The Two Different Worlds We Live In

Tracey L. Meares, Tom R. Tyler & Jacob Gardener

Introduction

Police are undeniably creatures of law. Police officers frame their actions through a prism of legality, asking what the law entitles them to do. This way of thinking is socialized in police academies, where recruits memorize hefty volumes that define the legality of various police actions. It continues through officers’ careers when superiors, as well as state and federal prosecutors, judges and defense attorney evaluate their actions and ask whether the police in their actions were or were not following the law. It is natural, then, for the police to approach any interaction with a civilian by focusing on what they are legally allowed to do. When can they stop someone on the street or in a car? When can they search a person? When can they draw a weapon and when can they use it?

Our goal in this paper is to compare this legal framing of actions to the way that people on the street frame and evaluate police behaviors. We argue that there is a fundamental disconnect between the legalistic framing that characterizes police thinking and what we call the “procedural fairness” frame through which the public evaluates the police and their actions. And, we suggest this disconnect is central in order to understand many of the problems that arise when the police and community residents interact. We document and explain the disposition that people tend to have in favor of judgments regarding “fairness” (we shall offer a more precise definition of exactly what we mean by this term in a moment) as opposed to judgments of lawfulness when they assess how law enforcers act, and we shall demonstrate that social psychological factors largely unrelated to law are more weighty assessment factors.

Law confers legitimacy upon the state’s monopoly on coercion. This idea famously underlies the Weberian notion of policing.1 Police compliance with the law, then, is one of the most important aspects of democratic society. It is the very existence of the rules of law designed to limit the power the police officers exert over us that justifies the claim that police are a rule-bound institution engaged in the pursuit of justice, protection of individual liberties, and, importantly, battles against crime. This observation is almost banal, and yet it is critical, for the recognition of the centrality of law to the existence and mission of policing sets up the possibility that the proper and perhaps even best way to evaluate police conduct is primarily with

1 We refer here to Max Weber’s notion that police are instituted to effect the state’s legitimate monopoly on physical force. For an engaging explication of this idea and how it relates to the development of the modern police officer, see Ruben G. Rumbaut & Egon Bittner, Changing Conceptions of the Police Role: A Sociological Review, 1 CRIME & JUST. 239, 269-270 (1979).

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respect to legal rules. It is likely obvious at this point that we will take issue with this view.

As we shall demonstrate, solely legal yardsticks likely are not the best, most complete way to evaluate what legal authorities do. At least we will show that most of the people who engage in such evaluations when they deal with the police in their everyday lives do not rely very much on the law as such when making them, and so we think that lawfulness as a yardstick does not capture people’s everyday experiences with the police and police practices. Still, we should point out that we think it is ill-advised, and we will not here argue against the centrality of law to proper functioning of policing agencies. The issue, we think, is whether assessing police conduct against the yardstick of such rules is the only way to evaluate the conduct with which we are concerned. Our answer is no. And, we will also make the stronger claim that it is not the best way to evaluate such conduct. We argue that it is important for the police to focus upon two benchmarks of performance: behaving in ways that are consistent with the law and acting so as to create and maintain their legitimacy within the communities with whom they deal when exercising their policing authority.

The basis of our claim is an empirical rather than a normative one. Simply put, if we examine how most people in their everyday lives actually evaluate the interactions that they have with police officers and agencies, it is immediately apparent that people do not rely on actual lawfulness of police action when coming to conclusions about appropriate police behavior. Instead, they look to indicia of procedural justice. As we explain below, procedural justice and related factors provide the basis for social psychological determinations of legitimacy.²

It is no doubt true that perceptions of police lawfulness impact assessments that people make of appropriate police behavior.³ We will show here that perception of procedural justice of police action, which takes into account everyday perceptions of lawfulness, matters more to peoples’ evaluations of police conduct than does actual lawfulness of that conduct. We will first define terms. Procedural justice is the foundation of our model of fairness, so we shall spend some time explaining the concept. Next, we lay out a theoretical frame that will illustrate the ways in which the fairness of the conduct of authorities can be different from the lawfulness of it.

² See Tom R. Tyler & Yuen J. Huo, Trust in the Law 14-15 (2002) (explaining the difference between and relevance of procedural justice and trust-based motivation to decision acceptance and voluntary compliance). It is important to note that David Beetham has offered a different view of legitimacy that is not as thoroughgoing in its empiricism as is Tyler’s. Indeed Beetham includes lawfulness in his definition of legitimacy. See David Beetham, The Legitimation of Power (1991). Beetham’s approach brings together both normative and the descriptive.

³ Note here that we said perceptions of lawfulness. As we will demonstrate, our research suggests, importantly, that at least within the realm of the constitutionality of police conduct, there is little relationship between what people perceive to be lawful/constitutional and what is objectively the case. Instead, there is a strong relationship between perceived lawfulness and perceptions of procedural justice.
We shall then lay out evidence from a large-scale experimental survey that demonstrates what we have stated to be true: when people can choose between punishing law enforcers who act lawfully but unfairly or those who act fairly but unlawfully, they tend to choose to punish the former. We will conclude with some preliminary implications of the relationship between our findings and theory.

**Defining Terms**

Legitimacy is a term with many meanings in different contexts. When we use the term “legitimacy” we mean a “property that a rule or an authority has when others feel obligated to voluntarily defer to that rule or authority. A legitimate authority is one that is regarded by people as entitled to have its rules and decisions accepted and followed by others.”

Obviously, by using the term legitimacy in this way, we are not promoting a normative vision of it. Our argument is not aimed toward a philosophical justification of when people ought to defer to authorities; rather, our claim is descriptive in that we examine here whether people do defer (or at least say that they do.)

A robust body of social-science evidence from around the world shows that people are more likely to voluntarily obey the law when they believe that authorities have the right to tell them what to do.

Indeed, a finding that many readers may find odd is that people typically are motivated to comply with the law more by the belief that the authorities with whom they are dealing are legitimate than they are by fear of punishment. And, as we outline below legitimacy is linked to whether the authorities treat people with dignity and fairness when exercising authority, i.e. whether they are procedurally fair.

One implication of this is that when police generate good feelings in their everyday contacts, it turns out people also are motivated to help them fight crime. All of this leads to lower crime rates. Moreover, treating people with dignity and fairness leads not only to safe communities but also to healthy and democratic ones. Amy Gutman trenchantly observes, “We earn each other’s respect as citizens in some

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5 Additionally, we mean to emphasize the public feeling of obligation as opposed to personal morality. It is true that personal morality has been shown to be an important motivator of compliance. However, voluntary deference resulting from public legitimacy is also powerful – especially as compared to deference resulting from fear of the potential imposition of formal punishment. For the seminal work on this point, see Tom R. Tyler, Why People Obey the Law, 3-5 (1997).

6 See generally, Legitimacy, Criminal Justice and the State in Comparative Perspective (Braga, A., Fagan, J., Meares, T., Sampson, R., Tyler, T., & Winship, C., eds., 2007) (exploring the impact of perceptions of legitimacy in criminal justice systems across the globe).

7 Tom R. Tyler, Why People Obey the Law


very basic ways. We show ourselves capable of abiding by the results of fair procedures, honoring the rights of others, and supporting the passage of laws and public policies that we can justify to one another.”

