

ARTICLES

PUBLIC MISTRUST OF THE LAW: A POLITICAL PERSPECTIVE

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I. INTRODUCTION

Marc Galanter's comments have focused our attention on public mistrust of lawyers as one example of the larger issue of public mistrust of the law and the legal system. I would like to elaborate on his remarks by describing what structured interviews with members of the public tell us about the public's perception of the law, legal authorities, and the legal system. Instead of focusing directly on lawyers, I will talk about research focusing on the public's view of the courts and legal authorities. However, discussions of the courts and legal authorities are clearly intertwined with public views about lawyers.

Further, although Professor Galanter's comments focus heavily upon issues of civil justice, I will focus on public views about both the civil and criminal courts. I do this not because criminal justice is in any way more important in American law, but because the criminal justice system has been the central focus of much of the recent research on the public. As Professor Galanter's remarks make clear, people are dissatisfied with both the criminal and civil justice systems. Moreover, these two aspects of the legal system are not especially distinct in the public's eyes.

I will argue that legal authorities need to be concerned about public dissatisfaction because public dissatisfaction has political costs. As a political psychologist, I will focus on the findings of studies of the attitudes and behaviors of citizens. These attitudes and behaviors are typically assessed through structured interviews, such as the familiar public-opinion polls conducted by newspapers and academic organizations, or through the in-depth interviews with smaller samples of citizens conducted by legal scholars. These interviews are a different way of getting at public culture than the analysis of stories and jokes

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presented by Professor Galanter, but they have the same goal—understanding Americans' thinking about law, the courts, the legal system, and lawyers.

I will address two issues. First, what types of public views should be the focus of our concerns? That is, what types of dissatisfaction have important political implications? Second, what do we know about why such public views are negative?

I am sure that I am not surprising you when I say that the recent results of both public-opinion polls and in-depth interviews with members of the public suggest strongly that the public feels a considerable amount of dissatisfaction with the law and legal authorities.¹ In particular, the public often expresses dissatisfaction with the courts.

II. PUBLIC DISSATISFACTION

A. Performance Evaluations

Let me give just one example. In a study of a representative sample of the citizens of Chicago,² I found that a majority of citizens expressed negative views about the local courts. Consider the responses from that study shown in Table 1. Seventy-four percent of those interviewed gave negative overall evaluations of the courts.³ These questions do not distinguish between civil and criminal cases and, hence, reflect overall evaluations of the courts. Although it is difficult to know the range and depth of public dissatisfaction, these findings suggest that it is fairly broad in scope.

I will refer to these evaluations as "performance evaluations" because they reflect public views about how the courts handle everyday problems of the type that they have experienced, or might experience in the future.

The public has had considerable personal experience with the courts. During the year prior to the interview for the study reflected in Table 1,

1. See NORMAN J. FINKEL, *COMMONSENSE JUSTICE: JURORS' NOTIONS OF THE LAW* (1995); see also Laura B. Myers, *Bringing the Offender to Heel: Views of the Criminal Courts*, in *AMERICANS VIEW CRIME AND JUSTICE: A NATIONAL PUBLIC OPINION SURVEY* 46, 59-61 (Timothy J. Flanagan & Dennis R. Longmire eds., 1996); KATHLYN TAYLOR GAUBATZ, *CRIME IN THE PUBLIC MIND* 1-14 (1995); PAUL H. ROBINSON & JOHN M. DARLEY, *JUSTICE, LIABILITY, AND BLAME: COMMUNITY VIEWS AND THE CRIMINAL LAW* 201-15 (1995).

2. See TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* 8-15 (1990).

3. See *infra* tbl.1. Negative views mean that those interviewed indicated that court performance was only "fair," "poor," or "very poor," not "very good" or "good."

17% of those interviewed had appeared in court as part of a case, 10% had been a witness or a juror, and 5% had had some other type of personal contact with the courts. Overall, 27% of those interviewed had some type of personal contact with the courts during the year prior to the interview; the primary form of experience was involvement in a legal case. In addition, 51% of those interviewed had some form of contact with the police during the year prior to the interview. Hence, many of those interviewed have some personal basis for making performance evaluations of the courts.

A series of national studies of the American public's general confidence in the "legal system" similarly supports the argument that confidence in the legal system is low.⁴ In 1973, 24% of those surveyed expressed a great deal of confidence in the legal system; those numbers dropped to 18% in 1978, to 14% in 1988, and to only 8% in 1993.⁵ These percentages suggest that confidence is both low and declining. Recently, less than 10% of the American public expressed "a great deal" of confidence in the American legal system.⁶

The most striking aspect of public dissatisfaction with the courts is found in the public's views about the criminal courts. In particular, there is a widespread belief that the sentences given criminals are too lenient, a criticism of the criminal courts. An examination of this concern about leniency in sentencing among samples of all Americans reveals both high, and perhaps more importantly, growing dissatisfaction with legal practices.⁷ As Table 2 indicates, findings drawn from national public-opinion polls suggest that the proportion of adult Americans who believe that the courts are too lenient on criminals is both high and steadily increasing.

I will refer to dissatisfaction with leniency in criminal sentencing as "symbolic evaluation" because most Americans have very little knowledge about criminal sentences, and no personal experience with the criminal sentencing process. In addition, most adult Americans find it difficult to imagine that they would ever be accused of a crime. Therefore, their images about leniency are more symbolic or abstract in nature.

4. See Gary A. Hengstler, *The Public Perception of Lawyers: ABA Poll*, A.B.A.J., Sept. 1993, at 60, 63-64.

5. See *id.*

6. See *id.*

7. See *infra* tbl.2. These data are from U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS 1973 146-47 tbs.2.36, 2.37 (Michael J. Hindelang et al. eds., 1973); BUREAU OF JUSTICE STATISTICS, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS—1981 204-05 tbl.2.33 (Timothy J. Flanagan et al. eds., 1982); BUREAU OF JUSTICE STATISTICS, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS—1994 174-75 tbl.2.43 (Kathleen Maguire & Ann L. Pastore eds., 1995).

