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# Evaluating Performance in State Judicial Institutions: Trust and Confidence in the Georgia Judiciary

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A FUNCTIONING DEMOCRACY depends in large part on citizens' support for democratic institutions. Without sufficient levels of public trust and confidence in the political branches, for example, citizens may choose not to participate in electoral change within these institutions. In the absence of public participation and input, democracy cannot flourish. Although such ideas seem intuitively obvious in relation to the executive and legislative branches, the democratic relationship between citizens and the judiciary is less clear, even in those jurisdictions that have elected judges. Yet the effective administration of justice is equally important to a healthy democracy and is critical to the functioning of free markets. As one author has observed, a "strong judiciary is essential for checking potential executive and legislative breaches of the constitutional order, laying the foundations for sustainable economic development, and building popular support for the democratic regime" (Prillaman 2000, 1). In short, a strong, well-managed judiciary is essential to the rule of law.

Judiciaries cannot perform their essential functions, however, if citizens lack trust and confidence that the courts offer a fair, efficient, and accessible forum for the resolution of disputes.<sup>1</sup> Citizen support is an essential

prerequisite to judicial legitimacy and efficacy and therefore to the sustainability of the rule of law (Tyler 1990). If citizens lack confidence in their judicial institutions, they are likely to look elsewhere for the preservation of law and order and resolve their disputes through informal and potentially more violent means, including vigilante justice. The effective administration of justice thus represents an essential lynchpin to the maintenance and stability of any democratic regime.

This study assesses the influence of citizens' perceptions of judicial performance on levels of trust and confidence in the Georgia state judiciary. The concepts are separated and evaluated with regard to the extent to which trust and confidence in the judiciary are shaped by a series of independent variables related to judicial independence, efficiency, access, and information. Building on existing research on the courts, several findings emerge. First, different factors shape citizens' trust (as opposed to confidence) in judicial institutions, suggesting that important differences may exist between trust and confidence in the context of state courts. Second, with regard to judicial institutions, African Americans and Hispanics are less trusting than are whites but are no less confident in the court system. A significant racial divide exists in

terms of citizens' beliefs that courts protect their interests but not in terms of beliefs that courts are effective institutions in resolving disputes. Once these racial differences are controlled for in the analysis, perceptions of procedural or distributive justice are found not to be independently related to citizen trust or confidence in judicial institutions. This racial dimension may be unique to states with a history of racial injustice. Moreover, although this study is based on survey data from the single state of Georgia and therefore the results are not immediately generalizable to all states, they do suggest a plausible focus for future research using data from other jurisdictions.

The discussion begins with a review of the literature on public support for governmental institutions, with particular attention paid to existing research on public opinion and the courts. Based on theories of public support for governmental institutions presented in the extant literature, a series of hypotheses are constructed concerning public trust and confidence in state judiciaries. An ordered probit model is estimated to evaluate the strength of the hypothesized relationships.

### **Public Support for Judicial Institutions**

In their seminal study of public support for the U.S. Supreme Court, Caldeira and Gibson (1992, 635) observe that "political institutions must constantly try to amass and husband the goodwill of the public." Like other governmental institutions, judicial institutions rely on public support to maintain legitimacy, especially in jurisdictions in which no electoral connection exists between the judiciary and the citizenry. In addition, public opinion is important to the courts because it can help ensure judicial independence. In a system characterized by robust separation of powers in which judges are checked by other branches, "public opinion is likely to be the ultimate constraint on what actions can be taken against judges" (Burbank and Friedman

2002, 34). If those in the political branches perceive a high level of public support for the judiciary, politicians will be less likely to seek reprisals against judges for decisions restricting the government's power or protecting individual rights. At the same time, compliance with court orders is substantially dependent on public opinion and support for courts as legitimate institutions: "Courts must rely for enforcement of their decisions on retaining sufficient respect from individual citizens so that the vast majority will comply voluntarily" (Olson and Huth 1998, 53).

