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## **Trust in justice**

Ben Bradford, Jonathan Jackson and Mike Hough

### **Abstract**

This article considers what it means for citizens to trust the police and criminal courts. First, a broad definition of trust is outlined. Four theories of trust formation and reproduction are then used to derive a set of propositions concerning the sources of trust in the legal system and the factors that sustain and/or undermine it. A brief review of existing criminological research that provides evidence as to the relevance of these factors is also provided. The article closes with a discussion of the relationship between the concepts of trust and legitimacy in the context of the criminal justice system.

### **Keywords**

Police; courts; criminal justice system; trust; legitimacy.

The issue of public trust in the police is a mainstay of criminological research. The 1983 Policing for London study (Smith and Gray 1985) heralded a run of books, journal articles and research reports that continues to this day in the United Kingdom. A similar research tradition exists in the United States, Canada and other Anglophone countries. Scholars from across the world have started to assess public trust in the police in their own country (e.g. Tankebe, 2009; Kochel et al. 2013; Jonathan-Zamir and Weisburd 2013; Bradford et al. 2014; Cheng 2015) and mount ambitious comparative analyses spanning multiple jurisdictions (Jackson et al. 2011; Hough et al. 2013; Nivette 2016). And while the tradition of research into trust in the courts is less well developed, with research into trust in other aspects of the criminal justice system even less so, interest here too has been relatively consistent over the years. In the United States, for example, Gallup have included a measure of ‘trust and confidence’ in the judicial branch of the federal government in national polls since 1972.

While many issues motivate scholarly interest in this topic, two are of most note. First, there is a widespread acceptance in academic and policy circles that it is

normatively desirable that people should be able to trust a justice system that has an unusually intrusive set of powers to coerce, detain (and protect) them. People have the right to live in a society that has justice institutions that that can be trusted; at the very least the absence of trust indicates a problematic relationship between citizens and legal authorities. Second, the legal systems of democratic countries require, as a matter of empirical fact, the trust of citizens to function. Police and courts need the cooperation of citizens as providers of information, as witnesses, as jurors, and as assistants in the reproduction of order. People are unlikely to report a crime to the police, for instance, if they distrust officers to act effectively and fairly.

In this article we consider what it means for citizens to trust the police and criminal courts. We outline our broad understanding of trust as a concept; we consider the relevance of four theories of trust formation and reproduction; we use these theories to derive a set of propositions concerning the sources of trust in the legal system and the factors that sustain and/or undermine it; and we provide a brief review of existing criminological research that provides evidence as to the relevance of these factors. The article closes with a discussion of some of the similarities and differences between trust and legitimacy in the context of a system of authority-relations that is founded on both consent and coercion.

### **Trust in justice institutions**

Consider first what PytlikZillig et al. (2015), in their review of reviews, describe as the triad of subject (a trustor), object (a trustee) and relationship (interdependent but involving some degree of risk and shared interest). The *subject* (trustor) that concerns us here is the citizen: as an individual able to make free choices based, in part, on rational calculation; as a person with a particular personal background, trajectory and set of motivations; and as a member of various social groups that structure, enable and constrain attitudes and possibilities for action in multiple ways and at multiple levels.

The *object* (trustee) is the relevant criminal justice agency. Some of these have the characteristic of being at once an organization *and* an institution. They comprise particular ‘real’ organizational entities (e.g. a specific police force) that are to a significant degree coterminous with institutions (e.g. “the police”), where the latter are

defined as “... interlocking double-structure(s) of persons-as-role-holders or office-bearers ... and of social practices involving both expressive and practical aims and outcomes” (Harre 1979: 98). One implication of this is, for example, that any one police organization (the London Metropolitan Police Service, say, or the New York Police Department) can and does ‘stand’ in the eyes of citizens for the institution of police, and therefore perhaps for other police organizations in the same jurisdiction. Symmetrically, people’s (imagined) relationship with the institution of police will colour their relationships with specific police organizations. In this article we use, primarily, the abstract language of ‘institutions’ and ‘authorities’, but it is important to remember that the discussion likely applies also to organizations.

While some have argued that it makes little sense to talk of trust in institutions (e.g. Hardin 2013), not least because it is difficult to conceive of institutions as “caring” or “intending” (PytlikZillig et al. 2015: 11), we share the view of PytlikZillig and colleagues that it is meaningful to talk of institutional trust precisely because people anthropomorphize institutions. This point is especially relevant in the context of policing, where the image of the police officer, as well as of particular police organizations, is steeped in social and cultural meaning, where the individual actor represents and embodies the institution to a significant degree, and where the police comprise a visible, apprehendable presence in the lives of most citizens that is not ‘faceless,’ but is instead associated with a variety of more or less imagined, but nevertheless ‘real’, social personas.

Relevant here is Hardin’s (2006) suggestion that stereotyping is important in the development of trust relations, at least in as much that stereotypes can be used to help form trust judgments when other sources of information are lacking. People have a range of stereotypical views of ‘the police officer’ – positive ones might include figures of authority in their neighbourhood (Sunshine and Tyler 2003), an avuncular representative of community (Reiner 2010), and an effective crime fighter – and at least some of these positive views may promote trust. The figure of the judge may provide a similar personification, this time of the court system, providing a basis of a set of similarly stereotyped assumptions in relation to fairness and impartiality, as well, perhaps, as some

less positive stereotypes concerning elitism, class prejudice and a lack of awareness of the modern world.

