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POLICING, ORDER MAINTENANCE, AND LEGITIMACY

Police-citizen interactions are one of the primary points of contact between citizens and law. These contacts can either evoke cooperation or represent domination, with superordinate group values and institutions imposed upon subordinate groups. The manner in which citizens experience the law, legal institutions, and legal authorities has an important influence on their orientation toward and behavior within society. Citizens who attribute legitimacy to the police will become partners in the co-production of security; those who reject the legitimacy of the police may reach accommodations and comply with the law, but are less likely to actively engage in social regulation. We test these theories about the relationship between the perception of the legitimacy of the police, and its consequences for citizen participation in social regulation. Two manifestations of legitimacy are examined: compliance with the law and cooperation with the police. We then examine the factors that shape citizens' attributions of legitimacy, focusing on their evaluations of their encounters with the police. We compare citizens' judgments about the procedural justice of their interactions with police with their evaluation of the performance of legal institutions in producing security, to determine the origins of legitimacy. Findings of a survey of New Yorkers show that legitimacy has a strong influence on the public's behavioral and reactions to the police. The key antecedent of legitimacy is the fairness of the procedures used by the police.

INTRODUCTION

Order maintenance is the central function of the police and courts. To be able to effectively maintain order, the police and the courts must be able to bring the behavior of most of those within society into compliance with the law and the directives of legal authorities such as police officers and judges. Unless the authorities can secure compliance from most members of society, most of the time, it is difficult to effectively maintain social order (Tyler, 1990). In addition, recent research on controlling crime and community disorder emphasizes that the police find it difficult to effectively manage crime without the active cooperation of members of the community. In other words, it is not enough for people to comply with the law, they also need to actively aid the efforts of the police to fight crime (Sampson, Raudenbush, and Earls, 1997). Hence, effective order maintenance depends upon compliance and cooperation on the part of the general public.

Such compliance by members of the public can never be taken for granted. As Mastrofski, Snipes, and Supina (1996) suggest; "Although deference to legal authorities is the norm, disobedience occurs with sufficient frequency that skill in handling the rebellious, the disgruntled, and the hard to manage—or those potentially so—has become the street officer's performance litmus test (p. 272)". Similarly, Sherman (1993) highlights the problem of defiance by the public, and the need to minimize resistance to the directives of the police.

The Mastrofski, et al, studies in which social scientists observed police behavior, provide some evidence about the frequency of such problems. The researchers observed police encounters with the public in Richmond, Virginia. Mastrofski, Snipes,

and Supina (1996) found an overall noncompliance rate of 22%; 19% of the time when the police told a person to leave another person alone; 33% of the time when the police told a person to cease some form of disorder; and 18% of the time when the police told a person to cease illegal behavior. A replication of this study in Indianapolis and St. Petersburg found an overall noncompliance rate of 20%; 14% of the time when the police told people to leave another person alone; 25% of the time when the police told a person to cease some form of disorder; and 21% of the time when the police told a person to cease illegal behavior (McCluskey, Mastrofski, and Parks, 1998).

Further, the studies outlined look just at immediate compliance - i.e. whether the person did as instructed—not at whether people willingly accepted the decisions made by the authorities, buying into their resolution to a problem, or understanding why the restrictions of their behavior that are occurring are appropriate and reasonable. As the researchers note, "citizens who acquiesce at the scene can renege (Mastrofski, Snipes, and Supina, 1996, p. 283)". People may renege in their future behavior if they have complied in the face of coercive power. If they do so, this requires further police intervention at future times.

How might legal authorities secure cooperation from member of the public? One approach is via the threat or application of force – i.e. by trying to deter illegal and undesirable behavior. The police carry guns and clubs, while judges are empowered to fine and imprison so that they can communicate a credible threat of punishment to those who might be inclined to defy, resist, and otherwise rebel against law and social order. "The uniform, badge, truncheon, and arms all may play a role in asserting authority" in the effort to "gain control of the situation (Reiss, 1971, p. 46)". The police seek to control the individual's behavior "by manipulating an individual's calculus regarding whether "crime pays" in the particular instance (Meares, 2000, p. 396)". Judges similarly shape people's acceptance of their decisions by threatening fines or even jail time for failure to comply.