What predicts people’s attributions of legitimacy? One might think that people’s conclusions regarding legitimacy of legal actors, institutions and law might flow from assessments of the relative effectiveness regarding tasks such as crime reduction or apprehension of wrongdoers; it turns out, however, that these kinds of outcome-based evaluations are not the focal point of most. People tend to place much more weight on how authorities exercise power as opposed to the ends for which that power is exercised—i.e. on the procedural justice through which the police exercise their authority. This is true across a wide variety of authorities. Researchers have studied public evaluations of police officers, judges, political leaders, managers, and teachers, and the findings are consistent; conclusions regarding legitimacy are tied more closely to judgments of the fairness of actions than to evaluations of fairness, or effectiveness, of the outcomes.

In the social psychological literature, judgments regarding fairness depend primarily upon a model of procedural justice, and that model, in turn, has a few dimensions. First, participation is an important element. People report higher levels of satisfaction in encounters with authorities when they have an opportunity to explain their situation and perspective on it. Second, people care a great deal about the fairness of decision-making by authorities. That is, they look to indicia of decision-maker neutrality, objectivity and factuality of decision-making, consistency in decision-making, and transparency. Third, people care a great deal about how they are treated by organization leaders. Specifically, people desire to be treated with dignity, with respect for their rights and with politeness. Fourth, in their interactions with authorities people want to believe that authorities are acting out of a sense of benevolence toward them. That is, people attempt to discern why
authorities are acting the way they do by assessing how they are acting. They want to trust that the motivations of the authorities are sincere, benevolent and well-intentioned.\(^\text{16}\)

As we noted above, one important aspect of procedural justice is its relationship to compliance with the law and with the decisions of legal authorities. The notion of legitimacy-based compliance that we have explicated here is quite different from the more typical deterrence-based account to which many look to explain why people obey the law. A deterrence-based account explains compliance as the motivation to avoid the negative consequences (usually formal ones) that could follow transgression. This approach posits that people obey the law and accept the decisions of legal authorities to avoid punishment. People do not speed to avoid traffic tickets; they do not steal to avoid fines and imprisonment, etc.

The legitimacy account’s dynamic, in contrast, is inherently social. Rather than being primarily concerned with outcomes and individual maximization of utility, legitimacy-based compliance is centered upon individual identity and is relational, positing that people tend to seek a favorable social identity within the groups to which they belong. People also seek a favorable social status for their group \textit{vis a vis} other groups. Psychologists Allan Lind and Tom Tyler explain that people care about procedural justice because it provides them with important informational signals that they view as relevant to their identities.\(^\text{17}\) For example, if a police officer treats a person rudely during an encounter, that person will process that treatment as information relevant to how legal authorities tend to view her, as well as the group to which she belongs. The conclusion will be a negative one. According to this view, pride and respect are much more important motivators of behavior than is formal punishment, for loss of status can occur without punishment. Correlatively, status enhancement can occur even in the face of punishment. Tyler and Fagan demonstrate that the police can give a person a ticket or even arrest them while simultaneously enhancing police legitimacy if they are respectful and fair to the person they are dealing with.\(^\text{18}\) By affirming and enhancing a person’s status within society the police are giving that person something valuable – a positive sense of self and identity – that is more important to them than the valence of their outcome.

In summary, when we say that people tend to evaluate the conduct of legal authorities with respect to fairness as opposed to lawfulness, we are referring to these notions of legitimacy and procedural justice and to the relational connections between people and legal authorities that underlie them. The fact that people have a relational connection to legal authorities provides those authorities with an alternative basis for creating and maintaining their legitimacy that is not linked to the nature of the sanctions which they may use to enforce the law.

\(^{16}\) See id.

\(^{17}\) See Lind & Tyler cited in note ____, supra.

Theoretical Frame

When lawyers and legal scholars and criminal justice practitioners observe what they consider to be the overexercise of state power in the form of stops and arrest – New York City\textsuperscript{19} and Philadelphia might provide ready examples\textsuperscript{20}--they move quickly to describe the problem as a \textit{legal} one. Members of these groups typically frame their observations with respect to constitutional law -- especially textual provisions of the Bill of Rights – to describe police transgressions.\textsuperscript{21} Arrests and stops become problematic \textit{because} they do not conform to the Fourth (and sometimes Fifth) Amendments that restrict and circumscribe them. If the constitutional violation is the problem, then the remedy, seemingly, is apparent. The architecture of law and rights both describe and solve problematic urban street policing.

This easy move to describe problematic policing in legal terms is more than a bit odd in light of the realities of policing on the street. While it is true that various bodies of law, constitutional law among them, shape policing authority, it is also true that the exercise of police power takes place largely at the discretion of individual police officers. Everything about the job makes this discretion difficult to monitor. Most police officers work alone and not under the direct gaze of a supervisor. Heavily armed officers leave the station each day (or night), and we know very little about what they did during the preceding eight hours or so at the end of a shift except through the sparse reports they fill out before going home -- unless, of course, they have made an arrest, which turns out to be a quite rare event among the many tasks cops perform on any given day.\textsuperscript{22}

Police deal more with “unsavory characters” such as criminal suspects, homeless, drunks and prostitutes in potentially troublesome situations than they do with “ordinary citizens,” which means both that those with whom they interact are not likely to reveal much about the encounters they have and that opportunities for corruption are higher than they might otherwise be. And, it is difficult to punish police officers that violate rules given the strong union rules that tie the hands of those who manage street cops. In

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\textsuperscript{20} In Philadelphia, data for 2009 indicate that the Philadelphia Police Department made 253,000 pedestrian stops and 250,000 car stops. Given Philadelphia’s population, these numbers yield an even higher per capita encounter rate than New York City’s. Email correspondence with Professor David Rudovsky, July 25, 2011.
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\textsuperscript{21} Legal scholars and lawyers commonly reference the Fourth Amendment of the United States Constitution when looking to legal provision to explain the wrongfulness of racial profiling. Tracy Maclin probably best example. \textit{[citation]}
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\textsuperscript{22} \textit{See} Bernard E. Harcourt & Tracey L. Meares, \textit{Randomization and the Fourth Amendment}, 78 U. Chi. L. Rev. 809, 821-829 (reviewing studies of urban police workload and showing that patrol and stop activities are much more common than executing search and arrest warrants).
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such a world specifying strict rule compliance seems somewhat of a misfit. Broad discretion allows police to shape, redescribe, and recategorize situations and contexts in ways that defy strictly defined codes. In recent years, the issue of how the police manage this discretion has become even more central to policing as police departments have developed strategies of policing based upon the widespread use of stop and frisk approaches which bring officers into frequent contact with people on the street.\textsuperscript{23} Far from being a source of concern, police discretion has been celebrated in recent years as a way to promote organizations that are flexible and responsive to community concerns and problems.\textsuperscript{24} All this means that good policing is more likely to be achieved by measuring cops against broad, subjective and tactile norms and standards, as opposed to sharp-edged rules.\textsuperscript{25}

We think insisting only upon (or even primarily upon) legal compliance (especially when the legal compliance in question is conduct consistent with constitutional rules) in order to satisfy public demand for good policing inevitably will miss the mark. The theory we have reviewed here strongly implies that lawfulness alone inadequately captures what the public cares about when validating good police conduct. The reason is that the aspects of police encounters that people often find problematic have very little to do with the law. This is true even when people describe their negative experience in terms that have accumulated a legal valence. We turn now to racial profiling as the concept usefully demonstrates what we are trying to convey.