Finally, *relationship* refers to the interdependence of subject and object without which it makes little or no sense to talk of trust, and here again, we follow PytlikZillig et al. (2015:11) and others (e.g. Schoorman et al. 2015) in suggesting that, while trust is by definition relational, it is not necessarily reciprocal, in that it is meaningful to speak of the subject trusting the object even where the object does not, and even cannot, trust the subject. This distinction is clearly relevant in the current context – while individual police officers may or not trust citizens or ‘the public’, it would take a significant conceptual leap to suggest that ‘the police’, as organization or institution, can or might trust individual citizens.

#### *Willingness to be vulnerable*

The second way in which we draw on PytlikZillig et al.’s review is in following the definition of trust that is attracting a growing consensus in the literature. People who trust criminal justice institutions are ‘...willing to rely upon, give control to, or otherwise ‘be vulnerable to’” those institutions under conditions of risk’ (2015: 9). Thus envisaged, trust in legal authorities involves consideration of both (i) the future behaviour of specific individual actors whom one can come to rely upon for valued actions or outcomes, and (ii) beliefs about the behaviour of ‘role-holders’ (e.g. police officers, judges) in relation to social regulation and the production of order. For example, people who trust the police are willing to rely upon and be vulnerable towards the police, whether this means specific officers or the institution of “police”. Such trust refers, on the face of it, to both the ability of officers to intrude in people’s lives to enforce the law and the power of officers to control crime and maintain order – to police behaviour, that is, that might produce valued outcomes in which the individual has a significant stake and which are inherently ‘risky’ (not least because such efforts might fail or the individual might find themselves on the wrong end of police *mis*behaviour).

From this perspective, trust in criminal justice actors is a process (PytlikZillig et al 2015: 29) that resides not simply in people’s attitudes or orientations toward the police or courts, nor solely in the actions they take in relation to these institutions, but in the

more complex interplay between the two. PytlikZillig and colleagues refer to Möllering (2013) to expand this point, arguing that:

“...trust-as-process includes recognizing that ‘trusting’ involves both mental and social processes (i.e. both psychological and behavioural aspects), occurs and changes over time, involves information processing and learning (e.g. about trustworthiness, risk and contexts of trust), and also can result in – for the trustor and the trustee – changed personal identities and institutional structures and practices” (2015: 30)

It is this understanding of trust that informs our discussion of the ways in which trust in criminal justice institutions is generated, reproduced and (perhaps) undermined, and to thinking about what it *means* to trust the police or courts. To organise this discussion we draw on four theories of trust that attend not only to what trust is, but also (and more importantly) to how it is formed, reproduced or lost:

- the relational account associated with theorists such as Russell Hardin (2006);
- the value-based notion propounded by Eric Uslaner (2002);
- Anthony Giddens’s (1991) concept of trust as a complexity-reducing mechanism; and,
- research in social psychology that stresses that trust emerges from value-bearing narratives (Earle and Cvetkovich 1995).

We choose these four accounts because they complement, as well as contrast with, one another in different ways – and because each has something to say about the ways in which trust in the police and courts might vary over space and time (see Bradford et al. 2016 for an empirical application of some of the ideas outlined below).

### *Institutions of justice*

At the outset, we should say that we do not address trust *in the law*, because to our minds it makes little sense to say that someone trusts the law. The law is an enforceable code of

conduct that represents a set of legal duties. The law is not a trustee; it has no agency or independent volition. One does not rely on the behaviour *of* the law, nor can one be vulnerable in relation *to* the law. While trust does not need to be entirely reciprocal, the trustee does need to be an intentional actor. One could break the law or be falsely accused, and feel vulnerable to potential actions from law enforcement and courts officials, but that refers to trust in institutions that administrate justice, not to trust in the law. The law is like a heavy rock – it can harm or crush a person, but it has to be moved by another in order to do so.

Before we consider the four perspectives on trust, we should also draw out some preliminary differences between the police and courts. First, while both are popular topics of TV and film drama, citizens generally have more personal knowledge of – and interaction with – police officers compared to judges and court officials. Second, police have regulatory power over us in many walks of life, but court officials only have such power in a court situation. This means that people are more routinely exposed to police authority than that of the courts. Third, both the police and courts engage in social regulation, the administration of justice, and the production of order, but citizens are more reliant on the police (a more salient and pervasive social control mechanism) and police are more reliant on citizens. The degree of interdependence between trustor and trustee will be stronger with respect to the police compared with court officials.

Throughout the following discussion we assume that people have a tendency to anthropomorphize in a way that conflates individual actor and institution; by which we mean that while they may, in a given context, focus on individual actors, these always embody to some extent the institution. Conversely, people draw inferences about the trustworthiness of particular police officers and court officials, and will act in ways that represent a willingness to be vulnerable to these individuals, based on their conception of the wider institutions. The intentions and capabilities of individual actors will be important not only in their own right but also because they stand for the intentions and capabilities of the relevant institution (and vice versa), although this is not to claim that people are not capable of drawing a distinction between the individual officers, particular organizations, and the institution as a whole.