Table 1 ⁸			
Evaluation of local courts (Chicago)			
I. How good a job are the courts doing?			
Very good		4%	
Good		22%	
Fair		47%	
Poor		18%	
Very poor		9%	
II. How often do the courts:			
	Resolve cases in a satisfactory way?	Provide citizens with fair outcomes?	Treat citizens fairly?
Always	5 %	5 %	6 %
Usually	29	34	38
Sometimes	49	49	45
Seldom	18	13	11
III. The courts:			
Treat everyone equally	.....	72%	disagree
Favor some over others	.....	72%	agree
The courts guarantee everyone a fair trial	.....	41%	disagree
The courts protect our basic rights	.....	43%	disagree
Many innocent people are convicted by the courts	....	24%	agree
Judges are generally honest	.....	43%	disagree
Court decisions are almost always fair	.....	44%	disagree
The courts are too easy on criminals	.....	80%	agree

8. Data are from a sample of the citizens of Chicago (n = 1,575). See TYLER, *supra* note 2, at 51-53.

1965	47%	1980	83%
1966	N/A	1981	N/A
1967	N/A	1982	86%
1968	63%	1983	86%
1969	75%	1984	82%
1970	64%	1985	84%
1971	N/A	1986	85%
1972	66%	1987	79%
1973	73%	1988	82%
1974	78%	1989	84%
1975	79%	1990	83%
1976	81%	1991	80%
1977	83%	1992	N/A
1978	85%	1993	81%
1979	N/A	1994	85%

B. National-Level Dissatisfaction

There is also evidence of dissatisfaction with the major, national-level judicial body—the United States Supreme Court—although I think that the evidence is less striking. The combined results of national public-opinion polls concerning the Supreme Court are shown in Table 3.⁹ These percentages indicate some dissatisfaction with the Court, yet the level of confidence shown is generally reasonably high (32% have “a great deal” of confidence in the Supreme Court). This finding is consistent with the argument that the Supreme Court has a special place in the minds of the American public and maintains a substantial reservoir of support even when the law and local courts are being criticized.¹⁰ Certainly, the Court fares well in comparison to Congress and the executive branch of government, both of which receive lower confidence ratings.¹¹

Further, a separation of these ratings across time does not suggest that lack of confidence in the Supreme Court is increasing. We can juxtapose views about changes in confidence in the general legal system,

9. See *infra* tbl. 3. These data are for the period 1972-1994. See James Allan Davis, National Opinion Research Center, General Social Surveys, 1972-1994 (visited Mar. 12, 1998) <<http://www.icpsr.umich.edu/GSS/codebook/conjudge.htm>>.

10. See Tom R. Tyler & Gregory Mitchell, *Legitimacy and the Empowerment of Discretionary Legal Authority: The United States Supreme Court and Abortion Rights*, 43 DUKE L.J. 703, 755 (1994).

11. See *id.* at 754, 782.

which have already been reported,¹² with changes in confidence in the Supreme Court.¹³ The juxtaposition, outlined in Table 4, makes clear that support for the United States Supreme Court is higher.¹⁴ Further, there is little evidence that confidence in the Supreme Court is declining over time. For this reason, I will focus my attention in this discussion on feelings about the local courts.

Table 3 Public views about the United States Supreme Court	
How much confidence do you have in the United States Supreme Court?	
A great deal	32%
Some	50%
Hardly any	14%
Do not know	4%

Table 4 Confidence in the legal system and the Supreme Court (percentage who have "a great deal of confidence")		
	Legal system	Supreme Court
1978	18%	28%
1988	14%	35%
1993	8%	31%

C. General Dissatisfaction with Government

Public feelings about the law and the courts may reflect judgments about the legal system, or may simply reflect growing dissatisfaction with all government. Robert Putnam, a political scientist, has recently made a broader version of the dissatisfaction argument very salient through his suggestion that the public is becoming disenchanted not just with the law and the courts, but with government in general.¹⁵ His evidence,

12. See *supra* text accompanying notes 5-7.

13. See BUREAU OF JUSTICE STATISTICS, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS—1994, *supra* note 8, at 148-49 tbl.2.13.

14. See *infra* tbl.4.

15. See Robert D. Putnam, *Bowling Alone: America's Declining Social Capital*, 6 J. DEMOCRACY 65, 68 (1995) ("The proportion of Americans who reply that they 'trust the government in Washington' only 'some of the time' or 'almost never' has risen steadily from 30 percent in 1966 to 75 percent in 1992.").

shown in Table 5, shows dramatic evidence of increasing distrust of government and alienation from government institutions over the past twenty-five years.¹⁶ Therefore, feelings about the legal system must be seen within the context of overall alienation from government: people are not just upset with the legal system.

	Distrust in government	Alienation from government leaders
1966	28%	31%
1968	37	38
1970	40	46
1972	44	46
1974	58	62
1976	57	63
1978	51	68
1980	60	73
1982	56	64
1984	56	55
1986	60	60
1988	55	58
1990	61	70
1992	65	76

On the other hand, people are not equally upset with all branches of national-level government. Ironically, while the local legal system is viewed quite negatively, at the national level, the Supreme Court is viewed very favorably in comparison to the executive and legislative branches of government.¹⁷ Hence, at the level of national government, which Putnam addresses, the legal system seems to be holding up well in the eyes of the public.

Thus, evidence from public-opinion polls supports the argument that the public expresses considerable dissatisfaction with the courts, especially the local courts. Further, there is evidence that public dissatisfaction with both the courts and the government more generally

16. For an extended discussion of this issue, see generally, *WHY PEOPLE DON'T TRUST GOVERNMENT* (Joseph S. Nye, Jr. et al. eds., 1997).

17. See Tyler & Mitchell, *supra* note 10, at 782.

is increasing. This leads to the obvious question of whether these increases should be of concern to legal authorities.

III. INACCURACY IN PUBLIC BELIEFS

One important factor that should influence the degree to which public views are considered by legal authorities when shaping the legal system is the quality of those views. Legal authorities have often suggested that the quality of public views should influence the degree to which they are considered. For example, in *Furman v. Georgia*,¹⁸ Justice Marshall suggested that the degree to which public views about the death penalty should shape government policy depends upon the quality of those opinions. In the case of the death penalty, Marshall spoke of judging whether public opinions were "informed," that is, whether they reflected knowledge about the purposes and liabilities of the penalty.¹⁹

From this perspective, let me begin by qualifying the findings I have outlined in an important way. There is considerable evidence to suggest that public dissatisfaction with the courts is based upon a variety of misconceptions held by the public about the operation of the courts and of the legal system.