Similarly, executive branch enforcement of judicial decrees may also depend on the public's acceptance of and support for judicial decrees. Moreover, courts' responsiveness to public opinion ensures that the judiciary does not stray too far from prevailing societal norms in the policy-making process. Indeed, empirical evidence indicates that "court decisions do in fact vary in accord with current public preferences" (Stimson, Mackuen, and Erikson 1995, 555; see also Mishler and Sheehan 1993). Judicial sensitivity to public opinion confers legitimacy and efficacy on the courts.

Courts' legitimacy and efficacy thus hinge in part on the public trust. At the federal level, the judiciary (especially the U.S. Supreme Court) seems able to maintain a fairly stable reservoir of public support, even though individual citizens may disagree with specific policies articulated in court decisions (Caldeira and Gibson 1992). Less is known about citizen support for state courts, however, even though those courts render decisions in many thousands more disputes than do the federal courts. Yet in recent years, state courts in particular have demonstrated an enhanced sensitivity and concern for public perception of their performance. At least 20 states have used public surveys, focus groups, or public hearings over the last decade in an effort to understand citizen perceptions regarding state courts (National Center for State Courts [NCSC] 1999).<sup>2</sup> In addition, the NCSC conducted a nationwide study in 1999 to evaluate public

perceptions of state courts' success in terms of their fairness, efficiency, and accessibility. Although the NCSC study concluded that state courts "came out okay on average," it also noted that much work remains to improve public perceptions of the courts in the areas of access, timeliness, fairness, and responsiveness (1999, 2). Furthermore, "Americans hold views about the courts in their communities that are in some respects reassuring and in other respects very troubling, and in still other respects contradictory" (1999, 43). For example, although judicial decision making was deemed to be honest and fair, respondents also indicated that they believed that state court judges are often influenced by political and electoral considerations. These findings suggest that public confidence in state courts is not always consistent or unequivocal.

### **Parameters of the Study**

This study assesses the influence of citizens' perceptions of judicial performance on levels of trust and confidence in the Georgia state judiciary based on survey data commissioned by the judiciary itself. Although this survey is limited to citizens in a single state, the Georgia judiciary is similar to those in many other states. Georgia is one of a majority of states that elect their judges. Judges on appellate courts are selected statewide in nonpartisan elections for six-year terms; judges on trial courts are selected by citizens living within each judicial district for four-year terms. The legislature has divided Georgia into 48 superior court circuits, with each circuit containing from one to eight counties and served by one or more judges. In conjunction with similar single-state studies (see, for example, Olson and Huth's [1998] study of Utah courts), this study provides a comprehensive picture of citizens' response to local courts.

This study differs in one important respect from other existing studies concerning citizens' evaluation of state judicial institutions in that it focuses on two separate elements of public support: trust and confidence. Because

members of the panel who commissioned the survey saw an important distinction between trust and confidence, the survey instrument employs a split-sample design to measure both concepts. The panelists' belief that the concepts of trust and confidence raise separate and independent issues for citizen satisfaction with court performance finds support in the literature. In their study, Nicholson and Howard (2003) employ a split-sample design to evaluate framing effects associated with questions regarding *Bush v. Gore*.

Traditionally, political trust has been defined as a fiduciary concept involving whether government has fulfilled its responsibility to the people to operate according to their normative expectations (Ulbig 2002, 792; Barber 1983). People trust political actors or institutions when they believe they will act "as they should" (Citrin and Muste 1999; Barber 1983). On the other hand, public confidence in political institutions (which is often conflated with the concept of trust) may depend more specifically on the public's belief that political institutions act competently in the sense that they are able to perform the functions that are legally or constitutionally assigned to them. Some researchers have viewed the question of competence as a second dimension of trust: "[The attributes of trust] fall along two dimensions. The first involves a commitment to act in the interests of the truster because of moral values that emphasize promise keeping, caring about the truster, incentive compatibility, or some combination of all three. When we call someone trustworthy, we often mean only this commitment, but there is a second dimension, namely competence in the domain over which trust is being given. The trustworthy will not betray the trust as a consequence of either bad faith or ineptitude" (Levi and Stoker 2000, 476).