## Four perspectives on trust in the police and courts

### *Knowledge-based, relational, trust*

Hardin makes three claims about trust that are particularly relevant for current purposes. First, he stresses that trust is based in knowledge of other's trustworthiness; trust is cognitive since it depends on judgements about character of the potentially trusted other. "To say we trust you means we believe you have the right intentions toward us and that you are competent to do what we trust you to do" (Hardin 2006: 17). The trustor does not *choose* to trust; relevant knowledge of the abilities and intentions of the trustee instead *comprise* trust. Trust thus emerges when the trustor has relevant knowledge about the trustee (or does not emerge, if what they know about a potential trustee does not indicate capability and/or appropriate intentions). An important aside is that trust is here both past- and future-oriented (or as Hardin puts it, trust is based in assessments and expectations); knowledge of abilities and intentions refer to events and experiences that have already taken place, yet also comprise assumptions about events yet to transpire. Both factors must be present in people's minds for us to consider their knowledge constitutive of trust.

Second, Hardin places emphasis on the relational aspect of trust that is formed and maintained because both parties have an interest in maintaining a reciprocal relationship with the other. The trustor has a need to trust the trustee, a reason for coming to a judgement about their abilities and intentions, that is inevitably future-oriented. We need trust when we need to make judgements about the likely future behavior of another, but equally, the trustee must know something of the trustor to be able to anticipate their needs and priorities (to be able to have the right intentions in relation to their interests) and must also have an interest maintaining their relationship with the trustor. Without such a need, they would have no reason to demonstrate competency and right intentions. It is for this reason that Hardin speaks of trust as encapsulated interests – I trust you when "you *encapsulate* my interest in your own" (2006: 8, emphasis in original).

This idea sits comfortably alongside many years of research that has shown, first, the importance of trust in shaping the legitimacy criminal justice institutions require for their continued existence (Jackson et al. 2012; Tyler and Huo 2002) and second, the



extent to which criminal justice agencies expend time and effort attempting to convince those they govern that they are, indeed, trustworthy (Hohl et al. 2010; Mawby 2002; Salisbury 2004; Singer and Cooper 2008). Criminal justice agencies in democratic states rely on the trust of citizens to a significant degree; at the very least, their job is made that much harder when trust is low. Police and other criminal justice actors therefore have an active interest in encapsulating the interests of citizens within their own and acting in ways that generate and reproduce trust among those they govern (which is not to claim, of course, that police and courts do not frequently behave in ways that undermine trust).

Third, if “we trust only those with whom we have a rich enough relationship to judge them trustworthy” (Hardin 2006: 18) then trust is based in pre-existing relationships that both parties imagine will continue into the future. If this were not the case, there would be no reason for the trustee to behave in a relationship-maintaining fashion, i.e. do what they were trusted to do, and/or the cognitive condition of trust would not arise because the trustor would not need to come to a judgement about ability and intentions. An important implication of Hardin’s notion of trust is, therefore, that personal experience matters with regard to trust as well as future willingness to cooperate with the police. Direct contact with potential trust objects is an important moment in which information is gathered on which subsequent trust judgements can be based. This accords with a significant volume of research demonstrating a strong set of association between personal contact with police, trust and willingness to cooperate with the police in the future (Skogan 2006; Bradford et al. 2009; Jackson et al. 2013; Bradford and Myhill 2014, and see below).

### *Trust as moral value*

A quite different view of trust emerges from the work of Eric Uslaner (2002). Starting from an explicit critique of the notion of ‘knowledge-based’ or strategic trust, Uslaner posits that trust is first and foremost a moral value, based not in personal experiences, but in a particular view of life: “trust is not about having faith in particular people or even groups of people. It is a general outlook on human nature and mostly does not depend upon personal experiences or upon the assumption that others are trustworthy” (2002: 17). On this account, trust primarily emerges from a moral viewpoint that will be

unevenly distributed across a given population and which suggests others are worthy recipients of trust, premised on a:

“belief that others share your fundamental moral values and therefore should be treated as you would wish to be treated by them. The values they share may vary from person to person. What matters is a sense of connection with others because you see them as members of your community whose interests must be taken seriously” (2002: 18).

Uslaner develops this idea in a variety of ways pertinent to the current discussion. On the one hand, he quotes Fukuyama: “Trust arises when a community shares a set of moral values in such a way as to create regular expectations of regular and honest behaviour” (1995: 153). A measure of fundamental similarity between trustor and trustee is supposed, and there is also, as with Hardin, an emphasis on standardized and familiar contexts that allow regular expectations to be formed. On the other hand, he stresses that moralistic trust is based on a general expectation of the goodwill of others (2002: 18). All *this* aspect of trust rests on is a sense of general shared humanity; it does not require, for example, a pre-existing community and shared set of moral values. An important implication here would seem to be that personal experience of potential trust object is less important (compared to Hardin’s account), since trust is based on judgements about intrinsic moral worthiness rather than performance or behaviour.

Uslaner also draws a strong distinction between particularized and generalized trust. Particularized trustors draw the boundaries of the moral community tight; they include only family and immediate friends in their moral community – only these people are seen to be worthy of trust based on moral values. For particularized trustors, strategic trust is relatively more important, and they will in a general sense be less trusting since they believe the number of people it is *worth* trusting is small. Generalized trustors, by contrast, draw the boundaries of the moral community more widely. They include many more, and even all, people in their moral community; moralistic trust is therefore more important for them. Generalized trustors are inclined, indeed motivated, to trust a much wider range of individuals and corporate actors than particularized trustors. Finally,

generalized trust is ‘thin’, based only loosely on social ties, and particularized trust is ‘thick’, based on strong social ties. Particularized trust is also ubiquitous, since almost everyone trusts someone, and, Uslaner seems to suggest, stronger since “We place our highest levels of trust in people we interact with most closely and who are most like ourselves” (30); in addition, “We are predisposed to trust our own kind more than out-groups” (31).

