

CITIZEN TRUST AND THE LEGITIMACY OF DEMOCRATIC GOVERNANCE

Tom Tyler

Yale Law School

May, 2016

This is a difficult time in which to try to govern a democratic state.

- Economically.
 - Strong pressures brought by static/declining economy.
 - Budget reductions.
 - Rising inequality.
 - Stagnant/declining incomes.
 - Discouragement about the future.
- Socially.
 - Issues of national identity.
 - Immigration and changing character of traditional society.
 - Identity and multiculturalism.

Legitimacy.

- My argument is that governments can more effectively manage these economic and social issues when they are viewed as legitimate by their populations.

Popular legitimacy.

- The core idea is that the public views the government and government authorities as entitled to exercise the authority to maintain social order, manage conflicts and solve problems in their communities.
- Legitimacy reflects three related issues:
 - Trust and confidence in authorities.
 - The willingness to defer to those authorities. Accept decisions/obey rules.
 - Viewing government actions as morally correct and appropriate.
- Often indexed as trust and confidence.

My work.

- I compare two models:
 - Coercive. Sanction/incentive based.
 - Consensual. Legitimacy based.
 - *Why people obey the law; Why people cooperate.*

Legitimacy.

- Different types of connection to groups are possible.
- Dominant form in law today: social control. Based upon threat or use of punishment (coercion)/promise of incentives.
 - Economics.
- Contrast to legitimacy. People accept authority and cooperate with it because they view it as appropriate for external authorities to make decisions about what is appropriate in their community/society.
 - Social psychology.

Kurt Lewin



- Key early figure in social psychology.
 - Father of group dynamics.
- Lewin, Lippitt & White (1939).
- Boys linked to work group leader in different ways.
 - Autocratic. Work when leader present, show down when leader leaves.
 - Democratic. Work irrespective of leader's presence.
- Democratic leadership creates willing effort not linked to presence of an authority.
 - Democratic leadership involves the use of fair procedures for governing – election, consultation, etc.
- US vs. Germany in 1940's. (scapegoating).

Lewin's work.

- Led to a number of types of effort in work organizations to encourage willing and creative engagement in work tasks.
 - EX: T-groups.
- Led to developments in social psychology.
 - Cognitive dissonance. Anti-instrumental view – less reward more acceptance of an idea.
 - Key is to internalize: adopt something as one's own.

Consent.

- Generally, having legitimacy facilitates consensual approaches to law and government.
- There is an increasing recognition of the value of voluntary, willing identification with and engagement in communities.
 - Legitimacy is key to this.

There is widespread societal recognition of the value of voluntary cooperation.

- Law/criminology—Researchers have shown that crime and problems of community disorder are difficult to solve without the active involvement of community residents.
- Public policy/political science— the involvement of the public is central to building viable communities.
- Management—Active employee cooperation leads to more effective work organizations.
- Education—When students are more involved in their classes, they learn more.

Legitimacy leads to.

- Greater voluntary deference to decisions.
 - Acceptance (maintained over time).
 - Police, judges, teachers, doctors, etc.
- Less anger and defiance toward authorities and system.
- Higher levels of everyday compliance with regulations; laws.
 - Taxes.
- More willingness to cooperate with authorities to solve community problems.

Comply vs. cooperate - Tyler and Fagan (2008).

- Interviews with a random sample of residents of New York city.
- Variables
 - Legitimacy -
 - You ought to do what the police tell you to do.
 - You have trust/confidence in the police.
 - Performance – Police are effective in solving problems.
 - Risk - likelihood you would be caught and punished for wrongdoing.
 - Self-reported compliance behavior -- frequency of following laws in everyday life.
 - Self-reported cooperation –
 - Report crime in the community.
 - Work with police.

Legitimacy and compliance (NYC cross sectional study, n = 1,653).

	Comply	Cooperate
Legitimacy	.13***	.29***
Performance	.08**	.06
Risk	.08**	.11***
Adjusted R.-sq.	3%	11%

Standardized regression coefficients.

Is legitimacy declining?

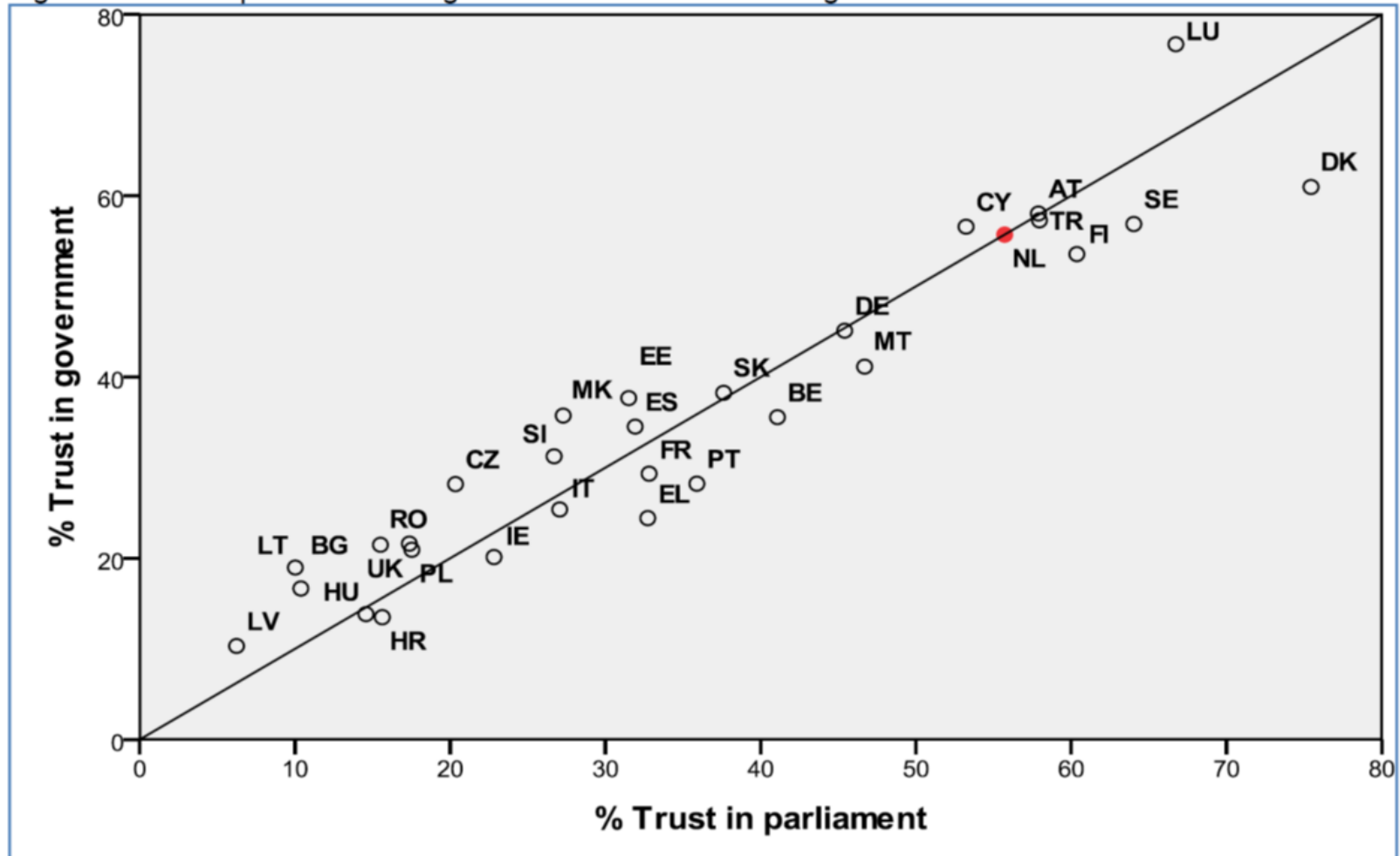
- Because legitimacy facilitates consensual models of authority it helps societies to have popular legitimacy.
- We should therefore be concerned about the widespread impression that people are losing faith in their governments in Europe/US.
 - Has the relationship between government and citizens changed?
 - Are we moving away from consensual government?
- In the case of Holland this is not generally supported by public opinion polls.