Research suggests that the ability to threaten and/or deliver sanctions is usually effective in shaping people's law-related behavior. In particular, a number of studies on deterrence suggest that people are less likely to engage in illegal behaviors when they think that they might be caught and punished for wrongdoing. This core premise of deterrence models is supported by many, but not all, studies examining the factors that shape people's law related behavior (Nagin, 1998; Nagin and Paternoster, 1991; Paternoster, 1987, 1989; Paternoster and Iovanni, 1986; Paternoster, Saltzman, Waldo, and Chiricos, 1983; Paternoster and Simpson, 1996; Tyler, 1990). Consider a specific policing example. In a study of 346 police encounters with people in Richmond, Virginia, Mastrofski, Snipes, and Supina (1996) observed that the coercive balance of power between the police and members of the public shaped the degree of compliance on the part of the public. As would be expected based upon a deterrence model, people complied in the face of superior power.

While there is evidence that deterrence works, the same body of research evidence points to difficulties with deterrence strategies that lead them to be far from optimal approaches to social order maintenance. One difficulty is that deterrence effects are typically costly to maintain, since they require sufficient investment of societal resources to create and maintain credible risks of punishment. The effectiveness of "instrumental means of producing compliance always depend on resource limits (Meares, 2000, p. 401)". The question is how many resources society is willing to deploy to control crime, and how much power to intrude into people's lives legal authorities are allowed to have. And, that large societal investment of resources produces

at best modest behavioral changes (MacCoun, 1993). Finally, deterrence approaches have the unfortunate long term consequence of undermining the intrinsic motivations that also encourage law abiding behavior, with the result that people's behavior must be increasingly motivated by costly deterrence mechanisms if constant levels of compliance are to be maintained.

An alternative approach to securing compliance is to appeal to the values of the members of the community. Beginning with the classic work of Weber on social authority (Weber, 1968) it has been recognized that to at least some degree people are willing to defer to rules and authorities because they believe that they are legitimate and, hence, entitled to be obeyed. Such deference, when it occurs, has the advantage of being voluntary and not dependent upon the ability of legal authorities to create and maintain the threat of force. While the threat of force is probably never totally absent in dealings with legal authorities, the legal system benefits when people defer to rules at least in part for voluntary reasons linked to their sense of responsibility and obligation to obey laws and follow the directives of legal authorities.

Tyler (2001) refers to a society in which internally motivated deference to the law and legal authorities is widespread as a law abiding society. The advantage that such a society enjoys is that societal resources can be directed toward other social needs, since the need for regulation via deterrence mechanisms is minimized. Further, voluntary compliance is more reliable because the people involved take the responsibility for rule following upon themselves, minimizing the role of surveillance in motivating compliance. Because of the benefits of self-regulation it is widely suggested that law abiding societies are more efficient and effective (Tyler, 1990; Tyler and Huo, 2002). If many or most of the people within a society are voluntarily following the rules, authorities are freed to direct their coercive force against a smaller subset of community residents who do not hold supportive internal values (Ayres and Braithwaite, 1992).

This study examines the influence of legitimacy upon cooperation with the police among a sample of New Yorkers interviewed over the telephone concerning their views about the NYPD, as well as about their law-related behavior. These data were used to examine whether legitimacy shapes compliance with the law and cooperation with the police. The police were chosen as the focus of analysis based upon research showing that the police are the primary focus of personal contact between communities and the legal system (Tyler, 1990; Tyler and Huo, 2002).

LEGITIMACY

Legitimacy is the property that a rule or an authority has when others feel obligated to voluntarily defer to that rule or authority. In other words, a legitimate authority is an authority regarded by people as entitled to have their decisions and rules accepted and followed by others (French and Raven, 1959). The roots of the modern discussion of legitimacy are usually traced the important writings of Weber on authority and the social dynamics of authority (Weber, 1968). Weber argued that the ability to issue commands that will be obeyed does not rest solely upon the possession and ability to use power. In addition, there are rules that people will voluntarily obey, and authorities whose directives will be voluntarily followed. Legitimacy, therefore, is a quality possessed by an authority, a law, or an institution that leads others to feel obligated to obey its decisions and directives.