Uslaner thus develops a notion of trust that has much in common with that developed in the literature on procedural justice. Drawing on the seminal work of Tom Tyler and colleagues (e.g. Tyler 2006; Tyler and Blader 2000; Tyler and Huo 2002), this literature is primarily concerned with the importance of procedural fairness – a term which relates to notions of respect, dignity, voice, equity and neutrality – to people when they are interacting with authority figures such as, precisely, police officers. A large corpus of empirical work has found that in their dealings with legal authorities people appear to place more emphasis on the fairness of the process than on the outcome obtained, and when they feel fairly treated they are more likely to trust, legitimize and cooperate with the authority. The importance of fairness in people’s relationships with legal authorities revolves around the fact that those authorities represent social groups most find important, which have been variously characterized as the nation, the state or the community. When authorities treat people fairly it communicates a sense of shared group membership (Bradford et al. 2014) and that the authority is a ‘proto-typical’ representative of the group (Sunshine and Tyler 2003). In other words, procedural justice strengthens the bonds between individual and authority and motivates a sense that they have a shared social identity. This, in turn, encourages a sense of trust, particularly in relation to perceptions of the motives the authority (Tyler and Huo 2002) precisely because, in Uslaner’s terms, it encourages a sense that authority figures are in an important sense ‘like us’.

#### *Trust as complexity reduction mechanism*

The third notion of trust considered here comes from the work of Anthony Giddens. Concerned with the ways people react to, deal with and at least some of the time benefit from the conditions of ‘high modernity’, in *Modernity and Self-Identity* (1991) Giddens

positions trust as a characteristic of the individual – or a facet of individual behaviour – which enables people living under the otherwise overwhelming complexity of the late modern condition to ‘bracket out’ this complexity and thus experience the world as understandable, coherent to and manageable by human actors. Trust provides for a sense of “ontological security” and is an aspect of the individual’s “practical consciousness” (Giddens 1991: 36) that allows them to act despite the complexity of modern life.

This capacity is linked explicitly to the pre-eminence of expert systems in high modernity. These are forms of technical knowledge and practice that have “validity independent of the practitioners and clients that make use of them” (ibid: 18), which channel and make useful the vastly increased store of human knowledge and potential in a process that relies on people’s willingness to trust the system rather than the individual. On this account, one reason why modern health systems, to take an institution unrelated to the justice system, are so effective and empowering is because we trust health institutions – as systems of expert knowledge – independently of our knowledge of individual health practitioners. Without such trust – or when it is undermined for some reason – our propensity and ability to make use of the health system is diminished because it has become ‘disembedded’ (ibid.) from our immediate social contexts and knowledge of individual people. The health system does not and cannot rely on immediate social bonds between actors to function, and we cannot rely on our relationships with specific individuals to use it. In short, we trust ‘doctors’ (as well as, frequently, ‘this doctor’ – individual relationships of course continue to play a role) and this trust enables action. If we do *not* trust doctors, conversely, an avenue for action is closed off, or at least obstructed.

The resonance here with policing and the provision of security is strong. Acting ‘as if’ we *know* justice institutions can provide at least a basic level of security – or, more concretely, that they are effective and well-intentioned – enables action, for example by generating a sense of confidence that if a misfortune or threat arises help and support can be invoked and summoned. Equally, trust provides reassurance that justice institutions will not employ their power to arrest and apprehend in unjust ways. Indeed, it is precisely because no one can concretely ‘know’ these things, and because there is always a risk that, for example, police will not attend if summoned, or will misuse their power if they

do, that the concept of trust (or distrust) is such a useful way to understand the relationship between people and justice institutions.

Three further aspects of Giddens' concept of trust are particularly pertinent here. First, he insists, trust cannot by definition be based on full knowledge – if we *knew* the police would come when called we would not need to trust them. Rather, trust “presumes a leap to commitment, a quality of ‘faith’ which is irreducible” (ibid: 19). Smith (2007) has made precisely this point when discussing the formation of public trust in the police. Second, like Uslaner, Giddens conceives of a significant portion of individuals' propensity to trust as stemming from their early socialization and therefore, if not innate, as a deeply held character trait. Drawing on the psychoanalysis of DW Winnicott, Giddens argues that: “The trust which the child, in normal circumstances, vests in its caretakers ... can be seen as a sort of emotional inoculation against existential anxieties – a protection against future threats and dangers” (ibid. 39), and that this trust carried forward into adult life. Again, we are left with the idea that trust enables action – but also that some people will be more predisposed to trust than others.

Third, however, unlike Uslaner, Giddens stresses the reflexive nature of trust (and of modernity in general). While some people may be predisposed to trust they will assess the behavior of trustees and reconsider their opinions in the light of evidence. Giddens thus presents something of a ‘third way’ (pun intended) between Hardin and Uslaner, in that he suggests trust stems from both personal characteristics (propensities to trust) *and* experience.