Underlying system/nation.

- Netherlands.
- Basic (diffuse) measures of support show stability over the last decade and an increase over the last 40 years.
- Two questions:
 - How well does democracy work?

Percentage very/fairly satisfied with the way democracy works in your country (Holland).



Figure 3. Trust in parliament and government in 2009 according to Eurobarometer 71.3^a

^a % 'Tend to trust' in reply to 'I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it'
 Source: EB 71.3 (15+) (June-July 2009) (EL = GR)

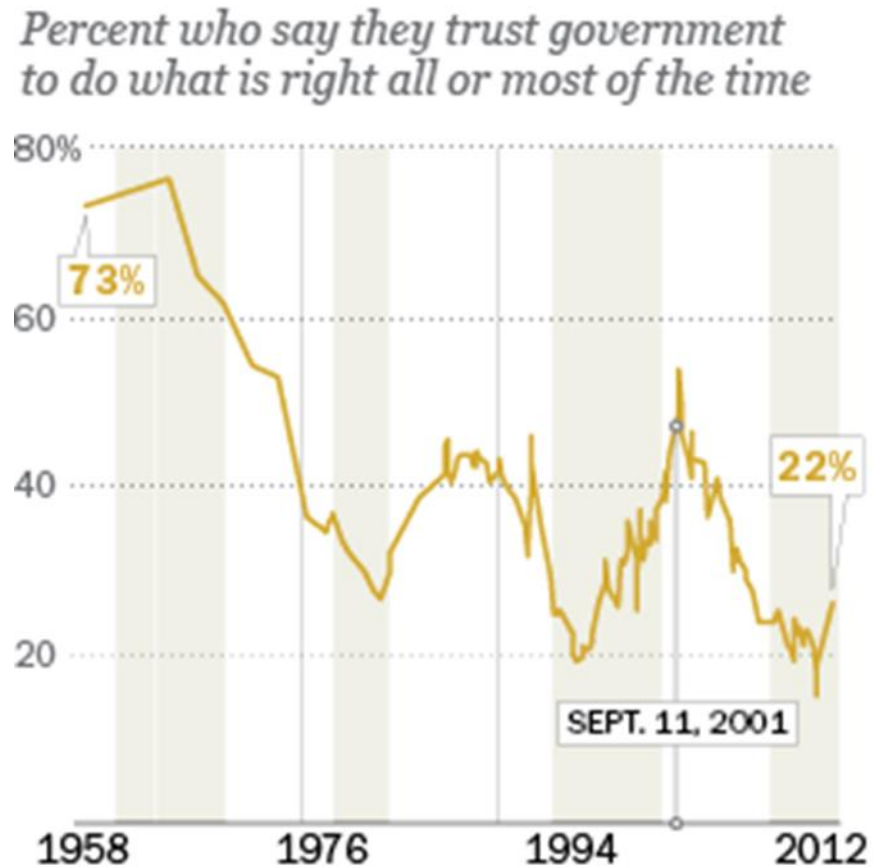
Subgroups.

- This picture has to be qualified.
- Poorly educated; minorities less satisfied.

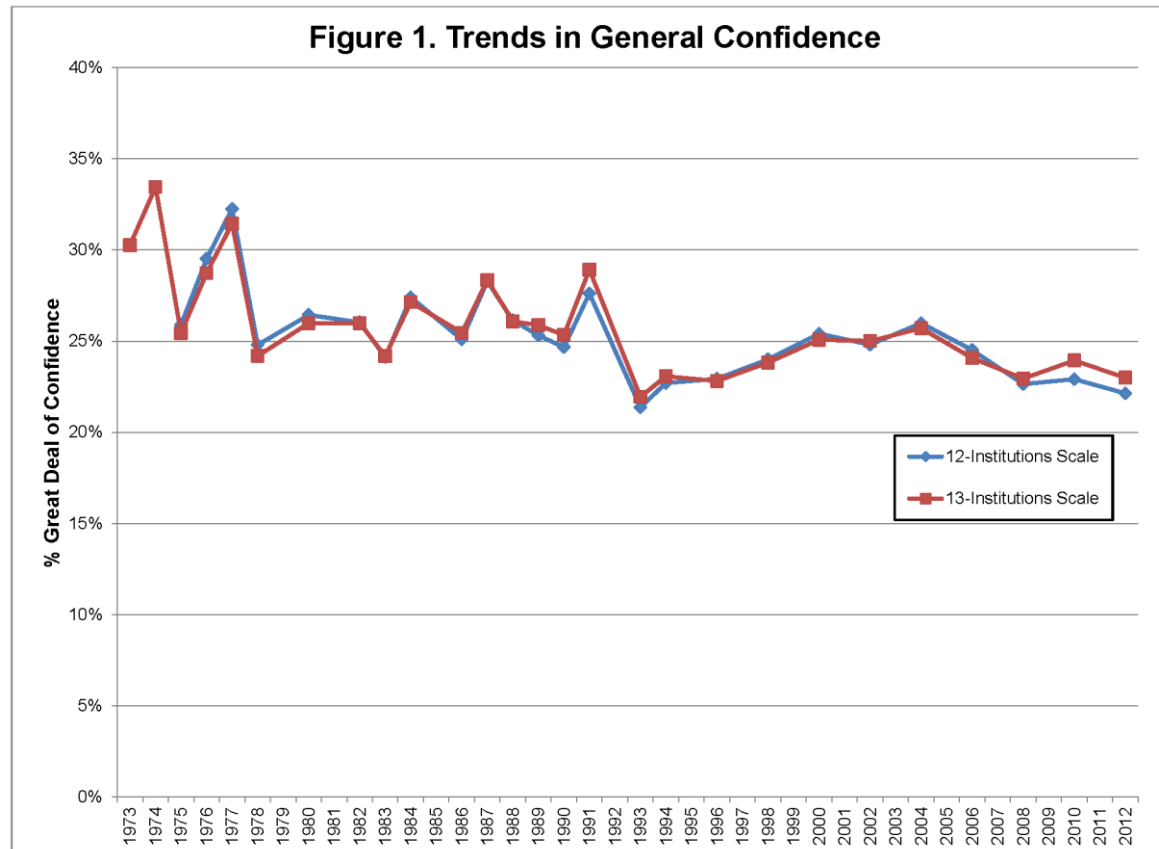
Contrast to US

- Sharper declines in popular legitimacy.

Trust in national government.



Social institutions (NORC). 1973-2012.



Legitimacy.

- Irrespective of whether legitimacy is declining, government is losing many benefits of having higher popular legitimacy.
- To promote consensual governance we need to build popular legitimacy.
- Ask:
 - How can legitimacy be maintained or increased?
 - What is the appropriate role of law?

Examine national level surveys.

- Why do people trust/distrust government?

European Social Survey, 2012.

- What makes European government legitimate?
- Common vision of democratic legitimacy throughout EU.
- Ideal. Legitimacy of government linked to two issues.
 - The rule of law (67%). Justice in legal protection; access to law; treatment by legal authorities.
 - Free, fair elections (58%).
- Actual. Evaluation of existing authorities.
 - Satisfaction regarding free elections in EU generally high; satisfaction with rule of law lower.