The feeling of responsibility to defer to others has been widely recognized as a key aspect of authority relations in legal, political, and managerial settings (Kelman and

Hamilton, 1989; Selznick, 1969). Such legitimacy can be a general feeling of obligation or responsibility to obey a particular type of authority or institution, or it may be something created by particular authorities. For example, police officers bring legitimacy to a situation by virtue of their role, with studies demonstrating that people are generally more likely to defer to particular police officers when they view the police as generally legitimate (Tyler and Huo, 2002).

In addition, particular officers also work within particular situations to define the problem in a way that establishes their legitimate right to intervene (Reiss, 1971). For example, police officers like responding to citizen complaints because it legitimizes their intervention into a situation in a way that does not occur when they stop people on the streets. The value of situational legitimacy is demonstrated by research showing that, when legitimacy is low, the police are more likely to have to use physical force, thereby introducing "the risk of injury to both the arrested person and the officer (Reiss, 1971, p. 60)". Reiss finds that 73% of injuries to officers occur when the officers are interfered with, and interference most typically comes from people other than the parties involved in the immediate situation—from bystanders or family members. "When such persons question the legitimacy of police intervention and a police officer reacts to control their behavior, more serious conflict may ensue as each party attempts to gain control of the situation. This results more often in injury to the officer (Reiss, 1971, p. 60)".

This study explores the impact of the general legitimacy of the police on public cooperation. Legitimacy is measured in two ways: as the perceived obligation to obey and as institutional trust and confidence. In terms of perceived obligation to obey respondents are asked whether or not they feel they should obey law and decisions by legal authorities when they do not agree with them or think that they are wrong. Institutional trust and confidence is assessed by asking about the qualities of police officers, i.e. whether or not they are honest and concerned about the well being of the public.

POLICE PERFORMANCE AND PUBLIC COOPERATION – BROKEN WINDOWS

What is the alternative to a legitimacy model? As we have noted, one often cited model of compliance links compliance to the risk of being caught and punished for wrongdoing. However, this motivation does not speak to the issue of cooperation. A similar instrumental model of cooperation with the police suggests that people will be motivated to cooperate with the police when they view crime and the risk of crime victimization as a significant problem in their community and when they view the police as an effective tool in fighting crime. In other words, people's evaluations of the police are viewed as being linked to the success of the police in fighting crime and urban disorder (Wilson and Kelling, 1982; Kelling and Coles, 1996). This perspective suggests that, if the police are successful in fighting crime, they encourage public trust and confidence and generally gain the help and support of the public for the police (Hirsch, 1986; Kelling and Coles, 1996).

METHODS

This analysis will contrast the influence of legitimacy on cooperation with the effect of estimates of the risk of rule breaking; the seriousness of the problem of crime; and the perceived effectiveness of the police in fighting crime.

SAMPLE

In this study a multiethnic sample of New Yorkers was interviewed over the telephone concerning their views about the New York City Police Department (the NYPD) and about policing activities in their own neighborhoods. A stratified sampling frame was used to produce an ethnically diverse sample of respondents. The interviews were conducted during the summer of 2002, and led to a sample of 1,653 New Yorkers.

Using random digit dialing procedures a sample of 1,653 residents of New York city were contacted and interviewed on the telephone. The sampling procedures used slightly oversampled nonwhite residents with the goal of obtaining a sample that was approximately one-third White. The final sample of 1,653 contained 550 Whites (33%); 455 African-Americans (28%); 410 Hispanics (25%); 210 other non-whites (13%); and 28 who refused to give an ethnicity (2%). The response rate was 64%, a reasonable response rate for a telephone survey in an urban area.

Although it is possible to weight the sample to produce a sample that reflects the population of New York City, the analysis reported here is based on the unweighted sample. We use the unweighted sample because weighting has the effect of increasing the proportion of the sample that is White, and the purpose of the weighted sampling procedure was to provide a larger sample of minorities that would occur given simple random sampling.

