt-confirming evidence.
- Procedural fairness improves the court experience for all, regardless of race, economic background, or felony severity.

## Objective / Author(s)

Reduce corrections  
populations

Franke et al., 2010

Reisig & Mesko, 2009

Vidmar, 1992

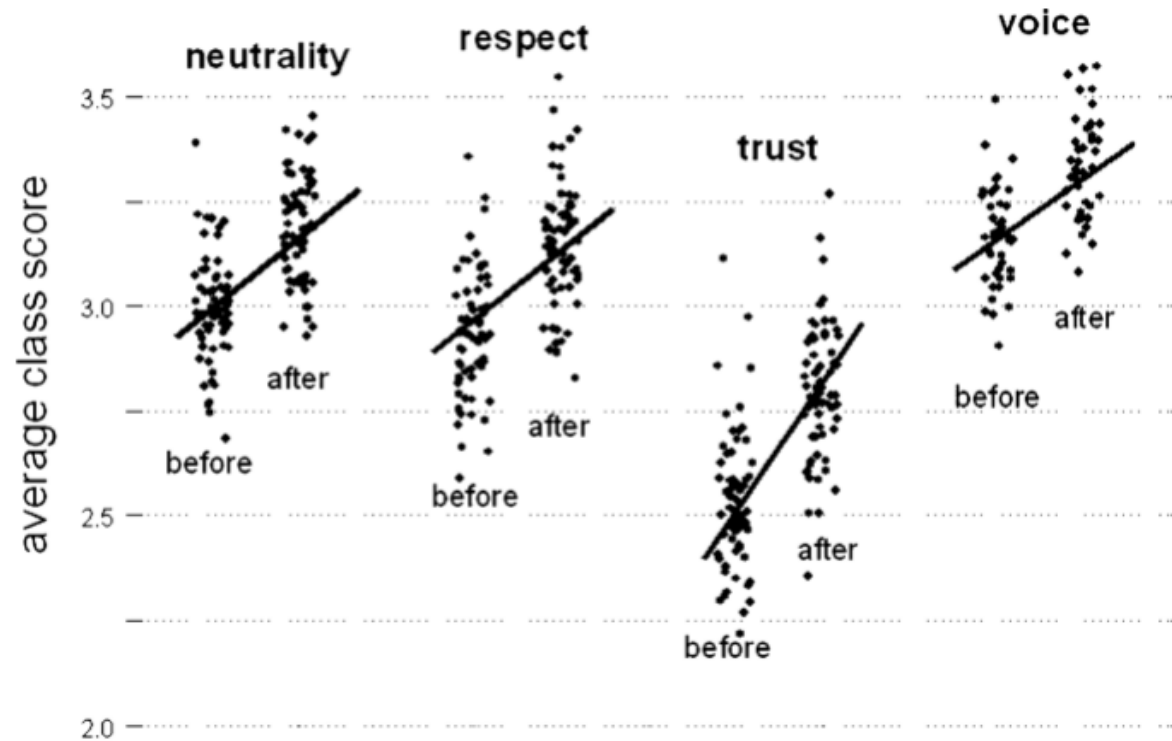
## Findings

- Long-term incarceration delegitimizes legal authority in the eyes of the incarcerated.
- Corrections officers' use of legitimate and just authority reduced the likelihood of prisoners' engaging in misconduct or violating institutional rules.
- Principles of procedural justice are often used to bolster alternative dispute resolution practices.

- Procedural Justice Training
- Skogan, Van Craen & Hennessy (2014)
- Two Studies:
  - Short-term effects
  - Longer-term effects
- Training:
  - 1 day, 5 modules

Dimension	Measure
Trust	- whether <i>citizens</i> could bet trusted to do the right thing, have good intentions, etc.
Voice	<p>“Officers need to show an honest interest in what people have to say, even if it is not going to change anything,”</p> <p>“Listening and talking to people is a good way to take charge of situations.”</p>
Respect	<p>“People should be treated with respect regardless of their respect for the police,”</p> <p>“People who break the law do not deserve to be treated with respect.”</p>
Neutrality	<p>“It is necessary to give everyone a good reason why they are being stopped, even if it is not required,”</p> <p>“If people ask why they are being treated like they are, it is necessary to stop and explain.”</p>

Short-term Effects: Substantial differences on all four dimensions of procedural justice



67 control and 66 experimental classes

Fig. 1 Four dimensions of procedural justice, before and after training

“Relatively enduring impact” on three of four dimensions.