Ferrin, 2016. *How Europeans view and evaluate democracy.*

- Support for a “procedural” view of government legitimacy (liberal). Key underpinning of legitimacy is whether or not institutional procedures are fair.
 - Legal institutions (police, courts).
 - Political institutions (elections).
- The dominant model is not linked to substantive gains or losses (Social welfare).
 - Does government provide benefits; does government promote income equality?

Similar to American findings.

- Why do Americans distrust national government? Many suggestions of procedural concerns.
 - Lack of voice. Decisions made behind closed doors.
 - Lack of neutrality. Politicians favor special interests.
 - Lack of respect. Politicians treat those who disagree with them on political issues disrespectfully. Lack of civil discourse.
 - Lack of trust. Politicians out for themselves; not acting for the benefit of everyone in the community.

Local legal authorities.

- In my own work I focus on local legal authorities.
 - Police, courts.
- Look at legitimacy.
- Four elements to this argument.
 - The influence of personal contact.
 - The sources of community level evaluations of authority.
 - Within organization dynamics.
 - Community development.

Why focus on local legal authorities?

- Local government.
 - Local government currently more trusted than national in the US.
- The police.
 - Primary point of contact with government.
- Relatively trusted institution in US. In spite of recent events.
 - EX: 62% trust in recent national poll.
- Studies show everyday contacts generalize to shape views about legal system and local; national government.
 - Traffic court; small claims court.
 - Local contacts with police.
- Focus on these authorities as way to build, maintain trust in law and government.

Building legitimacy.

- Focus on building personal legitimacy in interactions with members of the public.
 - Legitimize decisions through actions.
 - Police, judges, government officials, etc.
- Taking actions to bolster trust in government and government authorities. Policies and practices.
 - For example, the “trust” initiative here in the Netherlands. Grievances to government ombudsman.
 - California courts. Procedural fairness model for their court system.
 - President’s Task Force on policing. Legitimacy as the first pillar of policing.

Why are legal/governmental authorities legitimate?

- Two ideas have been central to most scholarly discussions of this question in recent years.
 - Lawfulness. Does government act legally? Concern for objective legality.
 - Effectiveness. Does government solve problems efficiently and effectively?
 - Issues of budgets/ resources.

What is the basis of public evaluation when people deal with government authorities?

- Research finding.
 - The primary issue shaping people's views about legitimacy when dealing with/evaluating the government is whether authorities are exercising their authority in fair ways - **procedural justice**.
- Procedural justice is more important than the outcome of experiences/the performance of government in delivering services, enforcing rules.
 - The basis of popular legitimacy is different than many in government have supposed. Not linked to effective problem management and/or to following the law.

Procedural focus.

- These findings about local authority in the US are very consistent with findings about support for democracy in Europe.
 - Concern about fairness of procedures: legal and political.

What does procedural justice mean?

- Research suggests that it is defined in terms of four issues.
- Quality of decision making.
 - Voice.
 - Neutrality.
- Quality of treatment
 - Respect for people and their rights.
 - Trustworthiness.

DM: Voice

- People want to have an opportunity to tell their side of the story in their own words.
- Give people a reasonable chance to state their case in their own words.
- A frequent cause of complaint: The judge/police officer/etc. did not listen to my side of the story.

DM: Neutrality

- Evidence of neutral decision-making: lack of biased decision; consistent and rule based decision making. Evaluations on the merits and in accord with the rules typically applied.
- Being neutral is not the same as being seen as neutral.
- **Transparency and accountability** allows people to see that decision making has been neutral.
 - Explaining reasons for police policies/actions. Why are people being stopped; why has a person has been stopped.

QT: Respect.

- Take people and their concerns seriously.
- Show respect for them as people and as citizens who have the right to address the police/court about their issues.
 - The right to approach the police/courts and have problems and concerns taken seriously.
 - A key issue in terms of identity and status is feeling like a valued member of your community. Treatment is a message about that.

QT: Trust in integrity of officials

- Believe that the authorities are trying to do what is right. You need to communicate that you are concerned about the people involved (benevolence, sincerity).
- **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.

Importance of interpersonal treatment

- The quality of interpersonal treatment plays a particularly strong role in shaping the impact of the experience on people's attitudes about the law; trust in legal authorities; later criminal conduct.
- care about:
 - Treatment with respect and dignity.
 - Respect for their rights.
 - Their trust that authorities care about their needs and concerns.
 - Feel that they are listened to and views considered when decisions are made.

Elements of fairness. Experience with the police and the courts.

	Procedural justice	Decision acceptance
Quality of decision making	0.23***	.20***
Quality of treatment	0.62***	.61***
Outcome fairness	0.03	.09***
Outcome favorability	0.09**	.12***
Adj. R.sq.	77%	78%

Studies suggest that judgments about court/policing practices shape public behavior

Does the public believe that the authorities exercise their authority in fair ways (procedural justice)?



Does the public accept the legitimacy of authority?



- Defer to decisions/authority.
- Generally accept and obey the law
- Cooperate with authorities.
- Support government institutions.

Legitimacy.

- Can we gain a handle on legitimacy via the idea of procedural justice?
- Four areas of focus.
 - Personal experiences.
 - Communities.
 - Organizations.
 - Community development.

1. Procedural justice when government authorities are dealing with public.

- **Study of Californians**

- Conducted in Oakland and Los Angeles.
- Assessed why people voluntarily defer to police orders/judicial decisions.
- 1656 interviews of people who had recent personal experiences with legal authorities (85% with police).
- Consider judges and the police.