Ask a lawyer what constitutes racial profiling, and she will usually answer that racial profiling is police behavior motivated solely or even partially by the belief that members of a racial group are more likely than other people to commit crime in general or a particular type of crime.\textsuperscript{26} Note, too, that if racial profiling is defined in the usual lawyerly manner, it is not racial profiling when an officer investigates a person because his or her race matches information about a perpetrator given to the police in, say, an incident report.\textsuperscript{27} Importantly, when the problematic conduct is

\textsuperscript{23} Maclin, Fagan others
\textsuperscript{24} See Tracey L. Meares & Wesley G. Skogan, \textit{Lawful Policing}, 2004 THE ANNALS 593, 68 (point out the value of police discretion to problem-solving policing).
\textsuperscript{25} See Dan M. Kahan & Tracey L. Meares, \textit{The Coming Crisis of Criminal Procedure}, 86 GEO. L. J. 1153, 1169-71, 1182-83 (expressing concern about an older regime of constitutional discretion-skepticism and advocating a more relaxed approach to judicial review in the form of guided discretion).
\textsuperscript{26} See Samuel Gross & Deborah Livingston, \textit{Racial Profiling Under Attack}, 102 COLUM. L. REV. 1413, 1413 (2002), offering this definition, “By September 10, 2001, virtually everyone, from Jesse Jackson to Al Gore to George W. Bush to John Ashcroft, agreed that racial profiling was very bad. We also knew what racial profiling was: Police officers would stop, question and search African American and Hispanic citizens disproportionately, because of their race and ethnicity, in order to try to catch common criminals.” See also DAVID R. HARRIS, PROFILES IN INJUSTICE: WHY RACIAL PROFILING CANNOT WORK 11 (2002) (same).
\textsuperscript{27} See Gross & Livingston at 1415. But see R. Richard Banks, \textit{Race-Based Suspect Selection and Colorblind Equal Protection Doctrine and Discourse}, 48 UCLA L. REV. 1075 (2001) (arguing that race-based suspect selection and investigation is little different from “classic” racial profiling in that pursuing minority suspects on the basis of physical description results is an intentional use of a racial
defined as we have just described, then the illegal act is complete at the moment the encounter between the offending police officer and the targeted citizen begins. The on-the-ground reality of street encounters is not so neat.

In a study of the subjective experience of being profiled, as opposed to the objective (or, in terms of this article, legalistic) one, Tyler and Wakslak show that the judgments that people make about police fairness affect whether the people dealing with the police believe they have been profiled in the first place. Those who believe the police are neutral are less likely to feel profiled. Additionally, those whose encounters with police are characterized by respectful, polite treatment and acknowledgement of rights also are much less likely to believe they have been profiled. And, we hope not surprisingly at this point, those who trust the motives of police are less likely than those who do not to believe that profiling has occurred. In other words, people’s inferences about why they have been stopped are based in large part on how they see the officers involved exercising their authority. If the officers listen to people, explain the basis of their actions, treat them respectfully and acknowledge people’s concerns in the situation, they are trusted and viewed as acting professionally. If not, they are viewed as acting based upon animus toward whatever potentially stigmatizable group the person is from (i.e. young, minority, male).

This disjuncture between the subjective and the objective views of racial profiling accords nicely with the circumstances surrounding the recent explosive arrest of Henry Louis Gates by a Cambridge, MA police officer in the summer of 2010. Briefly, the facts were these: Sergeant James Crowley radioed that he would go to the Gates residence after receiving a dispatch at 12:46 PM on July 16, 2009, that there was a possible breaking and entering in progress. Crowley arrived to find Gates in his home, and from there the stories diverge. Crowley’s version of the events is that Gates was yelling and behaving in a “tumultuous” manner as Crowley attempted to ascertain enough facts to ensure that a crime was not occurring. Gates’s view, on the other hand, was that Crowley disrespected him by failing to respond when Gates asked him his name and badge number and for suspecting him, a slight, elderly man with a cane, to be a burglar. Because Sergeant Crowley was sent to Gates’s home in response to a 911 call, it is difficult to characterize his decision to have an encounter with Professor Gates as racial profiling according to the usual legalistic definition. Yet Professor Gates has described his experience in exactly these terms. His experience does not easily fit the typical legal framework, but his description of his classification by state actors that disparately impacts innocent members of some racial minority groups).

29 See id.
30 See id.
31 All of the following facts were taken from Missed Opportunities, Shared Responsibilities: Final Report of the Cambridge Review Committee, June 15, 2010 http://www.cambridgema.gov/CityOfCambridge_Content/documents/Cambridge%20Review_FINAL.pdf. One of us, Tracey Meares, served on the committee that drafted this report.
experience does fit well with the conception of fairness (or rather its absence), as we have described it here.

Consider Gates’ own words taken from the Gates Commission Report: 32

I. Gates said he asked for the officer’s name and badge number on several occasions, but that the officer never responded or asked him if he was all right. Gates said that “the silence was deafening.” Gates said he then said to the officer, “You’re not responding because I am a black man and you’re a white officer.”

II. Professor Gates said he was greatly disturbed that Sergeant Crowley refused to formally give him his name and badge number. He interpreted this refusal as an insult and an abuse of power.

The point here is that regardless of the lawfulness of police behavior, and in this case the Commission acknowledged that Crowley was acting legally, a lack of procedural justice in encounters with the police can change public perceptions of policing agencies – creating more negative perceptions that involve a lack of trust, ill-will, and ultimately less compliance. Professor Gates was convinced that he had been profiled. And so were many members of the public. 33 The late Bill Stuntz offered a characteristically crystalline assessment:

Fourth Amendment law devotes an enormous amount of attention to the fact of searches and seizures, but almost none to how those searches and seizures are carried out. That ought to be reversed; sharp legal lines between “searches” and “seizures” and everything else ought to be replaced with hazier boundaries between decent police behavior and the indecent kind. 34

The Gates case illustrates how the experience of injustice and of disrespect provokes anger and resistance. Even a normally mild-mannered Harvard Professor can become enraged when he feels that he is being disrespected. And, if a person whose status in society is secure and validated by membership in elite institutions can feel that his status and identity are being undermined by unresponsiveness and lack of explanation from police officers, imagine how a young minority male feels when he is stopped and frisked on the street by the police. These young males are well aware that there is not going to be a Cambridge Commission to investigate their complaints of harassment and injustice on the street.

