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Public support for Vigilantism

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The concept and measurement of confidence in the criminal justice system

4.1 Introduction

According to the confidence hypothesis, confidence in the criminal justice system is an important determinant of public support for vigilantism. People who are supportive of vigilantism are assumed to have a relatively low level of confidence. After all, they express support for those who deal with crime in spite of the existence of a legal system. Nevertheless, as we suggested earlier, characteristics of the vigilantism situation may also affect public reactions to it. For this reason we dedicated the previous chapter to a conceptualization of vigilantism and its context so that the situation hypothesis can be empirically tested. The next step is to prepare for an evaluation of the confidence hypothesis. To this end, we will conceptualize confidence in the current chapter. We need to be clear on what confidence constitutes, and how it can be measured, before being able to assess its role within the context of vigilantism.

Theoretical and methodological insights from the literature will be described to establish a conceptualization of confidence in the criminal justice system. Distinctions are made between trust and confidence, procedural justice and effectiveness, the criminal justice system as a whole versus individual agencies, and confidence on a local versus a national level. A number of these distinctions are subsequently integrated into a comprehensive tool to measure confidence. The resulting instrument will allow for an empirical test of the confidence hypothesis.

4.2 Public opinion polls

Confidence in the criminal justice system is a common topic in public opinion polls worldwide. Respondents are usually provided with a list of institutions and are asked to give a single confidence rating for each. Table 4.1 provides three examples of such items and the corresponding answer categories.

Most large-scale public opinion polls, including those in Table 4.1, treat confidence as a rather basic concept.⁸ As argued in the literature review on support for vigilantism in Chapter 2, certain concepts are too complex to be assessed using single-item measures. This is also true for confidence. Single-item indicators of confidence are particularly sensitive to measurement error and distortion (Roberts & Hough, 2005b). Some of the main drawbacks of such measures are visible in Table 4.1. The first is *concept*-related: some surveys ask respondents to indicate a level of trust, while others ask for a confidence rating. To what extent such concepts are related remains unclear, but will be addressed in the next section. Secondly, the *object* of confidence differs between the items. Some surveys ask about confidence in the justice system or national legal system, while others ask specifically about confidence in the police or the courts. Another issue concerns the response categories that are used. In some surveys, respondents are for instance given only two options (tend to trust/tend not to trust), while in others they are asked to use a 0-10 point scale. Naturally, all of these disparities make it challenging to draw

⁸ For a review of international indicators of confidence in criminal justice, see Jokinen et al. (2009).

valid conclusions about different levels of confidence. It is slightly less problematic to draw comparisons within one survey on a longitudinal basis, as the items and answer categories are usually consistent over time.

Table 4.1 Single-item measures of confidence in the criminal justice system

Survey (last wave)	Item and <i>institution</i>
Eurobarometer (wave 71: spring 2009)	“I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it.” <i>Justice/ the [nationality] legal system</i>
European Social Survey (wave 5: 2008/2009)	“Using this card, please tell me on a score of 0-10 how much you personally trust each of the institutions I read out. 0 means you do not trust an institution at all, and 10 means you have complete trust.” <i>the legal system</i> <i>the police</i>
World Values Survey (wave 5: 2005-2008)	“I am going to name a number of organizations. For each one, could you tell me how much confidence you have in them: is it a great deal of confidence, quite a lot of confidence, not very much confidence or none at all?” <i>The police</i> <i>The courts</i>

A large-scale survey which does utilize a more elaborate measurement of confidence, especially in its most recent version (2008-2009), is the British Crime Survey (BCS). Respondents for instance rate their confidence in the effectiveness of various criminal justice system agencies, in relation to various specific functions. These include effectiveness of the police at catching criminals and effectiveness of the courts in dealing with cases promptly. Respondents are also asked to indicate their agreement with attitude statements about the criminal justice system as a whole, and about the police in their area. The BCS is thus much more advanced than the other measures described above, as a large variety of items is used rather than a single indicator of confidence.

4.3 Confidence literature

Apart from the large-scale opinion polls, there exists a rich body of research which focuses on the *mechanism* underlying confidence. In other words, why do people express certain levels of confidence in criminal justice agencies? Studies in this field also aim to identify different types of confidence, relations between them, and the influence of confidence on behavior (Bradford & Jackson, 2009). It is beyond the scope of our research on support for vigilantism to investigate such causal mechanisms. However, as the conceptualizations and operationalizations of confidence in the literature are useful for constructing our own measurement tool, they will be discussed below.