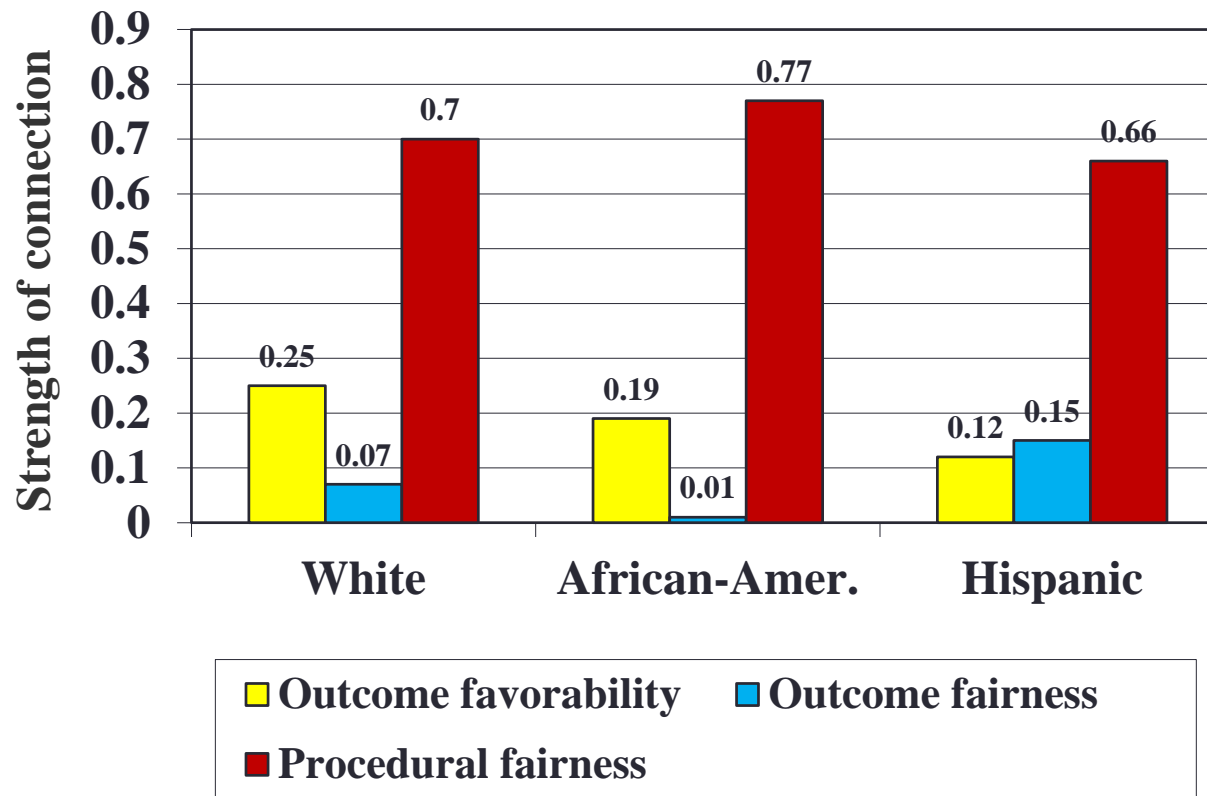
Measures used in this study

- Evaluations of experience
 - Outcome.
 - Outcome favorability (The decision favored me.)
 - Outcome fairness (I received the outcome I deserved.)
 - Procedural justice.
 - The decisions were made in fair ways.
 - I was treated in fair ways.
- Reaction to experience
 - Voluntary deference
 - I willingly accepted the decisions made.

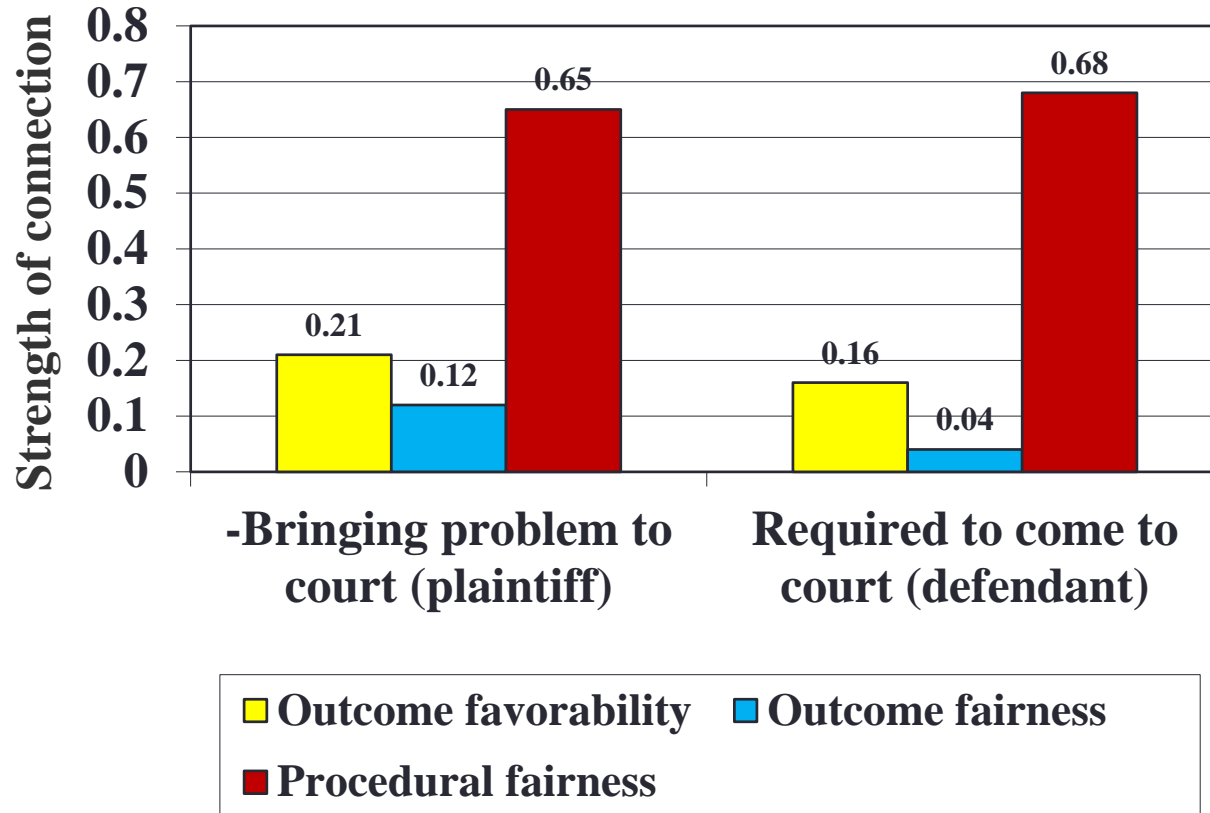
The courts.

- Why do people accept the authority of judges and other court authorities?

Willingness to accept court decisions by race.



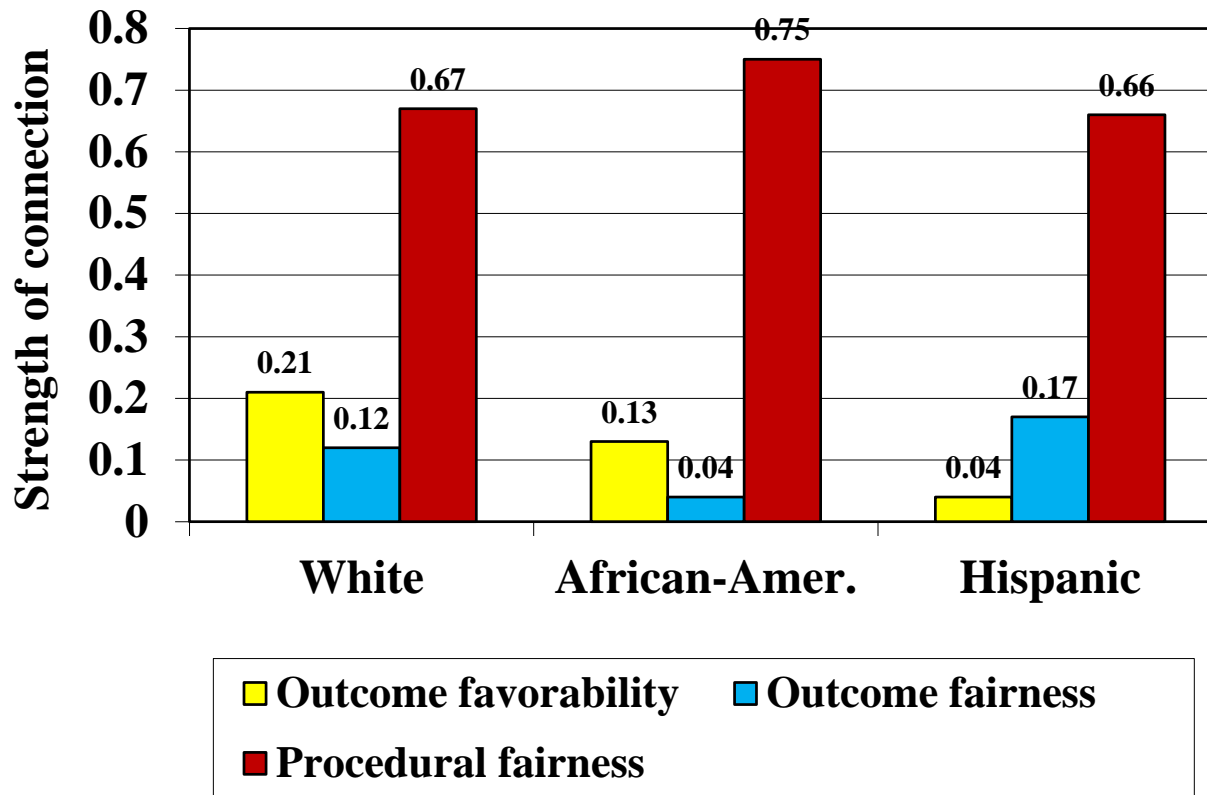
Willingness to accept decisions based upon reason for being in court.