#### *Trust in value-bearing narratives*

The idea that trust is both a complexity reducing mechanism and intimately bound up with risk also emerges from the work of Earle and Cvetkovich (Earle and Cvetkovich 1995; 1999). Like Uslaner, they argue that trust is primarily a within-group phenomenon, although, also like Uslaner they distinguish between what they term pluralistic trust, premised in the shared past of particular groups, and cosmopolitan trust, which is created out the emergence of new combinations of people and groups (the latter, they argue, is well suited to the task of cognitively dealing with risk as it can emerge at precisely the point people embark on new, and therefore uncertain, endeavors).

What concerns us here, however, is Earle and Cvetkovich's emphasis on what they call 'value bearing narratives' in the emergence and maintenance of trust. On this account, social trust is "based on value similarity: people tend to trust other people and institutions that 'tell stories' expressing currently salient values, stories that interpret the world in the same way they do" (1999: 21). This notion of trust is relevant here because the police, courts and other criminal justice institutions are intimately caught up in a whole set of stories people tell themselves about the nature and condition of their neighbourhood, community and nation. As Loader and Mulcahy (2003: 39) argue, police can serve as a condensing symbol (Turner 1974) around which people can cohere a set of meanings and understandings that give structure to their social worlds. Almost inevitably, given the nature of these institutions, these stories will revolve around values and the conflict between values – issues of right and wrong, recognition and misrecognition, order and disorder. In addition justice institutions are constantly forming and reforming a narrative about themselves, as a way of claiming relevance, in asserting their legitimacy (Bottoms and Tankebe 2011), and in their role as 'legitimate namers' (Loader and Mulcahy 2003: 46), empowered to make definitive statements in relation to particular individuals, groups and circumstances. To the extent the narratives told by, about and in relation to the police and courts correspond with people's own values, then trust will emerge and be sustained. To the extent that the narrative told by and about police clashes with people's values, however, then trust will be damaged or undermined.

#### *The nature and sources of trust in justice institutions*

We have taken the time to discuss the four notions of trust outlined above, as we think all have relevance when thinking about trust in justice institutions. This relevance can be summed up in seven propositions, which comprise a multi-dimensional model of trust that draws on concepts of relational *and* moral or value-driven trust.

- 1) Trust in legal authorities is primarily cognitive. One's willingness to be vulnerable to such authorities is founded in beliefs one has concerning their current and likely future behaviors. This 'knowledge' may be explicit, tacit or simply assumed, and may be garnered from many different sources.

- 2) Trust relates to beliefs about ability and intentions. Trust in the police and courts is premised on beliefs that they are effective in the tasks set them and well intentioned towards those they govern and serve.
- 3) Trust is based in part on direct and indirect experience of criminal justice actors, particularly in relation to their abilities and intentions. These are important moments in which the beliefs that constitute trust are formed. A necessary corollary is then that there is significant overlap between trust – or distrust – in particular police officers (for example) and the institution of police, albeit that these will not collapse into each other.
- 4) Yet, trust is also based on generalized motivations *to* trust. In particular, people will be motivated to trust criminal justice institutions when and to the extent that they believe those institutions share group membership with themselves and/or represent social groups to which they feel they belong.
- 5) Trust is also generated and reproduced by the place of institutions within specific value bearing narratives. People will trust those institutions when they believe they represent, enact and even embody values they share.
- 6) Trust in criminal justice institutions always, in the final analysis, involves a leap of faith. People cannot truly know – have justified true belief – that criminal justice actors and institutions are effective and well intentioned, but many are willing to indicate they believe these things to be true.
- 7) Both truster and trustee have interests in maintaining trust-based relationships. For individual citizens this trust reduces complexity, opens up possibilities for action, and may be closely related to their sense of self and ontological security. For justice authorities trust serves to garner cooperation from citizens, and is intimately linked to the legitimacy required to maintain their continued existence.

This model of trust in legal institutions supposes that trust emerges from different sources, that it is a characteristic of various sets of social relationships, and that assessments and expectations of competency and intentions relate both to specific encounters with justice agents (e.g. people come to an opinion on the effectiveness and intentions of the police subsequent to contact with police officers) and crystalize

thoughts, feelings and emotions developed in other, often quite different ways (e.g. people are motivated to believe police are effective and well-intentioned when they feel they share a social identity with police).

Returning to the notion that trust is a ‘willingness to be vulnerable’, based on the account above there two ways of assessing what trust in justice authorities actually ‘is’. One is that beliefs/knowledge concerning abilities and intentions are psychologically separate from, and feed into, such readiness – that trust in legal authorities is, precisely, a process that is premised on assessments of competency and right intentions but which is crystallized in a willingness to be vulnerable. The other possibility is that beliefs/knowledge concerning abilities and intentions are psychologically inseparable from vulnerability (indeed people may find it hard to imagine *not* being vulnerable to, or in some sense reliant on, justice authorities, making any sense of willed vulnerability subordinate to assessments of competency and intentions). Which of these conceptualizations is correct is largely an empirical matter, and it would be fascinating to investigate which is best supported by real world data (see below).

