

more trust in courts established by the CCP than residents of more "revolutionary" counties? One explanation may be that courts and lawyers were weak, or nonexistent, in regions where the CCP was able to establish an early presence. Because the party controlled these regions first, it was able to create a formal state apparatus early (including people's courts), but these courts would have had little cultural meaning in regions where war and revolution – and not even the most minimalist conceptions of the rule of law – defined ordinary life. By contrast, when the CCP took over the rest of China in the late 1940s, its "inherited" regions where the KMT's project of state building and modernization during the Nanjing decade had been relatively more successful and where the courts had already been established as a useful component of proper local governance.

We can rule out the argument that KMT strength is merely another proxy for the more advanced economic condition in territories that happened to be under KMT control for a longer period time. The variable "county population in 1953" is significant but negative. Yet even when we control for urbanization at the early stage of the regime, we still find that counties that experienced a weaker CCP presence and a longer length of KMT rule are the localities where the respondents are relatively more trusting of the courts.

These conclusions do not imply that contemporary Chinese citizens are the prisoners of their history. History matters, but so does individual heterogeneity. Many respondent-level variables have a powerful and significant impact on institutional trust, independently of the historical characteristics of the counties in which they live. The findings do suggest, however, that a more careful analysis of the local context applied to survey data can reveal significant variations across space as well as historical continuities at the county level.

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6

CHINESE JUSTICE: CIVIL DISPUTE RESOLUTION IN  
CONTEMPORARY CHINA (CAMBRIDGE, 2011)

## Public Attitudes toward Official Justice in Beijing and Rural China

Ethan Michelson and Benjamin L. Read

Gruesome media accounts from both China and abroad on the performance of Chinese legal institutions, perhaps best exemplified by the Pulitzer Prize-winning series on "ragged justice,"<sup>1</sup> are consistent with scholarly reports of pervasive travesties of justice in the court system<sup>2</sup> and abuses of power in the police system.<sup>3</sup> Notwithstanding this conventional

<sup>1</sup> Joseph Kahn, "Deep Flaws, and Little Justice, in China's Court System," *New York Times*, September 21, 2005, A1; Joseph Kahn, "Dispute Leaves U.S. Executive in Chinese Legal Netherworld," *New York Times*, November 1, 2005, A1; Joseph Kahn, "Legal Gadfly Bites Hard, and Beijing Slaps Him," *New York Times*, December 13, 2005, A1; Joseph Kahn, "When Chinese Sue the State, Cases Are Often Smothered," *New York Times*, December 28, 2005, A1; Jim Yardley, "A Judge Tests China's Courts, Making History," *New York Times*, November 28, 2005, A1; Jim Yardley, "Desperate Search for Justice: One Man vs. China," *New York Times*, November 12, 2005, A1; Jim Yardley, "Seeking a Public Voice on China's 'Angry River,'" *New York Times*, December 26, 2005, A1; Jim Yardley, "In Worker's Death, View of China's Harsh Justice," *New York Times*, December 31, 2005, A1.

<sup>2</sup> Ting Gong, "Dependent Judiciary and Unaccountable Judges: Judicial Corruption in Contemporary China," *The China Review* 4, no. 2 (2004): 33–54; Mary E. Gallagher, "Mobilizing the Law in China: 'Informed Disenchantment' and the Development of Legal Consciousness," *Law & Society Review* 40, no. 4 (2006): 783–816; Ethan Michelson, "Unhooking from the State: Chinese Lawyers in Transition" (Ph.D. diss., Dept. of Sociology, University of Chicago, 2003), chap. 9; Jerome A. Cohen, "A Slow March to Legal Reform," *Far Eastern Economic Review* 170, no. 8 (October 2007): 20–24.

<sup>3</sup> Kam C. Wong, "The Police Legitimacy Crisis and Police Law Reform in China: Part I," *International Journal of Police Science and Management* 6, no. 4 (2004): 199–218; Murray Scot Tanner, "Campaign-Style Policing in China and Its Critics," in *Crime, Punishment, and Policing in China*, ed. Børge Bakken (Lanham, Md.: Rowman & Littlefield, 2005), pp. 171–188; Hualing Fu, "Zhou Yongkang and the Recent Police Reform in China," *The Australian and New Zealand Journal of Criminology* 38, no. 2 (2005): 241–253.

We are grateful to Tom Tyler for making available his 1984 Chicago survey data. The Chinese survey data analyzed in this chapter were collected with generous funding from the Ford Foundation (Beijing) and the Lewis Mumford Center for Comparative Urban and Regional Research. Write-up support was provided by the Obermann Center for Advanced Studies, University of Iowa.

story of endemic failures in China's legal system, survey evidence tells the opposite story: highly positive popular perceptions of – and an overwhelming popular willingness to mobilize – both the courts<sup>4</sup> and the police.<sup>5</sup> Which of these two seemingly contradictory stories is correct? In this chapter, we use survey data from Beijing and rural China on popular perceptions of official justice and on firsthand assessments of encounters with official justice to argue that the story of upbeat perceptions and the story of downbeat encounters paradoxically are both correct.

Our analysis is divided into two steps. First, we analyze general perceptions of the performance of the legal system. Here we consider public attitudes toward, popular confidence in, and popular support for official justice – defined in this chapter as the courts and the police. Second, we analyze personal assessments of direct encounters with official justice. Whereas the first analytical step encompasses all individuals regardless of whether or not they reported prior experience in the legal system, the second is limited to aggrieved individuals who brought their grievances to some part of the legal system. Our essential puzzle is the glaring incongruity between upbeat general perceptions and downbeat experience-based assessments of official justice. We argue that the key to explaining this puzzle is the small proportion of people with personal experience: Intensely negative assessments of personal encounters failed to contaminate otherwise sanguine public perceptions of official justice because – borrowing terminology from Chapter 7 in this volume – the ratio of “users” to “non-users” was so minuscule. In the low-user context of China, negative experience-based assessments had only limited influence on general perceptions of official justice.

<sup>4</sup> Gao Hongjun, “Zhongguo gongmin quanli yishi de yanjin” (The Evolution of Chinese Citizen Rights Consciousness). In *Zou xiang quanli de shidai: Zhongguo gongmin quanli fazhan yanjiu, xitong ban* (Toward an Age of Rights: Research on the Development of Chinese Citizen Rights, Revised Edition), ed. Xia Yong (Beijing: Zhongguo zhengfa daxue chubanshe, 1999), pp. 43–106; Xueyi Chen and Tianjian Shi, “Media Effects on Political Confidence and Trust in the People's Republic of China in the Post-Tiananmen Period,” *East Asia* 19, no. 3 (2001): 84–118; Pierre Landry, “The Institutional Diffusion of Courts in China: Evidence from Survey Data,” In *Rule By Law: The Politics of Courts in Authoritarian Regimes*, ed. Tom Ginsburg and Tamir Moustafa (New York: Cambridge University Press, 2008), pp. 207–234.

<sup>5</sup> Liqun Cao and Charles Hou, “A Comparison of Confidence in the Police in China and in the United States,” *Journal of Criminal Justice* 29, no. 2 (2001): 87–99; Jiangsu Bureau of Statistics, “Renmin qunzhong dui gongan gongzuo manyidu” wenjuan diaocha jieguo fenxi baogao” (Report of Analysis of Results of Questionnaire Survey on “People's Satisfaction with the Public Security”), December 1, 2004, <http://www.xxtj.gov.cn/tfxl/2004121103237.asp> (accessed on August 5, 2008).

Because our China surveys borrowed questions directly from Tom Tyler's 1984 Chicago survey,<sup>6</sup> we are in a unique position to compare general perceptions and experience-based assessments of official justice between the *low-user* context of China and the *high-user* context of Chicago. Consistent with our argument, in the Chicago survey, in which the ratio of users to non-users was high, there was no incongruity between general perceptions and experience-based assessments. Borrowing questions from the earlier Chicago survey affords us the additional opportunity to assess the extent to which the distinction between distributive justice (fairness of outcome) and procedural justice (fairness of process) applies to the Chinese context.<sup>7</sup> Decades of research suggest that people clearly distinguish between distributive justice and procedural justice, that people privilege the latter over the former, and that these patterns are universal.<sup>8</sup> Our survey data, however, fail to support any expectation that the salience of this distinction extends to China. On the contrary, respondents in our surveys conflated procedural justice and distributive justice.

We conclude from these findings that, if institutional performance and popular expectations remain constant, the gap between general perceptions and experience-based assessments of official justice will narrow as legal popularization continues to expand the legal system and swell the ranks of its users. Because the perceptions of users were so much more negative than the perceptions of non-users, growth in the population of users could serve to erode overall popular perceptions of official justice. At the same time, our findings also suggest that economic developments may exert a contravening effect, serving to improve popular perceptions of official justice. Ultimately, however, only when people attach greater importance to procedural justice than to distributive justice will improvements in the objective delivery of official justice translate into more sanguine experience-based assessments of official justice. As long as they conflate procedural justice and distributive justice, people will continue to be disappointed by – and continue to assess negatively – undesirable substantive outcomes, regardless of the fairness of the procedures by which they were produced.

<sup>6</sup> Tom R. Tyler, *Why People Obey the Law* (New Haven, Conn.: Yale University Press, 1990).

<sup>7</sup> *Ibid.*

<sup>8</sup> See Robert J. MacCoun, “Voice, Control, and Belonging: The Double-Edged Sword of Procedural Fairness,” *Annual Review of Law and Social Science* 1 (December 2005): 171–201, and for reviews, Rebecca L. Sandefur, “Access to Civil Justice and Race, Class, and Gender Inequality,” *Annual Review of Sociology* 34 (2008): 339–358.