4.3.1 Trust vs. confidence

As mentioned above, opinion polls tend to treat concepts like ‘trust’ and ‘confidence’ as synonyms. The terms appear to be similar, yet we find it important to draw a clear conceptual distinction between them. Although both trust and confidence refer to expectations that can result in disappointments, they are said to do so in different ways (Luhmann, 2000). In relation to the criminal justice system, trust is someone’s expectation that they *personally* will be treated in a certain way by criminal justice system actors, while confidence reflects more on how the system is perceived to act *in general* (Roberts & Hough, 2005b).

Trust can be defined as “a state of favorable expectation regarding other people’s actions and intentions” (Möllering, 2001, p.404). Likewise, Sztompka defines trust as “a bet about the future contingent actions of others” (1999, p.25). Trust can more specifically be perceived as “the belief that a person occupying a specific role will perform that role in a manner consistent with the socially defined normative expectations associated with that role” (Hawdon, 2008, p.185). According to this definition, people trust specific individuals in specific contexts. Applying this perspective to the criminal justice system, trust concerns an interpersonal relationship between a citizen and an individual criminal justice actor (Bradford, Jackson, Hough, & Farrall, 2009). A citizen who for instance trusts a police officer, believes that he or she will behave in the way that can be expected from police officers. Trust is an active process involving actions and expectations at the interpersonal level.

Confidence concerns one’s evaluation of criminal justice processes and activities at a more general, abstract level (Bradford, Jackson, Hough et al., 2009). In other words, confidence refers to citizens’ belief about the overall system *as an institution*, not specifically in relation to oneself or one’s own situation. Confidence is passive and encompasses relatively stable attitudes toward the criminal justice system and its components (e.g. rating the police as an institution). Confidence is arguably less easily affected by a single negative encounter than is the case with trust (Bradford, Jackson, Hough et al., 2009). Nevertheless, confidence is likely susceptible to long term processes or events, and can thus be affected (in a positive or negative manner) by experience.

For current purposes, we focus on confidence. Within the context of public support for vigilantism, we are more interested in how citizens view the criminal justice system and its agencies in general (confidence) than at the more interpersonal level (trust). In other words, we would like to empirically examine whether respondents’ confidence in criminal justice system *agencies* affects their view on vigilantism, rather than examining the impact of their trust in specific criminal justice *actors* in one-on-one encounters. With this in mind, we will address confidence in more detail in the next section, and will identify some of its sub components. In line with the main drawbacks of public opinion polls, as described above, we will pay special attention to the *concept* and *object* of confidence.

4.3.2 The concept of confidence

Research consistently shows that confidence is a multi-dimensional concept (Bradford, Jackson, & Stanko, 2009; Hough & Roberts, 2004; Reisig, Bratton, & Gertz, 2007; Sunshine & Tyler, 2003a, 2003b). Confidence is commonly seen as a belief that the criminal justice system “as a set of institutions behaves effectively, fairly, and that it represents the interests and expresses the values of the community” (Bradford, Jackson, Hough et al., 2009, p.142). Importantly, as explained below, a distinction can be made between confidence in *procedural justice* and confidence in the *effectiveness* of the system (Roberts & Hough, 2005b; Skogan, 2009).

Procedural justice

The procedural justice model posits that confidence depends largely on perceptions of *procedural justice* and value alignment (Benesh & Howell, 2001; Sunshine & Tyler, 2003a; Thibaut & Walker, 1975; Tyler, 1990). Proponents of the procedural justice approach maintain that confidence in criminal justice is based predominantly on perceptions of fairness, rather than on instrumental concerns. In other words, people are said to place more importance on the way they are taken care of, than on the nature of the outcome (Roberts & Stalans, 1997). What is at stake is the fairness with which people are treated and the responsiveness of authorities to the wishes of the community (Jackson & Sunshine, 2007).

Research on confidence in police has indeed revealed that citizens primarily have confidence in the police when they experience the police as treating them fairly, which in turn leads to more compliance with the law and more cooperation (Jackson & Sunshine, 2007; Tyler, 1990, 2004, 2006). Examples are police visibility and accessibility. Similarly, in a court setting it has been demonstrated that the more respondents find the court and judges to be fair, the more likely they are to express “a great deal” of confidence in them (Benesh, 2006). The procedural justice model is often contrasted with the instrumental model, which is discussed below.