As I mentioned, the criminal courts have been most widely studied, and these studies suggest that the general public knows little about how the courts operate or about the problems of crime with which the courts must deal.²⁰ People inaccurately estimate the rate of crime, usually thinking that violent crime rates are higher than they actually are, and often misjudge whether violent crime is increasing or declining.²¹ Research links these misconceptions to erroneous information given to the public by the mass media, which sensationalizes violent crimes.²²

Further, the public faults the courts for procedural errors that the courts do not make. It is widely believed that the courts let too many

18. 408 U.S. 238, 361-63 (1972) (per curiam) (Marshall, J., concurring) ("[T]he question with which we must deal is not whether a substantial proportion of American citizens would today . . . opine that capital punishment is barbarously cruel, but whether they would find it to be so in the light of all the information presently available.").

19. See *id.* ("Whether or not a punishment is cruel and unusual depends, not on whether its mere mention 'shocks the conscience and sense of justice of the people,' but on whether people who were fully informed as to the purposes of the penalty and its liabilities would find the penalty shocking, unjust, and unacceptable."); see also Austin Sarat & Neil Vidmar, *Public Opinion, the Death Penalty, and the Eighth Amendment*, in *CAPITAL PUNISHMENT IN THE UNITED STATES 190, 194-95* (Hugo Adam Bedau & Chester M. Pierce eds., 1975).

20. See Julian V. Roberts, *Public Opinion, Crime, and Criminal Justice*, in 16 *CRIME AND JUSTICE: A REVIEW OF RESEARCH* 99 (Michael Tonry ed., 1992).

21. See *id.* at 109-12.

22. See *id.* at 117-21.

guilty people go free because of legal technicalities. Studies indicate that the public substantially overestimates the proportion of defendants who successfully escape punishment through the insanity defense.²³ Studies also indicate that the public overestimates the proportion of cases that are thrown out of courts due to illegally obtained evidence.²⁴

Finally, although studies suggest that the public correctly understands that the sentences given by the courts are less than the public thinks it would give for similar crimes,²⁵ this finding rests upon public ignorance about the nature of criminal defendants. When members of the public are given information about criminals similar to that available to judges, they do not give more severe sentences than judges give.²⁶

Hence, it is important to distinguish public feeling from a knowledgeable critique of the courts and court practices. Nonetheless, I will argue that public views have important implications for the operation of the legal system. The key assumption underlying the political perspective is that we care about how citizens feel about their government, even when those views are poorly formed. Why should we care? In this discussion, I want to first focus on what I think is a fundamental way in which public feelings influence the operation of law and the courts. This impact occurs because people's views shape the basis of their behavior toward the law.

In this discussion, I will focus on three important behaviors. The first is obeying the law. For the law to be authoritative, people must obey it. Therefore, it is important to examine the impact of dissatisfaction on people's behavior toward the law. I will further argue that we need to consider why people obey the law because dissatisfaction may shape why people obey the law in addition to influencing whether they obey it.

The second behavior I will address is seeking legal help. The legal system benefits when people bring legally relevant problems to the attention of legal authorities, instead of engaging in private acts of vengeance. Thus, people need to feel that the courts will be able to handle their problems appropriately, and dissatisfaction may diminish that feeling.

23. See Eric Silver et al., *Demythologizing Inaccurate Perceptions of the Insanity Defense*, 18 LAW & HUM. BEHAV. 63 (1994).

24. See Craig D. Uchida & Timothy S. Bynum, *Search Warrants, Motions to Suppress, and "Lost Cases:" The Effects of the Exclusionary Rule in Seven Jurisdictions*, 81 J. CRIM. L. & CRIMINOLOGY 1034 (1991).

25. See generally Alfred Blumstein & Jacqueline Cohen, *Sentencing of Convicted Offenders: An Analysis of the Public's View*, 14 L. & SOC'Y REV. 223 (1980).

26. See Shari Scidman Diamond, *Revising Images of Public Punitiveness: Sentencing by Lay and Professional English Magistrates*, 15 L. & SOC. INQUIRY 191, 193, 201-04 (1990).

The third important public behavior is supporting the empowerment of legal authorities. The exercise of legal authority involves the use of discretion, whether in determining verdicts, establishing damages, or sentencing in particular cases. The public has to trust that authorities will exercise this discretion well. When the authorities do not exercise discretion to the public's liking, there is support for policies, such as determinant sentencing, which limit the freedom of legal authorities to act in ways they feel are appropriate.

IV. COMPLIANCE WITH THE LAW

Past discussions of the effective exercise of legal and political authority have focused on the ability of leaders to shape the behavior of citizens. In particular, the ability to secure compliance with decisions and rules—more broadly labeled the ability to be authoritative²⁷—is widely recognized to be a central characteristic of effective organizational authorities. In other words, to be effective, legal rules and decisions must be obeyed. They must influence the actions of those toward whom they are directed. As I argued in *Why People Obey the Law*, “[a] judge’s ruling means little if the parties to the dispute feel they can ignore it. Similarly, passing a law prohibiting some behavior is not useful if it does not affect how often the behavior occurs.”²⁸ Hence, “[t]he lawgiver must be able to anticipate that the citizenry as a whole will . . . generally observe the body of rules he has promulgated.”²⁹

It is difficult to gain sufficient compliance to enforce the law using only the threat of punishment. That is, compliance based upon deterrence motivations is a problematic basis for the effective exercise of legal authority. Instead, authorities need the willing, voluntary compliance of most citizens with most laws, most of the time. Research suggests that, in democratic societies such as the United States, the effectiveness of both political and legal authorities is heavily dependent upon the willing, voluntary cooperation of citizens with laws and legal decisions.³⁰ My argument is that it is inefficient and ineffective to try to manage a democratic society without the ability to secure voluntary compliance with the law. Although some coercion is possible, the legal

27. See TYLER, *supra* note 2, at 161; Tom R. Tyler & E. Allen Lind, *A Relationship Model of Authority in Groups*, in 25 *ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY* 115, 117-19 (M. Zanna ed., 1992).

28. TYLER, *supra* note 2, at 19.

29. Lon Fuller, *Human Interaction and the Law*, in *THE RULE OF LAW* 171, 201 (Robert Paul Wolff ed., 1971).

30. See TYLER, *supra* note 2, at 24-25.

system relies heavily on the voluntary cooperation of most citizens, most of the time.

A. Why are Sanctions a Problem?

The problem with sanction-based approaches is that they are costly and inefficient. To make such a system work, it is necessary to develop systems of surveillance that make the likelihood of being caught and punished for rule breaking high enough to shape people's behavior. This requires both large-scale investments in law enforcement and constant efforts to monitor the behavior of the public.