Given these two dimensions related to citizen support for the judiciary, the analysis presented here distinguishes between public trust and public confidence in the state judiciary. In the following sections, hypotheses are posed regarding citizen assessment of ju-

dicial performance based on the organizing principles of independence, efficiency, access, and knowledge. Existing research suggests that a number of variables subsumed under these broad conceptual categories are potentially related to public trust and confidence in state courts (including such factors as citizens' demographic characteristics), their generalized confidence in government institutions, and their assessment of court performance, fairness of court outcomes, and knowledge and attentiveness to events involving courts. These factors are further elaborated in the hypotheses based upon existing theories regarding public opinion and the courts.

## **Hypotheses**

### **Independence**

Independence relates both to the institution of the judiciary and to the impartiality of individual judges. At the state level, citizens likely will not trust dispute resolution to judges who appear to be biased and thus unfair. In jurisdictions in which judges do not enjoy some level of independence from other political actors and institutions, the court system may become politicized and the rule of law threatened.<sup>3</sup> The perception that there is systematic bias against the needs and capacities of certain classes or groups of citizens potentially discourages them from seeking redress in the courts and erodes faith in the institution (Dougherty, Beck, and Bradbury 2003). Judges who are independent from external influence and impartial toward individual litigants in a dispute will be more likely to render decisions that are fair to the parties involved and to be perceived positively by the public.

Existing studies have generally found that citizens' perceptions regarding fair treatment by the courts are important to their support for courts. In the existing literature, conceptions of fairness have been divided into procedural fairness and distributive fairness (Lind and Tyler 1988; Tyler 1988, 1990, 1994; Lind, Kulik, Ambrose, and Park 1993). Procedural fairness reflects a citizen's assessment

of the fairness of the procedures courts use and whether judges are impartial toward the litigants and cases before them. In effect, procedural justice concerns the extent to which individual citizens feel that the decision-making body is trustworthy, neutral, and respectful of the participant (Ulbig 2002). On the other hand, distributive fairness focuses on citizens' perceptions concerning the outcome of the dispute resolution process, particularly whether the authorities "deliver outcomes fairly to people and groups" (Sunshine and Tyler 2003, 517). Courts that are systematically biased against certain groups by treating them unequally undermine distributive justice. Both procedural and distributive justice are related to independence because they reflect the notion that judges will not remain neutral and impartial to external influences or personal biases toward groups or individuals.

Numerous studies have demonstrated the importance of both procedural and distributive justice to the public's trust in governmental actors (for a review, see Ulbig 2002). The perceptions of citizens regarding the fairness of court procedures and personnel (i.e., procedural fairness) likely affect their trust and confidence in the courts. The literature supports the notion that perceptions of courts' treatment of different citizens and groups (i.e., distributive fairness) also affect trust and confidence. Citizens who perceive courts as more likely to treat some groups favorably over others are expected to be less trusting of and confident in judicial institutions. The following hypotheses are offered:

- H1: Citizens who perceive the courts as providing procedural justice will have higher levels of trust and confidence in the courts.
- H2: Citizens who think that the courts do not provide distributive justice will have lower levels of trust and confidence in the courts.

In this regard, it seems reasonable to expect that certain historically disadvantaged minorities may not view courts as favorably as other

groups. Ample evidence supports the conclusion that racial minorities, particularly African Americans, are less trusting of government because they believe they are denied political power or are otherwise disadvantaged by governmental institutions (Howell and Fagan 1988). Tyler (2001) reviewed four data sets and found that minorities consistently focus on fair treatment when assessing court performance. Moreover, previous work has concluded that there is a systemic bias against minorities in the Georgia court system, which results in unequal treatment (Fleischmann and Pierannunzi 1997). Because minorities have experienced *de jure* discrimination and are more likely to be prosecuted (Stuntz 1999), one would expect minority citizens to have lower levels of confidence and trust in the courts. Recent research on the subject, however, suggests that minority views are not monolithic; for example, Latinos display higher levels of support for the courts than do African Americans (De la Garza and DeSipio 2001).<sup>4</sup> Therefore, it is further hypothesized that

H3: African American citizens will have lower levels of trust and confidence in the courts.