Mapping the Insights

32 See id at 20.
33 See Susan Saulny & Robbie Brown, Professor’s Arrest Tests Beliefs on Racial Progress, NEW YORK TIMES, July 24, 2009 (reactions from various different people, including a professor, a lawyer, a diversity consultant, a housing authority, readers on websites/blogs, etc who all concluded that some sort of racial profiling occurred).
Here is another way of thinking about how lawfulness and procedural justice relate to one another. Imagine four points on a compass. If we array lawfulness from east to west, with lawfulness to the east and unlawfulness to the west, naturally we want and expect police to be as far east as they could possibly be. In the east, police should not undertake to arrest someone (or even stop them) unless there is a statute or ordinance indicating that the conduct in question is unlawful. They should not move to arrest or engage a person unless they have gathered enough facts to constitute the constitutionally required level of suspicion that the Fourth Amendment specifies. Once an encounter has begun, the officer should endeavor to follow every general order (administrative rule) relevant to the specific context, and so on.

Now imagine procedural justice or legitimacy as running north and south on our compass. When police comport themselves in ways that confer dignity on those with whom they interact and otherwise treat people with respect, we will say they are “headed north.” Examples here include high quality interpersonal treatment; offering citizens an opportunity to tell their side of the story during an encounter; and being transparent about the reasons for the encounters and explaining in advance what will happen during the encounter, raising the probability that a citizen will conclude that the officer’s decisions are fact-based and neutral rather than arbitrary. When an officer’s conduct is inconsistent with these yardsticks, we will categorize that behavior as “running south.”

Putting the two parts together, we see that the best place for cops to be is the northeast. That is where one will find rightful policing – policing that is both lawful and procedurally just. We believe that a potential primary problem with street policing in urban cities such as New York and Philadelphia is that they are examples of southeastern behavior: police conduct that is very likely lawful, but also perceived by the citizen on the other side of the encounter as deeply, deeply illegitimate, using the term the way we have defined it here. If this is right, then it means that any attempted strategy to both describe and remedy a problem that exists in multiple dimensions will fail if the proposed strategy is unidimensional.

35 Tyler & Wakslak, Tyler & Fagan
36 Need cites for VOICE, probably Tyler & Huo
37 Cite here
38 It should be obvious that these two dimensions are not completely orthogonal to one another. Consider that one of the procedural justice dimensions, concern for dignity and rights, clearly implicates notions of lawfulness. Thus, there is likely some interaction among characteristics. The important point is to the see that law, certainly as it stands today, and possibility into the future cannot capture all aspects of procedural justice. One suspects that legislated politeness, for example, ceases to be such. And, to the extent that the dimensions capture different aspects of what people care about, then the disjuncture that we describe here will continue to exist.
39 Both Jeffrey Fagan and David Rudovsky have argued that many of the police stops in New York City and Philadelphia are, in fact, unlawful under our terms. We do not mean to gloss over this issue. Rather, we simply want to point out that it is likely that even if both cities are outliers compared to others regarding the lawfulness of the street encounters there, it remains true that the vast majority of the street stops in these two cities are lawful. And yet citizens are dissatisfied.
This, we submit, is the fundamental problem with the law-based approach. The law has no capacity as it is written today to tell police how to arrest or stop someone in a way that will tend to support police legitimacy. More than this, police are rarely trained in norms that would support this disposition. Instead, rookie police officers spend literally hours and hours reading law learning when they are legally allowed to stop, arrest and search. They are not correspondingly trained about how to conduct themselves so as to create and maintain their legitimacy in the community.

\[40 \text{ SHEBANI's information on training here.}\]
Figure 1. Conceptual model.
The next section of this paper will describe an experimental survey designed to explore citizen assessment of police conduct and engagement with other citizens with reference to these dimensions. In addition to demonstrating that public perceptions of procedural justice of police conduct (as well as perceptions of lawfulness itself) do not line up with lawfulness of police behavior as a lawyer would assess it, we will also demonstrate another interesting finding. Police conduct almost inevitably will cross one line or the other. That is, police officers will often find themselves in the “off diagonals,” where their conduct is lawful and procedurally unjust, or its opposite – procedurally just and unlawful. We contend that given a choice, the public would prefer police to reside in the northwest (procedurally just and unlawful) as opposed to the southeast (lawful and procedurally unjust). This finding should be unsurprising given the theory we have reviewed thus far, and yet it is no doubt unsettling to many. After reviewing the results of our study, we will offer what we hope are (somewhat) comforting conclusions.

**Study Design**

In March 2008, we conducted a nationwide study on legitimacy, lawfulness and procedural justice in policing with the goal of improving our ability to identify key factors influencing public views about how the police exercise their authority. Through the unraveling of interconnected individual, contextual, and situational factors, we sought to enhance our understanding of the salient pathways through which citizens make judgments about the legitimacy of the police and of policing activities. This study included two connected components to assess the influence of demographic, experiential, situational and contextual factors on citizens’ perceptions and evaluations of police actions. One component was a questionnaire that measured factors we hypothesized to influence how citizens perceive and evaluate police-citizen encounters. The second component was a factorial experiment that tested how citizens perceived and evaluated these types of encounters in manipulated vignettes that incorporated actual police video.

The study's two-part design allowed us to analyze people's perceptions of police authority on several levels. First, it permitted us to compare the effects of the past experiences of individuals, their social contexts, and personal histories with the influence of the specific context of an event and a description of its participants on how people understand and evaluate police-citizen interactions. Second, it enabled us to compare how people in varying social positions (defined by age, race, gender, income, occupation, etc.) evaluate the same incident when it is framed identically, and then whether their evaluations change when we provide alternate framing information (in terms of past police-community relations, legality of stop, and individuals involved). And third, it allowed us to see whether the effects of group
membership, past experience with the police and crime, and general perceptions of the police remain under all experimental conditions. 41

The questionnaire is outlined in Appendix A. The experimental design is outlined in Appendix B. The sample is discussed in Appendix C.

Results: Comparing Lawfulness and Procedural Justice

The first goal of this study was to determine how actual lawfulness of police behavior and perceptions of procedural justice influenced people’s desire to punish the police officers for their conduct in the videos. The lawfulness of the actions of the police was communicated to people prior to viewing a videotape. After viewing the videotape people were asked to evaluate the procedural justice of the actions of the police. They were also asked to evaluate whether the police had engaged in wrongdoing and whether they should be punished. To conduct the analyses outlined the procedural justice scale was dichotomized by dividing it at the mean into high and low procedural justice groups.

To effectively compare these two variables, we first had to divide our sample into four groups: (1) those who witnessed a lawful arrest/stop and believed there to be a high level of procedural justice; (2) those who witnessed a lawful arrest/stop but believed there to be a low level of procedural justice; (3) those who witnessed an unlawful arrest/stop but believed there to be a high level of procedural justice; and (4) those who witnessed an unlawful arrest/stop and believed there to be a low level of procedural justice. We then had to calculate the average desire of each group to punish the police. Note that these groups correspond to the four quadrants of the compass described above.

Thanks to our experimental design, separating those respondents who witnessed an actually lawful arrest/stop from those who witnessed an unlawful arrest/stop was simple: we merely looked at the contextual description provided for each video. One third of respondents were given contextual descriptions that framed the arrest/stop as being lawful and one third were given contextual descriptions that framed the arrest/stop as being unlawful (the other third were given ambiguous descriptions and were therefore ignored in our analysis). 42

41 A critical feature of the study was to vary the order in which respondents completed these components. That is, one half of the respondents completed the questionnaire first, and the other half completed the experimental component first. Given the large sample (1,361 participants), this allowed us to assess whether respondents who completed the questionnaire first were primed by exposure to questions that might have influenced their evaluations of the vignettes in the experimental component.

