

**Carving up Concepts?**  
**Differentiating between Trust and Legitimacy in Public Attitudes towards Legal Authority**

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*Abstract*

In recent years, scholars of criminal justice and criminology have brought legitimacy to the forefront of academic and policy discussion. The focus has been primarily – though not exclusively – on legitimacy within policing, with the most common approach framing legitimacy as a self-regulatory scheme that can enhance widespread voluntary compliance with the law and cooperation with legal authorities. In the most influential definition, institutional trust is assumed to be an integral element of legitimacy (Tyler, 2006a, 2006b). For an individual to find the police to be legitimate, for instance, she must feel that it is her positive duty to obey the instructions of police officers (she grants the police the rightful authority to dictate appropriate behavior), but she must also believe that police officers exercise their power appropriately. In this chapter we argue that the nature, measurement and motivating force of trust and legitimacy is in need of further explication. Considering these two concepts in a context of a type of authority that is both coercive and consent-based in nature, we make the case that legitimacy is (a) the belief that an institution exhibits properties that justify its power and (b) a duty to obey that emerges out of this sense of appropriateness; that trust is about positive expectations about valued behavior from institutional officials; and that legitimacy and institutional trust overlap if one assumes that people judge the appropriateness of the police as an institution on the basis of the appropriateness of officers' use of power. Our discussion will, we hope, be of broad theoretical and policy interest.

*Key Words*

- police legitimacy; trust in police; citizen satisfaction with police; police-community relations.

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## 1. Introduction

The past two decades have seen a surge in research devoted to the role of legitimacy in governance. Much of the attention stems from the promise of legitimacy to solve the widely acknowledged ‘problem of regulation’ (Tyler & Huo, 2002, p. 1) that arises whenever a government attempts to elicit certain types of behaviors from citizens and to suppress other types. The state depends upon citizen compliance in matters ranging from paying taxes to refraining from robbing banks. An orderly society requires that all citizens act in ways that are best for the group even when those actions are perhaps not in a given citizen’s individual self-interest. One way to secure compliance is through coercion and the threat of force; people will refrain from illegal behavior because they fear the potential consequences of offending.

Another way to secure compliance is through legitimacy and governance by consent. Proponents of this perspective insist that citizens will voluntarily submit to the authority of the government and its representatives when they believe it is the right thing to do. As Tyler and Jackson (2013, p. 88) point out:

When people ascribe legitimacy to the system that governs them, they become willing subjects whose behavior is strongly influenced by official (and unofficial) doctrine. They also internalize a set of moral values that is consonant with the aims of the system. And—for better or for worse—they take on the ideological task of justifying the system and its particulars.

Out of all parts of government, justice institutions have uniquely urgent needs for legitimacy. As the most visible symbol of state-sponsored coercive control, the governmental agency most burdened by the constant need to obtain compliance is the police. Officers are frequently unable to provide people with their preferred outcomes, and often must deliver outcomes that are negative for those on the receiving end. Police, though intended to protect the public welfare, can ‘with very few exceptions, accomplish something for somebody only by proceeding against someone else’ (Bittner, 1970, p. 8). For this reason, the police have a great need for legitimacy, a particularly difficult time earning and maintaining it, and an easier time losing it.

That legal authorities require legitimacy is clear. Their ability to function on a day-to-day basis depends upon widespread voluntary compliance with both the law in general and with specific orders and decisions rendered. When institutions of criminal justice demonstrate to citizens that they are just and proper, this encourages citizens to comply with the law, cooperate with legal actors, and accept the right of the state to monopolize the use of force in society (Tyler, 2003, 2004, 2006a, 2006b, 2011a, 2011b; Jackson et al., 2013; Tyler & Jackson, 2014). By motivating citizens to regulate themselves, institutions can also avoid the cost, danger, and alienation that are associated with policies based on external rules underpinned by deterrent threat (Hough et al., 2010; Schulhofer et al., 2011; Tyler, 2009, 2011a).

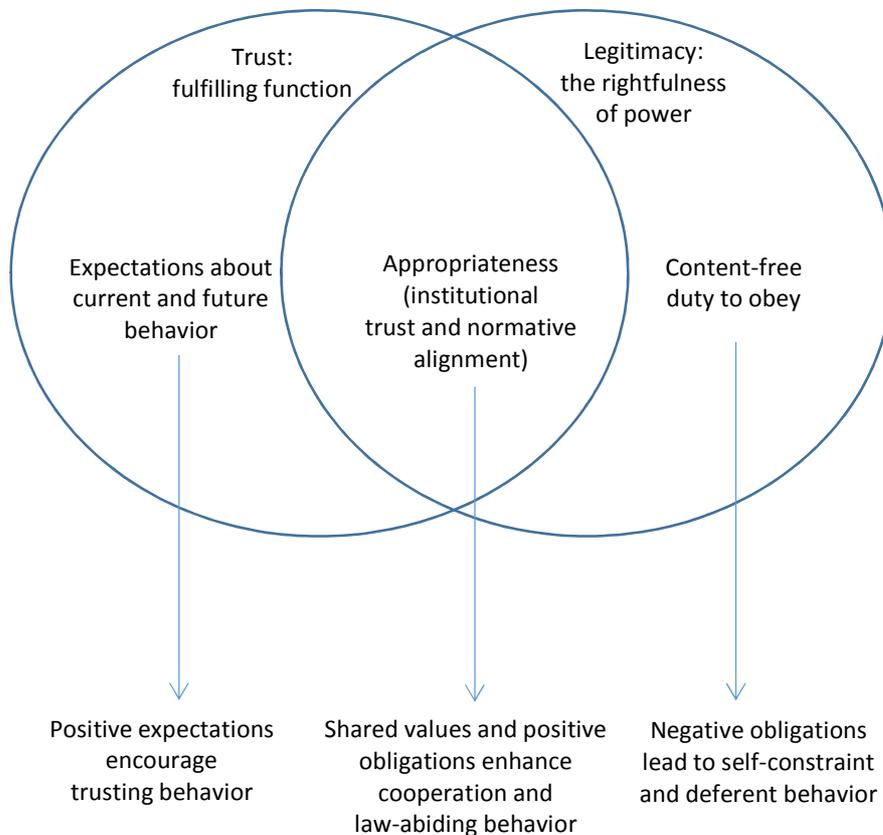
However, despite broad agreement regarding the importance of legitimacy, researchers have yet to formulate and agree upon a universally accepted definition of police (and legal) legitimacy. In the most influential definition (Sunshine & Tyler, 2003a; Tyler, 2006a; Tyler et al., 2010) duty to obey and institutional trust are assumed to be integral elements of legitimacy as an attitude and subjective judgment. To find an authority legitimate is not merely to feel that it is one’s positive duty to obey the instructions of that authority (this is consent to power via the internalized acceptance of, and deference to, authority); it is also to believe that the institution is appropriate (i.e. it has the requisite properties to justify its power possession) because law enforcement officials can be trusted to wield their power judiciously. Duty to obey is captured empirically by agreement or disagreement with attitudinal statements like ‘I feel that I should accept the decisions made by police, even if I do not understand the reasons for their decisions’ and ‘I should obey police decisions because that is the right and proper thing to do.’ Institutional trust is captured empirically by agreement or disagreement with attitudinal statements like ‘the police can be trusted to make decisions that are right for people in my neighbourhood’ and ‘people’s basic rights are well protected by the police in my neighborhood.’ To this end, the word ‘trust’

