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Trust and Law Abidingness: A Proactive Model of Social Regulation

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INTRODUCTION
The purpose of my research is to look at how members of the public experience the social regulatory activities of the police and the courts. In
particular, I am concerned about the experiences of the members of two minority groups—African-Americans and Hispanics. My goal is to explore the implications of my findings for models of policing and of court administration. These models focus on finding effective ways to regulate social behavior.

My argument is that legal scholars have a lot to gain by changing the way they think about the general approach to social regulation that has dominated legal scholarship for the last several decades. I propose and defend empirically the value of a different model, the proactive model of social regulation, that is based upon encouraging and maintaining public trust in the character and motives of legal authorities. The public trust in the police and the courts that is central to this model is sustained by process based policing and process oriented problem solving by the courts. Process is the key issue in each case because public trust in these legal authorities is encouraged only when they make their decisions through procedures that members of the public view as fair.

I make my arguments on two levels. First, I explore the context of the immediate situation in which police officers or judges are seeking to solve a problem or enforce a rule. Here their concern is with their ability to secure acceptance of their actions by the particular members of the public with whom they are dealing and to do so without creating hostility and resistance from those individuals. Effectiveness in this context is linked to the ability to gain compliance while minimizing conflict escalation within the situation.

Second, my argument is concerned about the broader context of public confidence in the legitimacy of the police and courts. I argue that personal experiences both shape that larger context and are shaped by it. Here I first examine the influence of personal experience on views about the legitimacy of law and legal authorities. I show that personal experiences generalize to shape broad judgments about the legitimacy of legal authorities.

In addition, I explore the influence of preexisting views about the legitimacy of law and legal authorities on the psychological dynamics of particular experiences with legal authorities. This dual influence is shown below:

<table>
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<th>The behavior of the legal authorities during a personal encounter</th>
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<th>The basis on which people decide whether to defer to particular authorities during a subsequent personal encounter</th>
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I. SOCIAL REGULATION FROM THE PERSPECTIVE OF LEGAL AUTHORITIES

From the perspective of legal authorities the issue central to being able to engage in effective social regulation is having an accurate understanding of why people are motivated to accept third party decisions. The model of human motivation that legal authorities use to understand people’s actions can be drawn from many sources. My particular concern is with the implications of
such psychological models of human motivation for the study of legal regulation.

The third parties involved in social regulation include court officials such as judges, clerks, and mediators/arbitrators as well as police officers. Irrespective of which legal authorities are involved, the key to their effectiveness lies in their ability to gain acceptance for their decisions among the members of the public with whom they personally deal. The decisions of legal authorities mean little if the members of the public do not follow them.¹

This analysis of the antecedents of acceptance explores the role that motive-based trust in legal authorities plays in encouraging public acceptance of their decisions. In particular, the empirical study I outline examines whether people are more willing to accept the decisions of those legal authorities whose motives they view as benevolent and caring (i.e., whose motives are seen as more trustworthy).

The form of trust I examine reflects trust in the character and motives of the authorities. It is based on judgments about whether or not their intentions are benevolent—i.e., upon inferences about the motivations underlying the actions of police officers or court officials. Such character judgments are distinct from consequence-based assessments about the favorability or fairness of their decisions. The members of the public, legal scholars, and philosophers more generally, recognize that although many authorities make well-intentioned decisions, the implementation of these decisions can nonetheless be unwise and can potentially lead to negative outcomes.² Hence, the consequences of decisions are distinguished from the motivations that lead to them. As an example, corporate law does not allow people to hold the directors of companies liable for loses due to decisions made in good faith.³ Motive based trust focuses on the issue of the intentions of the authority—i.e., on the good faith with which they are believed to have acted.

As a psychologist, my own work on acceptance has several characteristics. First, it focuses on the micro level of analysis. I am interested in the actions of individual people, either legal authorities or members of the public, rather than the actions of institutions or societies. Second, I am concerned about people’s

¹ Tom R. Tyler, Why People Obey the Law 62 (1990) [hereinafter Tyler, Why People Obey] (finding that “citizens who view legal authority as legitimate are generally more likely to comply with the law”).

² Sissela Bok, Lying: Moral Choice in Public and Private Life 99 (1978) (arguing for the value of distinguishing between the consequences of actions and the motivations that lead to them when making moral judgments). See Tom R. Tyler et. al, Social Justice in a Diverse Society 8 (1997) [hereinafter Tyler et. al, Diverse Society]. The literature on punishment supports the distinction between intention and consequence by showing that people do not punish wrongdoing based on the severity of its consequences. Instead, they react to the motives of the wrongdoer. Id.

subjective experiences. I am interested in people’s thoughts and feelings, and 
the impact of those thoughts and feelings upon people’s actions. Third, my 
work is empirical. I interview people to determine their thoughts, feelings, and 
actions, and I explore empirically the relationship among these various 
measures.

The interviews I examine concern two basic types of experiences with legal 
authorities. First, “service” encounters in which people approach the police 
and the courts seeking help with their problems. Here, the members of the 
public can be seen as the consumers of police/court services, and we can ask 
how willing such people are to accept the decisions that legal authorities make.

The second type of experiences that people have with legal authorities 
involve “regulatory” encounters, in which the legal system approaches people 
seeking to bring their behavior into line with legal rules. Although it is less 
intuitive that people in such settings might be considered customers, 
consuming the services of the legal system, we can nonetheless think of people 
as being more or less satisfied with their experiences and more or less willing 
to acquiesce to and “buy into” the decisions of legal authorities. People can 
resist and seek to defy legal authorities, or they can cooperate with them and 
voluntarily acquiesce to their directives.

Irrespective of which type of experience we are concerned about, legal 
authorities have difficulty gaining public acceptance for their decisions. This 
is true for all of the people with whom the police and courts deal, but is 
especially the case for minority group members, who are more likely to defy 
and resist the police and the courts.4

One clear reason that legal authorities experience difficulty securing public 
acceptance of their decisions is that the police and courts often deliver negative 
or undesirable outcomes; failing to solve people’s problems and/or seeking to 
limit or sanction their behaviors. The question is how to encourage acceptance 
for decisions that are frequently negative in service and regulatory encounters 
between members of the public and legal authorities.

II. APPROACHES TO GAINING ACCEPTANCE

Currently police officers and judges typically approach the public from a 
force or social control orientation. In other words, the style that the police

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4 See generally Tom R. Tyler & Yuen J. Huo, Trust and the Rule of Law (2000) [hereinafter Tyler & Huo, Rule of Law] (on file with author). This unpublished manuscript reports a detailed analysis of the results of telephone interviews with a sample of people in Oakland and Los Angeles. A report of the interviews emphasizing policy implications of the findings is provided by Yuen J. Huo & Tom R. Tyler, How Different Ethnic Groups React to Legal Authority 60 (2000) [hereinafter Huo & Tyler, Legal Authority]. There are minor differences in the statistics reported in the two reports, since some of the scales used in Huo & Tyler, Legal Authority were later modified in Tyler & Huo, Rule of Law. All of the data analyses reported in this article are drawn from Tyler & Huo, Rule of Law.
bring to their interactions with people is that of command and control—they try to dominate people and situations by displays of force or the potential for the use of force.\textsuperscript{5} Similarly, the courts seek to compel compliance by the threat or use of force—including fines and jail time.

This control orientation is linked to two goals: (1) to effectively combat crime and deviance by stopping disorderly and illegal behavior, either on the streets or via court administered sanctions, and (2) to protect the personal safety of legal authorities. My argument is that the traditional approach to interactions with the public hurts the efforts of the police and courts to attain these goals. This is true both in the short term and in the long run.

III. GAINING COMPLIANCE WITH THE LAW

The first goal of legal authorities is to gain acceptance, both in the immediate situation and over time.\textsuperscript{6} As previously noted, the police and courts typically approach this task by seeking to control people and situations, dominating members of the public in the effort to bring public behavior into line with the law within the context of particular encounters. Further, these immediate activities are aimed at minimizing future crime by communicating the potential costs of rule breaking.

A large deterrence literature suggests that people’s behavior is shaped by the use or threat of force.\textsuperscript{7} However, such effects are typically found to be weak. For example, a recent review of sanctioning and drug use suggests that approximately 5% of the variance in drug use can be explained by reference to risk estimates.\textsuperscript{8} This conclusion is consistent with the finding of numerous studies, which suggest that significant deterrence effects are not always found

\textsuperscript{5} See Stephen D. Mastrofski et al., Compliance on Demand, 33 J. RES. CRIME & DELINQ. 269, 272 (1996) (discussing how 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”).

\textsuperscript{6} TYLER, WHY PEOPLE OBEY, supra note 1, at 19-39.

\textsuperscript{7} Daniel S. Nagin & Raymond Paternoster, The Preventive Effects of the Perceived Risk of Arrest, 29 CRIMINOLOGY 561, 580 (finding that a real fear of arrest is likely to deter individuals from committing crimes); Raymond Paternoster, The Deterrent Effect of the Perceived Certainty and Severity of Punishment, 4 JUST. Q. 173 (1987); Raymond Paternoster, Decisions to Participate in and Desist from Four Types of Common Delinquency, 23 L. & SOC’Y REV. 7, 9 (1989) (finding that the active decision maker is influenced by an ongoing assessment of sanction threats); Raymond Paternoster & Leann Iovanni, The Deterrent Effect of Perceived Severity, 64 SOC. FORCES 751, 753 (1986) (showing that the perceived severity of a sanction could well amplify the deterrent effect of that sanction); Raymond Paternoster et al., Perceived Risk and Social Control, 17 L. & SOC’Y REV. 457 (1983) (discussing the deterrent effects of both the risk of punishment and the severity of that punishment).

\textsuperscript{8} Robert J. MacCoun, Drugs and the Law, 113 PSYCHOL. BULL. 497, 501 (1993) (finding that variance in marijuana use is probably largely explained by factors other than deterrence).
and, when they are found, they are typically modest in magnitude.

To effectively shape people’s behavior, the authorities need to be able to move beyond motivation linked to deterrence effects to elicit cooperation linked to people’s desire to buy into the decisions of police officers or judges, i.e., to willingly cooperate with them. Such an effort requires an understanding of other forms of motivation besides those linked to the fear of sanctioning.

IV. IS THERE AN ALTERNATIVE MODEL OF SOCIAL REGULATION?

These findings suggest the value of finding a new model of social regulation that moves beyond deterrence. I argue that there is such a viable alternative model of social regulation. That model is based on motive-based trust in the police and courts. My suggestion is that citizens dealing with the police or with judges focus on issues of “good faith.” They seek to infer the intentions or motives of the legal authorities with whom they are dealing. If they believe that the authorities are acting in good faith, they are more likely to willingly, voluntarily, defer to their directives. The study to be presented here tests this argument through an empirical analysis of the results of interviews about recent personal experiences with particular police officers or judges.

Motive based trust is central to situations in which people rely upon fiduciary authorities. Such authorities can be police officers, judges, mediators, lawyers, doctors, teachers, clergy, newspaper reporters/editors or public officials, among many others. In fiduciary relationships authorities have expertise and access to resources. These allow them to act in the interests of members of the public. The members of the public, however, are seldom in a position to monitor the behavior of the authority, or to make informed evaluations of this behavior. The public cannot follow the police to see if they actually do their jobs, nor can they evaluate the legal correctness of a judicial decision. The public is only able to make inferences about the “good faith” being manifested by such authorities via the sincere effort of these authorities to do what they can to solve problems. Such good faith is the central element of motive-based trust.

I distinguish such motive-based trust from calculative trust.9 Calculative or rational trust is based upon the belief that one can accurately predict how another person will behave. Such calculations are central to rational decisions about whether to defer to the decisions of others, since people can take the anticipated behavior of others into account in utility calculations when they can accurately predict what they will do. In particular, a rational actor calibrates their behavior to anticipate the benefits or sanctions that they expect to experience from others.