Instrumental model: effectiveness

According to the instrumental model, confidence is mostly developed and maintained through the *effectiveness* of the justice system (Sunshine & Tyler, 2003b), which is an evaluation of how well the system performs. This assessment depends on the extent to which one’s expectations of the institution’s functioning are met (Caldeira & Gibson, 1995). Confidence in the courts, for example, is thought to depend on the favorability of the outcome. A civil law study carried out in Scotland shows clear evidence for this effect: 70 percent of successful litigants found the outcome to be fair, compared to 10 percent of those who lost their case (Genn & Paterson, 2001). In the case of police, confidence can be affected by perceptions of their efforts and effectiveness in combating crime and maintaining social order. In a study on satisfaction with police, Weitzer and Tuch (2005) shows public confidence in police to be strongly predicted by respondents’ perception of effective crime control. Similar evidence was found by Dekker and Van

der Meer (2007). Adding performance indicators to their model of confidence in the Dutch criminal justice system tripled explained variance. Effectiveness of an institution in instrumental terms can be measured by asking respondents how often the police provide satisfactory service, and how well the courts solve problems (Tyler, 2001). Another method of gauging perceived effectiveness, as applied in the British Market & Opinion Research International (MORI) 2003 poll, is by asking respondents to express how much confidence they have in the effective execution of specific *functions* of the criminal justice system. The functions about which respondents were asked include “stopping offenders from committing more crime” and “creating a society in which people feel safe” (Roberts & Hough, 2005b).

An integration of models

The instrumental model and procedural justice model are commonly seen as divergent perspectives. Substantive research effort has been put into identifying causal relations between procedural justice and effectiveness as well as other aspects such as legitimacy and citizen behavior. However, as our focus lies on *measuring* confidence in the criminal justice system, it goes beyond the scope of our research to examine such causal mechanisms. Moreover, there exists disagreement in the literature on the nature and direction of these causal relations (cf. Hawdon, 2008; Sunshine & Tyler, 2003b). Instead, for current purposes we will combine insights from both the procedural justice literature as well as from the instrumental perspective to create a rich, informative measure of confidence in the criminal justice system. In other words, we will measure perceptions of procedural justice as well as of effectiveness of criminal justice system agencies. An example of the operationalization of such an integrated approach is presented in Section 4.4, after our discussion of the *object* of confidence.

4.3.3 The object of confidence

Who or what ‘receives’ a particular level of confidence? As mentioned in our discussion of public opinion polls, the *object* of confidence can differ substantively between surveys. Sometimes the objects of interest are the police and the justice system, while items in other surveys refer to the courts, judges, the Supreme Court, or plainly ‘justice’. In this section, we start by addressing the distinction between measuring confidence in criminal justice agencies (e.g. judges) within the justice system, and confidence in the system as a whole. Secondly, a distinction is made between confidence at a local level (e.g. in a neighborhood) and at the national level.

Criminal justice system as a whole versus specific agencies

Previous studies clearly demonstrate that a distinction should be made between questioning respondents about the criminal justice system as a whole, and about specific agencies within that system. This distinction is essential because when citizens are asked about the whole system, they may provide an answer with a specific agency in mind (Dekker & Van der Meer, 2007). Specifying confidence per criminal justice system

agency results in differential confidence ratings, which can for example be seen in the BCS data, where police tend to get a relatively high (effectiveness) rating compared to other legal agencies (Allen, Edmonds, Patterson, & Smith, 2006).⁹ Between 2001/02 and 2004/05, for instance, about 50 percent of respondents find that the police do a good or excellent job, compared to only 15 percent for youth courts. All of the other agencies are rated as good or excellent by about 25 percent of respondents. Similar patterns were found in 2002 data from the U.S. National Institute of Justice (NIJ), which show that only 27 percent of Americans expressed a “great deal” of confidence in the criminal justice system as a whole, compared to 59 percent when asked about the police (Tyler, 2004). This ‘hierarchy of confidence’, with police receiving the highest rating and the courts the lowest, is found in most Western countries where respondents rate the effectiveness of specific agencies (Roberts & Hough, 2005b). To explain this effect, Hough and Roberts (2004) maintain that public confidence tends to be higher for those agencies in the justice system whose function lies closest to the view of criminal justice that most members of the public hold, i.e. the crime control model. Agencies that are responsible for punishment of offenders, such as courts and the prison system, are likely to receive lower levels of confidence.