appears often in descriptions of legitimacy, reflecting what is assumed by researchers to be a normative justifiability of power in the eyes of citizens.

In this chapter, we consider the meaning and measurement of trust and legitimacy in the context of police. We aim to make three contributions. The first is to draw conceptual distinctions between trust and legitimacy, while also clarifying the ground on which the two concepts overlap. The second is to review the content coverage of existing measures of police legitimacy. The third is to consider how trust and legitimacy may variously motivate law-related behavior. Throughout this essay we build on recent ‘conceptual stock-take’ articles about the legitimacy of legal authority by Hawdon, (2008), Bottoms & Tankebe (2012) and Tyler & Jackson (2013). We also add to ongoing discussion within criminology about the measurement of trust and legitimacy (Gau, 2011, 2014; Hough et al., 2013a, 2013b; Jackson et al., 2012a, 2012b; Johnson et al., 2014; Reisig et al., 2007; Reisig & Lloyd, 2009; Stoutland, 2001; Tankebe, 2013).

By way of orientation for the reader, Figure 1 presents an organizing conceptual schema, illustrating areas of uniqueness and overlap between the concepts of trust and legitimacy (as well as some brief thoughts on the various different ways by which behavior may be motivated). Trust represents people’s expectations regarding police behaviour – that is, trust can be defined as people’s predictions that individual officers will (and do) do things that they are tasked to do. Legitimacy, by turn, is the property or quality of possessing rightful power and the subsequent acceptance of, and willing deference to, authority. The duty to obey is embedded within legitimacy because people who believe the police are entitled to their coercive authority feel, accordingly, that citizens should pay proper deference to that power. This duty to obey simultaneously arises from a sense that the institution has the right to power, and it is here – at the judgment of the appropriateness of an institution – that we see a convergence between trust and legitimacy. It is insufficient for people to merely agree that that the police are duly authorized to employ coercive authority; rather, true legitimacy also encapsulates the conviction that police can be trusted to use that authority judiciously and for the greater good. Moreover, people’s beliefs that the police are morally aligned with the public lend an additional layer of credibility to the institution of policing as a whole and encourage widespread voluntary compliance through the expectation that legal authorities represent an appropriate sense of right and wrong to citizens.

**Figure 1:** A conceptual model of trust and legitimacy



How might these attitudes and judgments variously motivate behavior? Trust in its ‘cleanest conception’ (i.e. a subjectively perceived probability of valued behaviors that do not directly reference the use of power) may motivate people to act through positive expectations about how an officer will behave if one initiated contact. For example, one might be more likely to report a crime to the police if one believes that the officers involved would respond professionally, efficiently and fairly. By contrast, the belief that the police as an institution is moral, just and proper will motivate through a sense of value congruence and civic responsibility. One might be more likely to report a crime to the police if one believes that the institution is morally appropriate and shares one’s values. To support its function is to act on one’s own sense of right and wrong and to assist the scheme of social cooperation and social control that the police assists. Finally, felt obligation to obey the police will motivate through a sense of deference and legal duty. One might be more inclined to report a crime to the police if one believes that the institution has the right to dictate appropriate behavior and expect deferent behavior from citizens.

The chapter is organized as follows. In Section 2, we discuss conceptual and operational definitions of trust in the police. Sociological and social-psychological definitions of trust are brought on bear on the understanding of the public’s attitudes toward police. In Section 3, we consider how police legitimacy has been defined and measured in criminological work. In Sections 4 and 5, we highlight areas in which legitimacy and trust overlap conceptually. Throughout the chapter, we comment on the strengths and weaknesses of existing approaches to measurement.

## **2. Defining ‘Trust’ in the Context of Legal Authority**

As noted previously, scholars widely agree upon the importance of trust and legitimacy in the context of legal authorities; however, consensus has not been reached on the matter of defining these concepts vis a vis each other. What role trust plays, independently of and in conjunction with, legitimacy has yet to be fully explicated. This section visits this issue and attempts to elaborate upon the meaning of trust in the legal-authority context.