## THE SURVEYS

Along with sociologists at Renmin University of China, we helped design and organize the first large-scale surveys in China on real-life grievances and real-life disputing behavior. The first survey was carried out in Beijing in 2001. In 2002, the rural counterpart was completed in six provinces.

In summer 2001, our survey team completed usable interviews of 1,124 households in twenty-six residents' committees in seven urban districts. In January and early February 2002, our survey team completed usable interviews of 2,902 rural households in one county in each of five provinces (Shaanxi, Henan, Jiangsu, Hunan, and Shandong) and one centrally administered city (Chongqing). Although they were not selected randomly, the six counties in which the rural survey was carried out capture enormous socioeconomic and regional diversity. They include relatively prosperous coastal areas. Indeed, one survey site is in the heart of the spectacularly developed Sunan region of southern Jiangsu Province, not far from Shanghai, where average household income approaches that of Beijing. At the other end of the spectrum are relatively poor, interior areas in Henan and Hunan.

Within the survey sites, interviewers were instructed to select households randomly and to select individual respondents randomly within households using a Kish grid. In the Beijing survey, household size and gender and age distributions are virtually identical to official information for the same year published by the Beijing Statistical Bureau. The only notable differences are with respect to income and education; our sample appears to have lower-than-average income and lower-than-average levels of education. Similarly, in the rural survey, age, education, income, and occupation distributions in the sample closely match the official statistics and published findings from nationally representative samples.

Consistent with several well-known surveys on "legal needs" and "access to justice" conducted in the United States and Europe,<sup>9</sup> our Chinese survey respondents were presented with lists of problem types. On the Beijing and rural survey questionnaires, the list included seventeen and

<sup>9</sup> American Bar Association, *Legal Needs and Civil Justice: A Survey of Americans: Major Findings from the Comprehensive Legal Needs Study* (Chicago: American Bar Association, 1994); Barbara A. Curran, *The Legal Needs of the Public: The Final Report of a National Survey* (Chicago: The Foundation, 1977); Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law* (Portland, Ore.: Hart Publishing, 1999); Hazel Genn and Alan Paterson, *Paths to Justice Scotland: What People in Scotland Do and Think About Going to Law* (Portland, Ore.: Hart Publishing, 2001).

sixteen problem types, respectively, plus an "other dispute" category. The contents of the lists were tailored to each context. For example, only the Beijing survey questionnaire asked about housing rental problems, traffic citations, and home renovation disputes, and only the rural survey questionnaire asked about agricultural tax problems and family planning disputes. For each problem type, the survey respondent was asked whether she (or anyone else in the household) experienced the problem in question during the past five years.

The information collected from the questionnaires has permitted us to estimate the incidence of grievances, or potentially "justiciable events," and to estimate the relative popularity of different parts of the justice system. If a survey respondent reported having experienced a problem, she was then asked two additional pieces of information: where (or with whom) help was sought (including failure to seek help), and whether the source(s) of reported help exceeded, met, or failed to meet initial expectations.<sup>10</sup>

An obvious limitation of using a sample of the general population to measure assessments of personal encounters with official justice is that such encounters are few and far between. Only a small subset of any population anywhere has "justiciable problems" amenable to legal solutions, and only an even smaller subset chooses to pursue legal solutions. For this reason, the surveys also measured popular perceptions of the performance of the legal system among all respondents, even those lacking concrete experience with the legal system.<sup>11</sup> That is, in addition to these questions on real-life encounters, the questionnaires also asked all respondents to evaluate the performance of the police and the courts, even if they lacked real experience with the institutions they were being asked to evaluate. We borrowed questions on court and police performance from Tom Tyler's 1984 Chicago survey.<sup>12</sup>

<sup>10</sup> Although the questionnaire only asked for information about a single third party, many respondents indicated seeking multiple sources of help. See Ethan Michelson, "Justice from Above or Below? Popular Strategies for Resolving Grievances in Rural China," *The China Quarterly*, no. 93 (2008): 52, n. 25, for how we treat assessments of multiple third parties.

<sup>11</sup> Also see Landry, "The Institutional Diffusion of Courts in China," for a similar research design.

<sup>12</sup> In this chapter we limit our analysis to data from the first wave of this two-wave Chicago panel study. In 1985, one year after the first wave, 804 of the original respondents were reinterviewed. Of these, 18 with no reported legal encounters in the first wave reported a court experience and 112 reported a police experience (tabulated by the authors using data supplied by Tom Tyler). Tyler, *Why People Obey the Law*.

In this chapter we analyze nine questions about perceptions of court performance and seven questions about perceptions of police performance. All sixteen public opinion questions are presented in the Appendix. Because it would not be efficient to analyze all sixteen questions separately, we combined them into three aggregate measures. The first is calculated as the proportion of all answers that are negative, where "negative" answers are defined as response categories 4 or 5 for all questions except questions 8 and 16, for which response category 2 is "negative." Likewise, the second is calculated as the proportion of all answers that are positive, where "positive" answers are defined as response categories 1 or 2 for all questions except questions 8 and 16, for which response category 1 is "positive." The third aggregate measure is calculated as the average score of all items: questions 1 to 9 for courts (Appendix, Table A6.1) and questions 10 to 16 for police (Appendix, Table A6.2). The Cronbach alpha scores ranging from .77 to .87 indicate that these items can be combined (with high internal consistency) into aggregate scales of positive and negative attitudes toward the legal system.

In addition to borrowing attitudinal questions from Tyler's 1984 Chicago survey, we borrowed one of his methods of measuring people's assessments of their personal experiences in the legal system. Just as Tyler did, we separated satisfaction with the outcome from satisfaction with the process. Our goal was to test whether Chinese respondents, like their American counterparts, distinguished distributive justice (the desirability of the result) from procedural justice (the fairness of the process).

Despite the many similarities between the Chicago and China surveys, there also are important differences. Whereas our survey includes assessments of encounters with all kinds of third parties sought for help with all kinds of grievances, Tyler's Chicago survey is limited to assessments of experiences with the courts and police, and information about the precise event that precipitated the contact is not elicited. In Tyler's survey, personal experience with the police is defined as having called the police or having been stopped by the police in the past year. Personal experience with the court system is measured as having been part of or having observed a court case in the past year. In instances of multiple experiences (where both police and court experience were reported), respondents had to choose one or the other: They answered questions about "the experience you had with the police or courts during the past year that was *most important* to you in shaping your views about the legal system."<sup>13</sup> For

<sup>13</sup> Ibid., emphasis in original.

this reason, and because we cannot distinguish encounters precipitated by disputes from more mundane encounters, we must be cautious about using Tyler's Chicago data to estimate the frequency of legal mobilization. On the one hand, they may overestimate legal encounters insofar as they include non-disputes. On the other hand, they may underestimate legal encounters insofar as the survey instrument precluded multiple encounters.

In our presentation of findings, we alternate between aggregate and household levels of analysis. At the aggregate level, we combine the Beijing and rural samples to consider regional variations. Although our evidence is presented as simple univariate descriptions and bivariate differences, all patterns we report are robust to controls in multivariate models, details of which are omitted to simplify the presentation of evidence.

#### UPBEAT GENERAL PERCEPTIONS OF OFFICIAL JUSTICE

Prior research on popular perceptions of official justice in China shows generally high levels of public confidence and trust in the courts and police. Landry, analyzing data from a nationally representative Chinese survey conducted in 2003–04, reports that respondents ranked their trust in the procuracy and the courts third and fourth, respectively (behind only the CCP and the NPC), from a list of thirteen public and legal institutions.<sup>14</sup> In a 1993 survey, slightly more than half of the almost 5,500 respondents expressed confidence that a court would handle their case against an administrative agency lawfully and fairly.<sup>15</sup> In the same survey, respondents expressed an overwhelming inclination to mobilize courts and lawyers in the event of a hypothetical physical assault.<sup>16</sup> In a survey of more than three thousand people conducted at the same time, the average response value of 1.1 to a question about confidence in the courts was well above the midpoint of 0.0 (response categories ranged from –2.5 to 2.5 and were scaled in a positive direction).<sup>17</sup> Surveys reveal similarly positive public perceptions of the police. According to data from the Chinese sample in the 1991 World Values Survey, the average response value of 2.8 to a question about confidence in the police was 0.3 points higher than the midpoint of 2.5 (response categories ranged

<sup>14</sup> Landry, "The Institutional Diffusion of Courts in China," p. 211.

<sup>15</sup> Xia Yong, ed., *Zou xiang quanli de shidai*, p. 765.

<sup>16</sup> Ibid., pp. 866–868.

<sup>17</sup> Chen and Shi, "Media Effects on Political Confidence and Trust in the People's Republic of China," 94.