The model also implies that the most relevant form of knowledge people have of criminal justice institutions is ‘tacit’. That is, the things we believe we know about criminal justice institutions – which constitute our trust – seem to be based in ‘knowing more than we can tell’, to use Karl Polanyi’s phrase (1966: 4). Many people will happily say the police or courts are effective *and believe this to be true*, despite (a) the fact that they do not, and probably can not, know this in a formal sense and also (b) that they may find it hard to formulate into words why they believe this to be so. Tacit knowledge is based on a range of information concerning the appearance, meaning and importance of a particular phenomenon (here, a trust object), and is thus also related to motivated reasoning, hunches and, precisely, leaps of faith. Two important qualifiers here are, first, that this is not to claim that some people do not have very well-thought through positions in relation to criminal justice institutions that would not be well covered by the idea of tacit knowledge; and second, that this is plainly a two-way street. People may believe the police ineffective and/or not well intentioned, in which case they would distrust this institution. They may also feel they lack any knowledge whatsoever, and would thus take a neutral stance in relation to issues of trust. Yet, this latter case seems to be empirically



unusual, in that a large majority of people, when pressed for example in the context of a survey interview, will come down on one side or the other, a fact that may relate to the relative importance of criminal justice institutions in people's social, political and often personal lives.

A final point to be made in relation to the model of trust outlined above is that, at least when engaging in quantitative research, using several related attitude statements to construct attitudinal scales would appear preferable to asking a single 'catch-all' question to assess trust in the police. Single indicator measures of trust are appealing to policy makers for their simplicity and have, consequently, been used in, for example, many UK studies of attitudes to the police (e.g. Kautt 2011; Merry et al. 2012; Myhill and Bradford 2012). They are also useful in the context of cross-national comparisons, not least because they side-step issues of measurement equivalence. However the multi-item/scale construction approach is likely to be more robust in most instances, both methodologically, since it allows more accurate measurement of the underlying construct, and theoretically; as we have discussed there different components of trust, and qualitative research has shown that people can have high trust in some elements or aspect of criminal justice agencies and low trust in others (Stone et al., 2005). While in a general sense people can be said to have trust (or not) in an institution, it is also important to recognize that they can and do take quite nuanced approaches to thinking about the police, courts or other actors (Stoutland 2001).

### **Sources of trust**

Thus far we have argued that trust in the police and courts is, while broadly cognitive, likely to be premised on a wide variety of attitudes, motivations and experiences. We turn now to consideration of the empirical evidence. What seem to be the most important factors shaping trust in justice authorities? What influences what people think they know in relation to the abilities and intentions of criminal justice institutions? We concentrate in particular on the police for the simple reason that this is where the bulk of the evidence lies.

There is indeed a voluminous literature on the factors shaping public trust in the police. This body of work originated primarily in the US but is increasingly international

in scope, and includes many studies conducted in the UK (e.g. Brandl *et al.* 1994; Bradford *et al.* 2009; Brown and Benedict 2002; Hinds and Murphy 2007; Merry *et al.* 2012; Myhill and Bradford 2012; Sindall and Sturgis 2013; Skogan 2012; Sun *et al.* 2013). Some highly consistent messages have emerged from research on public attitudes toward, and trust in, the police.

After a comprehensive review of the extant literature Brown and Benedict (2002) concluded that only three individual level variables – age, ethnicity, and contact with officers – are consistently associated with attitudes toward the police, and although precise findings vary from study to study there has been little to contradict this position since then. All else equal, it seems that across many different contexts older people trust police somewhat more than younger people, people from some ethnic and other minority groups trust the police less than people from the majority group, and people who have had recent contact with the police evince, on average, lower levels of trust.

The issue of ethnicity is interesting in this context. Studies in the United States have almost universally found that trust in the police is lower among black and other minority groups than among the white majority (Brown and Benedict 2002; Skogan 2006), and similar findings have been reported in many other contexts: see for example Murphy and Cherney (2012) in Australia, and Zauberman and Lévy (2003) and Fassin (2013) in France. Yet, the negative association between minority status and lower trust is not universal, and there can moreover be significant variation between different minority groups. The best evidence of this latter phenomenon comes from the UK. Jackson *et al.* (2013) show, for example, that net of a wide range of relevant controls trust in the fairness and engagement of police in London (broadly speaking, then, perceptions concerning the intentions of the police) is lower among the black Caribbean, mixed black Caribbean and white, and ‘other mixed’ ethnic groups than among the white British group; but levels of trust are *higher* among many other minority ethnic groups, most notably those of South Asian origin.

While it might be argued that these results, and other similar findings (e.g. Bradford 2011), suggest that the UK is simply an outlier in international terms, they do caution against simply assuming that trust in police is always lower among minority group members. One relevant factor, as suggested by Weitzer (2010; 2014) may be the

‘mode of incorporation’ (2010: 340) of different minority groups (see Bobo 1999). Put simply, minority groups are differentially stratified across different societies, and within the same society over time, and the extent to which they are alienated from social institutions – and perhaps particularly the police – will vary as a function of the particular histories of exclusion or repression (or inclusion and incorporation) they have experienced (Weitzer 2010). It is notable in the British case that the black Caribbean groups has both one of the longest histories of any minority group in the UK and the most obviously problematic structural and cultural position *vis a vis* the police. In the terms developed in this article the black Caribbean community can point to many years of negative direct experiences of police (Hall et al. 1978; Keith 1993; Bowling and Philips 2002) and, as a result, has arguably developed an oppositional culture toward police that diminishes trust because it assigns police and community to different social categories.