#### *Trust as subjective probability of valued behavior*

Adopting a relatively straightforward definition at the outset, we define trust as the subjective judgment that a trustor makes about the likelihood of the trustee following through with an expected and valued action under conditions of uncertainty (Bauer, 2014; for variations on the theme, see Baier, 1986; Barber, 1983; Colquitt et al., 2007; Gambetta, 1988; Hardin, 2002; Mayer et al., 1995). On this account, trust requires that three elements be present: a trustor, a trustee, and some behavior or outcome that the trustor wishes from the trustee.

Trust is subjective because the trustor generally does not know the true probability that the trustee will follow through with an expected action. This requires the trustor to pull from less tangible sources (e.g., past experiences with trust in other contexts, personal ties with the trustee, ‘gut’ reactions) when deciding the level of (mis)trust to place in the trustee. Trust constitutes, to some degree, a leap of faith. It contains a substantial element of willingness to tolerate uncertainty (Mollering, 2001). Since it is probabilistic, trust exists because of the risks inherent in all interpersonal exchanges. When an action or event is guaranteed to occur, trust is irrelevant because the person expecting that action or event has zero probability of being disappointed. Thus, the only way for trust to become a component of a relationship or transaction is for there to be some measure of uncertainty present that creates a risk for the trustor. For trust to occur, the trustor must either disregard or voluntarily submit to the risk inherent in the probability judgment (McEvily, 2011; Schilke & Cook, 2013).

When applied to the police, such a definition of trust references people’s expectations regarding valued future behavior from officers under conditions of uncertainty. An individual citizen may never be certain whether officers would turn up promptly if called, or whether those officers would treat him or her with respect and dignity once they arrived. But that same individual may nevertheless form judgments about the intentions and capabilities of the officers to fulfill the valued functions defined by their social role. These judgments may powerfully shape that individual’s willingness to accept vulnerability by behaving in ways that would otherwise seem risky, like coming to the police with information about a crime.

Thus, perhaps the ‘cleanest’ measures of trust would focus on an individual’s expectations about how a police officer would behave should one wish to rely upon that officer’s valued actions. In terms of valued actions, a key distinction in the criminological literature is between effectiveness and fairness. The police are tasked with achieving certain outcomes – catching criminals, responding quickly when called, resolving conflicts, and so on. But they are also expected to use their authority in measured, restrained, and professional ways, and this means being neutral when making decisions, being respectful and fair when interacting with citizens, and so forth. Indeed, this second requirement – evident in procedural justice, a subjective property of interactions between authorities and subordinates (Tyler, 1988, 1989, 1994) – may be particularly important: as a judgment about whether the processes used to make and enforce a decision or rule are fair, just, and neutral (Lind & Tyler, 1988; Thibaut & Walker, 1975), procedural justice covers both interpersonal treatment and decision-making, and has been shown to be more important than outcomes, effectiveness, and efficiency in predicting legitimacy, cooperation, and compliance (Sunshine & Tyler, 2003a; Tyler & Huo, 2002).

To measure whether people trust officers to treat them fairly, one might ask survey respondents:

- ‘To what extent do you agree or disagree with the following statement: Police would treat you with respect if you had contact with them for any reason.’ (Jackson et al., 2012b)

To measure the decision-making aspect we might ask:

- ‘If the police stopped you while driving as part of a random breath test, how likely do you think it is that they would make decisions based on facts, not personal interest?’

Both of these example items ask people to predict police behavior; that is, the questions tap into citizens’ expectations about whether officers would be respectful (or disrespectful) and neutral (or biased). In this way, these items represent a confluence of procedural justice with trust—while procedural justice has traditionally been measured as actual experiences with officers, adding the element of trust requires survey respondents to forecast police behavior. As such, measures like these can form a basis for measuring trust in the fairness of officers for analytic purposes.

Effectiveness shifts the focus to the achievement of certain key and specific goals regarding crime control and order maintenance. Measures of trust in police effectiveness would typically cover whether people think officers are competent and have the knowledge and skills to enforce the law, maintain high levels of safety, and so forth. One might, for instance, ask respondents:

- ‘If a violent crime were to occur near to where you live and the police were called, do you think they would arrive at the scene quickly?’ (Jackson et al., 2011).
- ‘Imagine you were burgled. How likely do you think it is that the police would conduct a thorough investigation?’

We should also note that criminological studies often address – in addition to effectiveness and procedural fairness – distributive fairness. For instance Reisig et al. (2007) asked respondents to agree or disagree with the following statement: ‘The police provide the same quality of service to all citizens’. Another important element is what Stoutland (2001, p. 233) calls ‘shared priorities and motives.’ In her words: ‘Can we trust the police to share our priorities? To care about our concerns as they plan and implement policies to control crime in our neighbourhood?’ Some indicative measures of shared priorities can be found in Hohl et al. (2010): ‘To what extent do you agree with these statements about the police in this area?’

- (i) ‘They can be relied on to be there when you need them’;
- (ii) ‘They understand the issues that affect this community’;
- (iii) ‘They are dealing with the things that matter to people in this community’; and
- (iv) ‘The police in this area listen to the concerns of local people.’

Thus defined, trust in the police has a trustor (a citizen), a trustee (an officer) and some behavior or outcome that the trustor expects of the trustee (e.g., turning up quickly in an emergency). In the words of Hawdon (2008, p. 186):

Trust is the belief that a person occupying a specific role will perform that role in a manner consistent with the socially defined normative expectations associated with that role ... an officer will be ‘trusted’ when a resident believes he or she will behave in a manner consistent with the *actual role* of police officer. The public expects officers to behave like professional officers, which includes performing their duties ‘within a set of fair, public, and accountable guidelines’ ... If the officer performs in such a manner, he or she will be ‘trusted’ as an officer. Citizens do not simply grant officers trust; instead, officers *earn* trust through their behaviors.