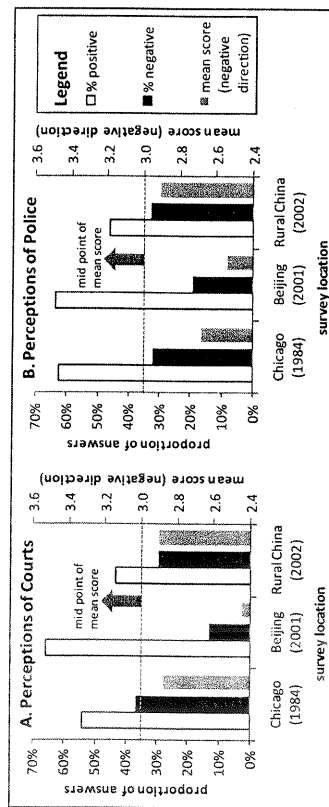


FIGURE 6.1. General Perceptions of Official Justice, Chicago (1984), Beijing (2001), and Rural China (2002). Note: Figure A: Chicago:  $N = 1,567$  respondents; Beijing:  $N = 1,090$  respondents; rural survey:  $N = 2,828$  respondents. Figure B: Chicago:  $N = 1,575$  respondents; Beijing:  $N = 1,120$  respondents; rural survey:  $N = 2,866$  respondents. Sources: 1984 Chicago survey data supplied by Tom Tyler; Authors' China surveys.

from 1 to 4 and were scaled in a positive direction).<sup>18</sup> Finally, a survey conducted in fifty-three county-level administrative units across Jiangsu Province in 2004 found overwhelmingly positive perceptions of police performance and an overwhelming willingness to seek police help.<sup>19</sup>

Our survey data, too, suggest that, even if China's legal system is "ragged," many people are either unaware of – or unwilling to acknowledge – this state of affairs. Figure 6.1 depicts the finding that evaluations of the police and courts were relatively sanguine in all three surveys. Moreover, of all survey samples, Beijing stands out as having the most positive perceptions of official justice. Although rural China exhibited the least positive perceptions of official justice, it does not appear to lag markedly behind Chicago. In all three samples, positive assessments always outnumbered negative assessments. Likewise, in all three samples, average scores (the gray bars) were considerably lower than the perfect midpoints, the point at which assessments would be equally positive and negative.<sup>20</sup>

<sup>18</sup> Cao and Hou, "A Comparison of Confidence in the Police in China and in the United States," 91–92.

<sup>19</sup> Jiangsu Bureau of Statistics, "Renmin qunzhong dui gongan gongzuo manyidu" wenjuan diaocha jiegou fenxi baogao."

<sup>20</sup> In all three surveys, response values are scaled in a negative direction; they range from 1 (most positive) to 5 (most negative). Thus, the midpoint of the scale is 3.0; an average score of 3.0 means that respondents were just as negative as they were positive.

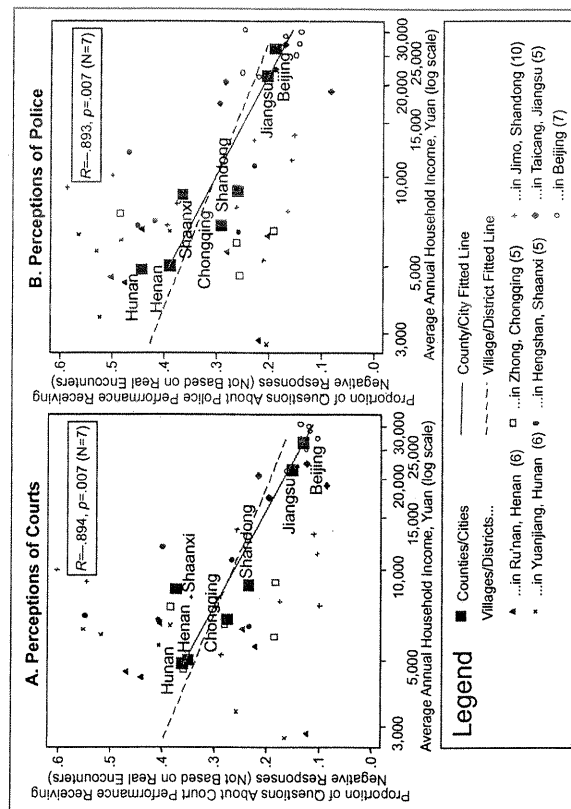


FIGURE 6.2. General Perceptions of the Performance of Courts and Police by Economic Development, Beijing (2001) and Rural China (2002). Source: Authors' China surveys.

The conspicuous perception gap in Figure 6.1 between respondents in rural China and Beijing appears to be a function of economic development. Figure 6.2 shows that economic development systematically reduced negative general assessments of the performance of the courts and police.

#### DOWNBEAT ENCOUNTERS WITH OFFICIAL JUSTICE

We just saw that Chinese respondents were more or less as upbeat as their Chicago counterparts with respect to general perceptions, supplying far more positive than negative answers. Now we turn to the issue of how positively and negatively people rated their direct, concrete experiences in the legal system. Although they reported similarly sanguine general perceptions, respondents in the Chinese and Chicago samples reported vastly different assessments of their concrete experiences. In prior research, Chinese users of official justice are shown to lament the apparent ease with which their adversaries with deeper pockets and insider connections exploit procedural loopholes and corruptly influence

outcomes.<sup>21</sup> When court users describe their experiences, their vocabulary "shows a very low level of confidence in the fairness of judicial institutions: 'taking bribes' (*tanlang*), 'perverting justice' (*wangfa*), 'unjust treatment' (*yuanwuang*), and 'releasing anger' (*chu zhe kou qi*) are recurring words *dangshiren* [users] use to describe their experiences."<sup>22</sup> Prior research on the police system, too, paints a picture of endemic corruption, negligence, and abuse, and of officers' "hostility to the public they are expected to serve."<sup>23</sup> Lawyers – in some ways the ultimate "users" of official justice – also complain bitterly about both judicial corruption and police abuse.<sup>24</sup>

As we see in Table 6.1, Chinese users of official justice in both of our surveys reported exceedingly negative experiences. Experiences with the courts were assessed far more negatively in rural China than in Beijing. But the sharpest contrast was between the Chinese samples and the Chicago sample. In Chicago, experience-based assessments, on the whole, remained more positive than negative. Chinese respondents were between two and three times more likely than their Chicago counterparts to report that an experience "failed to meet expectations." However, differences in evaluations across samples may not be wholly attributable to objective differences in the quality of experiences or in institutional performance. Differences could be explained in part by the fact that some Chicago respondents were evaluating their mundane, noncontentious experiences, whereas Chinese respondents were evaluating their disputing experiences. Nonetheless, the finding that negative assessments outweighed positive assessments in both Chinese samples stands in stark contrast to Landry's findings in his nationally representative sample that court users were far more positive than negative about their experiences.<sup>25</sup>

Consistent with the oft-repeated finding that people differentiate distributive and procedural justice,<sup>26</sup> Table 6.2 shows that in Chicago, experience-based assessments of outcome and process were equivalent about two-thirds of the time with respect to the courts and only about

<sup>21</sup> Gallagher, "Mobilizing the Law in China."

<sup>22</sup> Michelson, "Unhooking from the State: Chinese Lawyers in Transition," 267.

<sup>23</sup> Fu, "Zhou Yongkang and the Recent Police Reform in China," 245; also see Wong, "The Police Legitimacy Crisis and Police Law Reform in China."

<sup>24</sup> Erhan Michelson, "Lawyers, Political Embeddedness, and Institutional Continuity in China's Transition from Socialism," *American Journal of Sociology* 113, no. 2 (2007): 352–414.

<sup>25</sup> Landry, "The Institutional Diffusion of Courts in China," pp. 218–219.

<sup>26</sup> MacCoun, "Voice, Control, and Belonging"; Sandefur, "Access to Civil Justice and Race, Class, and Gender Inequality."

TABLE 6.1. *Experience-based assessments of official justice, Chicago (1984), Beijing (2001), and Rural China (2002)*

Evaluation	Outcome			Process		
	Chicago	Beijing	Rural China	Chicago	Beijing	Rural China
A. Courts	exceeded expectations	32%	0%	4%	0%	6%
	met expectations	47%	64%	33%	64%	37%
	failed to meet expectations	21%	36%	61%	36%	57%
	TOTAL	100%	100%	98%	100%	100%
	N	121	11	84	11	82
B. Police	exceeded expectations	32%	5%	2%	5%	7%
	met expectations	40%	19%	36%	44%	39%
	failed to meet expectations	27%	76%	62%	76%	54%
	TOTAL	99%	100%	100%	100%	100%
	N	381	42	47	447	46

Note: Not all totals equal 100 percent because of rounding errors.

Sources: 1984 Chicago survey data supplied by Tom Tyler; Authors' China surveys.

TABLE 6.2. *Overlap between experience-based assessments of official justice outcomes and procedures, Chicago (1984), Beijing (2001), and Rural China (2002)*

	Chicago (1984)	Beijing (2001)	Rural China (2002)
Encounters with courts			
% Encounters in which outcome and process assessed identically	67%	100%	92%
Correlation between outcome and process (Pearson's $r$ )	0.61	1.00	0.84
N	119	11	44
Encounters with police			
% Encounters in which outcome and process assessed identically	54%	100%	86%
Correlation between outcome and process (Pearson's $r$ )	0.43	1.00	0.62
N	344	41	78

Sources: Chicago survey data supplied by Tom Tyler; Authors' China surveys.

half of the time with respect to the police. In the Chinese samples, by contrast, the two assessments were equivalent about 90 percent of the time. In other words, whereas distributive justice and procedural justice were only moderately correlated in Chicago, they were almost perfectly correlated in China. Perhaps Chicago respondents were better able to separate a negative outcome (a speeding ticket) from a positive process (a courteous police officer) because they were often evaluating undisputed, low-stakes events such as routine traffic citations. Although measures of the association between distributive justice and procedural justice contained in Table 6.2 are limited to encounters with the courts and the police, the association is even stronger when all sources of help are considered. In Beijing, evaluations of outcome and process were identical in 91 percent of all 172 reported disputes and were correlated at  $R = .89$ . In the rural survey, evaluations of outcome and process were identical in 81 percent of all 910 reported disputes and were correlated at  $R = .72$ . This pattern is at odds with Gallagher's finding that plaintiffs in Shanghai possessed the "ability to distinguish between the legal process and outcome. . . ."<sup>27</sup> Elsewhere in the world, where people distinguish

<sup>27</sup> Gallagher, "Mobilizing the Law in China," 804.

process and outcome, fair procedures provide a "cushion of support" against undesirable outcomes.<sup>28</sup> An important implication of the conflation of procedural justice and distributive justice in China, therefore, is the inability of positive procedures to foster popular tolerance for negative outcomes.