Motive based trust is distinct from judgments about whether or not authorities behave as anticipated. It involves an inference about the “spirit” or

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“motive” that will shapes behavior, not what specific behavior will occur. So, for example, a person might think that the police will do whatever is needed to best meet their needs in a situation, without knowing what specific actions the police will take or what specific resources they will receive from them. People may, in fact, have no clear sense of how they expect a problem or dispute to be resolved, beyond thinking that the authorities will do “what is right” when trying to find a resolution. The trust argument suggests that, by acting in ways that manifest good faith, legal authorities can discourage hostility and defiance, and encourage willing cooperation.

The second aspect of the argument is based upon the suggestion that there are ways in which legal authorities can act so that they will be viewed by members of the public as showing good faith in situations involving either providing services or social regulation. Of particular concern are situations involving social regulation. Such situations involve, by definition, the need to limit the behavior of community residents, telling people than they cannot do as they wish or have what they want. The data outlined show that legal authorities can create trust in such situations.

The key to creating trust is to act in ways that community residents will experience to be fair. This argument is the core conclusion of the literature on procedural justice. That literature demonstrates that people’s reactions to their personal experiences with social authorities are rooted in their evaluations of the fairness of the procedures that those authorities use to exercise their authority.10

Like the trust literature, the procedural justice literature runs counter to everyday intuitions. For example, when asked, people typically view themselves as reacting to their experiences based upon the favorability or fairness of their outcomes. This self-perception of motivation reflects their acceptance of the “myth of self-interest,”11 the mistaken belief that they are

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11 See Dale. T. Miller & Rebecca K. Ratner, The Power of the Myth of Self-Interest, in Current Societal Concerns about Justice 25 (Leo Montada & Melvin J. Lerner eds., 1996) (suggesting that people think that their judgments, choices, and reactions to their experience are shaped by the favorability of their outcomes, when in fact outcome favorability is often not the most important factor).
instrumentally motivated. Acting on this “myth,” people make choices among procedures based upon their expected gains and losses through engaging in various courses of action.\textsuperscript{12}

In fact, studies of post-experience reactions to experiences with allocations and problem-solving by social authorities, whether legal authorities, managers, teachers, parents, or others, consistently demonstrate that people react primarily to the processes of allocation or problem-solving. This does not mean that outcomes are irrelevant. They do influence reactions to experiences with third parties, and they strongly influence satisfaction with outcomes. However, both the willingness to accept outcomes and feelings about the decision maker are dominated by reactions to the process used by that decision maker to deal with the issues involved in a personal encounter with some member of the public. Furthermore, and directly relevant to the argument here, people’s judgments about motive-based trust are linked to their evaluations of the fairness of the procedures by which authorities act.\textsuperscript{13} If authorities use fair procedures, their motives are judged to be more trustworthy.

V. SELF-PROTECTION

The second goal underlying the actions of legal authorities is self-protection. This goal is most central to the actions of the police, who face clear risks—they can be shot and killed, or otherwise injured—from those with whom they deal. Court officials such as judges also face threats of violence, as is illustrated by the extensive presence of armed officers, metal detectors, etc. in courthouses.

Even if legal authorities thought that a trust based strategy might encourage the acceptance of their decisions, they would be unlikely to endorse such a strategy if they felt that it increased the danger of injury to themselves and/or to innocent bystanders. Hence, the viability of trust-based models is ultimately dependent upon demonstrating that the strategies underlying such models do not increase the risk to police officers and court officials. Ideally such strategies could be shown to actually \textit{increase} the safety of police officers and judges.

\textsuperscript{12}See Tom R. Tyler et al., \textit{The Two Psychologies of Conflict Resolution: Differing Antecedents of Pre-Experience Choices and Post-Experience Evaluations}, 2 \textit{GROUP PROCESSES AND INTERGROUP RELATIONS} 99 (1999) (People make choices among dispute resolution procedures based upon the belief that they want the procedure in which they will have the greatest likelihood of winning). However, after experiencing a procedure people evaluate it based upon the quality of their treatment. This suggests that people will often end up feeling dissatisfied since their criteria for choosing procedures do not match their criteria for post-experience evaluations of satisfaction with those procedures).

\textsuperscript{13}Tom R. Tyler & Peter Degoey, \textit{Trust in Organizational Authorities: The Influence of Motive Attributions on Willingness to Accept Decisions}, in \textit{TRUST IN ORGANIZATIONS} 331, 342 (Roderick M. Kramer & Tom R. Tyler eds., 1996) (finding that when third parties use neutral and respectful procedures people infer a benevolence of motive on the part of the authority).
Currently, the manner in which legal authorities seek to lessen the danger of harm to themselves, and to other innocent bystanders is by gaining and maintaining control over their potential adversaries and over the situations of personal contact with these adversaries, during which the authorities are at risk.

My argument is that the effort to exert control over citizens that is central to command and control styles of legal authority can itself increase danger for and risk to the police and to judges, as well as to community residents. In the case of the police, by approaching people from a dominance perspective, police officers encourage resistance and defiance, create hostility, and increase the likelihood that confrontations will escalate into struggles over dominance that are based on force. The police may begin a spiral of conflict that increases the risks of harm for both the police and for the public.

A key issue to legal authorities is whether the application of power creates any problems for the powerful person—in this case the legal authority. Police officers and judges are, quite reasonably, most directly worried about their own safety. Bargaining research suggests that power-based strategies do create risks even for the powerful person in an interaction. Recent studies on bargaining suggest that unequal power in bargaining leads to counter-threats by the weaker party, to anger and "irrational" feelings, and to behavior designed to defy and injure the dominating party.

In other words, we might think that a weaker party would submit when faced with the exercise of power by a dominant party, fearing the costs of defiance. In fact, weaker parties are often found to act defiantly, suggesting that they are motivated by anger and "irrational" feelings to engage in actions that may end up being personally costly for them, but which also create problems for the powerful other.

One example of such research is found in studies of negotiation that show that introducing issues of unequal coercive capability into interpersonal interactions raises hostility, and lowers outcomes, even for the person possessing greater power. This argument is reinforced by the literature on

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14 Lawrence W. Sherman, *Defiance, Deterrence, and Irrelevance: A Theory of the Criminal Sanction*, 30 J. RES. CRIME & DELINQ. 445, 463 (1993) (finding that in domestic violence situations, offenders who felt that they were treated unfairly by the police were 36% more likely to be reported for assaulting the same victim within six months).

15 Edward J. Lawler et al., *Coercive Capability in Conflict: A Test of Bilateral Versus Conflict Spiral Theory*, 50 SOC. PSYCHOL. Q. 93, 96 (1998) (defining a conflict spiral as when two parties use increasing levels of threat and counterproductive retaliatory methods when confronted with similar tactics from their opposition).

16 See id. (finding that a weaker party in a conflict will "use power in an effort to communicate that he or she will not submit passively to attacks by the advantaged actor").

17 See Morton Deutsch & Robert M. Krauss, *Studies of Interpersonal Bargaining*, 6 J. CONFLICT RESOL. 52, 58 (1962) (finding that after conducting experiments with three conditions; bilateral threats, unilateral threats, and no threats, the no-threat situation results are better for the party with power than their result in the unilateral threat situation). Deutsch & Krauss show that even the party with more power gains less in a situation of
conflict escalation, which emphasizes that, in conflicts about domination or “winning,” both parties lose sight of what is reasonable or “rational” and engage in emotional acts of escalation.\textsuperscript{18}

Even in highly coercive environments such as prisons, where the authorities have much greater opportunities to exercise power-based control strategies than the police have on the street, the effective exercise of authority is found to depend upon the ability to obtain deference from lower power parties, i.e. prisoners.\textsuperscript{19} When prisoners are defiant they make the everyday exercise of authority more difficult. Further, they can raise the danger for guards because of the possibility of emotional outbursts, i.e. riots, in which guards are injured and killed.

Of course, this does not suggest that power should never be applied by legal authorities, or by anyone else. Studies also suggest that unilateral and unconditional deference leads to exploitation. When confronted with non-cooperation, legal authorities need to be able to respond with power.

Research suggests that the best strategies are those in which a person’s own behavior is contingent upon the behavior of others. However, research suggests that the most effective interpersonal strategies begin as non-coercive approaches that seek to gain cooperation without raising the threat of the possible application of force. Such strategies respond to threats of coercion from others, but do not begin with a force or control orientation.\textsuperscript{20}

In the case of the police and judges, these findings suggest that legal authorities gain if they can find alternative initial approaches to their dealings with the public besides presentations of power and threats of punishment that are linked to a strategy of seeking to dominate people and/or situations.\textsuperscript{21}

\textsuperscript{18} DEAN G. PRUITT, NEGOTIATION BEHAVIOR 88-89 (1981) (finding that there is a strong tendency to match an opposing party’s competitive behavior with competitive behavior of one’s own and that this competitive behavior tends to be “inversely related to concession making,” i.e., to lead people to be less willing to compromise and defer to others); DEAN G. PRUITT & PETER J. CARNEVALE, NEGOTIATION IN SOCIAL CONFLICT 35 (1993) (finding that sometimes parties imitate opposing parties’ contentious tactics, leading to escalatory spirals and mutually increasing hostility between the parties).

\textsuperscript{19} See RICHARD SPARKS ET AL., PRISONS AND THE PROBLEM OF ORDER (1996) (discussing the problems of exercising authority in prisons and showing by a cross-prison comparison that prisons in which inmates are more voluntarily cooperative with authorities experience less disciplinary problems).


\textsuperscript{21} See generally Peter Degoey & Tom R. Tyler, Trust in Organizational Authorities: The Influence of Motive Attributions on Willingness to Accept Decisions, in TRUST IN ORGANIZATIONS FRONTIERS OF THEORY AND RESEARCH [hereinafter Degoey & Tyler,
Utilizing a non-confrontational strategy is valuable because it allows an authority to differentiate its behavior based upon the response of particular members of the public. When approached non-confrontational most people respond with cooperation and deference.\textsuperscript{22} Hence, police officers and judges maximize the likelihood that their interactions will generally be cooperative. In those few situations in which people respond with defiance, legal authorities can then enact a power-oriented strategy of dominance.

Such a model is similar to the one advocated by those who argue that legal authorities should approach people by seeking to encourage cooperation based upon shared values and public feelings of responsibility and obligation.\textsuperscript{23} Only if people are found to be unresponsive to such appeals should legal authorities move to a force or sanction based model of social regulation. This non-confrontational model has the value of allowing legal authorities to concentrate their resources in those situations where self-regulation is unlikely and with those people who are unable to be self-regulatory. The majority of people, however, can be induced to take personal responsibility for deferring to the authorities.\textsuperscript{24} Among this group, hostility is minimized and the likelihood of voluntary acceptance increased.

In contrast to legal authorities who are initially cooperative, those authorities who approach people with a predilection for using force make every interaction a contest of wills, encouraging defiance and resistance among even those people who are not initially inclined to defy or resist. The primary benefit of a cooperative strategy is that it minimizes the number and degree of confrontational encounters, while a dominance oriented approach heightens resistance among all those with whom an authority interacts.

Interestingly, studies of interpersonal interaction suggest that those people who enter into interactions with a force orientation create, through their own

\textit{Organizational Authorities} (discussing the general propensity of individuals to respond favorably to respectful treatment and neutrality during encounters with authorities).  \textsuperscript{22} See id. at 336, 342 (finding that people who experience neutral and respectful treatment during encounters with authorities view those authorities as more trustworthy). The resultant trust described by Degoey & Tyler leads to a greater willingness to defer to the requests of those authorities.

\textsuperscript{23} See IAN AYRES & JOHN BRAITHWAITE, RESPONSIVE REGULATION: TRANSCENDING THE Deregulation DeBate (1992) (arguing for a pyramid of regulation in which authorities first appeal to people's moral values and feelings of obligation and only later direct coercive pressures toward the subgroup that does not respond to appeals to their values. This pyramid approach allows regulatory resources to be most effectively deployed).