42 These contextual frames were developed by one of us. The respondents were not specifically told whether the facts constituted constitutionality in each case, but, rather, they were given facts to review that would lead any lawyer (or budding lawyer) to confidently make a conclusion regarding constitutionality (or not).
Separating those respondents who believed there to be a high level of procedural justice from those who believed there to be a low level of procedural justice was slightly more complicated. First we had to calculate the extent to which respondents perceived the police behavior to be procedurally just. We did this by looking at how much they agreed or disagreed with the following six statements:

(1) The police made decisions about what to do in fair ways.
(2) The police allowed the citizen to express his views before making decisions.
(3) The police got the information about the situation needed to make good decisions.
(4) The police explained the decisions they made.
(5) The police treated the citizen with respect and dignity.
(6) The police showed concern for the citizen’s rights.

Respondents rated their level of agreement with these statements on a scale of 1-5, with 1 being “strongly disagree,” 2 being “disagree,” 3 being “neither agree nor disagree,” 4 being “agree” and 5 being “strongly agree.” Respondent evaluations of the procedural justice of police behavior shown in the three videos are outlined in Appendix D.

Finally, after dividing respondents into the necessary four groups (lawful/high procedural justice; lawful/low procedural justice; unlawful/high procedural justice; unlawful/low procedural justice), we then had to measure their desire to punish the police. To accomplish this, we analyzed how they rated (again on a 5-point scale) the following three statements:

(1) The officers involved should be reprimanded or punished in some way.
(2) These officers should be put in jobs in which they do not patrol the streets.
(3) It would be appropriate for the person involved to sue the police.

The ratings for police punishment are shown in Appendix E.

Why punish the police?

The best way to think about differences among groups is to divide people up in the two ways we outline above: (1) is the conduct lawful or unlawful and (2) do the people feel that the police acted justly or unjustly. The average level of punishment suggested for the police can then be assessed within each group. Figure 2 shows such an analysis that combines across the three videos.43

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43 The numbers shown combine all three videos. There were three lawful conditions (lawful, unlawful, no information) and only the lawful and unlawful means are shown. The perceived procedural justice scale was divided at the mean to form two categories. High scores indicate a
strong desire to punish the officers involved. The scale runs from 1 to 5. The entries are the mean for each group.
Figure 2. The influence of lawfulness and the perceived procedural justice of police conduct on the desire to punish police officers. All videos.
In this graph, the rating moves closer to 5 as the respondent’s preference for punishment increases. The graph demonstrates clearly that procedural justice is a major factor in that determination. When procedural justice is high, punishment preferences are almost one full point higher than they are when procedural justice is low. In contrast, the distinction between the lawfulness conditions barely registers.

Consider the results again in graphical form and disaggregated by video:
Figure 3. Individual videos.

Figure 3a. The influence of lawfulness and the perceived procedural justice of police conduct on the desire to punish police officers. Video 1: Resisting Arrest.
Figure 3b. The influence of lawfulness and the perceived procedural justice of police conduct on the desire to punish police officers. Video 2: Violent Struggle.
Figure 3c. The influence of lawfulness and the perceived procedural justice of police conduct on the desire to punish police officers. Video 3: Ambiguous Arrest.
In the graphs above, the distance between the lines represents the impact of procedural justice on people’s desire to punish the police, while the vertical distance between the endpoints of each line represents the impact of lawfulness. In each video the result is the same: people’s perceptions of procedural justice had a much greater impact on their desire to punish the police than the lawfulness of the police conduct. For example, in Video 3, when the police officer’s conduct went from lawful to unlawful, people’s desire to punish him increased roughly 0.1 points on our 5-point scale (from 1.31 and 2.15 to 1.39 and 2.25, respectively). By contrast, when the police officer’s conduct went from being perceived as high on procedural justice to low on procedural justice, people’s desire to punish him increased roughly 0.85 points (from 1.31 and 1.39 to 2.15 and 2.25, respectively). Videos 1 and 2 produced similar results.

Multilevel modeling

The analysis outlined suggests that people’s desire to punish the police derives from whether the police act with procedural justice. The legality of police actions is secondary. While we present these findings using simple statistics it is possible to perform this analysis in a statistically more complex way that takes account of possible confounding factors. The appropriate analysis is Multilevel Modeling, taking account of the fact that each respondent rated three videotapes. We conducted such an analysis and the results are shown in Appendix F. The model shown first takes account of the multilevel nature of the data. It further controls for prior attitudes toward and experiences with the police, including identification with the police and the nature of police actions during prior personal contacts with the police.

The results of the multilevel model support the conclusions already outlined. The motivation to punish the police is linked primarily to the procedural justice of police actions (column 2: regression coefficient = 0.68 (standard error = 0.03), t(796) = 26.06, P < .001). There is no statistically significant connection between unlawful police action and punishment (column 2: regression coefficient = -.04 (standard error = 0.04), t(1067) = 0.81, n.s.). Hence, the findings outlined are robust and are not the result of respondent’s prior views about the police.

Path modeling

Because the post-video questions were all answered at one point in time, we have also followed the conservative strategy of treating the variables separately in our analysis and not assuming any particular causal order among them. However, using path modeling allows us to explore the relationship among variables. In particular we can develop a more nuanced model of legality.
In presenting the issue that frames this paper we contrasted two concerns: whether police actions are lawful and whether the police are acting in procedurally just ways. The results seem to suggest that respondents are insensitive to questions of police lawfulness. However, there is an alternative model that we can evaluate. That model is that the public cares about perceived lawfulness, but that perceived lawfulness is not directly linked to actual lawfulness. Rather, people consider their understanding of lawfulness as one factor when making evaluations of police procedural justice. Hence, the public potentially takes account of the legality of police behavior by including it in their evaluations of the overall fairness of police actions. This idea can be tested through a path model.

In the path analysis, we test the argument that people’s perceptions of the legality and procedural justice of police conduct potentially influence their assessments of the wrongfulness of police behavior, which in turn, influences their conclusions about whether police should be punished. These are causal claims, and the data is correlational. However, the reasonableness of this causal order is based upon the psychological literature on perception, evaluation and blame assessment. Drawing upon that literature we suggest that it is reasonable to view the causal order as flowing from evaluations of procedural justice and through them to assessments of blame and then punishment.

The path model also allows us to examine the influence of people’s prior values. Recent studies by Kahan highlight the importance of prior values in shaping the perception and evaluation of events involving legal actors. Before respondents viewed the videos they completed a set of questions concerning their identification with the police and their political-social ideology. Our concern is with the influence of these prior values upon the respondent’s understanding of the videos viewed. We can examine that influence through our path analysis as well.

The results of the path model are shown in Figure 1. The solid lines indicate significant paths. Consistent with our assumptions, the key antecedent of wanting to punish the police is viewing them as culpable (i.e. morally wrong). It is this judgment that is the key to punishment. And, it is directly responsive to procedural justice, but not to actual lawfulness. In other words, people do care about legality. Perceived legality is central to punishment. But, perceived legality is based upon procedural justice, not actual legality. If the police are using fair procedures people infer that their actions are legal. This does not mean, however, that actual legality is irrelevant. As is shown in the figure one factor that people consider when

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44 Insert material here from Shebani’s memo.