And while trust attitudes are distinct from behaviors that display trust (McEvily, 2011), people may demonstrate their trust behaviorally in actions such as calling the police for help, reporting information about crimes and suspects, encouraging their children to have positive attitudes towards the legal system,

and so on. Here, trust may motivate such behavior because one holds positive expectations about how officers will behave when one comes to rely on their valued actions.

#### *Trust in the general actions of police officers*

While the above definition of trust in the context of legal authority has conceptual clarity, the vast majority of criminological research has adopted a slightly different conceptual and operational position. Survey respondents are typically not asked about their expectations regarding their own personal interactions with law enforcement officers, but rather about how they think the police generally behave. This has alternately been called confidence (e.g., Cao et al., 1996), satisfaction (e.g., Reisig & Parks, 2000), and trust (e.g., Flexon et al., 2009). Examples from these prior studies include:

- ‘Please rate the extent to which police treat people with respect.’ (Reisig et al., 2007)
- ‘How often do the police make fair and impartial decisions in the cases they deal with?’ (Tyler & Jackson, 2014).
- ‘When people call the police for help, how quickly do they respond?’ (Sunshine & Tyler, 2003a).
- ‘How successful do you think the police are at catching people who commit house burglaries?’ (Hough *et al.*, 2013a).

Such questions reference expectations about the behavior of collective actors (the intentions and capabilities of officers) that may correlate quite strongly with more specific expectations about how the police would act *if one were to come into future contact*. But, interestingly, they may also diverge under some important circumstances. Of particular interest is whether the nature of police action and the object of police attention shifts citizens’ expectations about how officers behave under certain conditions. For example, an individual might believe that the police would treat her fairly, but also believe that the police would treat different groups in their community differently (along, for example, lines of the ethnicity or class).

A good deal of research shows that prior personal contact with officers shapes expectations about future behavior from the police (Bradford et al., 2009; Epp et al. 2014; Skogan, 2006). In particular, repeated negative encounters likely play a significant role in shaping trust and legitimacy (Tyler et al., 2014). But it may also be that as an individual has more and more direct negative experience with the police, his or her attitudes towards expected future treatment (to oneself) increasingly diverge from his or her attitudes towards the general behavior of the police (or to people of different social groups). The highly personalized and stigmatizing nature of repeated stops by the police on some community members may produce a specific set of trust attitudes (possibly pertaining to the officers that one regularly encounters) that powerfully influence other beliefs, attitudes, and motivations towards the police and law. In other words, the worse one’s own past treatment has been, the more one may come to view police actions as heavily biased against certain segments of society and preferential toward others. In the context of ongoing discussion in the US and other countries about the chronic effect of multiple unpleasant encounters with the police in some troubled communities, there is a need to better understand how personal experience colors one’s views not only toward trust in future personal interactions but, in addition, beliefs about the general police role in society (Brunson, 2007; Brunson & Gau, 2014; Gau & Brunson, 2010; Geller et al., 2014; Justice & Meares, 2014; Meares, 2014).

### **3. Defining ‘Legitimacy’ in the Context of Legal Authority**

In this section we compare trust in the police – which reflects a ‘leap of faith’ about present and future performance from individual officers in light of normative expectations – to judgements of the legitimacy (the right to power) of the police as an institution. In the words of Tyler (2006b, p. 375): ‘Legitimacy is a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just. Because of legitimacy, people feel that

they ought to defer to decisions and rules, following them voluntarily out of obligation rather than out of fear of punishment or anticipation of reward.’

In this section, we outline the concept of legitimacy—including its three constituent elements found in criminological research (obligation to obey, institutional trust, and normative alignment)—and summarize the common measurement approaches.

### *Legitimacy*

Legitimate authorities govern by the consent of the people; they are those entities to which the citizenry willingly submits. In an open and democratic society, governmental agencies obtain legitimacy by adhering to constitutional law, legislative mandates, and administrative and regulatory procedure. In the context of the police, legitimacy is a property of the institution. Referencing the relationship between power-holders and subordinates, legitimacy has an inherently relational quality. Legal authorities possess a baseline amount of legitimacy via their allegiance to the principles of governmental accountability, yet they also must interface with the public in a manner that evokes positive reactions from those with whom they have contact.

Quite often, legal authorities confront citizens whose needs are far removed from considerations of constitutional law or administrative procedure. Statutes, codes, and court rulings are remote to the person whose immediate concerns involve human conflicts, personal safety, or quality of life. Face-to-face interactions between legal authorities and the members of the public who come before them require moral legitimacy. Police confront myriad situations that require officers to simultaneously enforce the law and serve as mediators or calming presences, and legitimacy is critical in such situations.

Legitimacy is thus integral to an understanding of trust in legal authorities because this context revolves around relationships characterized by power differentials. Trust between two persons of equal social and legal standing is different than the trust a subordinate individual (such as a citizen) places in the hands of a superordinate actor (such as a police officer or the policing institution as a whole). This section attempts to clarify the role of legitimacy in the understanding of trust, claims to rightful authority, and obligations between citizens and the police.

There are three main ways by which criminological work around the world has operationalized police legitimacy. They are:

- (a) felt obligation to obey (a sense that one should defer to a legal authority out of a sense of duty and obligation);
- (b) institutional trust (a sense that police officers wield their power in lawful and appropriate ways); and,
- (c) normative alignment (a sense that police officers’ sense of right and wrong mirrors that of the communities they work in).<sup>1</sup>

A common theme in these three domains is that, as Hawdon (2008, pp. 185-186) argues, ‘It is the institution that is viewed as legitimate or not, not the individual occupying the position.’ Even so, there is some heterogeneity in the scales used to measure legitimacy with respect to the institution involved. Most often it is the police, but sometimes it is the law and law-makers. In each section we discuss representative examples of measures, the domain of meaning that the empirical indicators seem to reference, and issues of dimensionality and scaling. We begin with duty to obey.