\textsuperscript{24} See HUO & TYLER, LEGAL AUTHORITY, supra note 4, 60 (finding that people are concerned with being treated fairly, lending support to the conclusion that if people believe that they are being treated fairly from the outset of a confrontation they are more likely to comply with decisions and less likely to feel hostility); Degoey & Tyler, \textit{Organizational Authorities, supra} note 21, 336 (finding that people's "inferences about the trustworthiness of the motives of authorities had a powerful effect on whether people voluntarily deferred to third-party decisions").
behavior, a justification for their future power-based actions.\textsuperscript{25} When authorities approach others with a force or dominance orientation, they make every interaction a competition for dominance. Hence, the experience of such authorities is that every person is resistant and non-cooperative. When asked to make estimates of the likely behavior of others, such authorities predict that most other people will be competitive in their dealings with others. The competition with others that they create by their own behavior creates a view of the world that dictates a competitive approach.

On the other hand, those authorities who approach people cooperatively elicit cooperation from most of the people with whom they deal, and competition from a few people. These authorities estimate that a larger proportion of the people with whom they deal will be cooperative, since the initial cooperative behavior of those authorities has elicited cooperation from most of the people they have dealt with in the past. Cooperators, in other words, have a more differentiated view of the likely behaviors of other people with whom they might deal.

As this discussion suggests, over time, those with a force or dominance orientation create the competitive world that justifies, in their minds, the need for a force or dominance orientation in the future. Cooperative authorities are much more aware that they benefit from differentiating among people and by gaining the widespread cooperation that results from approaching the public in an initially cooperative way and allowing other cooperators to be identified.

The study I outline here does not directly explore whether or not a personal encounter between member(s) of the public and legal authorities leads to violence to either party. Such violent encounters are, thankfully, rare and are therefore difficult to study through surveys of the general population.\textsuperscript{26} Instead, I focus on the more modest goal of understanding the willingness of people to defer to legal authorities. However, based upon the research outlined, I suggest that the strategies outlined will lower the risk of injury and death to legal authorities by dampening the tendency of conflict and hostility to escalate.

VI. THE CALIFORNIA STUDY

The key issue is to empirically test the actual viability of the models of legal authority outlined above. That is, it is important to assess the degree to which legal authorities can effectively secure cooperation from members of the public through public trust in their motives, and can do so in ways that maintain public satisfaction with the legal authorities involved. These issues are of

\textsuperscript{25} See Harold H. Kelley & Anthony J. Stahelski, \textit{Social Interaction Basis of Cooperators' and Competitors' Beliefs About Others}, 16 \textit{J. Personality \& Soc. Psychol.} 190 (1970) (showing that people's interpersonal strategies are linked to their beliefs about the likely behavior of others).

\textsuperscript{26} See MASTOSFISKI ET AL., \textit{supra} note 5 (indicating that most citizen-police encounters do not involve resistance, hostility, or violence).
special importance in the case of community residents from disadvantaged and stigmatized minority groups. Further, it is important to show that public trust is generated when legal authorities treat community residents fairly. Addressing these issues requires first exploring the influence of trust on the willingness of members of the public to accept the decisions made by legal authorities. If an influence is found, we will then examine the role of justice in generating trust.

I will address these issues using a sample of people interviewed in two California cities: Oakland and Los Angeles. Within each city a stratified random sampling technique was used to draw samples of the population over-representing minorities. Each sampled person was called and screened on the telephone. Those with recent personal experience with the police or the courts were interviewed about those experiences over the telephone. The resulting sample contained 586 whites, 509 Hispanics, and 561 African-Americans.

Each interview was constructed around the respondent’s most recent personal experience with the police or courts. The primary type of experience that respondents reported having involved calling the police for help (54%), followed by being stopped by the police (32%). Some respondents reported experiences with the courts (14%). In each interview respondents were asked about several types of reaction to their experience, including their willingness to voluntarily accept the decisions made by the legal authority, and about their satisfaction with the authorities.

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27 See Huo & Tyler, Legal Authority, supra note 4, at v. (describing their process of interviewing over 1600 residents of Los Angeles and Oakland by telephone); Huo & Tyler, supra note 4, is a preliminary report on the findings of this study.

Tyler & Huo, Rule of Law, supra note 4, reports the results of a detailed analysis of the same telephone surveys. In this article all references to the nature of the sampling process are drawn from Huo & Tyler, Legal Authority, supra note 4, which provides a detailed description of how the sample was chosen and interviewed. However, there are minor differences between the two studies due to clarifications and improvements during the more extensive analysis reported in Tyler & Huo, Rule of Law, supra note 4. For example, minor changes in the scales were made when the later manuscript, Tyler & Huo, Rule of Law was written. As a result, there are minor differences in the reliabilities of some of the scales and the results of some of the analyses. All of the scale reliabilities and data analyses reported in this article are drawn from the more extensive data analysis found in Tyler & Huo, Rule of Law. None of these minor differences result in different conclusions about the implications of the data.

28 See Huo & Tyler, Legal Authority, supra note 4, at 11 (describing the phone interviews in more detail).

29 See id. (noting that the pool of interviewees only included people who had personally encountered authorities within the past year).

30 See id. at 29 (figure 4.1).

31 See id. (figure 4.1).

32 See generally id. at ch. 4, 5 (discussing judgments about the outcome and treatment that people received, as well as differences in satisfaction and compliance).
My concern is with the influence of judgments about behavior and inferences about the characteristics of the particular legal authorities involved on people's reactions to their personal experiences. I asked people about several aspects of their experience. First, people rated the favorability and fairness of their outcomes. I will refer to these judgments as outcome judgments. Second, people make judgments about their trust in the motives of the authorities.

VII. PARAMETERS OF THE SURVEYS

The following are the questions asked to elicit the interviewees' willingness to accept decisions: "I willingly accepted the decision;" "In a similar situation in the future, I would like to see the situation handled in the same way;" "I considered going to someone else to try to change the decision (reversed);" and "The situation could have been handled better." (alpha = 0.80)

Responses to two items measured satisfaction with the decision maker: "The person did a good job dealing with my situation" and "I was generally satisfied with the way he/she handled the situation." (alpha = 0.92)

Certain responses indicated the interviewees' feelings about the decision-maker. Three items were used to assess feelings about the police officer or judge with whom the person dealt: "How much did you respect [him/her];" "how much did you like [him/her]" and "how much did you fear [him/her] (reversed)." (alpha = 0.64)

VIII. OUTCOME FAVORABILITY

Outcome favorability was assessed using a complex set of six judgments. Those judgments included: the objective favorability of the outcome, subjective evaluations of gain, subjective evaluations of loss, subjective evaluations of how good/bad the outcome was, evaluations of the outcome relative to expectations, and evaluations relative to what others would have received.

The following were used to determine outcome fairness. "According to the law, I received the outcome I deserved;" "I received the outcome I feel I deserved;" and "The outcome I received was fair." (alpha = 0.92)

Finally, some responses tested the interviewees' trust in the motives of the authority. Did the authority: "consider your views;" "try hard to do the right thing by you;" "try to take your needs into account;" "care about your concerns" and "I trust him/her." (alpha = 0.93)

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33 See Huo & Tyler, Legal Authority, supra note 4, at 27 (discussing individual's responses to their experiences).

34 As with all the items, respondents were asked to answer the questions using a preset series of responses. For example, they could "agree strongly;" "agree;" "disagree;" or "disagree strongly" that they "willingly accepted the decision." A detailed discussion of all the response scales is presented in Tyler & Huo, Rule of Law, supra note 4.
IX. Do People Defer to Trusted Authorities?

I have identified two key empirical issues about the factors shaping reactions to experiences. First, what is it about a personal experience with a police officer or a judge that shapes a person's willingness to accept decisions from that particular authority within that particular situation? For the model I outline to be viable, people must be willing to defer to legal authorities because they trust their motives. To the degree that people defer to decisions because they view those decisions as favorable or fair, this model of social regulation is less viable and less likely to be an effective basis for the exercise of legal authority.

I use regression analysis to address this issue. In the analysis I examine the influence of the experience-based outcome and process judgments that people make about their personal experiences on: (1) decision acceptance and (2) satisfaction/feeling about the authorities involved.

The results of this analysis are shown in Table 1. The results reported in Table 1 support the argument that the trust that people have in the motives of the legal authorities with whom they are dealing shapes their willingness to accept their decisions. For example, the beta weight linking trust in the motives of legal authorities to the willingness to accept their decisions is 0.70. In contrast, the beta weight for outcome fairness is 0.11, and for outcome favorability 0.11. This suggests that the key to enhancing voluntary acceptance is being viewed as trustworthy.

I also noted that the escalation of hostility toward legal authorities is an important issue, because it links up to their potential safety. It is interesting that satisfaction with the legal authority involved was also primarily shaped by trust. In this case, the beta weight for trust is 0.76, while the beta weight for outcome fairness is 0.09, and for outcome favorability 0.14. Being trusted, in other words, increases satisfaction with an authority. The results shown in table one make clear that trust also increases positive feelings about the authority. The primary factor shaping feelings was also trust (beta = 0.69).

<table>
<thead>
<tr>
<th></th>
<th>Accept Decision</th>
<th>Satisfaction with Decision-maker</th>
<th>Feelings About Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust the Motives of</td>
<td>.70***</td>
<td>.76***</td>
<td>.69***</td>
</tr>
<tr>
<td>the Authority</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.11***</td>
<td>.09***</td>
<td>.06**</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.11***</td>
<td>.14***</td>
<td>-.01</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>65%</td>
<td>75%</td>
<td>51%</td>
</tr>
</tbody>
</table>

Table 2 shows similar regressions among potentially important subgroups.
The findings demonstrate that these results are true among minorities, in the case of non-voluntary encounters with legal authorities, and among high-risk community residents (young minority males). In each of these sub-samples, people’s reactions to their personal experiences with legal authorities were strongly shaped by their inferences about the trustworthiness of the motives of those authorities.

**TABLE 2**

<table>
<thead>
<tr>
<th>Non-voluntary Experiences (n = 687)</th>
<th>Accept Decision</th>
<th>Satisfaction with Decision-maker</th>
<th>Feelings About Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust the Motives of the Authority</td>
<td>.73***</td>
<td>.77***</td>
<td>.61***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.10***</td>
<td>.09***</td>
<td>.08***</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>-.06*</td>
<td>.10***</td>
<td>-.04</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>62%</td>
<td>77%</td>
<td>43%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>African Americans (n = 561)</th>
<th>Accept Decision</th>
<th>Satisfaction with Decision-maker</th>
<th>Feelings About Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust the Motives of the Authority</td>
<td>.77***</td>
<td>.79***</td>
<td>.73***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.00</td>
<td>.05*</td>
<td>.04*</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.11***</td>
<td>.13***</td>
<td>-.03</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>68%</td>
<td>77%</td>
<td>54%</td>
</tr>
</tbody>
</table>

*(Table continues on next page)*
Hispanics (n = 509) & Trust the Motives of the Authority & Accept Decision & Satisfaction with Decision-maker & Feelings About Authority \
& .63*** & .71*** & .57*** \
& Outcome Fairness & .21*** & .15*** & .10** \
& Outcome Favorability & .08* & .17*** & -.09* \
& Adjusted R-Squared & 56% & 74% & 42% \

High Crime Risk Respondents (Male, minority, 18-25, n= 123) & Trust the Motives of the Authority & Accept Decision & Satisfaction with Decision-maker & Feelings About Authority \
& .62*** & .79*** & .64*** \
& Outcome Fairness & .14* & .14* & .15* \
& Outcome Favorability & .08 & .12* & .07 \
& Adjusted R-Squared & 45% & 73% & 47% \

X. SUMMARY OF FINDINGS

The findings presented suggest that trust plays an important role in shaping people’s reactions to their personal experiences with legal authorities. This role is shown in two ways. First, people who trust the motives of the authority with whom they are dealing are more willing to defer to that authority. Such deference is voluntary and suggests that people are “buying into” the authorities’ decisions about how to handle a problem or a conflict.