The police.

- Why do people accept the authority of police officers?
 - Primary point of contact with the law.

Willingness to accept police decisions by race.



Summary.

- Procedural justice judgments dominate reactions to interactions with authorities.
 - People are not focused upon their outcomes.
- Trust is like money in a community bank.
 - Officials add to it or remove from it every time they deal with a person.

Focus on decision acceptance.

- Procedural justice does not suggest that people are happy if they lose/receive an undesired outcome.
 - No one likes to lose.
- It suggests that people recognize that they cannot always win/get what they want.
 - Accept “losing” more willingly if the procedure used is fair.

Acceptance vs. compliance.

- Focus upon **willing** acceptance.
- Not the same as obedience.
 - “I did what the police/judge told me to do.”
 - “I willingly accepted the decision.”

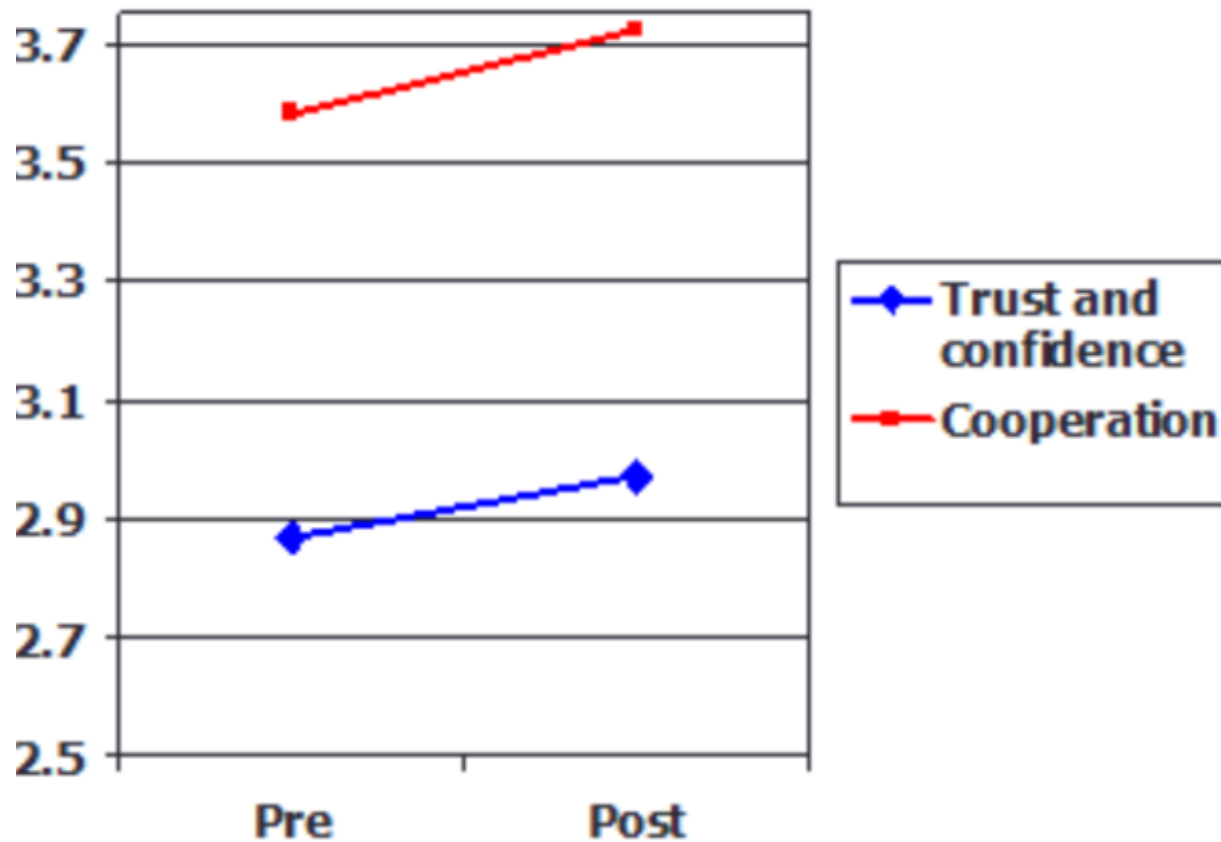
Compliance vs. deference.

	Defer	Comply
Procedural justice	0.69***	0.13***
Distributive justice	0.12***	0.00
Outcome favorability	0.09**	0.08**
Adjusted R.-sq.	69%***	3%***

You can deliver justice while building legitimacy.

- You can deliver undesired outcomes without being unpopular.
- Studies show that trust and confidence increases when people experience procedural justice during an experience in which they receive a negative outcome.

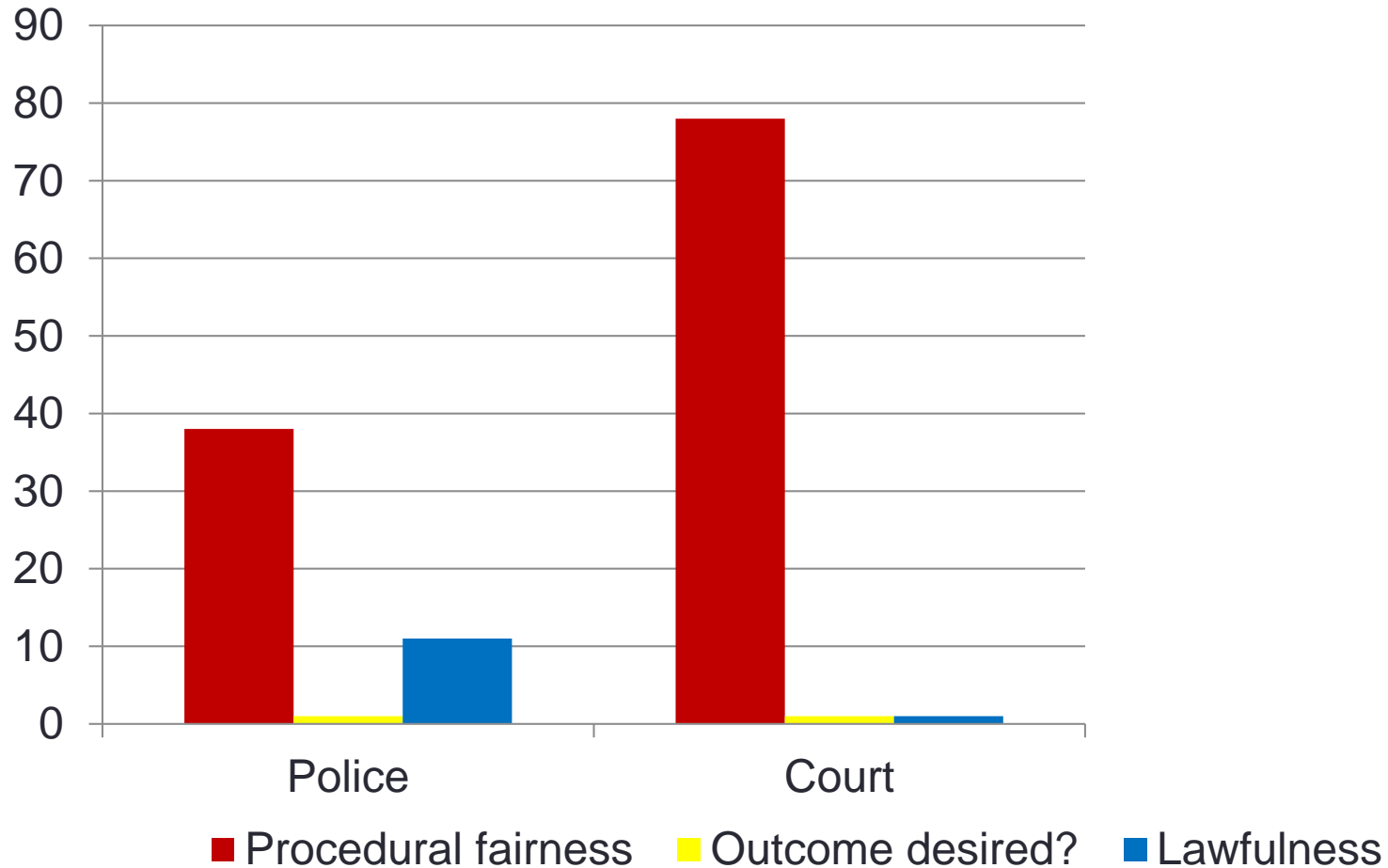
Change after experience: Negative outcome but fair procedure.