What makes deterrence strategies especially prohibitive is that their viability depends upon being able to change people's estimates of the likelihood of being caught and punished for wrongdoing. Deterrence research finds that people's behavior is more strongly influenced by the likelihood of being caught and punished than it is by the severity of punishment.³¹ Hence, efforts to change behavior have to focus on costly strategies such as increasing the size of the police force or the focus of their enforcement efforts.³²

Illustrations of the difficulty of deterrence-based strategies include efforts to lessen drug use and combat drunk driving. The government has recently made a determined effort to bring the drug-use problem under control through increases in police efforts to apprehend and punish drug dealers and drug users. However, these efforts have had little effect upon drug use. Why? Research suggests that changes in the likelihood of being caught and apprehended, which are influenced by heightened police efforts, influenced only about 5% of drug-related behavior.³³

Another example of the concentrated efforts of government to control crime are the efforts of Scandinavian governments to control drunk driving.³⁴ Such efforts are fairly intrusive by American standards, using random roadblocks and very severe penalties for infractions.³⁵ Interestingly, research shows that such efforts have, at best, a short-term

31. See Tom R. Tyler, *Procedural Fairness and Compliance with the Law*, 133 SWISS J. ECON. & STAT. 219-40 (1997).

32. For example, increasing the severity of punishment by making a crime a capital crime has considerable public appeal. It seems to combat law breaking without requiring the use of public resources for an increased police force. However, research suggests that this approach to crime control is likely to be, at best, minimally effective. See

33. See Robert J. MacCoun, *Drugs and the Law: A Psychological Analysis of Drug Prohibition*, 113 PSYCHOL. BULL. 497, 501 (1993).

34. See H. LAURENCE ROSS, DETERRING THE DRINKING DRIVER: LEGAL POLICY AND SOCIAL CONTROL 21-24 (1982).

35. See *id.*

impact upon the occurrence of drunk driving.³⁶ This research also suggests why sanctions are not more influential: the likelihood of arrest is very low. Laurence Ross estimates that the likelihood of being arrested if you drive while intoxicated is 0.00044, and the likelihood of conviction even lower.³⁷ Further, the likelihood of having an accident is 0.00045.³⁸ Therefore, the amount of law-enforcement effort needed to create a credible deterrence threat is quite high. Again, it is very difficult to increase the likelihood of being caught and punished to sufficient levels to actually influence people's behavior.

Of course, this is not to say that it is not possible to run a society upon deterrence. However, such a society would look very different than American society, or any other Western democracy. For example, in Eastern Germany, prior to its collapse, over 10% of the population worked for the police. Further, most street corners were under video surveillance so that this large police force could monitor the behavior of citizens. Such systems are costly and inefficient and the societies that seek to govern in this way have tremendous difficulty.

Although it is certainly true of the legal and political systems, the importance of supportive values is not unique to these systems. Studies of work organizations also emphasize the limitations of seeking to manage through control ideologies³⁹ and emphasize the potential gains associated with supportive organizational values.⁴⁰

B. Voluntary Compliance Through Internal Values

What is needed to avoid the problems associated with seeking to control citizen behavior through sanctions are internal values which lead citizens to want to act in ways that benefit the government. In other words, values must be promoted that lead people to defer to authorities, voluntarily accepting their decisions and voluntarily following rules.

Gaining voluntary cooperation with the law involves creating internalized values that promote compliance. Research suggests two factors are important to gaining voluntary compliance: morality and legitimacy. Morality is concerned with people's personal feelings about what is right or wrong. Legitimacy involves people's feeling that they

36. *See id.* at 60-70, 71-90.

37. *See id.* at 106-07.

38. *See id.* at 107.

39. *See* JEFFREY PFEFFER, *COMPETITIVE ADVANTAGE THROUGH PEOPLE: UNLEASHING THE POWER OF THE WORK FORCE* 96-109 (1994).

40. *See id.* at 27-59.

ought to obey the law. Both of these factors promote voluntary compliance with the law.

In a panel study of American citizens, I have directly compared sanction threats to the influence of morality and legitimacy.⁴¹ I found that morality was the primary factor shaping law-related behavior.⁴² A second important factor was views about the legitimacy of the law.⁴³ In this study, sanction threats had no independent influence on law-related behavior.⁴⁴ The strength of each factor is shown in Table 6, which indicates the beta weights when all factors are entered at the same time.⁴⁵

The study outlined suggests the importance of morality and legitimacy as factors shaping people's law-related behavior. In each of the studies considered, these factors independently influence law-related behavior. Further, these factors typically dominate people's behavior and have a greater impact than assessments of the likelihood of being caught and punished for wrongdoing. In other words, the way people behave is typically primarily a reflection of their views about what is right and wrong, and their obligations to law and legal authorities.⁴⁶

Although both moral values and feelings of obligation influence behavior, I want to focus on legitimacy—feelings of obligation to the state. I do so because such feelings of obligation are most directly linked to attitudes about the legal system, law, and legal authorities. Hence, from the perspective of the legal system, legitimacy is the key to the

41. See TYLER, *supra* note 2, at 44.

42. *See id.*

43. *See id.* at 45-50.

44. *See id.* at 60.

45. Other studies lead to similar findings. Raymond Paternoster examined the antecedents of everyday law-related behavior among a teenage sample. See Raymond Paternoster, *Decisions to Participate In and Desist From Four Types of Common Delinquency: Deterrence and the Rational Choice Perspective*, 23 L. & SOC. REV. 7 (1989). He compared the influence of sanction threats to that of moral beliefs and other factors. Although sanction threats influenced behavior, he found that moral beliefs "dwarfed" the impact of such threats. *Id.* at 37-38. Across all four behaviors studied, moral beliefs were more central to behavioral decisions than were judgments of the perceived certainty or severity of punishment. *See id.* at 38.

Harold Grasmick and Donald Green make a similar comparison using a sample of adults in an urban area. See Harold G. Grasmick & Donald E. Green, *Legal Punishment, Social Disapproval and Internalization as Inhibitors of Illegal Behavior*, 71 J. CRIM. L. & CRIMINOLOGY 325 (1980). They find that moral judgments are equal in importance to judgments of risk when predicting past law violations, but that moral judgments dominate judgments about the likelihood of committing future crimes. *See id.* at 331. Interestingly, their study also points to peer disapproval as an important element in law-related behavior. *See id.* at 333-34. A further study extends this analysis to tax cheating, theft, and drunk driving. See Harold G. Grasmick & Robert J. Bursik, Jr., *Conscience, Significant Others, and Rational Choice: Extending the Deterrence Model*, 24 L. & SOC'Y REV. 837 (1990). That study finds that moral concerns are consistently as or more important than legal sanctions in explaining future intentions concerning crime. *See id.* at 853-54. Again, this study finds that embarrassment in front of peers plays an important role in crime-related behavior.