Second, trust leads to more positive feelings about the legal authority involved. As a result, it dampens the likelihood of conflict and escalation into confrontation and use of force situations. When people trust that authorities are acting in good faith, they are less likely to respond to their actions with hostility and resistance.

XI. JUSTICE AND TRUST

Where does trust come from? In particular, are authorities trusted because they act fairly? Fortunately, from the perspective of legal authorities, past
studies suggest that legitimacy is linked to the fairness of the procedures used by authorities to make decisions. This suggests the possibility that authorities might gain trust by acting in ways that people evaluate as fair. Research points to the particular importance of using fair procedures.

To explore this relationship in the California study, we asked people to give their evaluations of the fairness of the procedures used by the authorities; their judgments about the quality of the decision making processes; and their assessments of the quality of their interpersonal treatment by authorities. Discussions of the meaning of procedural justice typically identify two key components of procedural fairness: using fair decision making procedures and treating people fairly.

Procedural Justice: “How fair were the procedures he/she used to make decisions about how to handle the situation” and “Overall, how fairly were you treated?” (alpha = 0.91)

The quality of decision making: “He/she treated me the same as he/she would treat anyone else in the same situation;” “He/she is basically honest;” and “He/she made decisions based on the facts.” (alpha = 0.82)

The quality of interpersonal treatment: “He/she treated me politely;” “He/she showed concerns for my rights;” and “He/she treated me with dignity and respect.” (alpha = 0.92)

Again, we use regression analysis to test this argument. The results of the analysis are shown in Table 3. They suggest that the key antecedent of being viewed as trustworthy is acting following fair procedures (beta = 0.77). When we divide procedural justice into two components, we find that the quality of people’s interpersonal treatment (beta = 0.55) has the primary influence, followed by an influence of the quality of the decision-making involved (beta = 0.30).

Further, the results shown in Table 4 suggest that justice is important to the members of minority groups. Even among the high risk group of young,

35 See Katherine M. Kitzman & Robert E. Emery, Procedural Justice and Parents’ Satisfaction in a Field Study of Child Custody Dispute Resolution, 17 L. & HUM. BEHAV. 553, 554 (1993) (finding that “disputants” satisfaction with outcomes is influenced by their perceptions of the fairness of the procedures used to reach those outcomes); E. Allan Lind et al., Individual and Corporate Dispute Resolution, 38 ADMIN. SCI. Q. 224, 225 (1993) (finding that perceptions of fairness are linked to acceptance of third-party decisions); Roselle L. Wissler, Mediation and Adjudication in the Small Claims Court, 29 L. & SOC’Y REV. 323, 341 (1995) (finding that because people generally view mediation as more fair than adjudication, parties involved in mediation, whether or not a settlement is eventually reached, are happier than parties involved in adjudication proceedings).

36 For a detailed discussion of the theories of justice that lead to the focus on these issues, see Tyler & Blader, supra note 10. See generally Huo & Tyler, Legal Authority, supra note 4; Tyler & Huo, Rule of Law, supra note 4 (discussing in depth the results and implications of the California survey).
minority, males, it is procedural justice that dominates trust judgments and assessments of procedural justice.

**TABLE 3**

<table>
<thead>
<tr>
<th></th>
<th>Trust</th>
<th>Trust</th>
<th>Procedural Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedural Justice</td>
<td>.77**</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Quality of Decision-Making</td>
<td>--</td>
<td>.30***</td>
<td>.32**</td>
</tr>
<tr>
<td>Quality of Treatment</td>
<td>--</td>
<td>.55***</td>
<td>.51***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.07***</td>
<td>.05***</td>
<td>.04*</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.06***</td>
<td>.08***</td>
<td>.12***</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>69%</td>
<td>75%</td>
<td>75%</td>
</tr>
<tr>
<td></td>
<td>Trust</td>
<td>Trust</td>
<td>Procedural Justice</td>
</tr>
<tr>
<td>------------------</td>
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<td>--------------------</td>
</tr>
<tr>
<td>Non-voluntary Experiences (&lt;i&gt;n = 687&lt;/i&gt;)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedural Justice</td>
<td>.76***</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Quality of Decision-Making</td>
<td>--</td>
<td>.29***</td>
<td>.29***</td>
</tr>
<tr>
<td>Quality of Treatment</td>
<td>--</td>
<td>.54***</td>
<td>.55***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.02</td>
<td>.01</td>
<td>.04</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.06*</td>
<td>.08**</td>
<td>.11**</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>64%</td>
<td>68%</td>
<td>74%</td>
</tr>
<tr>
<td>African Americans (&lt;i&gt;n = 561&lt;/i&gt;)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procedural Justice</td>
<td>.77***</td>
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<td>--</td>
</tr>
<tr>
<td>Quality of Decision-Making</td>
<td>--</td>
<td>.42***</td>
<td>.35***</td>
</tr>
<tr>
<td>Quality of Treatment</td>
<td>--</td>
<td>.45***</td>
<td>.52***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.10***</td>
<td>.06**</td>
<td>.03</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.07*</td>
<td>.07**</td>
<td>.08**</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>71%</td>
<td>78%</td>
<td>77%</td>
</tr>
</tbody>
</table>

(TABLE CONTINUES ON NEXT PAGE)
TABLE 4 (CONTINUED)

<table>
<thead>
<tr>
<th>Hispanics (n = 509)</th>
<th>Trust</th>
<th>Trust</th>
<th>Procedural Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedural Justice</td>
<td>.73***</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Quality of Decision-Making</td>
<td>--</td>
<td>.22***</td>
<td>.35***</td>
</tr>
<tr>
<td>Quality of Treatment</td>
<td>--</td>
<td>.62***</td>
<td>.43***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.01</td>
<td>.01</td>
<td>.04</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.08*</td>
<td>.08*</td>
<td>.15*</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>62%</td>
<td>72%</td>
<td>71%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>High Crime Risk Respondents (Male, minority, 18-25, n = 123)</th>
<th>Trust</th>
<th>Trust</th>
<th>Procedural Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedural Justice</td>
<td>.80***</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Quality of Decision-Making</td>
<td>--</td>
<td>.23***</td>
<td>.29***</td>
</tr>
<tr>
<td>Quality of Treatment</td>
<td>--</td>
<td>.67***</td>
<td>.65***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>-.03</td>
<td>-.05</td>
<td>-.01</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.01</td>
<td>-.03</td>
<td>.02</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>62%</td>
<td>71%</td>
<td>80%</td>
</tr>
</tbody>
</table>

XII. SUMMARY OF FINDINGS

These findings provide strong support for the empirical underpinnings of model of law abidingness based on motive based trust. First, they show that acceptance within the immediate situation is linked to trust in the motives of the authorities. Such motive based trust has more influence upon the willingness to accept decisions than does either the favorability or the fairness of the decisions themselves. When we consider acceptance and satisfaction we find very strong trust effects on both acceptance and satisfaction/feeling.

In addition, an examination of the importance of trust and justice among the
members of disadvantaged groups also supports this argument. In this study, the disadvantaged groups studied are African-Americans and Hispanics. If law abidingness is to be a viable basis for social regulation, motive based trust needs to matter among these groups, since the members of minority groups are those people who most often experience difficulties when dealing with legal authorities.\(^{37}\) My findings suggest that these results do describe the reactions of minority group members to their experiences with the police and the courts.

Further, the findings support a model of process based policing and process based problem solving by the courts. In the case of both types of legal authority, people’s willingness to trust authorities and to defer to their decisions is rooted in people’s judgments about the fairness of the processes through which those authorities exercise their authority. Both the quality of decision making and the quality of treatment are found to influence overall procedural justice judgments and trust in the authorities.

Given the widely held assumption of legal authorities that people generally shape their behavior in response to the threat or use of force, it is striking how little influence is found for outcomes in these analyses. The favorability or fairness of the outcomes that people experience when dealing with legal authorities has very little to do with their trust in those authorities or with their judgments about whether or not they evaluate their experiences with those authorities to be positive.

XIII. IMPLICATIONS FOR THE EXERCISE OF LEGAL AUTHORITY

This analysis is not only about policing. Citizens deal with both the police and the courts. However, the legal authorities most frequently personally dealt with by citizens are police officers. In their everyday lives citizens are much more likely to have personal experiences dealing with police officers than they are to go to court. Further, many of the problems that have recently dominated the public discourse about legal authorities have been policing problems. While the courts also exercise authority over citizens, the police are especially likely to control citizens through the threat or application of force. Police are, therefore, a natural focus of public hostility and resistance. Hence, many of the implications of this research are especially relevant to the police and police practices.

The results outlined suggest that legal scholars might gain by changing the way they think about policing style or strategy. Such a reconceptualization would lead to changes in the way legal scholars think about how the police should function and how the police should be trained. It would also change the way they think about the roots of such problems as the

police use of deadly force.

The strategy that the police use is to seek to establish and maintain control over people and places. Such control is gained and maintained through the display and, if necessary use, of force. To this end police officers carry clubs, mace, and guns. As has been outlined, such displays of force are often experienced by citizens as hostile, confrontational, rude, abusive, demeaning, disrespectful, and unfair. Our argument is that, as a consequence of the way citizens experience this type of policing, such approaches may be damaging to the goals of the police. In the short run, these tactics encourage defiance and resistance.

XIV. CONTROLLING CRIME

In most encounters with citizens police officers focus on the issue of securing compliance with the law within that particular situation. Within the particular situation, a police officer employing a non-confrontational approach decreases hostility and resistance and increases the likelihood that citizens will voluntarily accept decisions. Further, as we have already noted, the likelihood that people will abide by police directives and adhere to the law over time is increased.

A focus on public concerns need not interfere with the control of crime. Citizens are found not to object to policing activities, per se.\(^{38}\) For example, they do not object to being stopped on the street or in their cars, when those stops are handled in interpersonally sensitive ways. As a consequence, the police can engage in effective policing activities in ways that are sensitive to issues of interpersonal treatment without giving away their ability to effectively manage social order and control crime.

It is further important to emphasize the generality of our findings about public concerns about policing activities. We find very similar concerns among White and minority citizens; among the rich and poor, the young and old. Perhaps most importantly, we find such concerns among the young minority males who are typically viewed by the police as the most potentially dangerous and difficult to manage group of citizens.

As these studies suggest, the police are better able to manage crime and maintain social order by adopting a problem solving approach to policing that seeks to gain the cooperation of citizens. Such an approach focuses on the interpersonal treatment that citizens receive from the police. People defer to fairly enacted procedures, suggesting that to gain deference legal authorities need to be seen to be acting fairly.

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38 See Huang & Vaughn, Support and Confidence, supra note 37, at 38 (citing a 1995 National Opinion Survey on Crime and Justice showing that, overall, the majority of those interviewed for the survey had a favorable attitude towards the police).
XV. SELF-PROTECTION

The police focus on their personal safety for obvious reasons. To minimize risk they attempt to stay ahead of citizens on the "force curve," always using a higher level of force than the citizens with whom they are dealing. This approach has the benefit of allowing police officers to protect themselves. However, the focus on power and control that underlies this model also has hidden risks that impact negatively on officer safety.

By focusing on issues of power and control, the police are creating a particular definition or frame for their interactions with citizens; that of power orientation. Unfortunately, power orientation in a conflict can lead to irrational escalations of conflict—to a spiral of conflict. In such a situation, people lose sight of their objective, rational, goals and become invested in "winning" a conflict of dominance and power. A control approach encourages such spirals by provoking hostility and encouraging resistance and defiance.

Consider, for example, how a police officer operating under a control orientation responds to disrespect by citizens. They view such hostility and disrespect as a threat to control, provoking a greater show of force. This, in turn, further encourages defiance and disrespect.

The core point I wish to emphasize is that such spirals of conflict also increase the risk to police officers. While the potential for injury to citizens is clear, and is often the result of spiraling conflict, there is also the possibility of injury to police officers. Both police officers and citizens increase their risks in power orientated situations.