The demographic composition of the sample is shown in Table 1. Gender was determined by observation. Age was assessed in categories: (1) 18-24; (2) 25-34; (3) 35-54; (4) 55-64; and (5) 65 or older. Education was also assessed in categories: (1) none; (2) Kindergarten to 8th grade; (3) some high school; (4) high school equivalency; (5) high school graduate; (6) some college; (7) college graduate; (8) graduate work. Income was assessed via categories: (1) under 20,000; (2) 20,000 – 30,000; (3) 30,000 – 40,000; (4) 40,000 – 50,000; (5) 50,000 – 75,000; (6) 75,000 – 100,000; (7) over 100,000.

Table 1. Sample Characteristics by Race and Ethnicity

	Range	Overall	Whites	African-Americans	Hispanics	Other Non-White
N*	–	1,653	550	455	410	210
Sex (% male)	(1-2)	46%	47%	42%	43%	57%
Age (mean age)	(1-5)	2.78	3.05	2.90	2.53	2.40
Education (mean)	(1-8)	5.94	6.53	5.77	5.18	6.25
Income (mean)	(1-7)	3.83	4.70	3.52	3.04	3.74

*. 28 respondents gave no ethnicity

MEASURES

Dependent variables

Compliance. How often do you follow these laws (alpha = 0.81): "Where you park your car"; "How do dispose of trash and litter"; "Against making too much noise at night"; "Against breaking traffic laws"; "Against buying possibly stolen items"; "Not taking inexpensive items from stores"; and "Against using drugs".

Cooperation. How likely would you be to (alpha = 0.74): "Call the police to report a crime"; "Help the police to find a suspect"; "Report suspicious activity"; "Volunteer time to help the police"; "Patrol the streets as a volunteer"; and "Attend a community meeting to discuss time".

Independent variables

Legitimacy. Do you agree or disagree that (alpha = 0.80): "The NYPD is a legitimate authority and should be obeyed"; "You should accept the decisions made by police, even if you think they are wrong"; "You should do what the police tell you to do even when you disagree"; "You should do what the police tell you to do even if you do not understand the decision"; "You should do what the police tell you even if you do not like the way that they treat you"; "There are times when it is ok to ignore what the police tell you to do (reverse scored)"; "Sometimes you have to bend the law for things to come out right (reverse scored)"; "The law represents the values of the people in power, rather than the values of people like you (reverse scored)"; "People in power use the law to try to control people like you (reverse scored)"; "The law does not protect your interests (reverse scored)"; "Some of the things the police do embarrass our city (reverse scored)"; "The police are often dishonest (reverse scored)"; "People's basic rights are well protected by the police"; "I have confidence that the NYPD can do its job well"; "I trust the leaders of the NYPD to make decisions that are good for everyone in the city"; and "There are many things about the NYPD and its polices that need to be changed".

Police efficacy. Three items (alpha = 0.61): "How effective are the police in fighting crime in your neighborhood"; "When people call the police for help, how quickly do they respond"; and "How effective are the police at helping people who ask them for help".

Fear of crime. Four items (alpha = 0.76): "How much do you worry about "your home being burglarized" and "being robbed, assaulted, or mugged on the street" and How safe do you feel "during the day" and "in the evening".

Neighborhood conditions. Eight items (alpha = 0.82): "In your neighborhood, how often do you see: "garbage in the streets or on the sidewalk"; "empty beer bottles on the streets"; "graffiti on the walls"; "gangs hanging out on the streets"; "people drinking beer or liquor on the street"; and "people buying drugs on the street"; "Overall how high is the crime rate in your neighborhood" and "Over the past year has the rate of crime gone up or down".

Deterrence risk. Seven items (alpha = 0.87): "How likely is it that you would be caught and punished if you; parked your car illegally, disposed of trash illegally, made too much noise at night; broke traffic laws; bought possibly stolen items on the street; took an inexpensive items from a store without paying; or used drugs.