PROCEDURAL JUSTICE ALSO DRIVES GENERALIZATION.

- ❑ Convert personal experiences into legitimacy.
-

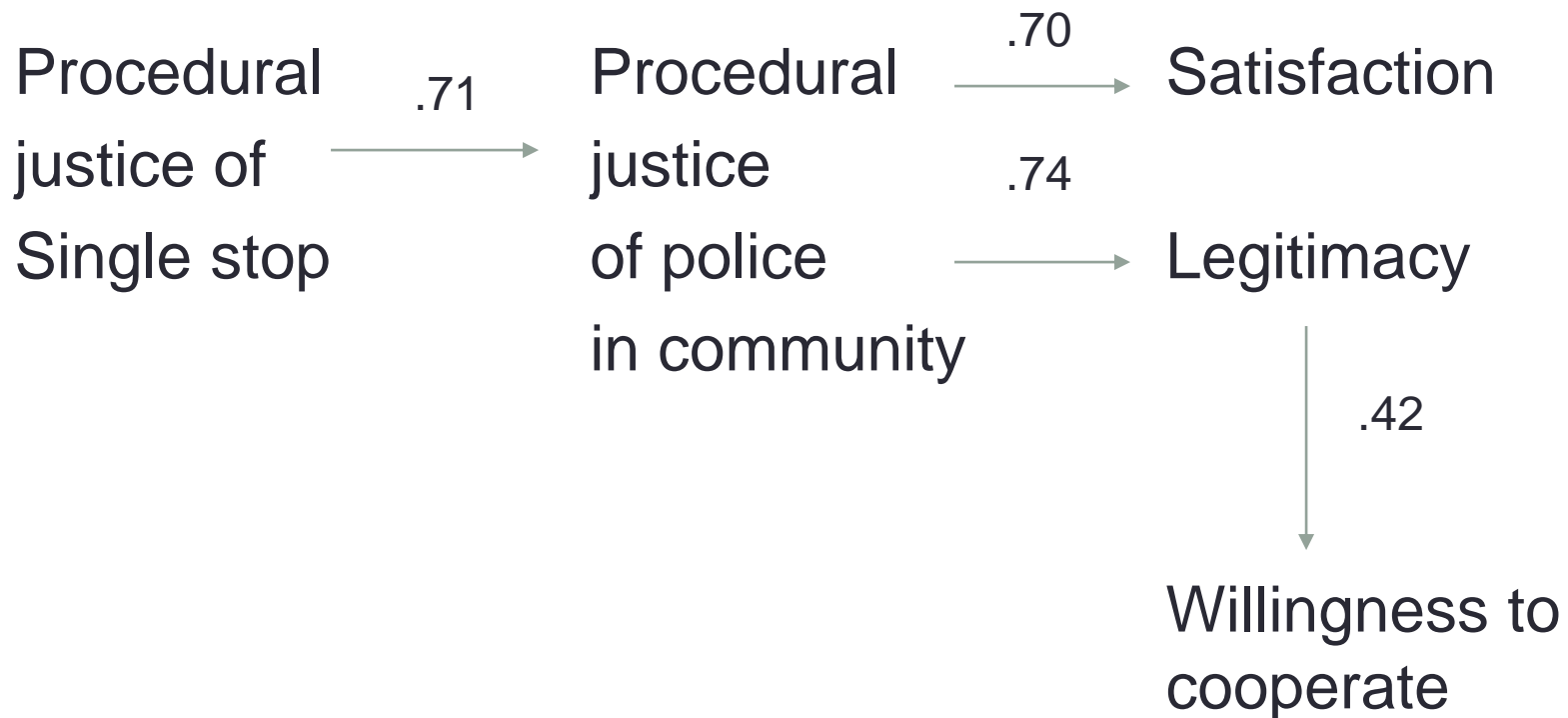
Impact of personal experience on overall legitimacy.



Experiences with fairness can increase overall legitimacy.

- Queensland field trials. Police stop people for breath tests.
 - Random assignment.
 - Short procedural justice script (2-5 minutes).
- Later questionnaire shows increased legitimacy and greater willingness to work with police.

Queensland study.



California Court System study.

- Everyday experiences with courts key driver of overall court system legitimacy.
 - Traffic; family; small claims.
 - High volume.
- Police – everyday contacts shape trust and confidence.

Consequence for personal experiences

- We should treat every encounter that the public has with the police, the courts, and the government as a “teachable moment” that builds or undermines legitimacy.
- We should consider what individuals react to when they have these encounters.
 - Why was the procedure seen as fair or unfair?

2. Beyond personal experience.

- Building legitimacy at the community level. Focus on overall judgments about the legitimacy of the law and of legal authorities.

National survey.

- Survey of a random sample of Americans conducted during 9/10, 2012.
- $N = 1,603$ /weighted to approximate US.
- Knowledge networks.

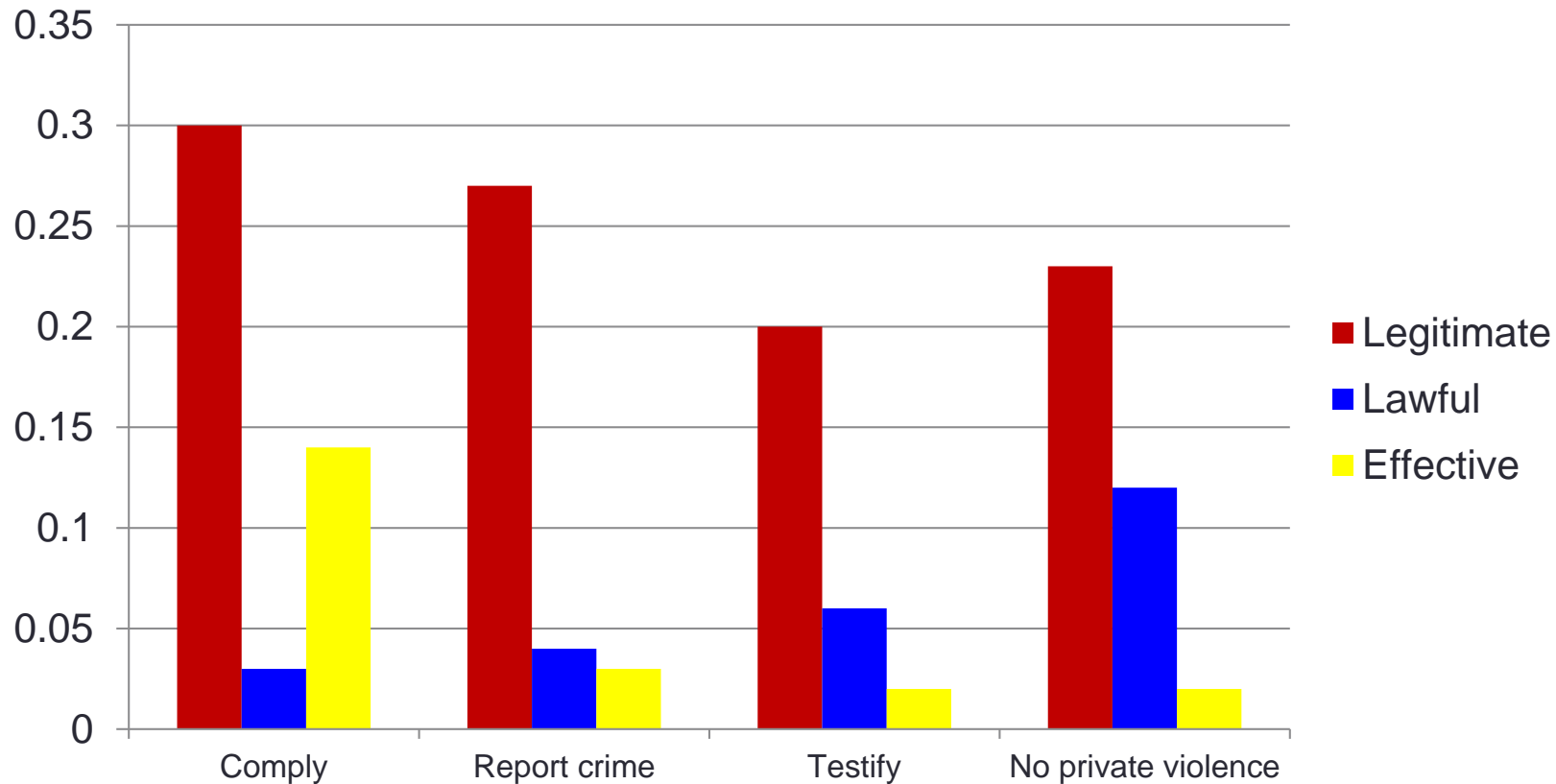
Models.