Excluded “Trust” in public

We’ve been taught to trust nobody, to show less emotion. . . .We come to see everything as bullshit – going to another domestic, going to a beat meeting, going to training. We come to see people as assholes. But in reality, there’s a big population we never come in contact with. It’s the rest of the world.



# Summary

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- Legitimacy & Procedural Justice
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- Public perceptions of gov't actors' behaviors shapes *their own* behaviors.
- Procedural justice:
  - creates and maintains legitimacy.
  - Across group membership (race, offending)
- Fair treatment supports, promotes agency goals



Thank You

- Questions / Discussion

**THE JUSTICE  
COLLABORATORY**



YALE LAW SCHOOL

# THE JUSTICE COLLABORATORY

YALE LAW SCHOOL

## Implicit Association Test

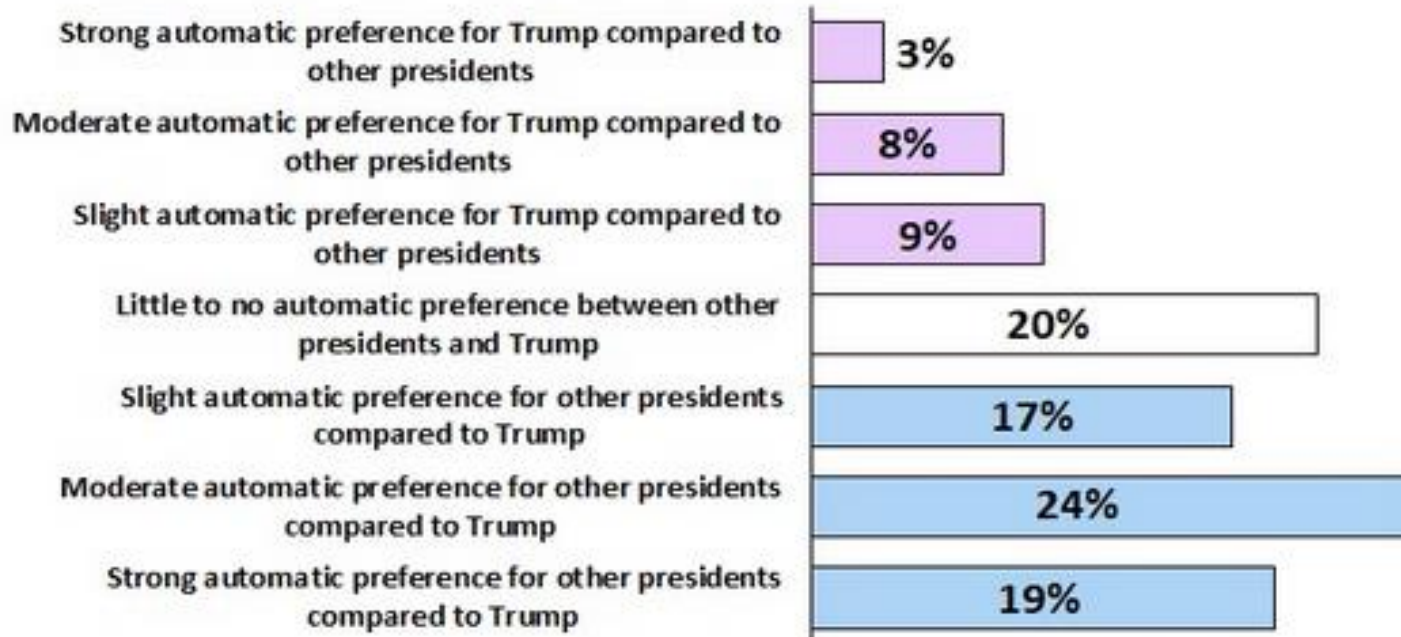
Next, you will use the 'E' and 'I' computer keys to categorize items into groups as fast as you can. These are the four groups and the items that belong to each:

Category	Items
Good	Pleasure, Glad, Fantastic, Laughing, Appealing, Delight, Excellent, Spectacular
Bad	Evil, Nasty, Despise, Detest, Abuse, Disgust, Sickening, Horrific
Donald Trump	
George W. Bush	

There are seven parts. The instructions change for each part. Pay attention!

Continue

## Percent of web respondents with each score



This distribution summarizes 64,422 IAT scores for the President IAT completed between March 2017 and December 2017.