46. *See* TYLER, *supra* note 2, at 56.

Table 6 ⁴⁷ Why do people obey the law? Influences on compliance with the law	
Likelihood of being caught and punished for rule-breaking	.06**
Obligation to obey the law	.16***
Evaluations of the morality of the law	.41***
Proportion of variance explained	25%***

effectiveness of legal authorities. The importance of maintaining the feeling among citizens that the legal system has legitimacy has been widely recognized by those who study the effective functioning of organizations. It is supported by the findings just noted.⁴⁸ If people feel obligated to obey legal authorities, they obey the law.

The importance of supportive values such as legitimacy among citizens to the effective functioning of the legal system leads to concerns about the apparent decline in public support for law and legal authorities. If people no longer feel obligated to obey the law, their obedience will decline. Further, it will be difficult to maintain obedience because sanctions have little relationship to obedience.

V. PERFORMANCE EVALUATIONS AND OBLIGATION

I began this analysis by noting evidence of public dissatisfaction with the performance of legal authorities. I then presented evidence

47. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

48. *See id.* at 57-60.

suggesting the importance of perceived obligation to obey the law in shaping public behavior toward law. Because perceived obligation shapes compliance behavior, I argued that it is important to the effective functioning of legal authorities. However, there is a further question, as yet unaddressed: What is the relationship between negative performance evaluations and obedience toward the law? Does public dissatisfaction with the performance of legal authorities lead members of the public to stop obeying the law? These questions are central to examining the impact of dissatisfaction on legal culture and the viability of legal authorities.

To test this argument, I expanded the analysis of the antecedents of compliance, which was presented in Table 6, to include performance evaluations and symbolic evaluations. The results, shown in Table 7, indicate that performance evaluations have very little impact upon compliance with the law. In particular, dissatisfaction with the performance of legal authorities does not lessen compliance with the law. Dissatisfaction was assessed in two ways. First, dissatisfaction was assessed through performance evaluations based upon questions like those shown in Table 1 (Do authorities provide satisfactory resolution of cases?; Do they provide fair outcomes?; Do they treat citizens fairly?). Second, dissatisfaction was assessed through symbolic evaluations. In this case, symbolic evaluations are indexed by agreement that the courts are too lenient on criminals. As Table 7 indicates, neither type of evaluation shapes compliance with the law. Hence, those expressing performance dissatisfactions do not necessarily feel less obligation to obey the law.

If performance dissatisfactions do not influence behavior, why are they important? Let me provide two explanations. First, they shape whether people seek out legal authorities when they have legally relevant problems. Using the same Chicago dataset, we can examine why people indicate that they would, or would not, go to the courts or the police if they have a legally relevant problem to be solved. Table 8 indicates that performance evaluations shape whether people say they would go to legal authorities with their problems.

Second, performance evaluations shape the public's policy positions. Consider the three-strikes initiative. That initiative was important because it lessened the discretionary authority given to legal officials by restricting flexibility in sentencing. Such constraints upon authorities are not unusual, as is shown in the widespread use of sentencing guidelines. What shapes public views about whether it is desirable to

Likelihood of being caught and punished for rule-breaking	.05*
Obligation to obey the law	.16***
Evaluations of the morality of the law	.41***
Performance evaluations of the courts	.02
Symbolic evaluations of the courts	.01
Proportion of variance explained	25%***

give such discretionary authority? As Table 9 indicates, the public is influenced by both their performance evaluations and their symbolic evaluations when deciding whether or not to give legal officials discretionary authority. Hence, performance evaluations, as well as symbolic evaluations, have an important impact upon other issues which are of concern to the legal system, even if they do not shape feelings of obligation to obey the law.

49. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

Table 8 ⁵⁰	
Why do people seek help from legal authorities?	
Performance evaluations of legal authorities	.17***
Symbolic evaluations of legal authorities	.07
Obligation to obey the law	.04
Proportion of variance explained	3%***

These findings suggest a reason why legal authorities should care about public opinion. Several years ago I gave a talk to California judges about public dissatisfaction with the courts. When I finished, a senior judge asked why judges should care about public views because the public has many misconceptions about the actual operation of the courts and the true sentences that criminals receive. The discussion revealed that this tendency to dismiss public views was widely shared among the judges present.

Shortly after that meeting, a compelling answer to this question was presented when the three-strikes initiative was proposed and passed in California, despite the opposition of almost all the legal authorities in the state. That initiative removed a considerable amount of discretionary authority from judges. The public supported this initiative because people believed that judicial discretion was being exercised poorly.

In other words, the beliefs of the public had important political consequences for the courts, irrespective of whether those views were thoughtfully conceived, were based upon an accurate understanding of the actions of the courts, or otherwise corresponded to what judges might think were the most relevant issues in evaluating the operation of the courts. As the judges in California learned in this case, public opinion has a political reality which judicial authorities ignore at their own risk.

50. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

Performance evaluations of legal authorities	.13***
Symbolic evaluations of legal authorities	.14***
Obligation to obey the law	.18***
Proportion of variance explained	7%***

However, these findings suggest that we should treat judgments about the obligation to obey legal authorities and performance evaluations as two distinct elements of public opinion. Although most of the public opinion research I have outlined focuses only upon performance and symbolic evaluations, we should actually care about two issues: performance and symbolic evaluations, and feelings of obligation toward the law and legal authorities. Evaluations shape the willingness to seek help from authorities, and to empower them, while feelings of obligation influence obedience toward the law.

The distinction between evaluation and obligation is an important one because much of the discussion about public dissatisfaction with the law has failed to make clear distinctions between various forms of public sentiment. While the increasing public dissatisfaction with the performance of legal authorities and the symbolic dissatisfaction with what the public believes are sentencing practices are clear, what are the implications of this dissatisfaction? The results reported here suggest that this type of dissatisfaction is associated with only some types of behaviors.

The key antecedent of compliance with the law is the perceived obligation to obey the law. Obligation has not been the focus of systematic study in public opinion surveys, so we know little about whether it is declining. However, the results of the Chicago study

51. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

suggest that perceived obligation remains high. For example, only 9% of those interviewed agreed that “[t]here is little reason for a person like me to obey the law,” while only 14% agreed that “[i]t is hard to blame a person for breaking the law if they can get away with it.”⁵² On the other hand, 84% agree that “[p]eople should obey the law even if it goes against what they think is right,” and 84% agree that “I always try to follow the law even if I think that it is wrong.”⁵³ These percentages are interesting because it has already been noted that those within this sample expressed considerable performance and symbolic dissatisfaction with the Chicago courts. Hence, people can feel dissatisfaction about the operation of legal institutions and the actions of legal authorities without losing their feelings of obligation to obey the law.