What is the alternative to a control orientation? The approach that is most consistent with the research reviewed here involves efforts to treat citizens fairly and respectfully, listening to them and communicating explanations for police actions. This approach dampens and deescalates conflict. While the benefits to citizens are obvious, we also want to emphasize that police officers are at risk in conflict. Hence, both the police and citizens can gain from the use of conflict dampening approaches.

Consider a specific example of such an approach. The Memphis police department uses a therapeutic model of policing when dealing with mentally ill citizens.\(^39\) That approach involves sending officers specially trained in non-confrontational tactics to deal with mentally ill citizens. As we would expect, this approach has led to reductions in injury to citizens. It has also done so without changing the rate of injury to officers. Community residents gain from an approach that minimizes the likelihood of conflict, and that gain occurs without creating risk for the officers.

Unfortunately, at this time, the type of detailed studies of officer risk that would compellingly show that risk for authorities remains stable or even

decreases when process models are implemented is not available. However, I think that conducting such studies is key to long term efforts to legitimize process based strategies among legal authorities. Legal authorities are less likely to adopt such strategies if they fear that their use makes them vulnerable to injury.

As I have noted, I think that one benefit of the approach I am advocating is that it lowers the level of conflict and hostility in particular situations, increasing the likelihood of gaining voluntary cooperation and acceptance. By lowering the likelihood of escalating conflict, the police also lessen the likelihood of injury to themselves and to citizens.

Enacting new strategies of policing suggests the need to broaden the focus of police training. Rather than focusing primarily on tactical decision-making, training needs to also focus on interpersonal sensitivity. By approaching people in non-hostile, non-threatening ways, by treating people with respect, by explaining why they are engaging in policing actions, and by acknowledging innocence when they are wrong, the police can gain cooperation. All of these aspects of interpersonal sensitivity can be trained and worked into policing routines.

More broadly, the police need to expand their goals. Their role is not just to make arrests in an effort to control crime. Their role is also to build confidence and trust among citizens. By working with citizens and with the community, the police can create a context within which they facilitate law abidingness among citizens. In the long run such law abidingness is a key facilitator of effective policing.

XVI. THE INFLUENCE OF PERSONAL EXPERIENCE ON JUDGMENTS ABOUT THE LEGITIMACY OF LEGAL AUTHORITIES

From the findings outlined, it is clear that the actions of legal authorities during people’s personal experiences with those authorities shape their willingness to accept the decisions of those authorities during a personal encounter. Those actions also shape people’s feelings about the specific police officers or judges with whom they have interacted.

It is also possible to view the relationship between citizens and legal authorities from a broader perspective. This article emphasizes the value of this broader perspective by focusing on the long-term consequences of the actions of legal authorities.

One reason for a concern about the consequences of the actions of legal authorities that extends beyond the specific encounter involved is that the police depend heavily on public cooperation in their efforts to control crime.41

40 See Tyler, Why People Obey, supra note 1, at 31 ("[T]hose who view authority as legitimate are more likely to comply with legal authority . . . ."

Many crimes are voluntarily reported by citizens, and many citizens aid the police in solving crimes. Hence, the police depend heavily on the public as active partners in the control of crime. The control of crime cannot be imposed upon the public, since community members have to cooperate for the police to be able to be effective in this role. This leads to a focus on general public trust and confidence in the law and in legal authorities. If people trust legal authorities they help them to control crime.

In addition, most citizens voluntarily follow the law most of the time, freeing the police to focus their efforts on a subset of situations and people. Legitimacy is important because it shapes people’s everyday compliance with the law.42 In prior research, I have found that those people who regard legal authorities as legitimate are, as a consequence, more law abiding.43 This compliance, furthermore, is separate from that which develops from people’s fears about being caught and punished for law breaking behavior. It is compliance motivated by the assessment that law and legal authorities are legitimate and ought to be obeyed. So, if people are generally following the law because they feel obligated to do so, the authorities are freed up to focus their activities on a smaller and more problematic group of community residents.

The importance of legitimacy suggests that an additional issue that needs to be considered is whether the personal experiences studied generalized to shape broader views about law and legal authorities. The California study also explored whether personal experiences do, in fact, generalize in this way. The focus of concern is upon legitimacy, the quality of authorities which suggests that they are entitled to be obeyed.

Legitimacy has been operationalized in a variety of ways in past studies. I use four approaches here and combine their results. Those four approaches assessed: the obligation to obey authorities; institutional trust, cynicism about the law, and feelings about legal authorities as an overall group.

First, I assessed obligation to obey by asking respondents three questions: “I feel that I should accept the decisions made by legal authorities;” “People should obey the law even if it goes against what they think is right;” and “It is difficult to break the law and keep one’s self respect.”

I also assessed institutional trust by asking respondents questions about the particular legal authority they had recently dealt with: the police or the courts. The questions were: “Most [police/judges] in [city] do their job well;” “Most [police/judges] in [city] treat people with respect;” “The basic rights of citizens in [city] are well protected by the [police/courts];” “The [police/courts] in [city] have too much power;” “Most [police/judges] in [city] are dishonest

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42 See id.

43 See Tyler, WHY PEOPLE OBEY, supra note 1, at 4, 8 (reporting that the results from a study of citizens’ evaluations of the performance and legitimacy of legal authorities revealed that people who regard legal authorities as legitimate are less likely to violate the law).
(reversed);" and "most [police/judges] in [city] treat some people better than others (reversed)."

I assessed cynicism about law by asking respondents three questions: "The law represents the values of the people in power, rather than the values of people like me;" "People in power use the law to try to control people like me" and "The law does not protect my interests."

I assessed feelings about legal authorities using a thermometer scale. In the scale people were asked to make assessments thinking about a thermometer ranging from 0 to 10, with 0 being cold, 10 being warm, and 5 being neither cold nor warm. They evaluated the general authority whose representative they had dealt with during their personal experience.

These four aspects of legitimacy are related (average r = 0.40). As a consequence, the items indexing these four elements of legitimacy were combined into a single thirteen-item index of legitimacy (alpha = 0.83).

A regression analysis was used to determine whether personal experiences generalize to shape legitimacy. The results of this regression analysis (shown in Table 5) suggest that generalization to overall legitimacy judgments does occur and is shaped primarily by assessments of trustworthiness. The beta weight for trust is 0.50, while that for outcome fairness is 0.15, and for outcome favorability -0.07. So, both immediate situational reactions, and long-term impact are linked to trust.

<table>
<thead>
<tr>
<th></th>
<th>Legitimacy of Law/Legal Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust the Motives</td>
<td>.50***</td>
</tr>
<tr>
<td>Of the Authority</td>
<td></td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.15***</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>-.07**</td>
</tr>
<tr>
<td>Adjusted R-squared</td>
<td>29%</td>
</tr>
</tbody>
</table>

It is further possible to explore the antecedents of generalization among ethnic subgroups. Such an analysis is shown in Table 6. It suggests that trust is central to generalizations from specific personal experiences to overall views about the legitimacy of law and legal authorities among minority group members, in non-voluntary encounters, and among high risk youth.
| Table 6 |
|-----------------|------------------|
| **Non-voluntary Experiences** |
| *(n = 687)* | **Legitimacy of Law/Legal Authority** |
| Trust the Motives of the Authority | .73*** |
| Outcome Fairness | .10*** |
| Outcome Favorability | -.06* |
| Adjusted R-Squared | 62% |
| **African Americans** |
| *(n = 561)* | **Legitimacy of Law/Legal Authority** |
| Trust the Motives of the Authority | .77*** |
| Outcome Fairness | .00 |
| Outcome Favorability | .11*** |
| Adjusted R-Squared | 68% |
| **Hispanics (n = 509)** |
| **Legitimacy of Law/Legal Authority** |
| Trust the Motives of the Authority | .63*** |
| Outcome Fairness | .21*** |
| Outcome Favorability | .08* |
| Adjusted R-Squared | 56% |

*(Table continues on next page)*
TABLE 6 (CONTINUED)

<table>
<thead>
<tr>
<th>High Crime Risk Respondents (Male, minority, 18-25, n=123)</th>
<th>Legitimacy of Law/Legal Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust the Motives of the Authority</td>
<td>.62***</td>
</tr>
<tr>
<td>Outcome Fairness</td>
<td>.14*</td>
</tr>
<tr>
<td>Outcome Favorability</td>
<td>.08</td>
</tr>
<tr>
<td>Adjusted R-Squared</td>
<td>45%</td>
</tr>
</tbody>
</table>

These findings suggest that trust is important not only because it shapes acceptance within the immediate situation, but also because dealing with an authority that is viewed as trustworthy also shapes people’s general orientation toward the law and legal authorities. These findings suggest a further importance of personal experiences. They are one type of information that people use to make general judgments about authorities.

Building and maintaining confidence in the law and in legal authorities requires legitimacy. This study supports the conclusion of prior studies in suggesting that legitimacy is rooted in the experience of justice when dealing with legal authorities. Fortunately, for legal authorities, past studies do suggest that acceptance is linked to the fairness of the authorities’ procedures. This is consistent with the previously noted literature suggesting the importance of justice to authority relations.44 These studies suggest that legal authorities can maintain their legitimacy by making decisions fairly,45 a conclusion that is also supported by the findings of this study.

The procedural justice model directs the study of legitimacy and obligation

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44 See generally LIND & TYLER, PROCEDURAL JUSTICE, supra note 10 (1988) (broadly reviewing procedural justice findings); JOHN THIBAUT & LAURENS WALKER, PROCEDURAL JUSTICE 4 (1975) (examining “the degree to which various procedures dispense justice”). See also TYLER, WHY PEOPLE OBEY, supra note 1, at 4, 8 (concluding that people who regard legal authorities as legitimate are less likely to violate the law); TYLER ET AL., DIVERSE SOCIETY, supra note 10, at 176-77 (arguing, in part, that legitimacy works to the benefit of authorities and can be fostered through implementation of a fair decision-making procedure).

45 For some possible risks linked to the use of this model, see Craig Haney, The Fourteenth Amendment and Symbolic Legality, 15 L. & HUM. BEHAV. 183, 195, 201-02 (arguing that procedures often substitute for the actual restoration of justice); Tom R. Tyler, The Psychology of Legitimacy, in THE PSYCHOLOGY OF LEGITIMACY (John T. Jost & Brenda Major, eds., 2001) (noting the risks of viewing authorities as legitimate because of how they treat people rather than because their decisions are good).
to the feelings, needs, and concerns of the people who deal with legal authorities. If those people believe that the legal authorities are exercising authority in fair ways, they are more likely to defer to those authorities. This holds true for reactions to personal experiences with legal authorities. If it is also true when people are evaluating political and legal authorities at the national level, like the Supreme Court.

Perhaps most important to the legal system, a number of recent studies link judgments about procedural fairness to the willingness to both accept particular legal decisions and to generally follow laws and legal rules. Procedural justice plays an especially important role in securing compliance over time.

46 See Tyler, Why People Obey, supra note 1, at 102 (arguing that people’s judgments about the fairness of procedures from their personal experience influence their views about legitimacy of authorities, which in turn influence their willingness to comply with those authorities); Tom R. Tyler et al., Maintaining Allegiance Toward Political Authorities, 33 Am. J. Pol. Sci. 629, 645 (1989) (asserting that implementing fair procedures will lessen the effect that negative outcomes have on an individual’s allegiance to law and government because people’s beliefs about a legal system are generalized from their personal experience with that system).

47 See Tom R. Tyler, Governing Amid Diversity: The Effect of Fair Decisionmaking Procedures on the Legitimacy of Government, 28 L. & Soc’y Rev. 809, 828 (1994) (stating that an examination of a sample of adults from the Bay area uncovered the “important role of procedural justice underlying the legitimacy of the [United States Supreme] Court and the willingness to empower it to resolve controversial issues”); see also Tom R. Tyler & Gregory Mitchell, Legitimacy and the Empowerment of Discretionary Legal Authority, 43 Duke L.J. 703, 783 (1994) (arguing that people accept Supreme Court decisions that they believe are wrong if they believe that the Court “is generally impartial, just and competent”).