RESULTS

How important is legitimacy in compliance and cooperation with the criminal law? To answer these questions, we estimated Ordinary Least Squares regression models to examine the extent to which legitimacy predicts each of these outcomes. Table 2 shows the results, including standardized regression coefficients (Beta weights), and their significance. In each model, legitimacy is entered first, followed by the four measures of perceived criminal justice system performance and efficacy, and then a series of demographic control variables. Using this method, the predictions of legitimacy on cooperation and compliance are controlled for the effects of the variables entered after it. The four measures of criminal justice system performance are controlled also for the demographic characteristics.

Table 2. OLS Regression of Legitimacy and Evaluation Measures on Cooperation and Compliance (Beta, p)

Predictors	Cooperation	Compliance
Legitimacy	.21***	.11***
Performance	.09***	-.02
Fear	.02	.05
Neighborhood conditions	.03	-.08**
Deterrence risk	.21***	.06*
Hispanic	-.12***	.01
African-American	-.08**	-.01
Other	-.06*	.03
Gender	.01	.10***
Age	-.10***	-.17***
Education	-.08**	-.11***
Income	-.02	.00
Adjusted R ²	.12***	.07***

* p < .05, ** p < .01, *** p < .001

Legitimacy is a significant predictor of both compliance and cooperation, consistent with theory. The models are modest (Adjusted R² = .12 and .07), suggesting that there are factors unmeasured in these models that account for citizen interaction with law. This is important not only on its face, but even more so because cooperation and compliance are only weakly correlated (Pearson r = __, p < .01). The consistent prediction from legitimacy to two uncorrelated dimensions of citizen behaviors toward the law shows its importance for theory and practice.

The contributions of the other predictors in each of the models varies. The variability in the contributions of the criminal justice system evaluation measures is particularly interesting. Performance predicts cooperation, but not compliance. Citizens who more favorably evaluate the performance of the police are more likely to cooperate with the police, but not necessarily comply with laws. Fear of crime predicts neither performance nor cooperation. This is particularly interesting given the political salience of fear in establishing crime policies. In particular, one might expect fearful citizens to act in their own self-interest with respect to cooperating with authorities in their efforts to control crime. This is not the case. Nor are fearful citizens more likely to cooperate with the law. The significance of fear, then, appears not to lie in its instrumental value with respect to legal norms, but lies more closely in the politics of crime.

Neighborhood conditions, an indicator of the perception of disorder, or "broken windows," does not predict cooperation. Disorder is a weak negative predictor of compliance. Citizens who perceive social and physical disorder in their neighborhoods are less likely to comply with the law. The effects of disorder on compliance in this case are mediated by legitimacy, and later on we turn to the components of legitimacy to unravel this question.

Deterrence risks are significant predictors of both compliance and cooperation. Citizens who perceive that they face arrest and sanctions for law violations are more willing to cooperate with the police, and are more likely to comply with the law. While the latter finding is consistent with the broad literature on deterrence (Nagin, 1998), the former has not been examined in prior studies. Citizen cooperation with the authorities – their willingness to assist the police in investigations and to report crimes – is influ-

enced by their perceived risk of arrest. Again, these effects are mediated through legitimacy, and we will examine that question next.

Table 2 also identifies differences within demographic groups on compliance and cooperation. For example, non-whites generally, including African Americans and Hispanics, are significantly less likely to cooperate with the police, but they do not differ from other racial or ethnic groups on compliance. Their distrust of the police should alert criminal justice authorities of the withdrawal of minority citizens from the forms of social regulation and interaction with police authorities that are necessary for effective policing (Skogan and Frydl, 2004). Women are no more likely than men to cooperate with the police, but they are significantly more likely to comply with the law. This gender difference in compliance is old news. Younger persons and persons with lower educational attainment are less likely to comply with the law, confirming an already robust criminological axiom. The fact that they are not necessarily willing to cooperate with authorities is a new and noteworthy finding. Finally, we see no significant effects by income, a finding that is most likely a reflection of the race and education differences that already account for the predictions of compliance and cooperation.