45 Culpability was measured using three items: “The police violated the law”; “The police officers engaged in serious misconduct”; and “The behavior of the police was reasonable and fair”.

evaluating the overall fairness of police actions is whether the police acted illegally, with illegal conduct lowering perceptions that the police acted justly.

The analysis further supports the suggestion that values shape people’s evaluations of events. When people are making judgments about the procedural justice of police conduct they consider many factors, including whether the police behaved lawfully. Their judgments are additionally shaped by their prior level of identification with the police and their overall political-social ideology. These prior values further directly influence evaluations of police wrongdoing, and prior ideology also directly shapes judgments about whether the police should be punished. Hence, people’s reactions to events are not only a function of what happens within those events. They also have an already developed value system and that value system shapes event perception and evaluation.

These path results reinforce the results of the tables shown and of the multilevel modeling analysis in suggesting that the primary factor shaping blame assessments was the evaluation of procedural justice. Once such procedural justice judgments are taken into account the objective legality of police actions has little direct influence upon blame assessments. However, this does not mean that illegal actions have no consequences. Officers who were presented as acting illegally were judged to have used procedures that were less fair, leading to judgments of wrongdoing and a heightened desire to punish. While these path results help us to gain a better understanding of the nature of people’s reactions to videos of police-citizen interactions, we caution that because the data upon which they are based are cross-sectional they must be viewed as tentative.

47 It is also true as Kahan, et al, suggest that values shape perceptions of the facts, as well as evaluations of the actions of legal actors. For an examination of such fact centered influences see Tom Tyler, Anthony Braga & Christopher Winship (2012). Just the facts, ma’am: Prior attitudes, manipulated social context, and observer reactions to police-citizen interactions. Unpublished manuscript, Department of Psychology, New York University.
Figure 4. Overall model.
Implications

The data confirms our core claim: when assessing police behavior people procedural justice factors are more influential to their judgments than is the actual legality of that behavior. Or, to put it somewhat provocatively in terms of the legitimacy/lawfulness spectrum depicted above, people prefer the northwest to the southeast. Although the lawfulness of the police conduct had some effect on their desire to punish the police, this effect was trivial compared to that of procedural justice.

What should we make of this? At least three points are important:

First, people’s ordinary intuitions about rightful behavior do not comport with the law. That is, people do not seem to care very much at all about legal rules when assessing whether police should be punished. They care instead primarily about procedural justice and fairness. This could result from at least two conditions. The first condition is one in which people are aware both of legality and fairness factors, but consciously choose to credit fairness over legality. A second condition is one in which people choose fairness over legality because they are unaware of -- or perhaps more precisely -- untutored in legality. If this condition holds, then we would expect people’s assessments of legality and fairness to be coextensive. To put this point another way, people rely on fairness to judge police because they do not know the law. On this account procedural justice is a kind of “everyday lawyering.” As best we can tell, the second condition is a better descriptor of our data. People do not know the law and apparently judge police behavior with respect to procedural justice judgments.

Second, that people “know” fairness and not the law means, we think, that it is extremely important to separate lawfulness from unlawfulness on the one hand, and fairness and unfairness on the other while specifying a relationship among them as we do above. Perhaps the most important reason to do this is that police are creatures of law and are trained in it. Police are not everyday lawyers. They strive to conform their behavior to set of norms and scripts heavily influenced by formal law. The bifurcation we see on the spectrum of evaluations that ordinary people make regarding police behavior represents a social psychological disjuncture in police-citizen engagement that is damaging to citizens, counterproductive for policing agencies and ultimately inconsistent with the crime reduction project that is critical to so many cities today. Of course, one way to respond to the fact that citizens are unaware of the law is to educate them about constitutional law in the hope that they may comport their internal assessment processes in ways that are much more consistent with articulated law. To be blunt, this is likely a fool’s errand. The resources involved would be enormous, and the project bumps up against the

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48 Ewick & Silbey
49 The key point here is that actual legality has no impact upon perceived legality. Whether the police are actually following the law is not central to whether they are perceived to be acting legally.
natural inclination that people have to choose evaluative methods that are consistent with and affirm their social identity. Constitutional law, as it is currently composed, does not emphasize the importance of quality of police treatment, but rather places a premium on the police officer’s intention when she decides to exercise her discretion to engage someone. The values that the law protects are not those that ordinary folks, at least in this area, regularly look to when constructing individual or group identity as decades of social psychology make clear. Nothing about constitutional law prohibits a cop from being rude, and very little of constitutional criminal procedure promotes the kinds of dignity concerns that people tend to care about. Indeed, much of the law is even at odds with these concerns as our review of the constitutional imperative of suspicion highlights.

A different reform strategy, then, is to advocate change in the legal rules that shape police conduct – perhaps along the lines that Bill Stuntz has suggested. This approach is an exercise in futility. Thus, we are likely better served by educating police officers about procedural justice. Police officers need to comport their behavior with constitutional rules, yes, but they also need to be encouraged to treat people with dignity and respect regardless of whether the rules require it.

Third, that the approach we have outlined likely leads to safer streets is only one of its benefits. As British legal scholar, Neil Walker, notes “the police are both minders and reminders of community – a producer of significant messages about the kind of place that community is or aspires to be.” Taking Walker seriously promotes and understanding of the policing enterprise that is different from is different from the usual conception that emphasizes solution of collective action problems, which in turn emphasizes police primarily as crime control agents. We do not doubt the positive benefits of policing agencies casting themselves as necessary utilities for the production of safe, functioning communities akin to well-lit streets, clean water, and cheap, widely available electricity. One must be careful in making the public utility analogy, however. A consequential conception of a public good, which the utility analogy clearly is, conceives of production of the good as one that can be enjoyed by individuals and aggregated up, so to speak. Thus its benefits – and costs – can always be assessed in terms of efficiencies at the individual level, and it is possible to imagine the good’s production by some entity other than the state.

We think our account of the way in which people assess the rightfulness of policing behavior is more consistent with Waldron’s account of a public good which acknowledges that "no account of [its] worth to anyone can be given except by concentrating on what [it is] worth to everyone together." Truly good policing then, is enjoyed by all people in common whether or not they experience as individuals a positive outcome. Generation of it is “wholly, directly and reciprocally dependent upon its simultaneous generation for and enjoyment by certain others.”50 We can go further and say that our argument not only implies a demand for policing that is assertedly social as Waldron suggests, but constitutive, too, in the way that Ian Loader and Neil Walker claim. It is not enough for policing to simply solve collective

action problems associated with the project of crime reduction. Policing also (should?) play a role in the production of self-identity that helps to “construct and sustain our ‘we-feeling’ – our very felt sense of common publicness.”\textsuperscript{51} Legitimacy, then, can be a key driver of a healthy and properly functioning democratic government.