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<sup>1</sup> For the sake of brevity we do not discuss one or two additional sub-scales that are occasionally included in measures of legitimacy. For instance Tyler and Fagan (2008) added measures of identification with the police (e.g. ‘Most of the police officers who work in your neighborhood would approve of how you live your life’ and ‘If you talked to most of the police officers who work in your neighborhood, you think you would find they have similar views to your own on many issues’; see also Granot et al., 2014). Piquero et al. (2005) included the following two measures: ‘The police should be allowed to hold a person suspected of a serious crime until they get enough evidence to charge them’ and ‘The police should be allowed to stop people on the street and require them to identify themselves.’ Mazerolle et al. (2013) added measures of ‘negative orientations toward the police’ to the scale of legitimacy, e.g. ‘I personally don’t think there is much the police can do to me to make me obey the law if I don’t want to.’

### *Measuring duty to obey*

From Bottoms and Tankebe's (2012) viewpoint, police officers make claims that they have the right to give orders and the right to expect obedience, even from those who disagree, and people respond positively to these claims by internalizing a duty to obey and comply. Echoing the old adage that power becomes authority when it is seen to be legitimate, if one recognizes the authority of the police, one will defer to the order even if one disagrees with the specific content (Tyler, 2003, 2004, 2009). The acknowledgement of officers' right to issue and enforce commands leads to what Kellman and Hamilton (1989, p. 16) call 'automatic justification' and a contentless duty to obey because 'normal moral principles become inoperative.'

Two connected domains of meaning can be found in the various operational definitions of duty to obey found in the criminological literature. In order of importance ( 'importance' meaning the extent to which each domain tends to dominate the relevant scale or scales) these are:

- a) one's duty to obey the police, even if one disagrees with the content; and,
- b) one's duty to obey the law, even if one disagrees with the substance.

At the center of (a) is an affirmative sense of obligation to comply with police directives irrespective of the content of these orders. Some representative examples of attitudinal statements are: 'You should accept the decisions made by police, even if you think they are wrong' (Sunshine & Tyler, 2003a); 'To what extent is it your duty to do what the police tell you even if you don't understand or agree with the reasons?' (Hough et al., 2013b); 'You should obey police decisions because that is the right and proper thing to do' (Tankebe, 2013); 'I feel that I should accept the decisions made by legal authorities' (Kochel, 2012); 'It would be hard to justify disobeying a police officer' (Gau, 2013); and 'I feel a moral obligation to obey the police' (Antrobus et al., 2015).<sup>2</sup> This is legitimacy as authorization, constraint, and a sense of civic responsibility: if one believes that authorities have the right to dictate appropriate behavior, one feels a correspondingly positive duty to obey.

At the center of (b) is a positive sense of obligation to comply with the law. Some representative examples of are 'Laws are made to be broken' (Jackson et al., 2012a) and 'People should obey the law even it goes against what they think is right' (Johnson et al., 2014). Note that some studies proclaim to be measuring police legitimacy but include measures of legal legitimacy (often without explaining exactly why). Note also that these items are sometimes referred to as capturing legal cynicism (e.g. 'law or rules are not considered binding in the existential, present lives of [people]', Sampson & Bartusch, 1998) and sometimes referred to as capturing legal legitimacy (e.g. the internalization of the moral value that one should obey the law simply because it's the law).

What about scaling? Let us assume for one moment that (a) duty to obey the police and (b) duty to obey the law represent two facets of one organising psychological state (legitimacy as deference to external legal authority). Some researchers have combined *all* of the items into a single additive index, taking a formative approach to measurement that treats the measures as 'composite indicators' (in the words of Bollen & Bauldry, 2011). Tyler and Jackson (2014), for example, defined duty to obey as *a priori* unidimensional and then defined it using the summed mean of people's answers to questions about legal legitimacy, police legitimacy, and court legitimacy. The resulting formative index – fixed by the subscales used to determine it – references a positive duty to obey the law, the police, and the courts (again, along one single dimension).<sup>3</sup>

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<sup>2</sup> There is some debate in the criminological literature as to whether these measures really do capture a sense of truly free consent (see Bottoms & Tankebe, 2012; Tyler & Jackson, 2013; Tankebe, 2013; Johnson et al., 2014). It is certainly important to define the concept clearly and phrase the survey questions appropriately. If one wanted to stress willing constraint one might try to avoid questions like Tankebe's (2013: 116): 'People like me have no choice but to obey the directives of the police' and use instead questions like: 'I feel a moral obligation to obey the police' (Bradford et al., 2015, p. 17).

<sup>3</sup> Other researchers have used a reflective approach to measurement, treating the measures as 'causal indicators' reflecting one or more underlying latent construct. A reflective approach to measurement means that dimensionality becomes a particularly

### *Measuring institutional trust*

What about the second aspect of police legitimacy? One way of operationalizing the belief that an institution is ‘appropriate, proper and just’ is to ask citizens whether they believe officers can be trusted to wield their power in lawful and appropriate ways (what is called institutional trust in the criminological literature). Thus, expectations about police behavior may be seen to overlap with the belief that the institution’s power is rightfully held. Institutional trust reflects the belief that institutions have the right to power because police officers can be trusted to wield their authority appropriately. Looking across the literature, we find three connected domains of meaning regarding institutional trust. In order of importance, these are:

- (a) the belief that officers use their power in restrained and appropriate ways;
- (b) confidence that the police are doing the right things for the community; and,
- (c) the belief that people in power respect the rule of law.