- Courts/police/law are legitimate.
- Authorities make legally accurate decisions (lawful).
- Authorities manage community problems effectively.
 - Manage crime/catch and punish those who violate rules.

When does legitimacy matter?

- Role of legitimacy in shaping behavior.
 - Comply with law.
 - Cooperate
 - Stay within the law.
 - Help the police.
 - Help the courts.

General views about police legitimacy matter.



LEGITIMACY MATTERS ON THE COMMUNITY LEVEL.

- Legitimacy is major factor that shapes all of these forms of law related behavior.
- Distinct from other relevant issues.
 - Perceived legality.
 - Perceived performance.

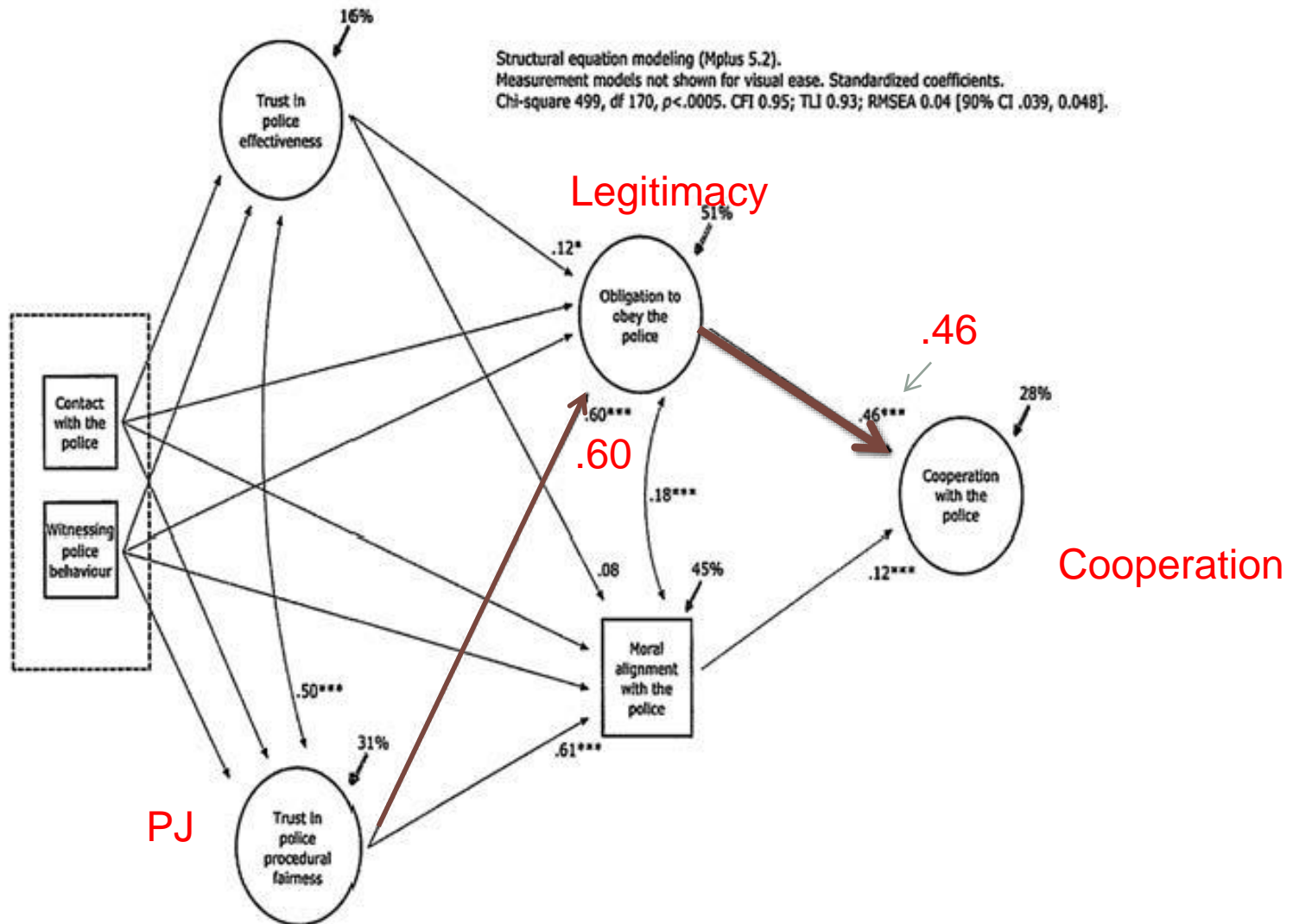
ORIGIN OF LEGITIMACY.

- The key antecedent of legitimacy is community level evaluation of procedural fairness.
 - Do the police and the courts exercise their authority fairly?

Young people - London

- Sample of young minority males in London.
- Focus: cooperation with the police.

Why young men cooperate?



The post-911 environment

- Why do minority group members report threats to the community?
- My arguments apply especially well to policing in the post-911 environment.
- Gaining community cooperation is crucial to efforts to identify potential terrorist threats.
 - Focus on communities relevant to threat.

Muslim Cooperation.

- Tyler, Huq, Schulhofer. Muslims living in NYC and London.
 - Why report terror threats?
- Best predictor. Police legitimacy.
 - Antecedent. Procedural justice.
 - Policies fairly created.
 - Policies fairly implemented.
 - Factors that also mattered.
 - Were Muslims discriminated against in society.
 - Morality of terrorism.
 - Less important issues.
 - Religious commitment.
 - Political views.

RAND (2008).

- Rand (2008). *How Terrorist Groups End*.
 - Study of successful/unsuccessful strategies.
 - Policing strategies work best.
 - “Law enforcement officers should actively encourage and cultivate cooperation by building stronger ties with community leaders, including elected officials, civil servants, clerics, businessmen, and teachers, among others, and thereby enlist their assistance and support.”