48 See Kitzman & Emery, supra note 35, at 563 (concluding that the satisfaction of disputants in child custody mediations and litigation was “consistently affected... by the fairness of the procedures used...”); see also Lind et al., supra note 35, at 237 (“Procedural justice judgments were strongly related to the decision to accept the [court ordered] arbitration award [instead of opting to reject the award and go to trial.”); Wissler, supra note 35, at 351, 354 (stating that litigants in mediation are more likely to say that the process was fair and that they were satisfied with it and thus “differences in the effectiveness of mediation versus adjudication are due more to differences in the processes themselves than to differences in the characteristics of the disputants in each procedure”).

49 See W. Chan Kim & Renee A. Mauborgne, Procedural Justice, Attitudes, and Subsidiary Top Management Compliance with Multinationals’ Corporate Strategic Decisions, 36 Acad. MGMT. J. 502, 521 (1993) (concluding that application of procedural justice in a multinational organization will result in greater compliance with corporate decisions by the subsidiary’s top managers); Richard J. Sparks et al., Prisons and the Problem of Order (1996) (arguing that prisoners accept prison rules when they think that procedures are fair); Tyler, Why People Obey, supra note 1, at 102 (arguing that people’s judgments about the fairness of procedures from their personal experience affects both their views about legitimacy of authorities, and, consequently, their compliance with those authorities’ decisions).

50 Peter A. Dillon & Roberet E. Emery, Divorce Mediation and Resolution of Child-
It is clear that people’s behavioral reactions to law and legal authorities are heavily influenced by their assessments of the fairness of legal procedures. The California study reported here supports and extends these earlier findings. It shows that trust in the motives of authorities is central to judgments about their legitimacy. Further, the findings outlined illustrate that procedural justice shapes motive based trust. Hence, as in the earlier studies mentioned, the key to creating and maintaining legitimacy to behave in ways that people experience to be just. Such actions not only lead to acceptance in the immediate situation, they also enhance views about the legitimacy of the law and the obligation to obey it.

**XVII. DOES LEGITIMACY INFLUENCE PERSONAL EXPERIENCE?**

As I note, my prior research suggests that legal authorities want people to view them as legitimate because such views lead people to follow the law in their everyday lives.\(^51\) In fact, legal authorities rely heavily on the voluntary cooperation of most citizens, most of the time. Thus, they benefit when their legitimacy encourages such cooperation in the form of law-abiding behavior motivated by feelings of responsibility and obligation.

Another potential advantage for legal authorities when dealing with people who view them as more legitimate is more directly related to the issues that initially framed this paper. Studies of authorities suggest that when people view them as legitimate, people are more likely to decide whether or not to accept the decisions those authorities make by evaluating the fairness of the procedures they use.\(^52\) People are also less likely to decide whether or not to

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\(^{51}\) See Tyler, *Why People Obey*, supra note 1, at 19 (stating legal authorities interest in obtaining compliance motivates their desire to establish conditions under which the public will accept their decision).

\(^{52}\) Heather J. Smith & Tom R. Tyler, *Justice and Power*, 26 EUR. J. SOC. PSYCHOL. 171, 197 (1996) (concluding that both socially advantaged and disadvantaged people base their actions on what is fair, thus suggesting that the advantaged will support redistributive programs to aid the disadvantaged if they perceive the policy and policymakers to be fair); Tom R. Tyler & Peter Degoey, *Collective Restraint in a Social Dilemma Situation*, 69 J. PERSONALITY & SOC. PSYCHOL. 482, 493 (1995) (finding that fair decision making and a sense of pride in one’s community strengthened support for authorities who presided over a social dilemma, specifically, the California water shortage of 1991).
accept the decisions made by those authorities based on whether or not those decisions are favorable.

Since legal authorities often cannot give people what they want, their effectiveness is enhanced when they can gain acceptance for particular decisions based upon the use of fair procedures. Testing this argument involves examining the influence of views about the legitimacy of legal authority on the willingness to accept decisions.

This study examines whether those members of the public who generally view legal authorities as legitimate decide whether or not to accept the decisions of particular police officers or judges by deciding whether or not they trust those authorities and view their actions to be fair.

I again use regression analysis to examine the influence of legitimacy on reactions to particular legal authorities. To simplify the analysis, I create overall indices of procedure (trust, procedural justice, quality of decision making, and quality of interpersonal treatment) and outcomes (outcome fairness, outcome favorability). Since the four process indices are highly related (mean $r = 0.81$) combining those indices seems reasonable. Outcome fairness and outcome favorability are less strongly related ($r = 0.31$), but I combine them since a more complex analysis including each separately suggests that nothing unique is revealed by treated them separately. I also create a combined acceptance measure that reflects decision acceptance and decision-maker satisfaction.

First, a comparison of the influence of legitimacy and outcomes on acceptance and satisfaction, shown in Table 7, indicates that those people who believe that legal authorities are more legitimate are more willing to accept decisions and feel more satisfied with the authorities with whom they have dealt. The strength of this influence is compared to the influence of the outcome of the experience, and the two are relatively equal (beta = 0.40 for outcome valence and beta = 0.36 for legitimacy). This means that people's willingness to accept a decision in a particular encounter with a legal authority is about as strongly shaped by their general views about the legitimacy of legal authorities as it is by the outcome of that particular experience.

My primary concern is not with the direct influence of legitimacy, but with interactions between legitimacy and the influence of the outcome and procedure judgments. In this analysis interaction terms are used to test the argument that people put more or less weight on either procedural or outcome issues when deciding how to react to the decisions of legal authorities. In other words, beyond the general influence of procedural issues on acceptance/satisfaction, is there an additional influence when people view the authorities as more legitimate.

The results of the interaction analysis are shown in Table 7. The salient point in terms of the influence of legitimacy on reactions to decisions is the importance found for the interaction terms. Consistent with the findings of prior research, there is a significant interaction term (Legitimacy * Procedure), reflecting an interaction between views about the legitimacy of legal
authorities and the weight placed on procedural issues when reacting to the decisions of particular legal authorities.

TABLE 7

<table>
<thead>
<tr>
<th>The Influence of Legitimacy on Decision Acceptance</th>
<th>Beta Weights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedure (trust, procedural justice, quality of decision making, quality of treatment)</td>
<td>--</td>
</tr>
<tr>
<td>Outcome (fairness/favorability)</td>
<td>.40***</td>
</tr>
<tr>
<td>Legitimacy Main Effect</td>
<td>.36***</td>
</tr>
<tr>
<td>Legitimacy * Procedure</td>
<td>--</td>
</tr>
<tr>
<td>Legitimacy * Outcome</td>
<td>--</td>
</tr>
<tr>
<td>Adjusted R-squared</td>
<td>38%</td>
</tr>
</tbody>
</table>

To understand the nature of the significant interaction effect, we can look at subgroup regressions among those high and low in legitimacy. Those subgroup regressions are shown in Table 8. The results indicate that those high in legitimacy place greater weight on procedural issues of trust and justice when deciding whether or not to accept decisions. They also place less weight on outcome fairness/favorability, but this interaction effect is not statistically significant.
This finding supports the value of having high legitimacy for police officers or judges who seek to gain compliance from members of the public. It shows that when legal authorities are viewed as legitimate, they have fewer problems gaining acceptance for their decisions. To reap these advantages, the police need to maintain the trust and confidence of the public. They can do so by focusing on the issues that matter to citizens when they evaluate the police. As we have noted, the citizens’ accounts suggest that they focus on whether they are treated with respect and dignity, whether police actions are explained, and whether they are listened to and have their views considered.

XVIII. BUILDING A LAW ABIDING SOCIETY

The research outlined demonstrates that an important contribution that legal psychology can make to the field of law, which seeks to understand ways in which the rule of law can be effectively maintained, is to help to clarify how gaining public acceptance of the law can be facilitated.

The results discussed suggest that the current conventional wisdom, that seeks to produce acceptance by using external controls on citizens such as the threat of punishment, is failing. Instead, we need to turn to creating a society in which people willingly abide by the laws—a “law abiding” society. This latter course involves the socialization of individuals into law-abidingness.

A better understanding of the psychology of human motivation is of great interest to legal authorities, to members of the legal profession, and to those working within legal institutions such as the courts, the police, and prisons. During the last several years all of these legal actors have expressed concern about their inability to effectively secure citizen compliance with the law.

Examples of the policy problems arising out of difficulties securing compliance abound, and the many problems involved in implementing laws have led to widespread calls from legal authorities and law scholars for social science help in understanding how to secure the effective rule of law. This call from legal authorities is an important opportunity for psychologists to put forward a new psychological perspective on people’s relationship to society
and to social rules—a “psychological” model of jurisprudence. The concerns expressed by legal authorities suggest that the current models of the motivations that shape people’s behavior are not providing legal authorities with an adequate basis for effective social regulation.

My call for increased attention to psychological jurisprudence in this situation is linked to a more complete model of human motivation that is based upon a broader psychology of the person. These efforts to develop such a model build upon the prior efforts of psychologists and other social scientists to speak to this same question of human motivation.

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53 The efforts of psychologists to understand the motivations for human behavior that inform the thinking of legal authorities reflect the development of a “psychological jurisprudence” via the application of psychological knowledge to a core issue within the law. Of course, psychology has always been central to law, since “[l]aws embody theories of behavior. Legal rules, doctrines, and procedures necessarily reflect basic assumptions about human nature.” Craig Haney, Criminal Justice and the 19th Century Paradigm, 6 L. & HUM. BEHAV. 191 (1982).

The goal of psychological jurisprudence is to make these assumptions consistent with modern psychological knowledge. Doing so is central to the goal of psychology to use psychological knowledge as the basis for legal change. See Craig Haney, Psychology and Legal Change, 4 L. & HUM. BEHAV. 147, 152 (1980) (finding that psychologists are confounded and frustrated when the law approaches seemingly familiar issues differently).

The idea of a complete “psychological” jurisprudence can potentially have many facets. Some are linked to an understanding of human motivation, others to an understanding of human cognition and decision-making. Our comments here focus on issues of human motivation. However, we believe that the same core concept of psychological jurisprudence that we are applying to motivation in this analysis has implications for many other areas of law and psychology. In each area the law benefits from being guided by a complete and accurate model of the psychology of the person. Psychological jurisprudence is the application of such models to important areas of the law.

Psychological jurisprudence is also a distinctly empirical perspective on the problems presented by the law. It argues that our conception of the person should be based upon research about people’s motivation, cognition, and decision-making. Like psychology more generally, the application of psychology to jurisprudence is an effort to define human nature through systematic and scientific methods of study. The long-term goal is to establish a role for empirical findings in shaping the law. Like the proponents of the earlier legal realism movement, psychologists argue that the roots of effective legal doctrine must lie in an accurate understanding of the nature of the social world. Psychological jurisprudence carries this basic premise further by taking advantage of the methodological skills of psychology.

54 See ELLEN S. COHN & SUSAN O. WHITE, LEGAL SOCIALIZATION 195-96 (1990) (positing that a study of students in University residence halls revealed, in part, that when students thought a rule was legitimate they were much less likely to resent authority, but cautioning that much more study of legal socialization is necessary to fully understand the concept). See generally SAMUEL KRISLOV ET AL., COMPLIANCE AND THE LAW (1966); 33 NEBRASKA SYMPOSIUM ON MOTIVATION: THE LAW AS A BEHAVIORAL INSTRUMENT (Gary B. Melton ed., 1985); LAW, JUSTICE, AND THE INDIVIDUAL IN SOCIETY 367 (June L. Tapp & Felice J. Levine eds., 1977) [hereinafter INDIVIDUAL IN SOCIETY] (encouraging more social
XIX. DETERRENCE: THE STANDARD APPROACH TO HUMAN MOTIVATION

When we consider possible motivations for people’s law-related behavior, whether public or private, we can draw upon the extensive social psychological literature on the factors shaping people’s behavior. Based upon the field theory model originally developed by Kurt Lewin, social psychologists usually think of behavior as being generated from two core motivations. The first is the set of forces exerted on the person by the external contingencies in the environment; while the second involves the motives and perceptions that the person brings to the situation. In Lewin’s famous equation, behavior is viewed as a function of the person and the environment (B = f(P, E)).