We need to do more work to fully justify this last potentially normative claim. No doubt many are made uncomfortable by the notion that police should be involved in this work. What we know, however, is that they are involved in it. The empirical distinctions we demonstrate between lawfulness assessments of police conduct on the one hand and fairness assessments on the other, powerfully suggest that people understand police treatment of citizens in the constitutive manner that Loader and Walker describe. Moreover, we know that there are potentially negative consequences of this kind of psychological processing. At the very least then, we should take what steps we can to address the consequences of this reality on the ground.

Appendix A. Background questionnaire

The background questionnaire asked respondents for information about their demographic characteristics, experiences with the police, exposure to crime, political beliefs and prior attitudes towards law enforcement. Collecting this information was necessary in order to ascertain what factors accounted for differences across individuals and groups in their perceptions of the appropriateness of police behavior and the legitimacy of these legal actors in particular contexts. With a rich understanding of respondents’ backgrounds, we could test our hypothesis that individuals form perceptions and evaluations of police-citizen interactions based on their own (direct) experiences, and indirectly or vicariously through the experiences of others close to them. In other words, this personal data allowed us to assess people’s psychological predispositions.

The information solicited in the questionnaire drew on work by Bobo and Johnson that identified a range of factors differentiating views among racial and ethnic groups on their experiences and views of criminal law and criminal justice. Specifically, the questionnaire asked respondents about the following topics:

1. Basic biographical and demographic information;
2. Perceptions of crime in their neighborhood;
3. Attitudes toward their local police department;
4. Personal experiences with the police;
5. Experiences of friends and relatives with the police;
6. Views on appropriate police conduct;
7. Attitudes about race;
8. Perceptions of racial bias in the criminal justice system;
9. Crime victimization of themselves or other family members;
10. Political orientation; and
11. Major life events.

The questionnaire consisted of 124 questions. There was no standard question format. Rather, the format depended on what was being asked. Some questions were open-ended; some were yes/no; some asked for answers on various numerical scales; and some provided answer options that were specific to the topic.

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Appendix B. Experiment

In the experimental we showed respondents three videos of different police-citizen encounters in randomized order. The videos, culled from police training tapes and Youtube.com, were each 30 seconds long and captured real interactions between police officers and citizens and varied in the intensity of interaction between police officers and citizens. The three videos can be summarized as follows:

**Video 1: Resisting arrest.** A courteous, but stern police officer confronts a rude citizen during a nighttime traffic stop and attempts to place him under arrest, but the citizen resists.

**Video 2: Violent struggle.** Two police officers engage in a violent struggle with a large, aggressive citizen in a parking lot at night.

**Video 3: Ambiguous arrest.** A police officer questions a shirtless young man, who appears to be confused, and eventually leads him away in handcuffs.

A critical aspect of the experimental component was that before watching each video, respondents were provided with a brief paragraph description framing the police-citizen encounter. These descriptions were manipulated across four dimensions: (1) a description of the city in which the incident occurred; (2) a description of the conditions under which each stop/arrest was made; (3) a description of the officers’ reputation and history; and (4) a description of the citizen’s prior criminal behavior. Each dimension had three possible states: good, neutral, and bad. Below is a summary of the three states associated with each of the contextual dimensions, along with illustrative examples from the study (each video had a unique set of good, neutral, and bad states):

(1) *City description:*

Good - A history of good relations between the police and the minority community. Example: “The following video is of an incident that occurred in a Southwest city in 2005. The U.S. Department of Justice recently recognized the police department in this city as having a model community policing program.”

Neutral - No mention of any the relations between the police and the minority community. Example: “The following video is of an incident that occurred in a Southwestern city in 2005.”

Bad - A history of poor relations between the police and the minority community. Example: “The following video is of an incident that occurred in a Southwestern city in 2005. The U.S. Department of Justice is currently investigating the police department in this city due to complaints of widespread civil rights violations.”

(2) *Context of arrest/stop:*

Good – Legal arrest/stop. Example: “After the police officer received a dispatch of an armed robbery committed in the area, the individual in the video was stopped as he was running from the location of the crime.”
Neutral - Ambiguous legality. Example: “While the police officer was on routine patrol, the individual in the video was stopped after the officer observed him nervously looking at the patrol car and increasing the pace of his walk.”

Bad – Illegal arrest/stop. Example: “The individual in the video was stopped after the police officer observed him walking down the street late at night.”

(3) Reputation and history of officer(s):
   Good - Positive reputation. Example: “The officer involved in the stop has worked for the police department for over twelve years. The officer was recently recognized by the Mayor of this city for his exemplary service to community members residing in high crime areas.”
   Neutral - Neutral reputation. Example: “The officer involved in the stop has worked for the police department for over twelve years.”
   Bad - Negative reputation. Example: “The officer involved in the stop has worked for the police department for over twelve years. The officer is currently the defendant in a civil case alleging a wrongful arrest.”

(4) Characteristics of the citizen:
   Good - No history of criminal behavior. Example: “The citizen in the video has no past history of criminal behavior.”
   Neutral - No description provided.
   Bad - A past criminal record. Example: “The citizen in the video has been in trouble with the law before.”

Thus, before viewing each of the three videos, respondents were primed with a randomly assigned background description of the people and events in them. These contextual primes were designed to focus respondents on particular aspects of the context within which the encounters occurred allowing us to assess the degree to which people’s judgments about police behavior were influenced by how the incident was framed. This approach also enabled us to analyze the effects of how deeper social knowledge of local history and context interacted with the respondents’ own experiences and the features of the encounter to shape their evaluations of the procedural fairness and legitimacy of the encounter.

We asked respondents to answer 38 questions about what had occurred in each video after they watched it. These questions required respondents to state whether they “strongly agreed,” “agreed,” “neither agreed nor disagreed,” “disagreed,” or “strongly disagreed” with each statement about the behavior of the police officer(s) and the citizen in the video (respondents were also given the option of answering that the statement “does not apply”).

We also asked respondents to make evaluations utilizing the same 5-point scale: recall basic facts (e.g., “The police in the video displayed or used weapons (club, gun).”); assess the appropriateness of the citizen’s conduct (e.g., “The citizen involved behaved appropriately towards the police.”); assess the appropriateness of the police officers’ actions (e.g., “The police behaved appropriately toward the citizen.”); speculate as to the
motivations of the police officers (e.g., “The actions of the police officers were affected by the race of the citizen.”); evaluate the procedural fairness of the police officers’ actions (e.g., “The police in the video treated the citizen with respect and dignity.”); judge the legality of the police officers’ actions (e.g., “The police officers violated the law.”); and determine whether the police officers should be disciplined for their behavior (e.g., “The officers involved should be reprimanded or punished in some way.”). We designed these questions to explore the psychological processes underlying reactions to ambiguous events involving possible police misconduct that could warrant some form of punishment.
Appendix C. Sample

The study sample consisted of 1,361 individuals age 18 or older, drawn randomly from a demographically diverse panel assembled by Knowledge Networks (hereafter, KN), an opinion research firm based in Menlo Park, California that specializes in video-based surveys using the Internet. KN retains a permanent sample of approximately 40,000 individuals from which subsamples can be drawn to carry out specific surveys. The KN panel sample is representative of the U.S. population, which allows for stratification and representation across demographic groups. Recruitment into the KN panel takes place through a Random Digit Dialing method to random samples of U.S. households. All members of the household are invited to participate in the panel. Surveys are answered electronically either over the PC or through a web-based TV connection. KN panel members receive free Internet access and email accounts, including equipment if needed. In some cases, individuals are also paid a modest incentive fee to participate in the survey.