Because the Chicago survey limited assessments to experiences with the courts and police, we are unable to see how official justice stacked up against alternative sources of help. The China surveys, by contrast, were designed to do just this. Because distributive justice and procedural justice were virtually synonymous and therefore redundant in China, we combined the two measures into a binary measure of dissatisfaction: An assessment is defined as "negative" if either the outcome "failed to meet expectations" or the process "failed to meet expectations." Generally, the closer to the legal system people brought their disputes, the less positive and the more negative they assessed their experiences. Bilateral negotiations and informal relations were the most positively rated sources of help. The next most popularly rated sources of help were local community leaders (neighborhood and workplace leaders in Beijing and village leaders in the rural areas). Higher-level government agencies followed next in the satisfaction ratings. At the bottom of the rankings were the police, lawyers, and courts. In both surveys, lawyers were rated more negatively than any other source of help (see Figure 6.3). To be sure, differences in satisfaction to some degree reflect differences in problems: Problems that were less serious and easier to resolve were overrepresented at local levels, and problems that were more intractable and difficult to resolve were overrepresented at higher levels. However, this pattern persists even when the nature of the problem is held constant.<sup>29</sup> It also stands in stark contrast to Landry's finding that village leaders received the lowest levels of public trust and the procuracy and courts received among the highest levels of public trust.<sup>30</sup> As we are about to see, in our surveys people rated their informed personal experiences and their uninformed perceptions very differently.

Experience-based assessments of the performance of the courts exhibited enormous regional variation. Figure 6.3 shows that Beijing residents rated the performance of courts quite favorably (even though they rated the performance of lawyers very negatively). In fact, Beijing may merely

<sup>28</sup> Tyler, *Why People Obey the Law*, pp. 98–101.

<sup>29</sup> Michelson, "Justice from Above or Below?"

<sup>30</sup> Landry, "The Institutional Diffusion of Courts in China."



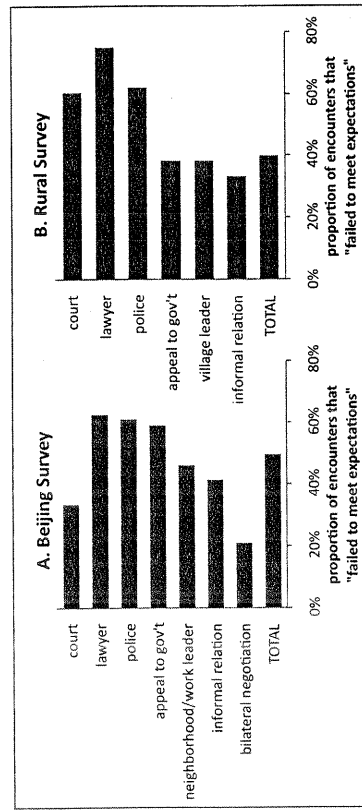


FIGURE 6.3. Experience-Based Assessments by Competing Sources of Help, Beijing (2001) and Rural China (2002). Note: Beijing:  $N = 199$  encounters; rural survey:  $N = 956$  encounters. In the Beijing survey, "bilateral negotiation" was inferred from information on the sources of help. The rural survey questionnaire included "bilateral negotiation" as a response category but did not ask respondents to assess its effectiveness or fairness. Source: Authors' China surveys.

represent the more general effect of economic development: Figure 6.4 shows that the probability of a negative experience in court diminished with economic development. Indeed, although the courts were evaluated far more negatively in rural China than in Beijing, we can see that economic development completely eliminated the gap.

#### EXPLAINING THE INCONGRUITY OF UPBEAT PERCEPTIONS AND DOWNBEAT ENCOUNTERS

In the Chicago survey, general perceptions and experience-based assessments were essentially congruent. Chicago respondents were upbeat both in their responses to a large battery of questions framed without reference to personal encounters with the institutions they were asked to evaluate and to questions about their actual experiences (reporting that they "exceeded expectations" about one-third of the time). That is, their assessments based on actual experiences were congruous with their assessments based on general perceptions. Although respondents in the Chinese samples were more or less as upbeat as their Chicago counterparts in terms of general perceptions, they evaluated their actual experiences far more negatively (almost never reporting that they "exceeded expectations"). We were surprised by this apparent ungluing of popular perceptions from

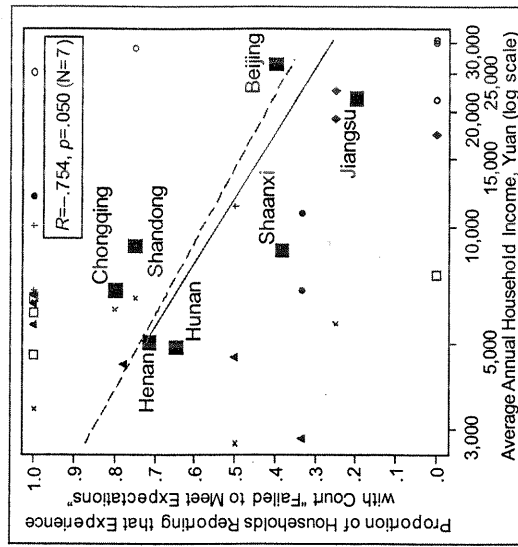


FIGURE 6.4. Incidence of Negative Experience-Based Assessments of Court Performance by Locality, Beijing (2001) and Rural China (2002). Note: See Figure 6.2 for legend.  $N = 25$  rural villages and  $N = 5$  Beijing districts rather than the full  $N = 44$  because of the large numbers of respondents lacking court experience. Source: Authors' China surveys.

actual experience in the Chinese samples – the dramatic disconnect or incongruity between resoundingly negative assessments of personal experience with official justice and resoundingly positive general perceptions of and popular attitudes toward official justice. Explaining this puzzling incongruity in the Chinese samples is one of our tasks in this chapter.

One possible explanation is a sampling bias. Perhaps, given our less than perfectly random samples, the "users" in our samples are disproportionately disgruntled. Another possible explanation is a "political desirability bias": a reluctance to disclose politically illegitimate or deviant practices or beliefs. According to Rosen, "There is little basis in Chinese traditional political culture to suggest that citizens will reveal their true feelings on a questionnaire, even one in which respondents may omit their names."<sup>31</sup> Rosen argues that political pressure to conform to state goals exaggerates the sanguinity of public opinion toward state institutions and

<sup>31</sup> Stanley Rosen, "Survey Research in the People's Republic of China: Some Methodological Problems," *Canadian and International Education* 16, no. 1 (1987): 191.



policies: In China, "many surveys are seemingly conducted in support of a political agenda, to affirm a conclusion already predetermined.... It is important to confirm broad support for a given state policy.... [S]imilarly, it is important to show that one's charges are being properly socialized."<sup>32</sup> However, recent evidence of "an increased sense of personal autonomy coupled with a reduction in anxieties about offending authorities" suggests that a political desirability bias in Chinese surveys may have diminished over time.<sup>33</sup> Although some sort of bias may help account for the puzzling incongruity in the Chinese samples between upbeat perceptions and downbeat encounters, our explanation centers on the effect and prevalence of direct experience in the legal system.

Prior research has established that direct experience greatly influences attitudes toward legal institutions. (See Chapter 7 in this volume for a review of some of the literature on this relationship.)<sup>34</sup> Gallagher encountered "informed disenchantment" among users of a Shanghai legal-aid center: disillusionment and disappointment with the legal system fostered by concrete, first-hand experience.<sup>35</sup> In Russia, Gerber and Mendelson found that negative personal experience with police significantly eroded general perceptions of both the police and the courts.<sup>36</sup> As we now see, our survey results support these findings and are consistent with its flipside: uninformed enchantment among non-users and a naïve confidence in institutions with which informants have no concrete experience. Absent direct experience, perceptions are based on second-hand information and abstract expectations. Respondents in all three surveys had high expectations of the performance of their respective official justice systems. In China, initial expectations may have been further boosted by success stories in the media that provide a plethora of "good news" about official justice.<sup>37</sup> Yet, in most instances, reality fell short of expectations. As we

<sup>32</sup> *Ibid.*, 193.

<sup>33</sup> Donald J. Treiman, William M. Mason, Yao Lu, Pan Yi, Qi Yaqiang, and Song Shige, "Observations on the Design and Implementation of Sample Surveys in China." In *Social Transformation in Chinese Societies*, ed. Bian Yan-jie, Chan Kwok-bun, and Cheung Tak-sing (Leiden: Brill), no. 1 (2006): 81–112.

<sup>34</sup> Also see Theodore P. Gerber and Sarah E. Mendelson, "Public Experiences of Police Violence and Corruption in Contemporary Russia: A Case of Predatory Policing?" *Law & Society Review* 42, no. 1 (2008): 1–43.

<sup>35</sup> Gallagher, "Mobilizing the Law in China."

<sup>36</sup> Gerber and Mendelson, "Public Experiences of Police Violence and Corruption in Contemporary Russia."