The relationship between ethnicity and trust in police is therefore more complex and nuanced than is often assumed. By contrast the evidence concerning the association between personal contact with officers and trust in the police is among the most reliably replicated findings in criminological research. The primary mechanism explaining this association appears to be the procedural fairness of police action. That is, when people feel police with whom they have interacted have treated them with dignity and respect, have communicated with them openly, and have made decisions in an unbiased fashion, they are more likely to place trust in the police; conversely, when people feel they have been unfairly treated they are less likely to trust police (Bradford et al. 2009; Myhill and Bradford 2012; Van Damme et al 2015). While questions of instrumental effectiveness are not entirely unimportant they usually appear to play a secondary role in comparison to the core issue of fairness. Importantly, the effect of contact on trust appears to be asymmetrical (Skogan 2006). While unsatisfactory (unfair) contacts tend to have a large negative effect on trust, satisfactory (fair) contact have a significantly smaller positive effect. Expectancy disconfirmation is often given as a reason for this phenomena – much research has been conducted in the US, UK and similar developed countries, and people in these contexts generally expect to be fairly treated by police and are likely, therefore, to react particularly strongly to being unfairly treated.

Studies have also demonstrated that the experience of procedural fairness during interactions with police officers, and indeed judges and other court officials – is particularly strongly associated with trust in the intentions of these authorities, or what Tyler and colleagues call ‘motive-based trust’ (e.g. Tyler and Huo 2002). When people are treated in a procedurally just manner by police they are encouraged to form the view that these officers have the right motivations toward and have their interests at heart – unfairness, of course, indicates the opposite.

In addition to the three individual level variables, Brown and Benedict also identified a ‘contextual level’ variable consistently with public attitudes: type of neighbourhood. This conclusion has, again, been reproduced by many pieces of research since their review (e.g. Jackson et al. 2013; MacDonald et al. 2007; Schuck et al. 2008). While the precise reason for this remains elusive, area-level variables such as disadvantage, social cohesion, collective efficacy and disorder are consistently found to correlate with trust in the police. It has been suggested by Sampson (2004, Sampson and Bartusch, 1998) and others (e.g. Gau and Brunson, 2010) that negative attitudes to the police in deprived neighbourhoods may be caused in part by ‘order-maintenance’ styles of policing used to try to address the problems of crime and disorder that often typify such areas; in essence, poor areas receive heavy and aggressive policing that alienates local residents and undermines trust in the police.

Another approach has been to think about what low-level disorder and its correlates social cohesion and collective efficacy *mean* for local residents (Bradford and Myhill 2015; Jackson et al. 2013; Jackson and Bradford 2009; Jackson and Sunshine 2007). On this account police and police activity provides an explanatory tool for understanding how order and cohesion are maintained over time (Girling *et al.* 2000), and police are thus embedded in a particular kind of value-bearing narrative that revolves around both people’s sense of the quality of order and cohesion the experience in their neighbourhood and the importance they place on maintaining this order and cohesion. Experiences that support this narrative, such as cohesive, well-ordered neighbourhoods, increase trust because they work with and contribute to stories people tell themselves about police which suggest they are effective and well intentioned (that they are ‘doing the right thing’). Experiences or impressions of disorder, or of community breakdown, by

contrast diminish trust because they undermine the narrative of policing – they suggest that there is a *failure* to maintain order and cohesion, and the police are implicated in this perceived failure (Jackson and Sunshine 2007; Jackson *et al.* 2013). Naturally, it has been noted with some irony that, in this regard at least, police may gain or lose trust as a result of social processes over which they have very little control. The quality of order and cohesion in local area is a function of a set of social processes far larger than the activities of the uniformed police (Bradford *et al.* 2014).

### **Trust and legitimacy**

In this final section we consider some of the similarities and differences between trust and legitimacy in the context of the justice system, and highlight why each might differentially motivate cooperation with legal authorities and compliance with the law.

Out of all public institutions, legal authorities have a unique position in society: they provide simultaneously a service that one can opt in or opt out of (for example when deciding on whether to report a crime) and a system of regulation to which one has to submit (or face the consequences). This power to protect/serve and detain/coerce complicates the nature of the interdependence of trustee and trustor. Trust in legal authorities involves the consideration of both (i) the future behaviour of specific individual actors whom one can come to rely upon for valued actions or outcomes, and (ii) beliefs about the behaviour of ‘role-holders’ (e.g. police officers, judges) in relation to social regulation and the production of order. Trusting the police to be procedurally fair might translate, for instance, into the positive expectation that one would be treated with respect and dignity if one were to report a crime, but also into the positive expectation that one would not be treated with disrespect and a lack of dignity if one were to be approached by an officer to be questioned and possibly searched. And police need the trust of the citizen in the former case but not, necessarily, in the latter (although it is certainly true that trust will ‘oil the wheels’ when invasive powers are used).

The behaviour of police and courts also has implications between the generation and reproduction of trust. The coercive powers that underpin justice institutions make them significant representatives of the state, enabling them to send out messages of inclusion or exclusion to citizens in a way that other public services simply cannot. The

behavior of police officers carries identity relevant information that people use to help constitute and shape their sense of self (Blader and Tyler 2009; Tyler and Blader 2000). Broadly speaking, fairness indicates inclusion, status and belonging, thus strengthening shared group identities (between police and citizen, and possibly also between citizen and citizen). Fairness also indicates that police are behaving in morally acceptable ways and thus that they are valid and appropriate group representatives, and there is a reflexive aspect to this process, too. People judge police behavior against established norms of probity and fairness, and actively assess whether police can and should be considered representative of their group.