The 1,361 individuals who participated in our study came from 15 geographically dispersed American cities. The number of individuals from each city was: Baltimore (98); Boston (88); Chicago (94); Denver (89); Detroit (90); Houston (87); Los Angeles (94); Miami (89); New York (85); Philadelphia (91); Phoenix (96); San Diego (92); Seattle (90); Washington DC (89). These cities were chosen because they represent a diverse range of critical characteristics, such as demographics, crime levels, and police-community relations.

The respondents were not a nationally-representative survey. Therefore, the appropriate baseline is not whether our respondents mirror the nation but, rather, whether there were enough individuals with varied demographic characteristics to allow us to make plausible comparisons across groups. With this in mind, we stratified the sample by race, gender, and age to achieve a healthy mix of each.

The race of the sample was: Caucasian = 58.6%; Hispanic = 18%; African American = 14.3%; Other = 6%. The gender was 47.7%. Age: 18-29 = 22.2%; 30-44 = 28.3%; 45-59 = 27.1%; 60+ = 22.3% (Mean = 44). Education level: Less than high school = 8.5%; High school = 30.6%; Some college = 26.7%; Bachelor’s degree or higher = 34.2% (Mean = Some college but no degree). Household income: $0-$24,999 = 12.2%; $25,000-$49,999 = 23.2%; $50,000-$99,000 = 41.8%; $100,000+ = 22.8% (Mean = $60,000). Employment status: Working = 64%.
Appendix D. Ratings of procedural justice.

<table>
<thead>
<tr>
<th>Video 1</th>
<th>1 = Strongly disagree</th>
<th>2 = Disagree</th>
<th>3 = Neither agree nor disagree</th>
<th>4 = Agree</th>
<th>5 = Strongly agree</th>
<th>Does not apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decisions fair</td>
<td>1.1%</td>
<td>6.0%</td>
<td>18.8%</td>
<td>47.8%</td>
<td>25.5%</td>
<td>0.8%</td>
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<tr>
<td>Express views</td>
<td>1.4%</td>
<td>4.8%</td>
<td>13.1%</td>
<td>55.5%</td>
<td>24.9%</td>
<td>0.3%</td>
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<td>Necessary information</td>
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<td>8.0%</td>
<td>25.2%</td>
<td>44.3%</td>
<td>17.0%</td>
<td>1.9%</td>
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<tr>
<td>Decision explained</td>
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<td>9.4%</td>
<td>23.4%</td>
<td>42.9%</td>
<td>19.8%</td>
<td>2.2%</td>
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<tr>
<td>Respect and dignity</td>
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<td>6.3%</td>
<td>19.8%</td>
<td>52.4%</td>
<td>19.9%</td>
<td>0.1%</td>
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<tr>
<td>Concern for rights</td>
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<td>6.3%</td>
<td>34.6%</td>
<td>39.5%</td>
<td>15.9%</td>
<td>1.1%</td>
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<tr>
<td>Video 2</td>
<td>1 = Strongly disagree</td>
<td>2 = Disagree</td>
<td>3 = Neither agree nor disagree</td>
<td>4 = Agree</td>
<td>5 = Strongly agree</td>
<td>Does not apply</td>
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<td>44.5%</td>
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<td>13.2%</td>
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<tr>
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<td>48.1%</td>
<td>17.7%</td>
<td>5.0%</td>
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<td>Does not apply</td>
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Appendix E. Ratings of appropriate police punishment.

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<th>2 = Disagree</th>
<th>3 = Neither agree nor disagree</th>
<th>4 = Agree</th>
<th>5 = Strongly agree</th>
<th>Does not apply</th>
</tr>
</thead>
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<td>Punish or reprimand</td>
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<td>30.8%</td>
<td>15.6%</td>
<td>5.5%</td>
<td>1.2%</td>
<td>1.0%</td>
</tr>
<tr>
<td>Desk job</td>
<td>45.6%</td>
<td>31.4%</td>
<td>15.4%</td>
<td>5.9%</td>
<td>0.7%</td>
<td>0.9%</td>
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<tr>
<td></td>
<td>1 = Strongly disagree</td>
<td>2 = Disagree</td>
<td>3 = Neither agree nor disagree</td>
<td>4 = Agree</td>
<td>5 = Strongly agree</td>
<td>Does not apply</td>
</tr>
<tr>
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<tr>
<td>Punish or reprimand</td>
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<td>28.4%</td>
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<td>Video 3</td>
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<td>2 = Disagree</td>
<td>3 = Neither agree nor disagree</td>
<td>4 = Agree</td>
<td>5 = Strongly agree</td>
<td>Does not apply</td>
</tr>
<tr>
<td>-----------------------------</td>
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<tr>
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<td>1.7%</td>
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<tr>
<td>Desk job</td>
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<td>33.3%</td>
<td>19.0%</td>
<td>3.8%</td>
<td>1.5%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Sue police</td>
<td>39.6%</td>
<td>28.8%</td>
<td>19.0%</td>
<td>6.7%</td>
<td>2.8%</td>
<td>3.1%</td>
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</table>
Appendix F. Multilevel modeling

Multilevel modeling of police punishment judgments.

<table>
<thead>
<tr>
<th></th>
<th>No controls</th>
<th>Controls</th>
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<tbody>
<tr>
<td><strong>Intercept</strong></td>
<td>1.74(0.09) t(1979)=19.61***</td>
<td>1.40(0.43) t(1092)=3.28***</td>
</tr>
<tr>
<td><strong>Video watched</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Confused vs. rude</td>
<td>0.03(0.04) t(1331)=0.80</td>
<td>0.01(0.04) t(738)=0.30</td>
</tr>
<tr>
<td>Aggressive vs. rude</td>
<td>-.24(0.04) t(1374)=5.84***</td>
<td>-.26(0.05) t(796)=5.57***</td>
</tr>
<tr>
<td><strong>Context</strong></td>
<td></td>
<td></td>
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<tr>
<td>Lawful police action</td>
<td>-.03(0.04) t(1942)=0.84</td>
<td>-.02(0.04) t(1093)=0.51</td>
</tr>
<tr>
<td>Unlawful police action</td>
<td>-.02(0.04) t(1928)=0.53</td>
<td>-.04(0.04) t(1067)=0.81</td>
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<tr>
<td><strong>Procedural justice</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedural justice of police actions</td>
<td>0.72(0.02) t(1900)=36.38***</td>
<td>0.68(0.03) t(796)=26.06***</td>
</tr>
</tbody>
</table>

Multilevel modeling was used (SPSS mixed procedure). Each respondent provided three evaluations, one for each video watched and this procedure controls for respondent effects. Controls were made for prior identification, political ideology, prior experience with the police (outcomes and procedural justice), whether the person was a victim of crime, fear of crime, neighborhood conditions, political efficacy, the fairness of government policies, and the willingness to let the police use force.

*p < .05; **p < .01; ***p < .001.