Some representative examples of (a) are: ‘People’s basic rights are well protected by the police’ (Reisig et al., 2007); ‘When the police deal with people they almost always behave according to the law’ (Tyler & Jackson, 2014); and ‘The police in your neighborhood are generally honest’ (Sunshine & Tyler, 2003a). Some representative examples of (b) are: ‘Most police officers in your community do their job well’ (Gau, 2013); ‘The police can be trusted to make decisions that are right for your community’ (Reisig et al., 2007); ‘The police care about the well-being of everyone they deal with’ (Tyler & Fagan, 2008); and ‘The police try to find the best solution for people’s problems’ (Jackson et al., 2014). Finally, at the center of (c) is the belief that people in power do not abuse their position and that the legal system benefits and protects all. Some representative examples are: ‘People in power use the law to try to control people like you’ (Sunshine & Tyler, 2003a); ‘The law represents the values of the people in power rather than the values of people like me’ (Johnson et al., 2014); and ‘The justice system and the laws in society are not in the interests, nor in favor, of persons like me’ (Johnson et al., 2014). Note that these measures typically do not reference the police, but rather the legal system, people in power, and the law.

These survey questions can be assumed to measure the appropriateness of the institution because they reference the expectation that the police use their power in lawful and appropriate ways that benefit the community and society. To be sure, the second aspect (confidence in the police) overlaps perhaps a little too much with some of the measures reviewed in Section 2. But the sentiments captured in many of the items do seem to accord with widely held expectations about how power-holders should act if they are to demonstrate their rightful authority to citizens – to the belief that legal authorities ‘conform to accepted beliefs about the rightful source of authority and the proper ends or purposes of powers and standards in its exercise’ (Beetham 2013). We might thus reasonably assume that the institution is seen as desirable, proper, and appropriate by citizens when those citizens believe that officials who embody the institution wield their power in normatively acceptable ways (e.g. by respecting people’s basic rights and acting within the law).

How are institutional trust items generally scaled? One common approach is to combine the institutional trust indicators with the duty to obey indicators to create one single formative index (see, e.g., Huq et al., 2011a, 2011b; Sunshine & Tyler, 2003; Tyler, 2006a; Tyler et al., 2010). Similarly, Papachristos et al. (2012) and Jackson et al. (2013) used a single index of legitimacy that included measures of normative alignment and lawfulness, while Tyler et al. (2014) combined indicators of felt duty, institutional trust, and normative alignment into one additive index.<sup>4</sup> Other studies have taken a

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important empirical issue. For instance, Johnson et al. (2014) fitted a series of confirmatory factor analysis models to indicators of duty to obey. They found that the associations between the various indicators of duty to obey could be explained by the mutual dependence of the item responses on not one but two underlying latent constructs. Because of the content coverage of the relevant items, they labelled two unobserved latent constructs as ‘obligation to obey’ and ‘cynicism about the law.’

<sup>4</sup> The exceptions have typically measured legitimacy using only institutional trust indicators. See for example Jonathan-Zamir & Weisburd, 2013; Tankebe, 2009; and Murphy et al., 2009.

reflective approach to measurement, examining the dimensionality of the data using latent variable modelling, with obligation and institutional trust typically loading on two different underlying factors (see, e.g., Gau, 2011; Jackson et al., 2015; Johnson et al., 2014; Reisig et al., 2007).

### *Measuring normative alignment*

Another way of operationalizing the belief that the police have the right to exercise power is to focus on whether officers have an appropriate sense of right and wrong. Here, 'appropriate' is defined along the lines of shared moral values. Like institutional trust, this is the belief that the police are just. But normative alignment is unique in that it references the belief that officers are policing a particular community in ways that align with the normative and ethical frameworks of that community.<sup>5</sup> There is a strong echo of the notion of 'policing by consent.' One of the sentiments underpinning policing by consent is: '...the police are the people and the people are the police, the police being only members of the public to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence' (e.g. Reith, 1952: 154). On this account, to warrant their power and position in society in the eyes of citizens, police need to accord with expectations about appropriate moral conduct as they protect and regulate the community.

In a series of European studies (see Round 5 of the European Social Survey, e.g. Hough et al., 2013a, 2013b) and recent work from the UK (e.g. Jackson et al., 2012a, 2012b), US (Tyler & Jackson, 2014; Tyler et al., 2014), and South Africa (Bradford et al., 2014a), survey respondents were asked questions like 'The police usually act in ways that are consistent with my own ideas about what is right and wrong' (Tyler et al., 2014), 'The police generally have the same sense of right and wrong as I do' (Bradford et al., 2014a), 'The police can be trusted to make decisions that are right for people in my neighbourhood' (Jackson et al., 2012b), and 'The police stand up for values that are important to you' (Tyler & Jackson, 2014).<sup>6</sup>

As with institutional trust, the idea is that people judge the appropriateness of the police as an institution on the basis of the appropriateness of officers. But rather than the belief that officers conform to normative expectations about appropriate power possession, normative alignment is about whether officers align with citizens' moral principles. To paraphrase Kaina (2008, p. 514), one might say that normative alignment is the reflection of norms, while institutional trust is performance in light of norms.<sup>7</sup> Normative alignment embodies the assumption that the value system of an institution aligns with one's own (does the police as an institution 'conform to my own sense of what is right and proper?') while institutional trust reflects the behavior that the assumed value system shapes (does the police as an

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<sup>5</sup> The idea that legitimacy is partly about shared values can be traced back by Beetham (1991). For further discussion, see Jackson et al. (2011), Bottoms and Tankebe (2012), Tankebe (2013), Tyler and Jackson (2013), Bradford et al. (2014c) and some of the chapters in Tankebe and Liebling (2013).