3. Procedural justice and legitimacy in police departments/court systems.

- Police department culture. Key target for change.
 - Strongest predictor of whether officers follow policies and procedures; enact fairness on the street is whether they experience it in their department.
- Agreements need to involve:
 - How police treat citizens.
 - How department treats police.

Legitimacy of department.

- Does legitimacy shape the behavior of legal authorities?
 - rule following.
 - Compliance.
 - Deference.
 - Engaging in the behaviors needed to solve problems, deal with issues in the community.

Variables.

- Legitimacy of superiors/police organization – obligation to obey.
- Risks/gains.
 - Probability of detection if break rules.
 - Probability of reward for doing job well.

Legitimacy and police officer job behavior.

	Comply	Defer	Engage in non-required behavior
Legitimacy	.28***	.34***	.37***
Probability gain/loss	.05	.02	.06
Adj. R.sq.	12%	27%	13%

Question. Does procedural justice within department shape officer views about legitimacy?

- Same issue but with police departments - Policies and practices.
 - Procedural justice.
 - Distributive justice.
 - Outcome favorability (incentives/sanctions).

The influence of procedural justice on legitimacy of department.

	Legitimacy
Procedural Justice	.24***
Distributive Justice	.02
Gains/losses in department	.10**
	11%

Police in a large city.

- Interviews with random sample of the officers in a large metropolitan department.

Department PJ → Officers

	Department legitimacy	Cynicism about people	Distress on the job	Total R-sq.
Department internal procedural justice	0.78	-.18	-.23	61%

Consequences for officer feelings and behavior.

	Job performance	Attitude toward people in the community	Officer well-being
Legitimacy	0.46	0.42	0.13
Cynicism	0.00	-.48	0.17
Distress	-.32	-.29	-.82
	37%	52%	86%

Summary.

- The legitimacy model also helps us with police officers.
 - If officers are treated fairly, they adhere to rules; want to stay on the job; feel committed to workforce.
- Same strategy works for minorities and whites. Fairness is good as an overall approach.

4. Community development.

- Law and social development.
- Breyer. Need law, courts, access to justice to promote community well-being.
- Need police presence to create reassurance and promote engagement.

What do cities have to gain?

- Refocus on building the community.
 - Promote economic and social development.
- A cooperative relationship between government and public can help.
 - Focus on law.

Law as reassurance.

- Communities thrive when people feel reassurance where they live and work.
- Most of the people in the community never call upon the police/courts for services. But the police/courts are in the background in every community.
- It is important that the police/courts reassure the people both
 - That they are secure.
 - The agreements will be upheld; conflicts managed.
 - That they and their rights will be respected by the police/courts if and when they do deal with them.

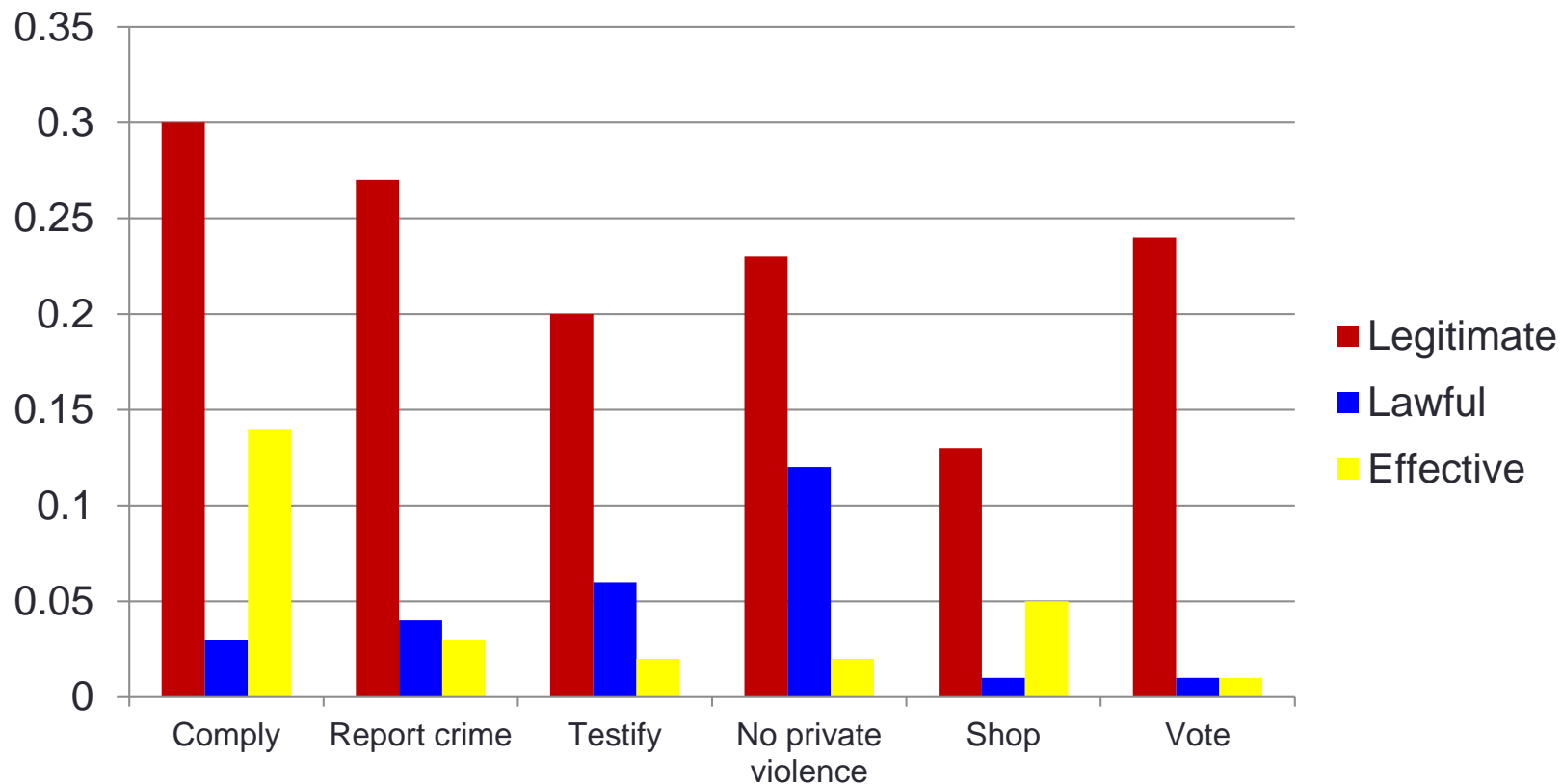
Culture change.

- We need a culture change in the way the police think about their jobs, their relationship to the community.
- Warrior to guardian.
- Law enforcement culture encourages conditions for social solidarity and economic development.
- Studies show that trust in the police and courts directly encourages identification with communities. People invest in their community.

The community itself.

- You cannot arrest your way out of crime.
- If people identify with the community they:
 - Participate in local governance.
 - Shop, eat in community.
- Share a belief that neighbors will work together to solve problems (social capital).
 - Work with neighbors, local leaders.

General views about police legitimacy matter.



A shift to fit the times.

- We are moving into an era of diminished resources; community revitalization.
- Need models that are not resource intensive.
 - Values not instrumentalism.
- Need approaches that emphasize:
 - Cooperation.
 - A role for law in building communities.

Policy implications.

- Evaluate legal policies in terms of their impact upon legitimacy.
- Monitor the climate of legitimacy.
- Focus on value creation.
 - Childhood socialization.
 - Adult experiences with law.

Theoretical importance.

- Consensual models of government and law are viable.
 - Research shows they can work.
- Beneficial.
 - Facilitate a consensual relationship to law and government.
 - Lead to cooperation.
 - Encourage identification and engagement.

- Thank you.