Why might these two types of public feeling be separate? One possibility is that the development of feelings of obligation to obey the law are basic social and political values that develop during the childhood socialization process. Research suggests that basic social orientations, such as liberalism, conservatism, dogmatism, and authoritarianism are developed during childhood, and persist through adult life.⁵⁴ Hence, they may be distinct from the types of evaluations that develop and change in adult life. If so, this suggests the need to better understand the development of people’s early feelings about the law.

More broadly, these findings suggest the need to more systematically examine public values and attitudes. The basic argument being made is that the legal system benefits from supportive public values. It is difficult to run the legal system by shaping rewards and the threat of punishment. Therefore, supportive public values are the key to the effective exercise of legal authority within democratic societies such as the United States. Many scholars have suggested that legal and political culture—the values held by citizens—are important to the development and maintenance of democracies.⁵⁵

This discussion focuses upon one supportive value—the feeling of obligation to obey the law. But a broader analysis of values is needed. Currently “there is little agreement on a list of specific cultural attributes

52. TYLER, *supra* note 2, at 46.

53. *Id.* at 45.

54. See Richard G. Niemi, *Political Socialization*, in HANDBOOK OF POLITICAL PSYCHOLOGY 117 (Jeanne N. Knutson ed., 1973).

55. See GABRIEL A. ALMOND & SIDNEY VERBA, *THE CIVIC CULTURE: POLITICAL ATTITUDES AND DEMOCRACY IN FIVE NATIONS* (1963); S.P. Huntington, *Will More Countries Become Democratic?*, 99 *POL. SCI. Q.* 193, 209 (1984); RONALD INGLEHART, *CULTURAL SHIFT IN ADVANCED INDUSTRIAL SOCIETIES* (1990); GIUSEPPE DEPALMA, *TO CRAFT DEMOCRACIES: AN ESSAY ON DEMOCRATIC TRANSITIONS* (1990).

that is conducive to democratic development.”⁵⁶ It is important to understand which public values are central to law’s effectiveness. Addressing this question requires exploring what type of public behaviors are valuable, and then considering which public values shape those behaviors. For example, James Gibson’s work on the emergence of democracy in the former Soviet Union suggests that support for the rule of law may be an important political value, which leads to deference to existing political authorities and the unwillingness to support an “illegal” coup.⁵⁷

This analysis cannot address these larger questions. However, it makes clear that the extensive research which has recently been conducted on public evaluations of the legal system has not seriously considered the political importance of dissatisfaction. It is important to more clearly identify desirable public behaviors that might be impacted by dissatisfaction, behaviors such as the willingness to obey the law, seeking legal help when legally relevant problems arise, and empowering legal authorities. Having identified such behaviors, the impact of dissatisfaction on these behaviors can then be explored. In other words, dissatisfaction then becomes important because it shapes important public behaviors. In the case of negative evaluations, those evaluations do not shape obedience toward the law. To understand why people fail to obey the law, feelings of obligation must be examined. However, exploring these feelings has not been central to recent studies of public dissatisfaction with the law and with legal authorities.

VI. WHAT SHAPES LEGITIMACY AND PERFORMANCE EVALUATIONS?

My own research on the topic of discontent examines how people’s views about legal authority are shaped by their personal experiences with particular legal authorities such as judges and police officers. Consider the Chicago study that has already been outlined. The Chicago study also explored citizen experiences with legal authorities.⁵⁸ It compared the importance of five issues in shaping reactions to experience: the favorability of the outcome (the amount won or lost), voice and participation in decisions, trust in the motives of authorities,

56. James L. Gibson et al., *Democratic Values and the Transformation of the Soviet Union*, 54 J. POLITICS 329, 331-32 (1992).

57. *See id.* at 333-34.

58. *See TYLER, supra* note 2, at 12-13. This study examines experiences with the police and the courts. However, I will include both types of experiences in this discussion because people are generally concerned about the same types of issues when dealing with the police and with the courts.

quality of interpersonal treatment, and the neutrality of the authorities. Table 10 shows the results of this study as a regression analysis comparing the influence of each element on performance evaluations and the perceived obligation to obey the law.⁵⁹ The findings suggest that the most important element in experience that shapes both judgments is trust in the motives of the authority.

A. *Trustworthiness*

The key issue in people's reactions to legal procedures is their judgment about the trustworthiness of legal authorities. If people feel that the authorities making legal rules are "trying to be fair" to them, they are much more willing to accept those rules.⁶⁰ In fact, research suggests that trust in the motives of authorities is the central factor underlying the willingness to obey legal rules.⁶¹ Further, trust in the motives of authorities influences performance evaluations.⁶²

Trust speaks to the quality of the relationship between people and authorities—that is, whether or not people believe that authorities care about them. In other words, it reflects the judgment that the authorities are motivated to solve problems and treat people fairly and that they are trying to act in a professional manner.

Why is trust such a central issue to those dealing with authorities? An important clue is provided by research on people's judgments about the legal system.⁶³ In the study of citizens in Chicago, citizens recognized the widespread existence of unfair treatment on the part of the police and courts.⁶⁴ However, when asked what would happen if they personally dealt with the police or courts, over 90% predicted that they would be treated fairly by the police, and 86% of the people said the

59. See *infra* tbl.10.

60. Studies of authority in managerial settings also support the suggestion that trust is central to reactions to authorities. See Tom R. Tyler & Peter Degoey, *Trust in Organizational Authorities: The Influence of Motive Attributions on Willingness to Accept Decisions*, in TRUST IN ORGANIZATIONS 331, 336 (Roderick M. Kramer & Tom Tyler eds., 1996).

61. See Tyler & Degoey, *supra* note 60, at 336.

62. See *id.* at 346.

63. See, e.g., TYLER, *supra* note 2.

64. See *id.* at 135-40.

	Performance evaluations	Obligation to obey the law
Outcome favorability	.06	.14
Opportunities for voice (participation)	.07	.05
Are the authorities trustworthy?	.33***	.41***
Were you treated with dignity and respect?	.11	.11
Were the authorities neutral?	.06	.01
Proportion of variance explained	18%	13%***

courts would treat them fairly.⁶⁶ It appears, therefore, that people have an illusion of benevolence—a distorted sense that they are secure. Yet when people actually deal with legal authorities, this illusion is potentially open to question.