<sup>6</sup> The first studies to measure a sense of shared values between citizens and police (Sunshine & Tyler, 2003b; Jackson & Sunshine, 2007) addressed the idea that people look to the police to be prototypical representatives of a group's moral values. According to Sunshine and Tyler (2003b, p. 156) moral solidarity with legal authorities is 'the belief that the values and tenets of law enforcement authorities are consistent with one's personal beliefs about right and wrong, as well as with the group's normative values.' To explore the idea that people look to the police to defend, represent, and typify group morals and values, Jackson and Sunshine (2007: 223) used similar measures, albeit ones that focused exclusively on identification with police values, e.g. 'I imagine that the values of most of the police officers who work in my neighbourhood are very similar to my own.'

<sup>7</sup> We should be clear about Kaina's (2008) argument. She takes the position that institutional trust and legitimacy are actually quite different constructs. According to Kaina (*ibid*: 514) institutional trust: '...reflects someone's belief that those institutions perform 'in accordance with [his] normative expectations' (Miller & Listhaug 1990: 358; emphasis added)'. By contrast, legitimacy is 'someone's conviction that those institutions are 'confirming to his [sic] own moral principles, his [sic] own sense of what is right and proper' (Easton, 1979: 278).' She goes on say: 'Both institutional legitimacy and institutional trust refer to norms, and perhaps this is the reason for some conceptual confusion. There is nonetheless a fundamental difference between institutional legitimacy and institutional trust: Whereas the first stands for a *reflection* of norms, the second is related to *performance* in light of certain norms' (Kaina, 2008: 514). On this account, 'institution legitimacy becomes a precondition of institutional trust because beliefs of institutional legitimacy define specific behavioral expectations of how representatives of those institutions are supposed to act, as well as the benchmark for the trustworthiness of those representations' (*ibid*: 514-515).

institution meet ‘my expectations deriving from those normative principles’?). One believes that officers are moral insofar as one believes that officers can be trusted to respect people’s basic rights.<sup>8</sup>

#### **4. On the Motivating Power of Trust and Legitimacy**

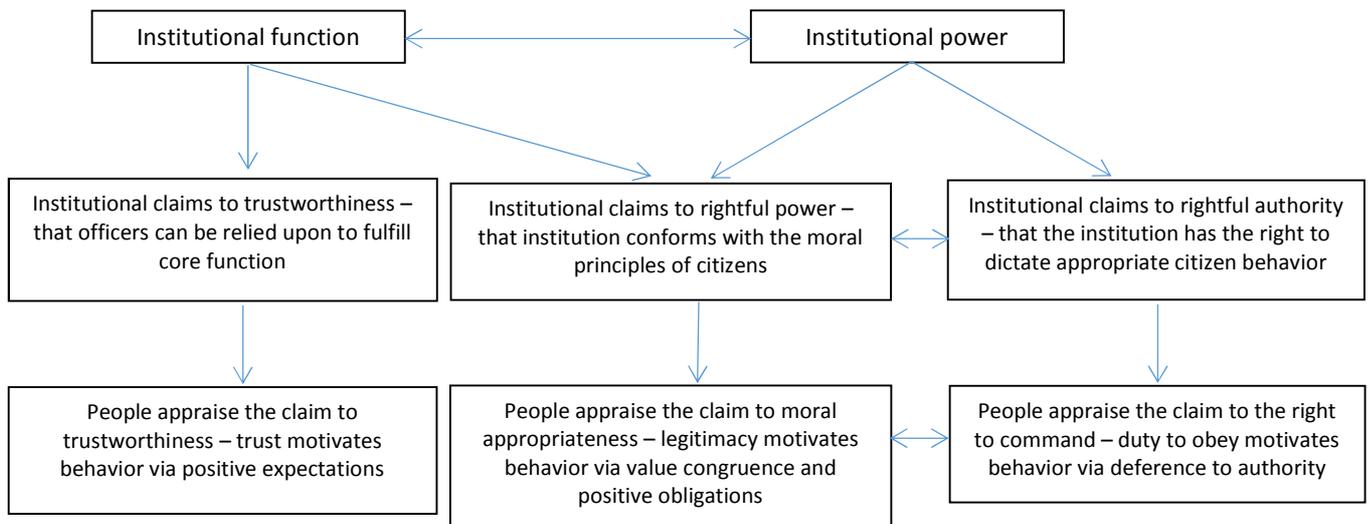
Thus far in this chapter we have reviewed conceptual and operational definitions of trust and legitimacy. We have argued that the two concepts can to some degree be seen as distinct. Trust is a subjective judgment formed at the micro level (that is, between individual citizens and officers) while legitimacy is a property possessed at the institutional level (the citizenry’s belief that the police institution rightfully holds and exercises power over the public). Yet, they are interdependent in the context of legal authorities. A relationship defined by a power differential between a subordinate and a superordinate relies upon the simultaneous existence of both trust and legitimacy.

We turn in the rest of this chapter to different ways in which trust and legitimacy may motivate behavior. Drawing on prior investigations into the nature of legitimacy as a psychological state (Jackson, 2015; Jackson et al., 2012a, 2012b; Tyler, 2006a, 2006b) we consider some of the law-related behaviors that support the functioning of the justice system. These include cooperation with the police (reporting crimes, etc.) and compliance with the law. We consider trust first, legitimacy as normative justifiability of power second, and legitimacy as duty to obey third. Figure 2 provides an organizing conceptual schema capturing the claims that legal authorities make to citizens, and how public responses to such claims may variously motivate behavior.

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<sup>8</sup> There is a parallel here to work on trust that looks at value similarity as an antecedent of trust (see Earle, 2011, for a review), where a sense of shared values is assumed to drive judgments of the competence and benevolence of actors and institutions. In the current context it may be that a sense of shared moral values with officers drives people’s more specific beliefs about how officers wield their power. For instance, if one believes that local officers do not have an appropriate sense of right and wrong one might therefore also believe that officers do not respect people’s basic rights, demonstrate explicit racial bias in their interactions with community members, and so forth.