Historically, those concerned with producing compliance with the law have been enthusiastic manipulators of the environment, preoccupied with shaping the contingencies in the environment in a particular way, with the intention of changing anticipated gains and/or anticipated losses. Calculation of each factor involves an assessment of the likelihood of potential gains and losses, as well as an evaluation of their expected utility (the amount to be gained or lost). This now is the classical subjective expected utility theory; taken together these calculations combine to tell people whether engaging in some action is likely to be beneficial to their personal self-interest.

The idea that people’s behavior towards the law is shaped by calculations of expected gain and loss is the core premise of rational choice theory.55 Within legal circles, the model is referred to as the “deterrence” or “social control” model of behavior and this model of the person currently dominates law and public policy. It is the model that seems natural to legal authorities. To regulate behavior, the rational choice model focuses upon adjusting criminal sanctions to a level that produces the expected losses associated with law breaking that will lessen the likelihood that people will break the law. In the context of law, this model is referred to as the social control model of law-related behavior.

The social control model is the primary model of human motivation that has guided recent efforts of the American legal system to manage society. The application of this model of human motivation to the issue of social control has had dramatic effects on the nature of American society.56 Consider the case of the American prison population. A large number of American citizens have been convicted and sentenced to spend time in American prisons because of the belief that crime is deterred by the threat and/or experience of

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55 See Alfred Blumstein et al., NATIONAL ACADEMY OF SCIENCES, Deterrence and Incapacitation 16 (1978) (“[I]ndividual behavior is at least somewhat rational and responds to incentives . . . .”).

56 See Craig Haney & Philip Zimbardo, The Past and Future of U.S. Prison Policy, 53 AM. PSYCHOL. 712 (1998) (arguing that “the criminal justice system not only has become increasingly harsh and punitive but also has obscured many of the psychological insights . . . [of] empirical [psychological] studies . . . .”).
punishment.\(^{57}\) Today the United States is a world leader in the proportion of its citizens it holds in prison.\(^{58}\)

A good deal of evidence exists that legislatures draw on the deterrence theory in their search for ways to control what they perceive to be an "out of control" crime problem. Increasing the severity of criminal sentences or passing "three strikes" laws are common examples of the effort to control crime.\(^{59}\) Ironically, as I have noted, research suggests that deterrence has only a modest influence of behavior, and severity of punishment is less influential than the certainty of punishment.

One approach to the problems of deterrence is to try to fix the deterrence model. Recently such arguments have led to the idea of targeted deterrence strategies. One targeted strategy targets people. As I have noted, Ayres and Braithwaite, suggest that societies should first approach citizens by appealing to their moral values.\(^{60}\) They can, by so doing, isolate the small group of citizens unable to respond to such an appeal. Those people should subsequently be the focus of surveillance and social control, allowing authorities to concentrate their resources on those people likely to need social control.

A second targeted strategy targets situations. Sherman argues that the current deployment of police resources is more strongly shaped by political clout than it is by crime rates.\(^{61}\) Consequently, the most heavily patrolled areas are not the highest crime areas. He suggests that a greater effort is needed to put surveillance where the crime problem lies. Both of these strategies accept the basic deterrence argument and suggest that the goal should be to implement deterrence more effectively.

Despite the efforts to improve the use of the deterrence model that I have outlined, there is an increasing questioning about whether this model is, in fact, fundamentally flawed. If so, then legal scholars need to rethink the model of human motivation applied to the law. They need to develop a broader model of motivation to address the problems posed by the legal system. A

\(^{57}\) See id. at 713, 715 (stating that legislatures have regularly increased the length of prison sentences and that the number of people incarcerated in the United States has risen over 300% between 1985 and 1995).

\(^{58}\) See id. at 713 (reporting that in the early 1990s "the United States incarcerated more persons per capita than any other nation in the world" and was only recently surpassed by Russia, in 1995, when that country underwent massive political and economic upheaval).

\(^{59}\) See Tom R. Tyler & Robert J. Bocckmann, Three Strikes and You are Out, But Why?: The Psychology of Public Support for Punishing Rule Breakers, 31 L. & SOC'Y REV. 237, 238 (1997) ("[T]he recent passage in California of the 'three strikes' initiative is only one manifestation of a general trend in public feeling in favor of more severe punishments in response to rule breaking.").

\(^{60}\) See AYRES & BRAITHWAITE, supra note 23.

psychological jurisprudence approach to this need can do so by expanding the scope of our conception of possible motivating factors to be more consistent with psychological models of the person.

This expanded model of the person leads to an examination of a second type of factor that social psychologists view as central to the determination of people’s behavior: the set of internal values that shape people’s feelings about what is ethical or appropriate to do. Psychologists study two such motivations. The first is morality, the belief that following the rules is the morally appropriate thing to do. The second is legitimacy, the belief that rules are legitimate and ought to be obeyed. I will direct my comments primarily to issues of legitimacy.62

XX. THE ROLE OF LEGITIMACY IN PRODUCING LAW-ABIDINGNESS

I contend that the influence of the social value of legitimacy on public behavior provides an alternative model upon which an effective legal system can be created and maintained. It builds upon the recognition by social psychologists that people develop and are motivated by internal values. These values are distinct from contemporaneous judgments of self-interest. Further, they exercise an important independent influence on people’s behavior. Social values represent people’s sense of what is ethnically and morally appropriate behavior.

The concept of social values is nicely captured in Hoffman’s comment on the development of moral values. He suggests that:

The legacy of both Sigmund Freud and Emile Durkheim is the agreement among social scientists that most people do not go through life viewing society’s moral norms as external, coercively imposed pressures to which they must submit. Though the norms are initially external to the individual and often in conflict with his desires, the norms eventually become part of his internal motive system and guide his behavior even in the absence of external authority. Control by others is thus replaced by self-control.63

This quote articulates a central feature of social values—that their influence on people’s behavior separates that behavior from the influence of factors in the external environment. Social values become a part of the person and lead them to exercise self-regulation over their behavior. As a consequence, people do

62 Both legitimacy and morality are social values that could potentially be used as the basis for expanding the motivational model underlying social regulation. For a more detailed comparison of these two value approaches to regulation, see Tyler & Darley, supra note 41, at 738 (concluding that people are more willing to consent to legal authorities if they perceive the law as consistent with their own morals or if they believe legal authorities make decisions through a just, thus legitimate, process).

not so much comply with the law as they accept and consent to it, deferring to law and legal authority because they feel it is the right thing to do.

In such a situation it is not necessary to shape people's behavior by threatening them with punishment for wrongdoing. People take the responsibility for following rules onto themselves. They do so if they feel that the law is reasonable and fair, so that they feel that it makes sense to them to be involved with legal authorities, to "sign on" to participation in society and acceptance of its rules. They then become willing to be governed by law and take on the responsibility for following laws and obeying the directives of legal authorities.

A recognition of the role of internal values is shaping law-related behavior suggests the possibility of a value-based perspective on people's behavior. That perspective emphasizes the importance of developing and sustaining a value climate, a "legal" or "civic" culture, in which people accept decisions and abide by the law because they feel it is the right thing to do.

The key social value central to a law abidingness perspective is legitimacy. If community residents view legal authorities as legitimate, they believe that it is part of their duty as a citizen to accept legal rules and obey the directives of legal authorities—i.e., legitimate legal authorities are entitled to be obeyed. In such a situation, they obey laws because they regard deferring to social authorities as part of the obligations associated with citizenship, i.e. they view following rules issued by legitimate authorities as the appropriate social behavior.

If, for example, a police officer tells a citizen to do something, such as, to pull to the side of the road or stop their car, the citizen typically accepts this directive. They regard it as appropriate for police officers to direct citizen behavior, and they follow those directives without requiring an explanation or justification. Further, they follow those directives without thinking about whether they will be punished for failure to comply. The data presented here suggest that legitimacy directly shapes people's willingness to defer to authorities. More legitimate authorities are more easily obeyed.

Legitimacy also shapes the basis upon which authorities are evaluated. If people think that the authorities in general are legitimate, they defer to particular authorities because they trust those individuals. Legitimacy changes the manner in which people evaluate and react to directives. When people view authorities as legitimate, they do so because they believe that those authorities exercise their authority fairly, which reflects their benevolent and trustworthy motivations. Hence, they ought to be deferred to on this basis, rather than because a person agrees with those decisions, or judges those decisions to be favorable. Since, as already outlined, the possibility of a law-abidingness model is linked to process based policing and process based problem solving by the courts, legitimacy facilitates such a strategy.

These findings suggest that legal authorities need to create and maintain their legitimacy in the eyes of the public. If citizens believe that legal authorities are legitimate and entitled to obedience, they follow laws because
they regard deference to social authorities as part of the obligations associated with citizenship. They view following rules issues by legitimate authorities as the appropriate social behavior. In other words, it is not only important that citizens follow legal directives. It is also important that they do so without thinking about whether they will be punished for failure to comply.

My argument is that, although the threat of punishment is always in the background when dealing with legal authorities, most people accept the decisions of those authorities not only because they fear them, but also because they view their actions as legitimate. Studies of Americans find that people’s feelings of obligation to obey the police and the courts are generally quite high, despite widespread expressions of dissatisfaction with the law and with legal authorities.

The law abidingness perspective directs our attention to the socialization of feelings of obligation in individual citizens and the problems associated with sustaining a legal culture among adults. Put another way, we need to be concerned with creating citizens who respect the law, and legal authorities and laws that are capable of sustaining that respect. We will address these issues below.

XXI. VALUE SOCIALIZATION

Developmental psychologists link the development of social values to the child’s socialization experience. Most children’s basic orientation toward society and social institutions is most profoundly shaped during the early years of their lives, through their experiences with their families and school. A number of studies demonstrate this point through studies of moral values about right and wrong, while others focus on values about the legitimacy of legal and political authority.

The study of moral value socialization suggests that a central factor shaping whether children take on key social values such as morality is their relationship with their parents. Through mechanisms of identification and internalization, children develop a personal commitment to following moral rules, and link that commitment to their sense of themselves and their estimates of their self-worth. Thereafter the failure to follow moral rules leads to feelings of guilt, a

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64 See MARGARET LEVI, CONSENT, DISSERT, AND PATRIOTISM 200 (1997) (stating that “there is a strong coercive element to all governments . . . .”).


66 See FRED GREENSTEIN, CHILDREN AND POLITICS 44 (1965) (noting that most of children’s conceptions about authorities are formed through participation in civic instruction in schools and families).
negative emotional state that reflects a person’s feeling that they have failed to act as they should. Of course, the form of moral values changes over time, and people can change their views about both what is morality right and why they should be concerned with following moral rules over the course of their lifetimes.

The study of the development of views about the legitimacy of legal authorities leads to a focus on political socialization. The literature on political socialization suggests that basic orientations toward law and legal authorities also develop early in life. Children learn a sense of responsibility to obey rules and to accept the directives of legal authorities, authorities that they view themselves as obligated to obey. So even though the nature of people’s feelings about obligation evolve throughout life, the basic feeling of obligation to authorities is rooted in childhood socialization.

Key to the success of a strategy of social regulation based upon law abidingness is the appropriate socialization of children. The childhood socialization process is the time during which basic social values develop and take on an independent role in shaping children’s behavior. That role is evident as early as the teenage years, during which law abidingness is found to be linked to feelings of obligation toward legal authorities.