Previous research carried out in the Netherlands nevertheless leads us to expect the exact opposite pattern of confidence for Dutch respondents. In a study with a representative Dutch sample (N = 1056), a total of 67 percent of panel members expressed a great or fair amount of confidence in judges, compared to 60 percent for police (Koomen, 2006). In 1997 another representative sample (N = 2951) was asked to evaluate the following two (procedural justice) items: “The police are honest and trustworthy” and “Judges are honest and trustworthy” (Ter Voert, 1997). The average rating for police on a 5-point scale was 3.4, compared to 3.6 for judges. Similarly, when a representative sample of Dutch citizens (N = 529) was asked to give an overall grade to various criminal justice agencies on a 10-point scale (10 = highest), judges were given a 7 - on average, compared to a 6 for police and a 6 - for the public prosecution (Elffers & De Keijser, 2004). Importantly, despite the fact that these patterns differ from what is commonly found in Western countries, these findings do confirm the importance of distinguishing between the various agencies of the criminal justice system in confidence assessments.

Local versus national agencies

Another important object distinction to make in the measurement of confidence is between local and national agencies. For instance, with regards to *effectiveness*, ratings have been found to be generally higher when people are asked about local criminal justice agencies than when they are asked to rate effectiveness across the country (Page, Wake, & Ames, 2004). The MORI 2003 survey shows 63 percent of respondents to be confident with the way crime was dealt with in the area where they live, compared to

⁹ It should be taken into account that confidence in police is likely to be partially based on perceptions of tasks that are not necessarily related to crime control, such as traffic safety and public order.

only 47 percent on a national (England and Wales) level (Page et al., 2004). The same pattern (although less spectacular) was found in a recent study on confidence in police in the Netherlands (Flight, Van den Aniel, & Hulshof, 2006). A total of 67 percent of respondents expressed a great deal or fair amount of confidence in police in their own neighborhood, compared to 61 percent confidence in police in general. In a Home Office study it was found that specific ratings, such as whether the respondent believes that the system is prompt and efficient, also differ between the local and national level (Page et al., 2004). In another UK study, it was demonstrated that when a general confidence question is posed, 71 percent of respondents consider a combination of local and national issues (Smith, 2007).

Importantly, the local versus national distinction is likely to be most relevant in relation to confidence in police. Differentiating between, for instance, confidence in local versus national judges or public prosecutors is probably not as useful or applicable. Not only might one wonder about the added value of such comparisons, respondents will likely base their judgments on a huge ‘leap of faith’ (Möllering, 2001) due to a lack of experience with such a distinction.

4.4 Operationalization

In the previous sections we presented a number of theoretical and empirical insights from the literature on confidence in the criminal justice system. The current section provides an example of how these can be integrated into a theoretically driven measurement tool. The aim of constructing this tool is to improve on currently available measures of confidence in terms of both validity and reliability.

The main theoretical distinctions that were made concern the *object* and *concept* of confidence. Based on a selection of these distinctions, we constructed an integrated model of confidence for current purposes (see Figure 4.1). The motivation behind this selection, as well as the corresponding items, will be presented below.

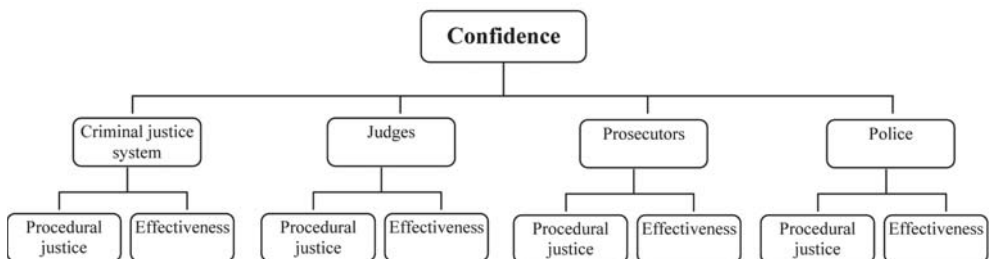


Figure 4.1 An integrated model of confidence

Concerning the *object* distinction, Figure 4.1 shows that we chose to include three criminal justice agencies (police, public prosecution and judges), as well as the system as a whole. All of these individual agencies are expected to be relevant in the context of support for vigilantism. Confidence in the system as a whole is incorporated in order to enable comparisons to confidence in its individual agencies. The distinction between confidence in local and national agencies was left out because of our current interest in confidence, and its relation to support for vigilantism, on a national level. The *concept* distinction was completely operationalized, as we included procedural justice as well as effectiveness for each of the selected agencies.¹⁰