<sup>37</sup> *Ibid.*; Daniela Stockmann and Mary Gallagher, "Mass Media Mobilization as a Means of Legal Reform in China." Paper Prepared for the annual meeting of the American

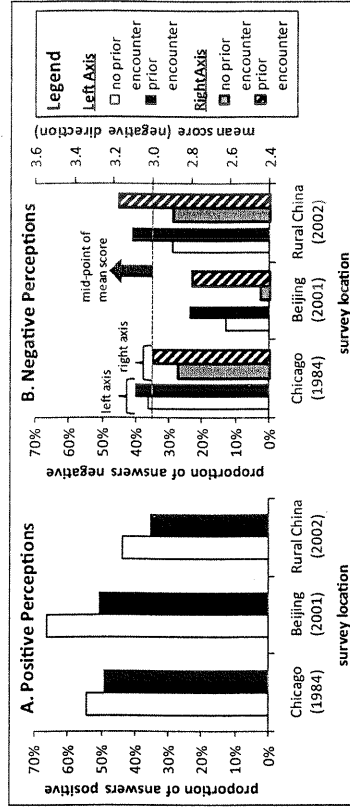


FIGURE 6.5. General Perceptions of Courts, by Personal Experience, Chicago (1984), Beijing (2001), and Rural China (2002). Note: Chicago:  $N = 1,567$  respondents; Beijing:  $N = 1,090$  respondents; rural survey:  $N = 2,828$  respondents. In Figure A, all  $t$ -tests of differences are statistically significant at  $p < .05$  (two-tailed). In Figure B, "proportion of answers negative" (left axis)  $t$ -tests of differences in Chicago, Beijing, and rural China are statistically significant at  $p = .12$ ,  $p = .003$ , and  $p < .001$ , respectively (two-tailed); "mean score" (right axis) differences in Chicago, Beijing, and rural China are statistically significant at  $p = .059$ ,  $p = .003$ , and  $p < .001$ , respectively (two-tailed). Sources: 1984 Chicago survey data supplied by Tom Tyler; Authors' China surveys.

see in Figures 6.5 and 6.6, in all three surveys, experience in the legal system reduced confidence in and support for official justice. Personal experience was associated with negative perceptions of official justice.

Beyond the *quantity* of experience (i.e., some experience versus no experience), however, the *quality* of experience also matters. In all three surveys, respondents with no prior experience were equally or similarly confident in and supportive of official justice, as people who were satisfied with their prior experience with official justice. Respondents with negative personal experiences, by contrast, had far less confidence in and support for official justice than those with positive personal experiences. Figure 6.7 depicts the effect of evaluations of personal experience on general perceptions in Chicago. In Chicago, compared with respondents with positive personal experience, respondents with negative personal experience reported significantly more negative perceptions of courts and police.

Political Science Association, Chicago, August 30–September 2, 2007. (But see Chen and Shi, "Media Effects on Political Confidence and Trust in the People's Republic of China," for precisely the opposite argument.)

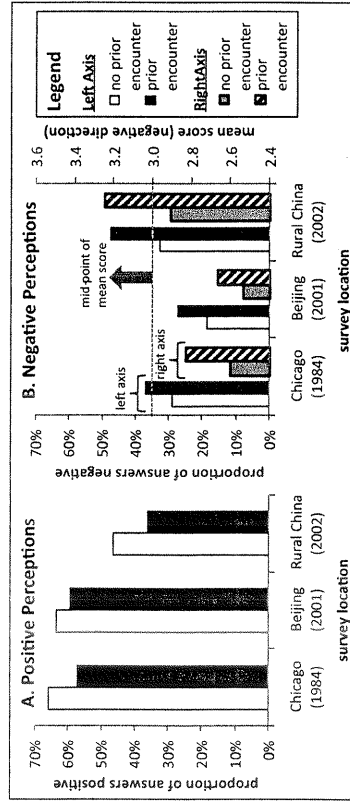


FIGURE 6.6. General Perceptions of Police by Personal Experience, Chicago (1984), Beijing (2001), and Rural China (2002). Note: Chicago:  $N = 1,575$  respondents; Beijing:  $N = 1,120$  respondents; rural survey:  $N = 2,866$  respondents. In Figure A,  $t$ -tests of differences in Chicago, Beijing, and rural China are statistically significant at  $p = .001$ ,  $p = .32$ , and  $p = .03$ , respectively (two-tailed). In Figure B, all  $t$ -tests of "proportion of answers negative" (left axis) differences are statistically significant at  $p = .01$  (two-tailed); all  $t$ -tests of "mean score" (right axis) differences in Chicago, Beijing, and rural China are statistically significant at  $p = .001$ ,  $p = .17$ , and  $p = .01$ , respectively (two-tailed). Sources: 1984 Chicago survey data supplied by Tom Tyler; Authors' China surveys.

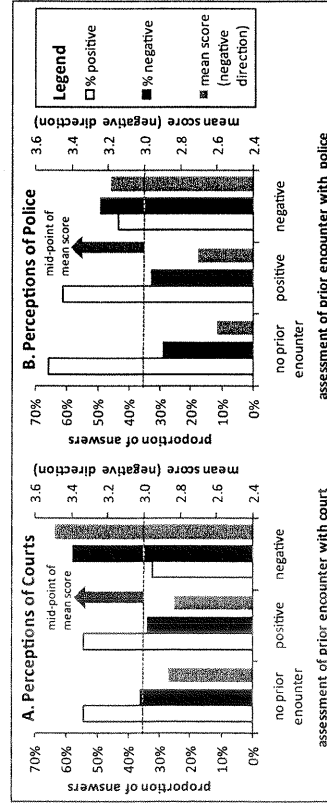


FIGURE 6.7. General Perceptions of Official Justice, by Personal Experience, Disaggregated by Evaluations of Personal Experience, Chicago (1984). Note: Figure A:  $N = 1,567$  respondents; Figure B:  $N = 1,575$ . In both figures, all  $t$ -tests of differences between respondents with negative and positive prior experiences are statistically significant at  $p < .001$  (two-tailed). Source: 1984 Chicago survey data supplied by Tom Tyler.

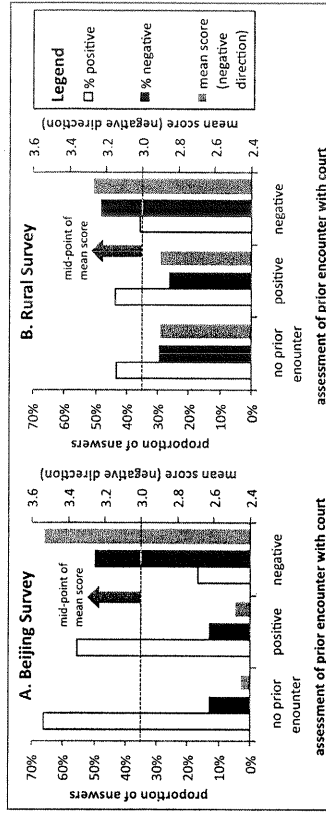


FIGURE 6.8. General Perceptions of Courts by Personal Experience, Disaggregated by Experience-Based Assessments, Beijing (2001) and Rural China (2002). Note: Beijing:  $N = 1,090$  respondents; rural survey:  $N = 2,828$  respondents. In Figure A, all  $t$ -tests of differences between respondents with negative and positive prior experiences are statistically significant at  $p < .05$  (two-tailed). In Figure B, with the exception of "% positive assessments," all remaining  $t$ -tests of differences between respondents with negative and positive prior experiences are statistically significant at  $p < .05$  (two-tailed). Source: Authors' China surveys.

Although the negative personal experience dramatically eroded perceptions of official justice, positive personal experience did not enhance perceptions of court performance and only modestly enhanced perceptions of police performance. It is for this reason that, when personal experience is not disaggregated into negative and positive personal experience, any experience appears to erode perceptions of official justice. In other words, the effect of positive personal experience was too small to counteract the effect of negative personal experience.

The results of the China surveys follow the Chicago pattern. As we see in Figures 6.8 and 6.9, in both Beijing and rural China, negative personal experience eroded general perceptions of the performance of courts and police. Moreover, respondents with positive personal experience were no more confident in and supportive of official justice than were respondents without personal experience.

Now that we have established the corrosive effect of experience in general and negative experience in particular on general perceptions of courts and police, we come to the crux of our explanation: The overall incidence of seeking help in the legal system in general and the overall incidence of disappointing experiences in the legal system in particular are critical determinants of a population's overall perceptions of

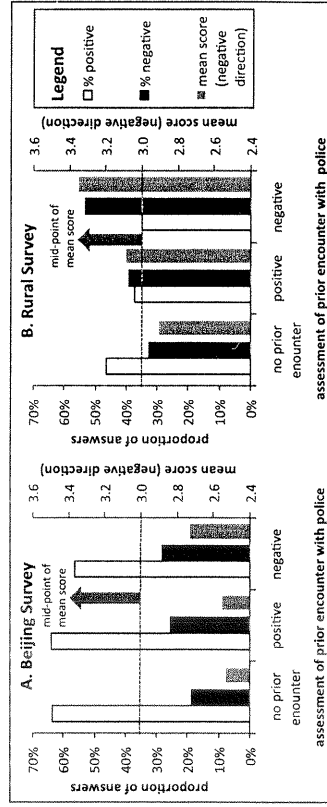


FIGURE 6.9. General Perceptions of Police by Personal Experience, Disaggregated by Experience-Based Assessments, Beijing (2001) and Rural China (2002). *Note:* Beijing:  $N = 1,120$  respondents; rural survey:  $N = 2,866$  respondents. In Figure B,  $t$ -tests of differences between respondents with negative and positive prior experiences are statistically significant at  $p < .10$  for “% negative assessments” and “mean score” (one-tailed). *Source:* Authors’ China surveys.

official justice. Where a population has more experience with official justice, public perceptions will be more heavily influenced by personal experience. Conversely, where a population has less experience with official justice, public perceptions will be less influenced by personal experience. The relative proportions of the population with positive and negative experiences influence the overall mix of public perceptions. Consider the metaphor of adding drops of ink to a pool of water. The extent to which ink drops color the water is a function of both quality and quantity. In tiny quantities, even the darkest ink will have a negligible effect on the color of a pool of water. But as its quantity increases, its effect on the color of the pool of water as a whole will grow.