Not all children learn social values. This is illustrated most strikingly in the literature on moral socialization. That literature makes clear that at least some children are socialized in ways that minimize the development of moral values. Their socialization is characterized by a particular style of parenting that leads to a personality that is not guided by social value concerns, and to behavior that flows from instrumental judgments about the potential gains and costs associated with rule following and rule breaking. Similarly, children may not learn to respect and trust legal authorities. They may learn to fear those

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67 See id. at 1 (concluding that a crucial period of political development occurs between the ages of nine and thirteen where a child moves from “near ignorance of adult politics to awareness of most of the conspicuous features of the adult political arena.”); ROBERT HESS & JUDITH V. TORNEY, THE DEVELOPMENT OF POLITICAL ATTITUDES IN CHILDREN 1 (1967) (stating that children develop a view of law and a citizen’s role long before they can understand the system); HERBERT H. HYMAN, POLITICAL SOCIALIZATION 29, 35 (1959) (stating that childhood experiences are particularly responsible for patterns of political participation and orientation in adult life); Richard M. Merelman, Revitalizing Political Socialization, in POLITICAL PSYCHOLOGY 279, 286 (Margaret G. Hermann ed. 1986) (arguing children and adolescents have sophisticated justifications for respecting legal and political norms); Richard G. Niemi, Political Socialization, in HANDBOOK OF POLITICAL PSYCHOLOGY (Jeanne N. Knutson ed., 1973) (arguing for the centrality of childhood socialization to adult connections to legal and political authorities).

68 See INDIVIDUAL IN SOCIETY, supra note 54, at 102 (stating that a study of Kindergarten through college aged subjects reveals a shift in conceptualizations of moral obligation to others from preconventional to conventional and finally to post conventional).

69 See Augusto Blasi, Bridging Moral Cognition and Moral Action, 88 PSYCHOL. BULL. 1 (1980) (describes the styles of parenting that lead to delinquency).
understand CONSCIOUSNESS the Punishment JOSEPH police, (examining See undesirable required making decisions law and lives. Such widespread self-regulatory behavior allows society to function efficiently, with legal authorities directing their coercive resources at the small minority of citizens lacking in social values. If, however, that group becomes too large, it would rapidly overwhelm the ability of legal authorities to effectively implement social regulations. There are typically some people in any society who are not responsive to appeals to social values, and those people must be regulated via sanctioning. 70

XXII. SUSTAINING A LEGAL CULTURE: THE LEGITIMACY OF THE LEGAL SYSTEM

Irrespective of how they emerge from childhood, people live long adult lives. During those adult lives their social values continue to be shaped by the events of their society, as well as by their own personal and television-based experiences with the law. Those experiences can facilitate a continued respect for the law, or they can damage, shatter, or destroy public beliefs that the law and legal authorities embody values that citizens ought to support and obey. 71

The legitimacy of authorities is an especially promising basis for the rule of law because research suggests that it is not linked to agreement with the decisions made by legal authorities. If people based legitimacy of decision-making authorities on their agreement with those decisions, it would be difficult for legal authorities to maintain their legitimacy, since they are required to make unpopular decisions and deliver unfavorable outcomes. As I have often noted, the police are often required by their jobs to deliver undesirable outcomes to citizens. They need to be able to do so and still gain

70 See Ayres & Braithwaite, supra note 23.
71 These efforts are consistent with the more general recent trend within the field of law and social science to examine the “legal consciousness” of people within American society. See Patricia Ewick & Susan S. Silbey, The Common Place of Law 35, 246 (1998) (examining how people experience legality through collecting and analyzing stories from participants); Americans View Crime and Justice (Timothy J. Flanagan & Dennis R. Longmire eds., 1996) (collecting several articles on public attitude, opinion and views of police, courts, correctional facilities and other law related issues); V. Lee Hamilton & Joseph S. Sanders, Everyday Justice xi (1992) (Comparing how American and respondents judge wrongdoings); Craig Haney, Commonsense Justice and Capital Punishment 3 Psychol., Pub. Pol’y & L. 303, 334-35 (1997) (concluding that the will of the public should both shape the design of legal mechanisms and be shaped by them). See generally Sally Engle Merry, Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans (1990) (using interviews to understand how working class people think about law).
acceptance.

The key to understanding a psychological jurisprudence perspective is to recognize that the legal system relies upon the willingness of people to consent to the operation of legal authorities. Psychological jurisprudence emphasizes the importance of the active cooperation and willing acceptance of law and legal authorities by members of public. That willing acceptance comes because people view legal authorities as making their decisions justly, and therefore trust them. For the psychological jurisprudence model to work, society needs to create and maintain supportive public values, which facilitate this process.

This model reflects an expanded model of human motivation which recognizes that the roots of the effectiveness of regulatory authorities lie in the willingness of the public to be governed by the rules because they feel that their concerns and needs are addressed by legal authorities. In the context of a specific personal experience with a legal authority, people are willing to voluntarily defer based upon their belief that the authorities are acting in a trustworthy manner. They infer trustworthiness from the justice of the actions of the authorities. Hence, authorities can engage people's values and gain the benefits of voluntary, willing, acceptance of decisions.

In other words, the actions of legal authorities can both gain immediate cooperation and can build the basis for cooperation in the future. As the analyses outlined suggest the key to doing both is to act in ways that people understand to be fair.

XXIII. PROACTIVE SOCIAL REGULATION

Psychological jurisprudence has implications for a wide variety of areas in law. In the case of proactive social regulation, legal authorities need to focus on the issue of creating and maintaining supportive public values. Consider an example from a recent study of citizen-police experiences. In this study researchers examined what transpired when the police were called to homes to deal with issues of domestic violence. The concern of the study was with subsequent compliance to the law on the part of the abusive men whose behavior led to the initial call. From a social control perspective we would expect that compliance would increase in response to threats and/or punishments on the part of the police. A psychological jurisprudence would call for the value of police efforts to create and maintain respect for the law on the part of the abuser.

The results of the study support the value of a proactive social regulation perspective. If the police treat the abuser fairly during their encounter, that abuser is subsequently more likely to comply with the law. Fair treatment increases feelings of respect for the law, and leads abusers to be more willing to obey it in the future, i.e. to be more law abiding. This influence is greater than the impact of threatened or enacted punishments.

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72 See generally Paternoster, supra note 50.
This study illustrates the core premise of the proactive social regulation perspective—that legal authorities should be concerned with developing the social values of citizens. This concern leads to a need to focus on the experience of those citizens, on their judgments about the practices and policies of legal authorities. Thus, proactive social regulation is a psychological perspective on the effective rule of law. It views the key to the successful rule of law as lying in an understanding of the social values of the citizenry, not in efforts to more effectively deploy coercive force.

XXVI. PERSONAL EXPERIENCE WITH THE LAW AND LEGAL AUTHORITIES AND LAW-ABIDINGNESS

People have a wide variety of types of personal experiences with legal authorities, including but not limited to their experiences with the police. Three types seem relevant to our discussion: seeking help, being regulated, and serving as a citizen. People seek help when they go to the police or courts for help in resolving some problem. They experience regulation when a police officer gives them a ticket, a judge levies a fine, or they are tried and punished for some crime. Finally, they act as citizens when they are jurors or witnesses.

The law abidingness perspective regards all of these types of personal contact with law and legal authorities as socialization experiences in which people refine their views about the law and legal authorities. The decisions made are evaluated via personal moral codes, and the authorities dealt with are evaluated through personal frameworks defining procedural justice. Viewed from this perspective, each personal experience represents an opportunity for legal authorities to strengthen the loyalty and support of members of the public. To do so, they must recognize the important role that people’s sense of justice has in shaping their reactions to their experience.

Far from presenting a problem for police officers and judges, the centrality of justice to people’s reactions to their experience actually provides authorities with the possibility of creating good will. If people acted based upon the favorability of their outcomes the loser to a dispute would automatically be unhappy, as would anyone who received a ticket. But, people do not. Instead, they evaluate their experience through a lens of justice. In the case of outcomes, authorities have the opportunity to frame and justify their decisions through reference to the moral values of those with whom they are dealing. In the case of procedures, they have the opportunity to treat everyone fairly.

A concrete example of the implications of these findings for strategies designed to build public respect for the law is shown by the area policing that is the focus of much of the evidence examined here. If the police are to act as agents of socialization, they need to act in ways that people experience as respectful and fair. Efforts to gain public support for the police emphasize the need for respectful treatment of the public, as in the New York city police motto “Courtesy, Professionalism, Respect.” Similarly, community policing initiatives are designed to increase personal interactions with police officers, interactions in which citizens will hopefully learn that the police are
professional and fair.\textsuperscript{73}

Consider an alternative problem central to law—responding to law breaking behavior. When a person is accused of breaking a law, there are several aspects of their experience with the legal system that are important from a psychological jurisprudence perspective. First, the procedure for determining guilt or innocence and for determining punishment. This procedure has an important influence on the values of everyone involved, the offender, the victim, and others who personally experience the trial. All of these people react to the manner in which the legal system makes its decisions, as well as to the determination itself.

An example of an approach to adjudication that emphasizes the importance of encouraging law abidingness among law-breakers is the restorative justice movement.\textsuperscript{74} That movement has focused upon ways of reintegrating rule breakers into the community. In restorative justice conferences, the rule-breaking behavior is recognized and punished, but during restorative justice conferences an effort is also made to encourage the rule-breaker to recognize that their behavior violates moral and social codes that are a part of their own self-image and, as a consequence, should be upsetting to them. In other words, an effort is made to use the rule-breaking as a way to encourage the rule-breaker to identify with social rules and commit themselves to not breaking those rules in the future.

In addition, there is the experience of punishment. Studies consistently find that experiencing incarceration is not an effective way to encourage future law abidingness. This is hardly surprising, since there in nothing in the experience of spending time in jail or prison that encourages the development of moral values or leads to greater respect for law and legal authorities. Consequently, when people leave the structured environment of incarceration, the internal values that might encourage law abidingness have not been strengthened.

For this reason efforts such as reintegrative justice, which are based upon trying to strengthen the importance of people’s social values in shaping their law-related behavior try to avoid punishments such as jail or prison. They emphasize punishments such as acknowledgement of wrongdoing, apology, and restitution that connect people with the wrongness of their actions.

\textsuperscript{73} See Robert R. Friedmann, Community Policing 29 (1992) (noting that community policing results in a different relationship between officers and citizens based on mutual trust and shared responsibility); Dennis P. Rosenbaum, The Challenge of Community Policing (1994) (discusses the use of community policing to improve relationships between the police and the community); Wesley G. Skogan & Susan M. Hartnett, Community Policing 201, 204 (1977) (finding that community policing in Chicago increased visibility of, and thus increased people’s satisfaction with, the police and brought the police closer to the people in the community).

\textsuperscript{74} John Braithwaite, Crime, Shame, and Reintegration 1 (1989) (arguing that crime can be controlled by imposing shame on those who violate the law).
The key argument of this paper is that legal authorities can gain voluntary deference to their decisions in the immediate situation by developing trust in the benevolence of their motives. Such motive based trust supports a proactive model of social regulation that is based upon encouraging cooperation with law and legal authorities. The findings outlined suggest that people respond to their inferences about the motives of legal authorities, and more willingly defer to decisions that restrict their actions when they feel that the authorities are motivated by benevolence.

General views about the legitimacy of law and legal authorities have two influences in particular situations. First, people are more likely to defer to authorities if they judge them to be fair. Second, when people think that authorities are legitimate, they are more likely to respond to them by judging their motives. As a result, having legitimacy makes it easier to engage in proactive social regulation through gaining motive based trust.

The findings further suggest that gaining voluntary deference during encounters with particular members of the public and building public trust and confidence in the legitimacy of law and legal authorities are both rooted in the same actions by police officers and court personnel. People are found to respond to their evaluations of the degree to which legal authorities are exercising their authority using fair procedures. This includes both making decisions fairly and treating people fairly. Both of these aspects of procedural justice are found to shape people’s deference to authorities in particular situations and their generalizations from particular experiences to broader views about law and legal authorities.

These findings suggest that proactive models of social regulation that draw upon consent and cooperation, i.e. that are based on law abidingness, can be viable among both majority and minority populations, in non-voluntary situations, and even among the high risk group defined by young minority men. In addition, they point to the type of police actions that are key to making such approaches work.