**Figure 2:** A conceptual model of public trust and institutional legitimacy in the context of the police



*On the Motivating Power of Trust*

In Figure 2, we link institutional function to police claims to citizens that they can be relied upon to be effective, fair, and responsive. People respond to these claims through their subjective trust attitudes (to paraphrase Bottoms and Tankebe, 2012); when people believe that the police can be trusted to fulfil their various functions, they hold a set of positive expectations about how officers will act if one were to come into future contact (positive expectations about future behavior regarding oneself) as well as how officers generally act (positive expectations about current behavior regarding people in general). Trust may then motivate behavior via a sense that officers will ‘do their bit.’ People will be more willing to report crime to the police when they have some faith that officers will investigate, be professional, be fair, treat one respectfully, and so forth. This may be faith with respect to ‘positive goods’: when one has positive expectations, one sees, for example, the point of calling the emergency number to report a crime because the call will be answered and action will be taken. But trust can also be seen as the *willingness to be vulnerable* because to trust is to assume that one will not receive bad treatment and bad outcomes if one put oneself in a particular situation. When one has positive expectations, one will call the police in part because one assumes that officers will not be rude, disrespectful, biased, and so forth, so one is not putting oneself at risk.

*On the Motivating Power of Normative Justifiability of Power*

The first aspect of legitimacy is the judgment of appropriateness and normative justification of power. Prior studies have assumed that people believe that the police have the right to exercise power (an abstract judgment about the institution more broadly) when individual officers demonstrate to citizens that the institution is moral, right, and proper (the moral grounding of the actions of, and values expressed by, police officers is something more tangible, that people can see and experience). If one were to operationalize people’s sense of the moral grounding of police officers through the lens of institutional trust, one would ask people whether they believe that police officers can be trusted to use their power appropriately. If one were to operationalize people’s sense of police officers’ moral grounding through the lens of normative alignment, one would ask people whether they believe that police officers’ have an appropriate sense of right and wrong. Why might normative justifiability of power motivate behavior? Through value congruence and a sense of duty and social responsibility. The rightfulness of the institution – a belief that the police have the properties that are right for their specific purpose – manifests in a sense among citizens that the police represent and defend their moral values, strengthening the civic duties that surround the institution. For example, one might call the police and give them valuable information

because one believes that the police represent and defend one's own moral values and to assist them is to assist a 'mutually beneficial and just scheme of social cooperation' (Rawls, 1964: 9).

#### *On the Motivating Power of Duty to Obey*

In terms of duty to obey, power-holders make claims to rightful authority, and if people respond positively they feel a civic obligation to be deferent and limit their behavior in ways that are expected. Duty to obey motivates behavior not because people have positive expectations about how officers will behave in the future, nor solely because they believe the institution itself is moral, right, and proper, but instead because they have internalized a sense of willing constraint and deference. Take compliance with police directives. Requests for self-control are an important part of policing activities and tactics. If people feel a duty to obey the police, they will comply with these requests. Duty to obey is content-free because people authorize legal authorities to dictate appropriate behavior (Tyler, 2006a, 2006b). Felt obligation to obey shapes compliance through the internalization of the overarching moral value that one should obey external authority (Tyler, 1997, 2011a, 2011b).

### **5. Final Words: Bringing Everything Together**

In this chapter, we have reviewed conceptual and operational definitions of trust and legitimacy in the context of public attitudes towards policing. Building on prior reviews (Bottoms & Tankebe, 2012; Hawdon, 2008; Tyler & Jackson, 2013) and prior methodological investigations (Gau, 2011, 2014; Hough et al., 2013a, 2013b; Jackson et al., 2012a, 2012b; Johnson et al., 2014; Reising et al., 2007; Reising & Lloyd, 2009; Stoutland, 2001; Tankebe, 2013) we have tried to locate the points at which trust and legitimacy differ and the points at which they overlap. On the one hand, we have examined the claim that trust at its 'cleanest' (in terms of conceptual clarity) is positive expectations about future behavior from individual officers, while legitimacy is about the rightfulness of institutional power. On the other hand, we considered the idea that, because it is individual officers who wield institutional power, it is at this point that trust and legitimacy overlap, where legitimacy as moral endorsement and normative alignment relates in part to whether people believe that police officers have demonstrated their moral validity to citizens.

These predispositions are affected by police officer action: legitimacy is won and lost in an ongoing dialogue between power-holders and subordinates (Bottoms & Tankebe, 2012; Tyler, 1997). An important direction for future research in this area is to focus on different ways by which trust and legitimacy can motivate law-related behavior. Why do citizens act in ways that support a trustworthy and legitimate legal system? How can institutions encourage such behavior? We recommend studies that examine whether these different motivations are indeed evident and distinct, what behaviors are motivated by each, and under what conditions.

We also suggest a bit of 'house-cleaning' when it comes to measurement. From our review of the measures of institutional trust and legitimacy, it is clear that there is some overlap. For instance, it may be helpful in future research if scales of institutional trust (when assumed to reference the normative justifiability of police power) focus only on the restrained use of power, and that measures of duty to obey avoid questions about the restrained use of power.

On a final note, we have enlisted key concepts from sociological, criminological, and social-psychological work to illustrate how these ideas, definitions, and measurement schemes might contribute to an improved understanding of trust, legitimacy, and the relationship between the two. These ideas, of course, are proposals rather than conclusions; our goal has been to continue the conversation about key concepts and appropriate measurement strategies. Such a line of inquiry may yield some important understandings of the role of trust and legitimacy in the relationship between legal authorities and those they govern.

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