To be sure, non-users elsewhere in the world are afflicted by unformed enchantment. Americans, too, have misguided impressions and unrealistic expectations of their legal system.<sup>38</sup> But in the United States, the high ratio of users to non-users darkens the sanguinity of uninformed enchantment. In China, by contrast, because of the very small number of people with personal experience in the legal system, the intensely negative evaluations of personal experience reflected in Table 6.1 exerted only a trivial impact on public perceptions of the performance of the legal system.

<sup>38</sup> William M. O’Barr and John M. Conley, “Lay Expectations of the Civil Justice System,” *Law & Society Review* 22, no. 1 (1988): 137–161.

Table 6.3 contains estimates of the prevalence of direct experience with official justice. The Chinese estimates are calculated from information on experiences with pursuing help to redress concrete grievances.<sup>39</sup> The Chicago estimates, however, are calculated from information on encounters regardless of whether or not they were in the context of a dispute. Thus, the Chinese and Chicago estimates are not perfectly comparable. Moreover, many respondents in the Chicago survey assessed their more superficial, mundane experiences with the police and the court system. For example, whereas some respondents assessed their own court cases, others assessed their experience observing a trial.<sup>40</sup> If the potentially more inclusive definition of legal experience inflated our Chicago prevalence estimates, this effect is surely offset both by the respondents’ inability to report more than one encounter and by the shorter time frame in which the encounter occurred. Whereas reported encounters (often multiple encounters) in the China surveys occurred during the previous five years, in the Chicago survey the respondents’ single encounters occurred within the previous year.

As we see in Table 6.3, only approximately one in twenty respondents in the Chinese samples reported direct encounters with the courts or police. In China, a low incidence of appeals to the official justice system in part reflects enduring bottom-up popular demand for informal local alternatives. Indeed, this is the general case around the world, even in the United States.<sup>41</sup> At the same time, a growing body of research shows that political forces at play in China discourage the use of the legal

<sup>39</sup> Chinese survey respondents were asked additional questions about their experience in court unrelated to concrete grievances. “Have you ever appeared in court as a defendant in a criminal case?” “Have you ever appeared in court as a defendant in a non-criminal case?” “Have you ever appeared in court as a plaintiff?” Adding these additional sources of information to the data on grievances increases the estimated court utilization rates in Table 3 from 0.9 percent to 2.6 percent in Beijing and from 2.7 percent to 4.9 percent in rural China.

<sup>40</sup> Tyler, *Why People Obey the Law*, pp. 190–191.

<sup>41</sup> Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Cambridge: Harvard University Press, 1994); David M. Engel, “The Oven Bird’s Song: Insiders, Outsiders, and Personal Injuries in an American Community,” *Law & Society Review* 18, no. 4 (1984): 531–582; Marc Galanter, “Reading the Landscape of Disputes: What We Know and Don’t Know (and Think We Know) About Our Allegedly Contentious and Litigious Society,” *UCLA Law Review* 31, no. 1 (1983): 4–71; Carol J. Greenhouse, *Praying for Justice: Faith, Order, and Community in an American Town* (Ithaca: Cornell University Press, 1986); Carol J. Greenhouse, Barbara Yngvesson, and David M. Engel, *Law and Community in Three American Towns* (Ithaca: Cornell University Press, 1994).

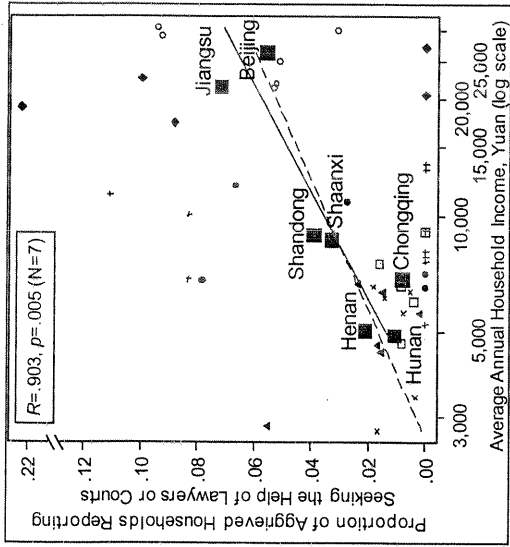


FIGURE 6.10. Incidence of Escalating Grievances to Lawyers and Courts, by Locality, Beijing (2001) and Rural China (2002). Note: See Figure 6.2 for legend. Because they are part of the official justice system, judicial (*sifa*) offices are included in the definition of courts. Source: Authors' China surveys.

system above and beyond the general case. State policies, in the service of the larger, overriding priority to preserve social and political stability, function to deflect disputes away from the courts – for example, by returning them to the localities from which they emerged or by channeling them through government complaints offices.<sup>42</sup> We should not be surprised, therefore, to find that the legal system is mobilized infrequently relative to the large menu of options outside the legal system.

Although legal mobilization was relatively rare in the Chinese samples, it exhibited tremendous regional variations. Figure 6.10 shows that the legal utilization rates were strongly and positively related to the level of economic development. Part of the reason for this relationship surely lies in differences in the nature of the disputes. First, in Beijing and prosperous parts of rural China, higher economic stakes may push more disputes to

<sup>42</sup> Yongshun Cai, “Managed Participation in China,” *Political Science Quarterly* 119, no. 3 (2004): 425–451; Christopher Heurlin and Susan Whiting, “Villagers Against the State: The Politics of Land Disputes,” Paper prepared for the American Political Science Association annual meeting, Chicago, August 30, 2007; Carl Minzner, “Xinjiang: An Alternative to Formal Chinese Legal Institutions,” *Stanford Journal of International Law* 42, no. 1 (2006): 103–179.

TABLE 6.3. Prevalence of direct experience with official justice, Chicago (1984), Beijing (2001), and Rural China (2002)

	Courts		Police		Either	
	Chicago (1984)	Beijing (2001)	Chicago (1984)	Beijing (2001)	Chicago (1984)	Beijing (2001)
yes	9.3%	0.9%	37.2%	4.4%	46.5%	5.2%
no	90.7%	99.1%	62.8%	95.6%	53.5%	94.8%
TOTAL	1,575	1,124	1,575	1,124	1,575	1,124
N	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
	2,902	2,902	2,902	2,902	2,902	2,902

Sources: 1984 Chicago survey data supplied by Tom Tyler; Authors' China surveys.

the courts. Second, insofar as criminal matters and other problems that activate top-down state intervention and that demand court adjudication are relatively common in urban areas, we should not be surprised to find a greater probability of litigation in Beijing than in rural China. However, two additional reasons unrelated to the nature of the disputes help explain the regional variations in the utilization of courts and lawyers. First, wealthier areas enjoy greater geographical proximity to the courts, which are concentrated in cities. Second, court fees and other related expenses represent financial barriers to official justice. Because localities that are more remote also tend to be poorer, low levels of economic development represent a "double whammy" against the utilization of lawyers and courts in rural China. Indeed, when the nature of the dispute is held constant, the positive effect of economic development persists. In other words, all else being equal, including the nature of the dispute, economic development facilitates access to official justice.<sup>43</sup>

But even compared to the parts of China with the greatest prevalence of experience, legal mobilization in Chicago was clearly of an entirely different order of magnitude – even if the gap is discounted because of the measurement differences discussed previously. Almost half of all respondents providing their general opinions had had some kind of contact with the legal system in the previous year. Because the Chicago respondents with informed opinions of the performance of the legal system were almost as numerous as their counterparts with uninformed opinions, those with prior experience in the legal system heavily influenced the overall mix of perceptions of the legal system. Even though users of the legal system in China were far more intensely negative about their experiences than their counterparts in Chicago, they were so greatly outnumbered by non-users of the legal system that their informed voices of disenchantment were drowned out by the far more numerous uninformed voices of enchantment. Likewise, relatively negative general perceptions of the legal system in Russia could, at least in part, be a function of a higher incidence of negative experiences with police. Whereas fewer than 5 percent of respondents in our Chinese samples reported *any* experience

<sup>43</sup> Ethan Michelson, "Climbing the Dispute Pagoda: Grievances and Appeals to the Official Justice System in Rural China," *American Sociological Review* 72, no. 3 (2007): 459–485; Benjamin L. Read and Ethan Michelson, "Mediating the Mediation Debate: Conflict Resolution and the Local State in China," *Journal of Conflict Resolution* 52, no. 5 (2008): 737–764.

with the police in the previous five years (Table 6.3), in Russia 14 percent of respondents reported a (direct or indirect) *negative* experience with the police (i.e., police misconduct) in the previous two or three years.<sup>44</sup> In other words, the impact of overwhelmingly negative assessments of personal experience in China was diluted by the vast majority of the population without personal experience.

#### IMPLICATIONS AND CONCLUSIONS

According to our survey data, the Chinese legal system played a relatively marginal role in 2001 and 2002. Not only were utilization rates low, but its performance also was rated relatively negatively by those who utilized it. Relative to how they assessed their experiences elsewhere in the justice system, people rated their experiences in the legal system unfavorably. Aggrieved individuals not only more frequently sought local help from informal relations and community and workplace leaders, but they also evaluated their experiences with these sources of help far more favorably than they evaluated their experiences with formal legal institutions.