Trust is also important because it speaks to the future. Because intentions develop from a person's character, which people view as generally stable and unchanging, judgments about current intentions allow people to predict the future. People are long-term members of society and, consequently, their loyalty depends on their predictions about what will happen in the long term. For this reason, people's attitudes toward authorities fluctuate as their judgments about the

65. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

66. See TYLER, *supra* note 2, at 136.

benevolence of authorities change.⁶⁷ If they believe that the authorities are trying to be fair and to deal fairly with them, they develop a long-term commitment to society.

The importance of trustworthiness suggests that an important goal for law makers and law-enforcement authorities should be to reestablish the social connection between citizens and legal authorities which underlies feelings of trust in the motives of leaders.⁶⁸ If citizens trust that their leaders are trying to do what is best for them, they defer voluntarily to legal rules.⁶⁹ This means that people need to believe that the authorities with whom they are dealing care about them and about their problems.

B. *What Shapes Trustworthiness?*

We can examine the question of what shapes trustworthiness in two ways. First, we can use the judgments about whether the authorities provide desired outcomes, allow people to influence the outcome (decision control), allow people to speak and present evidence (voice), behave neutrally, and treat people with dignity and respect to explain judgments that they are trustworthy. The results of a regression analysis using these aspects of what authorities do to predict inferences about their motives is shown in Table 11. As the table indicates, all five aspects of experience are linked to trustworthiness. These results suggest that the most important antecedent of trustworthiness is participation.

People feel better about authorities following an experience if they are allowed to participate in shaping decisions that affect the resolution of their problems or conflicts. The positive effects of participation have been widely found. John Thibaut and Laurens Walker⁷⁰ found that participation in trials led to judgments that the adversary system was fair. Participation has also been found to enhance the perceived fairness of plea bargaining, sentencing hearings, and mediation.

Voice effects have not been found to be dependant on having control over outcomes. Instead, people have been found to value the opportunity to express their views to decision makers in and of itself. For example, victims value the opportunity to speak at sentencing hearings, irrespective of whether they influence the sentences criminals

67. See Tyler & Degoe, *supra* note 60, at 342.

68. See *id.* at 332-33, 339-40.

69. See *id.* at 333.

70. See JOHN THIBAUT & LAURENS WALKER, PROCEDURAL JUSTICE: A PSYCHOLOGICAL ANALYSIS 94 (1975) ("One of the most intriguing findings for participant subjects was the linear increase in satisfaction with the procedure, perceived fairness of the procedure, and opportunity for evidence presentation as the procedural mode moved along the continuum from the inquisitorial to the choice adversary method.").

Outcome favorability	.14***
Influence over outcome	.21***
Opportunities for voice (participation)	.39***
Were you treated with dignity and respect?	.17***
Were the authorities neutral?	.17***
Proportion of variance explained	70%

receive.⁷² Interestingly, lawyers and judges often oppose sharing control because they think that people want to share control over the final decisions in a case. In fact, people are primarily interested in sharing the discussion of the case, not decisions about how to handle it. Ethnographic studies of narratives delivered in court indicate that people want to tell their story, but that they look to legal authorities (lawyers) to put that story into legally relevant form and to make decisions about which legal principles apply to it (judges).⁷³ Therefore, people are more satisfied even when they lose, if they have had suitable opportunities to express their sense of what the problem is and how it should be handled.

An interesting additional benefit of allowing each side to state their case is that the other side hears their story. Disputants typically enter the legal system believing that justice is on their side.⁷⁴ In fact, studies

71. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

72. Anne M. Heinz & Wayne A. Kerstetter, *Pretrial Settlement Conference: Evaluation of a Reform in Plea Bargaining*, 13 L. & SOC'Y REV. 349, 362-65 (1979).

73. See JOHN M. CONLEY & WILLIAM M. O'BARR, RULES VERSUS RELATIONSHIPS: THE ETHNOGRAPHY OF LEGAL DISCOURSE 34, 174 (1990).

74. *See id.* at 176.

of disputants suggest that they often see little merit in the other parties' case. However, hearing the other side of the case presented to a third party allows each side to see that, in fact, there is another side to the case.

The finding that people value the opportunity to participate by expressing their opinions and stating their cases explains several seemingly paradoxical findings in studies of differing legal forums. The first finding is that mediation is more popular than adjudication in the resolution of small claims and civil cases. For example, in a study of small claims courts, Craig McEwen and Richard Maiman found that 71% of disputants were likely to fully comply with a mediated settlement, 34% with an adjudicated settlement.⁷⁵ Why? After mediation, 44% of the time both parties viewed the settlement as fair; after an adjudicated settlement, both parties viewed the settlement as fair 24% of the time.⁷⁶ McEwen and Maiman attribute these findings to the greater opportunities for participation allowed by mediation.⁷⁷ In fact, mediation has been generally found to produce a greater willingness to accept decisions than formal trials.⁷⁸

The second finding is that plea bargaining is rated as a more just procedure than a trial by defendants indicted for felonies.⁷⁹ For example, among those who received an average prison sentence, 52% rated plea bargaining fair, while only 24% rated their trial fair.⁸⁰ Among those who received a heavy sentence, 14% rated plea bargaining fair, while 0% rated their trial fair.⁸¹ In both cases, defendants indicated that they felt they had greater opportunities to participate in the more informal procedure.⁸²

The idea that informal judgments of justice may depart from judgments of the formal structures of the court is further supported by a study of the Pittsburgh court-administered mediation program.⁸³ That

75. See Craig A. McEwen & Richard J. Maiman, *Small Claims Mediation in Maine: An Empirical Assessment* 33 ME. L. REV. 237, 261 (1981).

76. See *id.* at 259.

77. See *id.* at 265.

78. See Roselle L. Wissler, *Mediation and Adjudication in the Small Claims Court: The Effects of Process and Case Characteristics*, 29 L. & SOC'Y REV. 323, 351 (1995).

79. See Jonathan D. Casper, *Having Their Day in Court: Defendant Evaluations of the Fairness of Their Treatment*, 12 L. & SOC'Y REV. 237 (1978); see also Jonathan D. Casper et al., *Procedural Justice in Felony Cases*, 22 L. & SOC'Y REV. 483 (1988).