Table 4.2 shows how we operationalized the model using survey questions. The 27 items are ordered in the table by the different object components: judges, prosecutors, police and the criminal justice system (CJS).¹¹ The concept column shows the distinction between procedural justice and effectiveness (i.e. the instrumental model). The items that were taken from or based on existing literature are referenced as such in the last column. The concept of *procedural justice* is measured through items about fairness (e.g. “Judges are honest and trustworthy”) and engagement (“You can count on the judges to take decisions that are best for society”). The instrumental model, or *effectiveness*, is operationalized using items such as “The Dutch justice system is effective in combating crime”. By asking respondents to express their agreement with these items on a Likert scale, we can reach a comprehensive measurement of confidence in the criminal justice system.

4.5 Conclusion

In order to empirically examine confidence in the criminal justice system as a possible determinant of public support for vigilantism, it is important to have a reliable indicator of such confidence. The aim of the current chapter was therefore to construct a theoretically informed measurement tool of confidence. To this end we used a number of theoretical and empirical distinctions from the literature on confidence to develop an integrated model. Distinctions are made between effectiveness and procedural justice, and between the entire criminal justice system versus its constituent agencies (judges, the public prosecution and police). This model was subsequently operationalized into a set of 27 survey items. This specific tool is used in our first study on support for vigilantism, as described in the next chapter. It will allow us to test the confidence hypothesis alongside the situation hypothesis as a determinant of support for vigilantism.

10 For other contexts and purposes, this model can naturally be extended to other (criminal justice) agencies, such as the prison system. A local dimension can also be added, for instance to compare confidence in police on a neighborhood and national level.

11 This selection of items is applied in our first study, of which the results are reported in Chapter 5. Our second, more elaborate operationalization of the model consists of 44 items, and is presented in Chapters 7 and 8.

Table 4.2 *Items to measure confidence in the criminal justice system (CJS)*

Item	Object	Concept	Source
1. Judges are impartial	judges	procedural justice	De Keijser et al. (2006)
2. Judges are honest and trustworthy	judges	procedural justice	Ter Voert (1997)
3. You can count on the judges to take decisions that are best for society	judges	procedural justice	Sunshine and Tyler (2003b)
4. Citizens' rights are well-protected by judges	judges	procedural justice	Sunshine and Tyler (2003b)
5. I respect the judiciary	judges	procedural justice	Sunshine and Tyler (2003b)
6. Citizens should accept the judge's verdict, even if they disagree with it	judges	procedural justice	Sunshine and Tyler (2003b)
7. Judges do their job well	judges	effectiveness	Dekker et al. (2004)
8. Judges' verdicts are well deliberated	judges	effectiveness	
9. The Public Prosecution is honest and trustworthy	prosecutors	procedural justice	Ter Voert (1997)
10. You can count on the Public Prosecution to take decisions that are best for society	prosecutors	procedural justice	Sunshine and Tyler (2003b)
11. Citizens' rights are well-protected by the Public Prosecution	prosecutors	procedural justice	Sunshine and Tyler (2003b)
12. I respect the Public Prosecution	prosecutors	procedural justice	Sunshine and Tyler (2003b)
13. The Public Prosecution deserves respect among citizens	prosecutors	procedural justice	
14. The Public Prosecution does its job well	prosecutors	effectiveness	Dekker et al. (2004)
15. Sentence recommendations are well-deliberated by the Public Prosecution	prosecutors	effectiveness	
16. The police are honest and trustworthy	police	procedural justice	Ter Voert (1997)
17. You can count on the police to take decisions that are best for society	police	procedural justice	Sunshine and Tyler (2003b)
18. The police care about the well-being of the everyday citizen	police	procedural justice	
19. Citizens' rights are well-protected by the police	police	procedural justice	Sunshine and Tyler (2003b)
20. Citizens should do what the police tell them to do, even if they disagree with it	police	procedural justice	Sunshine and Tyler (2003b)
21. I respect the police	police	procedural justice	Sunshine and Tyler (2003b)
22. The police are there when you need them	police	effectiveness	
23. The police do their job well	police	effectiveness	Dekker et al. (2004)

24. I trust the way in which laws in the Netherlands are maintained	CJS	procedural justice
25. Citizens can count on it that their case is properly dealt with in the Dutch CJS	CJS	procedural justice
26. The Dutch criminal justice system functions properly	CJS	effectiveness
27. The Dutch justice system is effective in combating crime	CJS	effectiveness