The power that legal authorities possess also brings legitimacy sharply into focus. While trust represents people's positive expectations regarding police intentions and capabilities, legitimacy is the property or quality of possessing rightful power and the subsequent acceptance of – and willing deference to – authority in the eyes of citizens (Tyler, 2006; Tyler & Jackson, 2013). A subjective sense of duty to obey is embedded within the construct of legitimacy because people who believe the police are entitled to their coercive authority feel, accordingly, that citizens should pay proper deference to that power. Duty to obey simultaneously arises from a sense that the institution has the right to power and is an active acceptance of the authority that a legitimate justice institution imbues.

How, then, can we put 'clear water' between the notion of trust and the notion of legitimacy? One way is to consider trust as evaluations and expectations regarding normatively appropriate behaviour. Recall Hardin's (2006: 17) statement: 'To say we trust you means we believe you have the right intentions toward us and that you are competent to do what we trust you to do.' If, in a given society, citizens largely trust the police to be effective and fair, then it can be claimed that in a general sense they believe police act in an appropriate manner. By contrast, we might say that legitimacy is the belief that an institution has the right to power and is entitled to be obeyed, and that legitimacy emerges when subordinates deem power-holders tend to act in normatively appropriate ways (Jackson *et al.* 2012, 2013; Tyler & Jackson 2014; Bradford *et al.* 2015). The principled justification of power emerges when an institution is judged to wield its authority in normatively appropriate ways – that is, when it is trusted.

Another way to compare the two constructs is to consider how trust and legitimacy might variously motivate behaviour. Thus far we have focused on the nature of trust in legal institutions and the factors implicated in its generation and reproduction. But the behavioural outcomes of trust (and legitimacy) are equally if not more factors important in criminological research, and it is important to delimit the motivational force of trust (and legitimacy). As PytlikZillig et al. (2015) argue, we need to bracket off trust from actions/relationships that relate to the involuntary and the coerced: “intrinsic motivation comes from internal states and can still be affected by external forces, but does not feel like one “should” or “must,” do something – as these latter terms describe more extrinsic motivational states (Deci *et al.*, 1994). Thus, *willingness* implies an intrinsic motivational state and agency. It ceases to be if coercion is required.’ (p. 19).

If we act in ways that are motivated by deterrence and threat of force, this is not trusting behaviour, which emerges instead out of a set of positive expectations about how officers will act (expectations that form an important part of the trusting relationship). For instance, people will be more willing to report a crime when they have some faith that officers will investigate, be professional, be fair, treat them respectfully, and so forth. This is faith with respect to “positive goods”: when one has positive expectations one sees, for example, the point of calling an emergency number to report a crime because the call will be answered and action will be taken. Trust is also the willingness to be vulnerable. When one has positive expectations, one might call the police in part because one assumes that when they officers will not be rude, disrespectful, biased, and so forth (and indeed that they will turn up in the first place). To trust is to assume that one will not receive bad treatment and bad outcomes in a particular situation; this ‘implies potentially attending to threats and adverse outcomes, and imagining the risks that would occur when making one’s self vulnerable’ (Cao, 2015: 14).

Legitimacy, in contrast to trust, relates much more power and legal duties attached to citizenship. It brings back the notion of ‘should’, at least in as much as this concerns a positive sense of moral duty. When people believe that the police as an institution is moral, appropriate and proper – i.e. when they believe that the officers who represent the institution act in normatively acceptable ways – they believe that they, too, should act in normatively appropriate ways. Consider a citizen who is deciding whether

or not to report a crime to the police. The belief that officers act in normatively appropriate ways may activate the corresponding civic sense that one, too, should act in normatively appropriate ways – one of which may be to assist the police. It may be that trust is a predictor of people's willingness to engage in cooperative behaviour (like reporting a crime to the police) but that legitimacy is also a predictor. People may be willing to report a crime because they have faith that officers would treat them fairly and use the information they provide in an effective way (a trusting motivation) but also because they believe that they, too, should act in a normatively appropriate way (a motivation based on legitimacy).

### **Trust is important**

To conclude this article we return briefly to a point raised at its outset. Trust (and legitimacy) is important in predicting public cooperation with legal authorities. This provides an important instrumental motivation for those authorities to generate and maintain positive evaluations among those they govern. Both citizens and authority has much at stake in the trust relationship between them. In liberal democracies – and elsewhere – the effective functioning of the criminal justice system relies on this relationship. There are thus important instrumental reasons for both parties to maintain such trust.

Yet, equally if not more important is the idea that citizens deserve to be governed by justice institutions they can trust. Feeling that the police and courts share their values, have the right intentions and maintain at least a baseline level of efficacy are important factors shaping not only people's relationships with the police but also their ontological security and sense of belonging (Loader and Walker 2007). Trust in important state institutions such as the police and courts can help people orientate themselves within and navigate their ways through complex social environments. A lack of trust, on the other hand, might prompt a weaker sense of personal control and social embeddedness, as options for action are closed down and barriers are placed in the way of behaviours and relationships. It is for these reasons that the study of trust in justice has been so salient for so long.



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