

# Enforcing Normalcy

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in entry #253, I wrote about various situations where agents are unclear on the rules they are expected to enforce. Such situations are inevitable: there are few situations where all the rules are so clear that a single person can correctly work them out every time. [In economist-speak: there's no such thing as a complete contract.] I gave the example of being thrown off two Amtrak trains for bringing aboard a folding bike, which the conductors insisted is against the rules, though Amtrak's written policy is clear that folding bikes are A-OK.

This time, I'll focus on the cultural implications. By this, I both mean low-grade cultural differences, like how I don't drive and so use a folding bike, and what we normally consider cultural issues, like wearing a turban or bringing equipment for prayer or ritual onto public transportation [See the Schneier link below]. There are many little details in how a bureaucracy can support or stifle diversity of appearance, belief, and behavior. As per last time, I'm going to consider the rules *per se* in a limited capacity, and will focus on how they are disseminated.

One more detail for the case of Amtrak. Like the Library of Congress, Amtrak is one of the odd organizations that has its own police force. [This opens the door for *CSI: Library of Congress*. Words can not express how much I want that program to be produced.]

Police as bureaucrats have different problems from the sort of bureaucrats sitting at a bureau all day, because they are in situations where stopping to flip through the manual is not a practical possibility. Everything from last time regarding misapprehensions in subtleties in policy is simply exacerbated.

Also, they carry firearms, which are a shorthand form for 'whatever I think the policy says, is right.' Which exacerbates things still further.

Oh, and risk aversion: what to do in the case when you're not sure of what the rules are, but something seems askew. Police are expected to make very quick and very decisive decisions—to overreact and shut down whoever is breaking things. That is, a risk averse officer, given uncertain rules, will be quick to make something up to fill in the gaps, and that will tend toward stopping anything unexpected or unusual. More on this below.

***Ex post review (a digression)*** As for the issue of giving the police incentives to actually know the rules, we can take immense pride in the amount of paperwork the typical police officer fills out for a given situation. Ostensibly, much effort is put into holding officers accountable should they use the authority vested in them by their firearms in a manner inconsistent with the laws they are expected to uphold.



Figure 1: Amtrak police. Probably unaware of the policy on folding bikes.

But I don't want to talk too much about the question of *ex post* review, for two reasons. First as a consumer/citizen, I don't put much credence in review of bureaucratic mishaps, because the cases are rare when it really makes the person who was mistreated whole again. I missed my train, our photographers from last time missed their in-the-moment shot, and somebody mis-arrested would serve a night's prison term (common for protesters). Second, it's a digression from the key question here, which is what happens when the bureaucrat is unsure of the rules they are supposed to implement. If they know the rules and choose to go against them anyway, that's another matter entirely.

[Amtrak's *ex post* review? If you do get thrown off the train, I was told, you're welcome to file a complaint, though Amtrak policy is to not tell customers what happens to their complaints after they're filed, since that would be to reveal how policy is disseminated and enforced. After my first round of policy questions, a bureaucrat offered to file a complaint on my behalf; two weeks later, I couldn't get confirmation that a complaint was actually filed.]

Before I cut out of this digression, let me note that having too much review can also be a disaster. In the end, sometimes the customer really is wrong, and it's an inefficient waste to let the customer appeal ad nauseum. An example of this with which I am too familiar: the U.S. patent system. Being a legally-enthralled bureaucracy, examiners have a rulebook by their side, and a rejection of a patent application can literally be appealed on up to the Supreme Court.

Whether this is appropriate from a legal or ethical perspective is a question for several more essays [which, do not worry, I won't be writing]. But from a bureaucratic perspective, it is a disaster, and everybody knows it. Because a rejection is never certain until the Supreme Court says no, we don't know which patents do or don't exist. When a cus-

customer gets a patent, s/he goes away; when a customer is rejected, it's a federal case. This asymmetry by itself loads the deck toward granting more patents than should be—and I haven't even mentioned the actual rules for patentability.

Oh, and here's one more effect of having the manual on hand at all times: the rules can be arbitrarily detailed. It's no problem having exceptions within exceptions for patent law, because examiners have the cookbook right there to follow along. Meanwhile, Amtrak has its flying-without-a-manual culture, which means that it is impossible for its policy to have more detail than a conductor can immediately recall. Want to say no to most bikes, but that folding bikes are OK; that "electronic equipment" is prohibited, but you can carry on "laptop computers and handheld devices"; or that dogs are out but seeing-eye dogs are OK? As I've found, this can be too much for our no-manual conductors, which means that the policy as implemented reduces to the simplest, least-detailed version. So access to the manual actually affects what policy can be written, and whether policy can be accurate or just the sort of one-size-fits-all scheme that really merits the name bureaucracy.

Exiting from this digression, we can take this bland exceptions-are-hard concept further.

**The war on the unexpected** That's a phrase from Bruce Schneier<sup>1</sup>, who explains that security folk are mostly just looking for something unusual as a hint that people are behaving badly. The terrorists aren't going to walk in waving a bomb, but they might be behaving strangely or be carrying something strange-looking.

If I was flying to visit a pal, and had a gift for him or her, I used to carry it in a cardboard box, so I could chuck the box in the recycling bin instead of carrying back an empty suitcase. I'd get stopped and checked over for explosives every time. Are there really higher odds that a box would be a bomb than a suitcase? Do not be ridiculous, but using a cardboard box instead of a suitcase is unusual, which is sufficient to mark it for scrutiny.

For any system, we are more familiar with the common rules which get recited every day than with the odd ones for the special cases. That means that the bureaucrat will be more likely to ineffectively apply policy in the case of the unusual. The risk-averse bureaucrat, who knows that it's safer to mistakenly bar the door than to mistakenly let someone pass, will therefore be enforcing his or her concept of normal on the people on the other side of the counter.

Another amusing anecdote about life as a non-driver: either (1) foreign nationals may not enter federal facilities or (2) everybody needs a state/nationally-issued ID to enter federal facilities. I've heard both stated as fact by people in uniforms, though I increasingly think they're both false. Anyway, I show up to a facility with a U.S. passport card, which is the only ID I can think of that actually fulfills both standards #1 and #2 and fits in your wallet. The guard looks at it, passes it on to the other guard, who inspects it like it's a brainteaser written in Cantonese [there is not actually any Cantonese on the US passport card], and starts making phone calls. 'Hello? Is your guest a foreign national? Because he's presenting proof of US citizenship instead of a driver's license.'

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<sup>1</sup>[http://www.schneier.com/blog/archives/2007/12/even\\_more\\_war\\_o.html](http://www.schneier.com/blog/archives/2007/12/even_more_war_o.html)

So the war on the unexpected isn't necessarily due to explicit orders from on high (though it may be), but simply how a person at the gate deals with ambiguity in his or her knowledge of the rules. Broadly, the agent knows that there are rules that he or she doesn't know, and rightfully assumes that they'll be in regards to special cases. *OK, I know what to do with a driver's license, but am I sure there isn't some other step I need to do for passport cards?* Being risk averse, the agent is therefore most likely to bar the door for special cases.

It'd be great to have a bureaucracy that celebrated diversity—;have you seen the latest batch of TSA advertisements at your local airport? But risk and ambiguity (in the mind of the agent enforcing the rules) is a solid force toward enforcing cultural uniformity. With rules that have clear and logical exceptions, easy means of checking the manual, and some accountability when the agent makes things up both to be too permissive and to be too restrictive, a system can minimize the tendency to punish those who are different from the agent's idea of the norm.