80. See Casper, *supra* note 79, at 243 tbl.1.

81. See *id.*

82. See Casper et al., *supra* note 79, at 499-500.

83. See JANE W. ADLER ET AL., *SIMPLE JUSTICE: HOW LITIGANTS FARE IN THE PITTSBURGH COURT ARBITRATION PROGRAM* (1983).

study found that 75% of cases referred to mediation were settled.⁸⁴ Mediation was generally rated as a satisfactory procedure for dispute resolution, ratings which were linked to judgments that it was fair. An analysis of the meaning of fairness indicated that participants had an informal "fair hearing" standard against which they evaluated their experiences. Receiving fairness involved having an adequate chance to state one's case and having an unbiased, impartial decision maker.⁸⁵ Both of these elements of subjective fairness were met by mediation.

The importance of participation also explains another finding of studies of the legal system—that people view settlement conferences as unfair.⁸⁶ In a settlement conference the judge and lawyers typically negotiate an agreement, often without the client present.⁸⁷ Lawyers are often surprised when they present their clients with what they regard as a favorable settlement, only to be met by anger and hostility. Such negative feelings are easily understood from a participation perspective. Clients want to be involved in the solution of their cases.

C. *Trust in What?*

A second approach is to try to understand what type of trust is central to people's evaluations. Trust is a general concept and could potentially reflect concerns about a variety of characteristics or behaviors of legal authority. Consider two possibilities: competence and benevolence. Competence reflects the belief that authorities will solve problems well. Benevolence reflects that feeling that they are motivated to try to be fair and that they care about those with whom they are dealing. When these two characteristics of authorities are considered separately,⁸⁸ benevolence is more important than competence.

The findings reflected in Table 12 suggest that people focus most heavily on whether or not they think that the mediator, lawyer, or judge they are dealing with cares about them and their problems and is truly trying to find a solution that is good for those involved. This is ironic because most legal training focuses on issues of competence in understanding and interpreting the law. Gaining deference through making accurate rule-based decisions, not influenced by personal values or biases, is referred to as neutrality.

84. *See id.* at 46.

85. *See id.* at 65.

86. *See* E. Allen Lind et al., *In the Eye of the Beholder: Tort Litigants' Evaluations of their Experiences in the Civil Justice System*, 24 L. & SOC. REV. 953, 965-67 (1990).

87. *See id.* at 963.

88. *See infra* tbl.12.

Table 12 ⁸⁹		
Factors shaping evaluations of the courts		
	Performance evaluations	Obligation to obey the law
Competent	.21***	.02
Benevolent	.47***	.14***
Proportion of variance explained	42%****	2%***

VII. IMPLICATIONS FOR WHAT TO DO ABOUT THE PROBLEM OF PUBLIC DISCONTENT

Although I have distinguished between evaluations of performance and feelings of obligation to obey the law, both of these judgments are linked to the same judgment. That judgment is the trustworthiness of authorities. Dissatisfaction flows from assessments that the authorities are not trustworthy. It reflects the assessment that the authorities do not care about those with whom they are dealing, and are not trying to treat them fairly.⁹⁰ In other words, it is an evaluation of character, not of competence. Hence, legal authorities need to move away from emphasizing the neutrality of their decision-making procedures as a basis for public support and deference. Such efforts are based upon the belief that competence is the key issue in the public's mind. Instead, legal authorities need to focus on issues of character and benevolence. These issues are central to public evaluations, and to feelings of obligation to obey the law.

Interestingly, there is considerable evidence that the basis of the ability to gain voluntary acceptance from members of the public, as well as the basis of evaluations of authorities, is already changing from neutrality-based to trust-based. Neutrality-based authority gains

89. The entries listed are beta weights, which reflect the independent contribution of each factor controlling on the influence of other factors in the equation. Those entries that are starred indicate a statistically significant influence upon the dependent variables, at either the $p < .05$ level (*), the $p < .01$ level (**), or the $p < .001$ level (***). The proportion of variance explained is the adjusted R-squared and shows how much all factors explain when considered together.

90. Interestingly, people evaluate the fairness of treatment in terms of trustworthiness. See TOM R. TYLER ET AL., *SOCIAL JUSTICE IN A DIVERSE SOCIETY* (1997).

credibility through signs of professionalism and expertise—for example, the evenhanded application of rules, lack of bias, and the use of facts, rules, and procedures. Such signs of “professionalism” render the particular authority dealt with a minor issue. A person can go to any police officer or judge and receive uniform, consistent treatment. Increasingly, however, there are suggestions that this type of authority is less compelling to the public. Instead, people are focusing on their views about the morality and benevolence of the authority with whom they are dealing.⁹¹ This focus on trustworthiness leads to an interest in knowing the particular authority with whom one is dealing. As a consequence, it encourages personal connections between citizens and authorities and deference based on a knowledge of the authorities’ history and values.

An example of the encouragement of trust-based authority can be seen in the recent movement toward community-based policing.⁹² In an earlier historical period, police officers walked neighborhood “beats.”⁹³ Consequently, they knew and were known by the members of the community that they policed. Their authority developed from a personal history, which led to trust in their motives and values.⁹⁴ That model of policing was then replaced by a model that emphasizes professionalism in policing.⁹⁵ Police officers were removed from everyday contact with particular groups of citizens.⁹⁶ Instead, they exercised authority over large areas and their authoritativeness was linked to professional training and conduct—that is, to neutrality.⁹⁷ Ironically, recent changes toward community-based policing reflect a move back to the earlier trust-based model.⁹⁸ Those changes are being encouraged by declining confidence in the professionalism of the police. Hence, individual police officers need to develop personalized connections with people in the community. In essence, authorities need to create their own legitimacy on an individual basis. They cannot rely on the general legitimacy that they may have as a member of the police force.

These results suggest the value of a psychological analysis of public views about the law. For example, psychological theory can explain

91. See Tom R. Tyler & Wayne Kerstetter, *Moral Authority in Law and Criminal Justice*, 13 CRIM. JUST. ETHICS, Summer/Fall 1994, at 44, 46.

92. See *id.* at 48.

93. See *id.*

94. See *id.*

95. See *id.*

96. See *id.*

97. See *id.*

98. See *id.*

why mediation is popular (because it provides greater opportunities for participation) and, therefore, can be used to suggest changes in the law and judicial institutions which will increase people's willingness to voluntarily accept judicial decisions. These findings indicate that judicial authorities can, in fact, address problems of citizen discontent and the findings of psychological research suggest ways for judicial authorities to manage this discontent.