To better understand why legitimacy is so critical to cooperation and compliance, we estimated linear regression models to explain the factors that contribute to legitimacy. We include three sets of predictors: three domains of procedural justice, evaluations of criminal justice system performance, and demographic controls. The variables are entered in the order shown in Table 3, and each coefficient is adjusted for the predictors added after it. The results are shown in Table 3.

Table 3. OLS Regression of Procedural Justice and Evaluation Measures on Legitimacy (Beta, p)

Predictors	Legitimacy
Fairness of decision making	.19***
Fairness of treatment	.23***
Participation in decisions	-.04
Performance	.05
Fear	.01
Neighborhood conditions	-.07*
Deterrence risk	.01
Hispanic	.12***
African-American	.17***
Other	.12***
Gender	-.08***
Age	-.02
Education	-.04
Income	-.09***
Adjusted R ²	.25***

* p < .05, ** p < .01, *** p < .001

The model is significant and moderately strong (Adjusted R² = .25). Two dimensions of procedural justice are significant predictors of legitimacy: perceived fairness of decision making by the police, and perceived fairness of treatment by the police. The affective component of citizen interactions with police produces perceptions of the le-

gitimacy of the police and of the criminal law more broadly. There is a weak negative effect for neighborhood conditions, suggesting that at least one dimension of performance, "perceived disorder," affects the legitimacy that citizens attribute to the law. We cannot say whether citizens hold police accountable for these neighborhood conditions, and it possible that legitimacy is lower in disorderly neighborhoods because police behave differently in those locales. The generally weak results for this domain suggests that legitimacy is shaped more by the affective experiences of citizens with the police than is their evaluation of how the police perform with respect to crime control.

The demographic controls show that minority citizens attribute greater legitimacy to the police than do white (majority) citizens. Each of the "dummy" variables representing specific racial or ethnic groups shows that these groups attribute greater legitimacy to the police. Women are less likely to attribute legitimacy to the police, as are poorer people. It is important to consider interactions of race, class and gender before reaching conclusions about how each demographic group evaluates the legitimacy of the police.

The results of the two regression models suggest that legitimacy is a critical factor that influences whether citizens cooperate with the police and comply with the law. The quality of police-citizen interactions in turn shapes citizens' evaluation of the legitimacy of the police. Fair procedures matter, more so than the overall performance of the police, in shaping legitimacy. These lessons about the importance of legitimacy are not simply theoretically important, but they signal that for the police to engage citizens in the co-production of security, attention should be devoted to the nature and quality of their interactions.

CONCLUSIONS

Public evaluations of police legitimacy impact on citizens' compliance with law; on their willingness to cooperate with and assist the police. These findings support the argument that legitimacy is a social value that is distinct from performance evaluations, suggesting that there is a strong normative basis of public support for the police that is distinct from how people rate the instrumental value of police performance. This finding supports the arguments of Weber (1968) about the normative basis of public reactions to authority. In turn, these analyses reveal the value of understanding the determinants of legitimacy.

The key assumption upon which procedural justice based policing is that evaluations of legitimacy are primarily based on procedural fairness. We identified procedural justice as the primary antecedent of legitimacy among the sample of New Yorkers interviewed. In fact, the strength of the dominance of procedural justice judgments is striking and it is clearly the primary factor shaping legitimacy.

The police have more control over how they treat people than they do over the crime rate. Procedural fairness, or treating people with respect and in an unbiased fashion, does not depend on crime rate fluctuations. Rather, it depends on the behavior of the police themselves. Thus, by becoming procedurally sensitive, the police develop a way they are viewed by the public that is to some degree insulated from societal forces, such as demographics or economic conditions, which shape crime rates but are beyond police control.

The message that authorities need to acknowledge the basic dignity and rights of citizens, to account for decisions that affect them, and to make their decisions in a

neutral and objective way is consistent with the work of Sherman on defiance theory (Sherman, 1993) and with the reintegrative shaming model of Braithwaite (Braithwaite, 1989). Defiance theory argues that with such an acknowledgement people are likely to feel angry and be resistant to the police, while models of reintegrative shaming emphasize the potential for increasing future deference to authority by respectful treatment of offenders. Here too the message is that people are more accepting of and cooperative with authorities when they are treated with fairness and respect.

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