At the same time, however, the survey data reflect a remarkably high degree of public confidence in and support for official justice in China. The Chinese public is by no means wholly insulated from news of police brutality and callousness. Occasionally, negative stories receive widespread coverage and stir popular sympathy. Examples include the vociferous public outcry over the beating death of Sun Zhigang in 2003 while in police custody; national outrage about the death of three-year-old Li Siyi, who starved at home after police arrested her mother and allegedly ignored her pleas to rescue the young girl; a riot at a police station in Guizhou Province involving thousands of people angered by allegations of police efforts to cover up the rape and murder of a teenaged girl to protect two suspects who happened to be relatives of local police officers; and the case of Yang Jia, who won some degree of support from "netizens" following his arrest for murdering six police officers allegedly in response to being viciously beaten by police.<sup>45</sup> Nonetheless,

<sup>44</sup> Gerber and Mendelson, "Public Experiences of Police Violence and Corruption in Contemporary Russia," p. 17.

<sup>45</sup> Keith J. Hand, "Using Law for a Righteous Purpose: The Sun Zhigang Incident and Evolving Forms of Citizen Action in the People's Republic of China," *Columbia Journal*

our survey data suggest that such popular reactions to occasionally publicized instances of police abuse have not turned the tide of public sentiment shaped by a larger and steadier stream of media reports of heroism and professional integrity in the police force. General perceptions of police in Beijing and rural China remained, on balance, favorable in 2001 and 2002. In light of the dramatic incongruity in our surveys between upbeat general perceptions of official justice and downbeat encounters with official justice, our first conclusion is that unformed, non-experience-based perceptions are poor measures of institutional performance. The disjuncture in the Chinese samples between upbeat general perceptions and downbeat experience-based assessments suggests the methodological problem of information asymmetry and the perils of inferring institutional performance from questions asked in the abstract without reference to concrete encounters with the institutions in question.

Our second conclusion is that familiarity breeds contempt. This is markedly different from Landry's conclusion that Chinese court users, on the whole, are satisfied with their experiences and that these happy experiences are conveyed to non-users, resulting in widespread support for litigation.<sup>46</sup> As we saw, positive popular sentiment is concentrated among people either with no experience or with positive experiences in the legal system. Consistent with the concept of "informed disenchantment,"<sup>47</sup> personal experience in the legal system eroded confidence in and support for official justice. At the same time, the vast majority of people with no personal experience in the legal system exhibited "uninformed enchantment" with official justice. Because our survey respondents assessed their personal experiences so overwhelmingly negatively, and because negative personal experiences fostered negative general assessments of the performance of the legal system, more widespread popular experience in the legal system should translate into more negative public opinions of the legal system, assuming that nothing else changes. Consistent with previous research showing that court users often become "little experts" who

of *Transnational Law* 45 (2006): 14-94; Jill Drew, "Anger Over Rape-Murder Case Sparks Riot in China," *The Washington Post*, June 29, 2008, p. A7, 2008; Malcolm Moore, "Police 'Killer' is Chinese Hero," *The Daily Telegraph*, August 27, 2008, p. 17; John Pomfret, "Child's Death Highlights Problems in Chinese Justice," *The Washington Post*, July 3, 2003, p. A1.

<sup>46</sup> Landry, "The Institutional Diffusion of Courts in China."

<sup>47</sup> Gallagher, "Mobilizing the Law in China."

spread information about their disappointing experiences,<sup>48</sup> our findings suggest that, all else being equal, greater aggregate utilization of the legal system should compromise popular support for and confidence in the legal system.

However, the survey findings also suggest that not all else is equal. Economic development exerted an enormously powerful positive influence on the legal system. Economic development positively promoted utilization of the legal system (among similarly aggrieved households), assessments of the performance of the legal system, and popular perceptions of the legal system. Thus, our third conclusion is that the best medicine for treating China's ailing legal system is economic development, even though our survey data do not allow us to identify concrete mechanisms behind this association. Economic development may help to solve the problem of limited access to and the unsatisfactory performance of the court system. In the meantime, however, as we wait for the benefits of economic development to spread to the poor and remote parts of rural China, the survey findings also suggest that aggrieved villagers will benefit from continued access to local, informal solutions that appear to work relatively effectively.

To reiterate our conclusions thus far, general perceptions of official justice were very favorable to an important degree because so few people experienced it. Thus, until the performance of the court system in China improves, policy measures that increase its popular utilization may have the counterintuitive and paradoxical effect of compromising the popular confidence and support it currently enjoys. But, once again, our survey findings also show that the courts deliver the most satisfaction in the most developed parts of China. To the extent that real-life experiences in the legal system are the least favorable in the least developed parts of rural China, and to the extent that real-life encounters with official justice tend to reduce confidence in and support for official justice, policies that encourage the popular mobilization of the law could backfire by fostering "informed disenchantment"<sup>49</sup> on a massive scale. Our fourth conclusion, therefore, is that policy efforts to leverage local solutions with proven records of success outside the legal system should be complemented by policy efforts to improve the performance of the court system. All else being equal, better experiences in the legal system

<sup>48</sup> *Ibid.*, 807-808.

<sup>49</sup> *Ibid.*

should improve public perceptions of the performance of the legal system.

At the same time, however, even if the objective performance of the legal system does not improve, more widespread utilization and greater public awareness of its services may serve to enhance satisfaction with personal efforts to utilize it by lowering expectations of its performance. Intensely negative assessments of encounters with official justice reflected in our surveys may have been, at least in part, a function of excessively high expectations fostered by state propaganda.<sup>50</sup> On the one hand, as we already concluded, further legal popularization may have the effect of negatively impacting public confidence in and support for the legal system. On the other hand, however, it may also have the effect of lowering expectations and improving experience-based assessments of official justice. If continued legal popularization in China serves to enhance public awareness of the fallibility and imperfection of the legal system, it may also serve to lower expectations of its performance, to increase satisfaction with personal experience using it, and, thus, to enhance its overall health. Thus, our fifth conclusion is that, just as general perceptions may decline in the direction of experience-based assessments, experience-based assessments also may rise in the direction of general perceptions. Ewick and Silbey argue that, in the American context, law's strength and durability is in part a function of contradictory popular perceptions of law both as imperfect and subject to exploitation (a "game") and as the flawless realization of an ideal ("god").<sup>51</sup> Unrealistically positive perceptions of any legal system, they contend, are unhealthy and dangerous insofar as public expectations of infallibility breed intolerance of failure. Thus, a modest dose of distrust may promote the health and well-being of rule of law systems. Rather than viewing the gap between the law in action and the law on the books as a problem, they view it as a source of institutional strength – within limits.<sup>52</sup>

It is precisely because people believe that there is equality under law but also understand that sometimes the "haves" come out ahead that legality

<sup>50</sup> Ibid.

<sup>51</sup> Patricia Ewick and Susan S. Silbey, *The Common Place of Law: Stories from Everyday Life* (Chicago: University of Chicago Press, 1998), pp. 228, 232–233, 247–249.

<sup>52</sup> Ibid., p. 248.

is sustained as a powerful structure of social action.... This contradictory embrace of law – a god and gimmick – is not a weakness nor flaw in the public culture. Nor is it a mark of confusion or naiveté. Legality, and the rule of law, is durable and powerful because it is cherished as both sacred and profane.<sup>53</sup>

Although the foregoing conclusions identify mechanisms by which experience-based assessments of official justice and general perceptions of its performance may become more closely aligned over time, our sixth and final conclusion identifies a reason why this gap may persist. As we have seen, people in China assess distributive justice (satisfaction with the outcome) and procedural justice (satisfaction with the fairness of the process) virtually identically. People's low tolerance for outcomes that go against them, even if they were reached through objectively fair procedures, are consistent with portraits of substantive justice trumping procedural fairness both in traditional Chinese legal culture and in socialist legality.<sup>54</sup> Regardless of its origins, however, the popular conflation of fairness with winning precludes greater congruity between assessments of personal experience in the legal system and general perceptions of the legal system. Litigation is a zero-sum game; parties to litigation lose half the time. For this reason, as long as people assess their personal experiences in terms of substantive outcomes, on average experience-based assessments will be more downbeat than general perceptions. Moreover, the unchecked persistence of a popular conflation of procedural justice and distributive justice may neutralize the benefits of procedural reforms. Only when people define the quality of their experiences in terms of their perceptions of fairness will objective improvements in procedures positively improve experience-based assessments of official justice in China.

<sup>53</sup> Susan S. Silbey and Patricia Ewick, "The Rule of Law – Sacred and Profane," *Society* 37, no. 6 (2000): 56.

<sup>54</sup> W. Yuen and D. Roebuck, "The Influence of Traditional Morality on the Enforcement of Foreign Arbitral Awards." In *Yearbook Law & Legal Practice in East Asia* 1996, vol. 2, ed. A. J. de Roo and R. W. Jagtenberg (The Hague: Kluwer Law International, 1996), pp. 47, 51; Stanley B. Lubman, *Bird in a Cage: Legal Reform in China after Mao* (Stanford: Stanford University Press, 1999), p. 23; Jerome A. Cohen, "Reforming China's Civil Procedure: Judging the Courts," *The American Journal of Comparative Law* 45, no. 4 (1997): 793–804; Bin Liang, *The Changing Chinese Legal System, 1978–Present: Centralization of Power and Rationalization of the Legal System* (New York: Routledge, 2008), pp. 166–167.



## APPENDIX

TABLE A6.1. *Perceptions of the courts*

	Chicago, 1984	Beijing, 2001	Rural China, 2002
1. The courts generally guarantee everyone a fair trial. (Q21g)			
1. agree strongly	6%	7%	5%
2. agree	53%	66%	52%
3. neutral	—	17%	15%
4. disagree	35%	9%	26%
5. disagree strongly	6%	1%	2%
TOTAL	100%	100%	100%
N	1,497	1,029	2,603
Beijing vs. Rural China			
$\chi^2 = 51.496$ (d.f. = 4), $p < .001$			
2. The basic rights of citizens are well protected in the courts. (Q21i)			
1. agree strongly	4%	8%	6%
2. agree	53%	69%	50%
3. neutral	—	17%	17%
4. disagree	37%	6%	25%
5. disagree strongly	6%	1%	2%
TOTAL	100%	101%	100%
N	1,472	1,036	2,574
Beijing vs. Rural China			
$\chi^2 = 200.364$ (d.f. = 4), $p < .001$			
3. On the whole, judges are honest. (Q21k)			
1. agree strongly	4%	7%	4%
2. agree	53%	68%	51%
3. neutral	—	17%	15%
4. disagree	34%	7%	26%
5. disagree strongly	9%	0%	3%
TOTAL	100%	99%	99%
N	1,453	976	2,570
Beijing vs. Rural China			
$\chi^2 = 194.560$ (d.f. = 4), $p < .001$			
4. Court decisions are almost always fair. (Q21l)			
1. agree strongly	3%	6%	4%
2. agree	53%	60%	39%
3. neutral	—	18%	18%
4. disagree	39%	14%	35%
5. disagree strongly	5%	1%	4%
TOTAL	100%	99%	100%
N	1,470	1,001	2,527
Beijing vs. Rural China			
$\chi^2 = 201.738$ (d.f. = 4), $p < .001$			

	Chicago, 1984	Beijing, 2001	Rural China, 2002
5. Overall, how good a job are the courts doing? Are they doing... (Q12)			
1. ... a very good job	4%	5%	3%
2. ... a good job	22%	43%	23%
3. ... neutral (in Chicago, "fair")	47%	49%	59%
4. ... a poor job	18%	3%	13%
5. ... a very poor job	9%	1%	2%
TOTAL	100%	101%	100%
N	1,400	926	2,594
Chicago vs. Beijing	$\chi^2 = 253.74$ (d.f. = 4), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 155.818$ (d.f. = 4), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 196.003$ (d.f. = 4), $p < .001$		
6. In general, how satisfied are you with how well the courts solve its cases? Are you... (Q13)			
1. ... very satisfied	7%	5%	3%
2. ... somewhat satisfied	48%	73%	45%
3. ... neutral (in Chicago, volunteered)	1%	16%	36%
4. ... somewhat dissatisfied	32%	6%	15%
5. ... very dissatisfied	13%	1%	2%
TOTAL	101%	101%	101%
N	1,464	916	2,574
Chicago vs. Beijing	$\chi^2 = 532.03$ (d.f. = 4), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 875.72$ (d.f. = 4), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 232.520$ (d.f. = 4), $p < .001$		
7. How satisfied are you with the fairness of the decisions made by the courts? Are you... (Q14)			
1. ... very satisfied	7%	5%	3%
2. ... somewhat satisfied	49%	72%	42%
3. ... neutral (in Chicago, volunteered)	1%	17%	36%
4. ... somewhat dissatisfied	30%	5%	17%
5. ... very dissatisfied	12%	1%	2%
TOTAL	99%	100%	100%
N	1,475	910	2,570
Chicago vs. Beijing	$\chi^2 = 497.53$ (d.f. = 4), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 771.569$ (d.f. = 4), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 287.798$ (d.f. = 4), $p < .001$		

(continued)

(continued)

TABLE A6.1 (continued)

	Chicago, 1984	Beijing, 2001	Rural China, 2002
8. Some people say that the courts treat everyone fairly, others that they favor some people over others. How about you? Do you think that the courts... (Q15)			
1. treat everyone equally,	28%	37%	24%
5. or that they favor some people over others?	72%	63%	76%
TOTAL	100%	100%	100%
N	1,465	849	2,423
Chicago vs. Beijing	$\chi^2 = 16.741$ (d.f. = 1), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 7.536$ (d.f. = 1), $p = .006$		
Beijing vs. Rural China	$\chi^2 = 46.649$ (d.f. = 1), $p < .001$		
9. How fair do you think the outcome you receive from the court would be? Would it be... (Q32)			
1. very fair,	16%	6%	4%
2. somewhat fair,	70%	73%	44%
3. neutral	-	16%	32%
4. somewhat unfair, or	11%	3%	18%
5. very unfair?	3%	1%	1%
TOTAL	100%	99%	99%
N	1,413	847	2,227
Beijing vs. Rural China	$\chi^2 = 262.551$ (d.f. = 4), $p < .001$		
average score (negative assessment)	2.88	2.45	2.91
Cronbach's alpha	.838	.846	.870
average number of non-missing answers	8.32	7.55	7.81
average number of negative answers	3.10	1.03	2.39
average number of positive answers	4.47	5.30	3.59
average proportion of negative answers	.364	.131	.294
average proportion of positive answers	.540	.659	.434

Notes: Codes beginning with "Q" following survey questions indicate question numbers on the original questionnaire presented in Tyler, *Why People Obey the Law*, pp. 179-219. Not all totals equal 100 percent because of rounding errors. "d.f." stands for "degrees of freedom, a number which helps determine statistical significance.

Sources: Tyler, *Why People Obey the Law*, pp. 48-55; Authors' China surveys.

TABLE A6.2. Perceptions of the police

	Chicago, 1984	Beijing, 2001	Rural China, 2002
1. I have a great deal of respect for the police. (Q21a)			
1. agree strongly	19%	13%	12%
2. agree	57%	63%	51%
3. neutral	—	12%	10%
4. disagree	20%	12%	24%
5. disagree strongly	4%	1%	2%
TOTAL	100%	101%	99%
N	1,564	1,113	2,804
Beijing vs. Rural China	$\chi^2 = 85.705$ (d.f. = 4), $p < .001$		
2. On the whole, police officers are honest. (Q21b)			
1. agree strongly	7%	8%	5%
2. agree	51%	67%	50%
3. neutral	—	14%	13%
4. disagree	34%	11%	30%
5. disagree strongly	8%	1%	2%
TOTAL	100%	101%	100%
N	1,515	1,095	2,730
Beijing vs. Rural China	$\chi^2 = 188.124$ (d.f. = 4), $p < .001$		
3. I feel proud of the police. (Q21c)			
1. agree strongly	12%	8%	5%
2. agree	54%	52%	35%
3. neutral	—	20%	19%
4. disagree	29%	18%	36%
5. disagree strongly	5%	1%	5%
TOTAL	100%	99%	100%
N	1,530	1,103	2,747
Beijing vs. Rural China	$\chi^2 = 191.795$ (d.f. = 4), $p < .001$		
4. I feel that I should support the police. (Q21d)			
1. agree strongly	20%	18%	15%
2. agree	68%	75%	65%
3. neutral	—	5%	8%
4. disagree	10%	2%	11%
5. disagree strongly	3%	0%	1%
TOTAL	101%	100%	100%
N	1,549	1,112	2,785
Beijing vs. Rural China	$\chi^2 = 117.049$ (d.f. = 4), $p < .001$		

(continued)

TABLE A6.2 (continued)

	Chicago, 1984	Beijing, 2001	Rural China, 2002
5. Overall, how would you assess the work of the police? Are they doing ... (Q1)			
1. ... a very good job	10%	5%	2%
2. ... a good job	44%	37%	24%
3. ... neutral (in Chicago, "fair")	38%	53%	56%
4. ... a poor job	6%	5%	16%
5. ... a very poor job	2%	1%	2%
TOTAL	100%	101%	100%
N	1,542	1,096	2,763
Chicago vs. Beijing	$\chi^2 = 72.871$ (d.f. = 4), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 406.911$ (d.f. = 4), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 158.747$ (d.f. = 4), $p < .001$		
6. How satisfied are you with the fairness of the outcomes when the police handle problems? Are you ... (Q3)			
1. ... very satisfied	13%	4%	2%
2. ... somewhat satisfied	52%	67%	38%
3. ... neutral (in Chicago, volunteered)	2%	15%	34%
4. ... somewhat dissatisfied	26%	12%	23%
5. ... very dissatisfied	8%	2%	3%
TOTAL	101%	100%	100%
N	1,491	1,074	2,733
Chicago vs. Beijing	$\chi^2 = 340.378$ (d.f. = 4), $p < .001$		
Chicago vs. Rural China	$\chi^2 = 746.794$ (d.f. = 4), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 304.652$ (d.f. = 4), $p < .001$		
7. Some people say that the police treat everyone fairly, others that they favor some people over others. How about you? Do you think that the police ... (Q4)			
1. treat everyone equally,	26%	27%	19%
5. or that they favor some people over others?	74%	73%	81%
TOTAL	100%	100%	100%
N	1,465	1,030	2,557
Chicago vs. Beijing	$\chi^2 = .989$ (d.f. = 1), $p = .320$		
Chicago vs. Rural China	$\chi^2 = 26.240$ (d.f. = 1), $p < .001$		
Beijing vs. Rural China	$\chi^2 = 32.836$ (d.f. = 1), $p < .001$		
average score (negative assessment)	2.69	2.54	2.91

	Chicago, 1984	Beijing, 2001	Rural China, 2002
Cronbach's alpha	.816	.774	.819
average number of non-missing answers	6.77	6.78	6.59
average number of negative answers	2.18	1.30	2.23
average number of positive answers	4.20	4.34	3.10
average proportion of negative answers	.319	.189	.328
average proportion of positive answers	.624	.635	.462

Notes: Codes beginning with "Q" following survey questions indicate question numbers on the original questionnaire presented in Tyler, *Why People Obey the Law*, pp. 179-219. Not all totals equal 100 percent because of rounding errors.

Sources: Tyler, *Why People Obey the Law*, pp. 48-53; Authors' China surveys.