H4: Hispanic citizens will have lower levels of trust and confidence in the courts.

### Efficiency

Citizens' attitudes toward the courts are based on their perceptions of not only the impartiality of decision makers but also the efficiency of the judiciary. The importance of efficient court operations is reflected in the maxim "justice delayed is justice denied." Citizens may have diminished notions of trust or confidence in judicial institutions that are not able to manage and balance the varying responsibilities to do with civil, criminal, family, and other substantive matters that are assigned to them.

The concepts of trust and confidence in courts assumes that citizens have an idea of what judges and courts do and how well they

perform their institutional duties and objectives. Olson and Huth (1998) argue that because of their proximity to and increased opportunity for interaction with state and local courts, citizens should be more accurate in their assessments of institutions at this level than of the U.S. Supreme Court. The results of a number of surveys have shown that respondents perceive the courts as being too slow (NCSC 1999; Myers 1996; Raymond 1992). Citizens who conclude that the courts are too dilatory may have less trust and confidence in the judiciary. Moreover, citizens who doubt that courts are able to manage competing demands across different substantive areas may have less trust and confidence in the judiciary. Citizens' satisfaction with judicial institutions may therefore be linked to their case management practices and efficiency in processing cases. It is therefore hypothesized that citizens' confidence in the courts depends on how they perceive court management practices.

H5: Citizens who think that the courts do a poor job handling diverse cases will have lower levels of trust and confidence in the courts.

H6: Citizens who regard court processes as slow will have lower levels of trust and confidence in the courts.

### Access

Because access is an important prerequisite to fair treatment by the courts, it follows that court systems should be "user-friendly" and their operations transparent to the average citizen. Citizens may be deterred from resorting to the courts to handle disputes if access is difficult to obtain or involves burdensome procedural or financial hurdles, which could result in unfair treatment. Thus, the notion of access is relevant to the legitimacy of judicial institutions and therefore public trust and confidence in them. Access is conceptualized in relation to the affordability of litigation and the degree to which courts are user-friendly to the extent that they employ adequate,

courteous, and helpful personnel. Hence, it is hypothesized that

H7: Citizens who believe that courts are less user-friendly will have lower levels of trust and confidence in the courts.

H8: Citizens who think that it is affordable to bring a case to court will have higher levels of trust and confidence in the courts.

### **Knowledge**

One important factor found to be related to citizens' perceptions of courts is how much individuals know about or pay attention to them. How much and what citizens know about their community courts is divided here into three variables: attentiveness, involvement, and knowledge. Caldeira and Gibson (1992) found a strong positive relationship between attentiveness to U.S. Supreme Court proceedings and support for the court. Conversely, at the more local level, other studies have found no relationship between attentiveness measures and support for courts (Olson and Huth 1998; Lenhe and Reynolds 1978). Members of the panel that commissioned the study, however, argued that more informed citizens have better impressions of the court system in Georgia. It is reasonable to expect that citizens who are more aware of courts and the complexities of judicial administration will be more confident in and trusting of judicial institutions. Therefore,

H9: Citizens who are attentive to court activities will have higher levels of trust and confidence in the courts.

Previous efforts to measure citizens' knowledge of courts have focused on their ability to answer factual questions about the court system, including identifying U.S. Supreme Court justices' names, whether all courts have juries, and whether judges are required to be lawyers. The results have shown that citizens who know more about the courts have more favorable attitudes toward courts. In addition, involvement in the courts is an important fac-

tor in perceptions of the courts. A number of studies have looked at the differences in public perceptions of courts among those who have and do not have direct court experience. The results are mixed: some scholars found involvement led to less confidence (NCSC 1999), others found no difference (Kritzer and Voelker 1998), and another found a polarizing effect (Howell 1998). Olson and Huth (1998) found substantial differences in support for community courts among citizens who had been directly involved with courts and those that had not. Their results show higher levels of support for local courts among people with direct experience. Hence, it is expected that

H10: Citizens who are more knowledgeable about the courts will have higher levels of trust and confidence in the courts.

H11: Citizens who have jury experience will have higher levels of trust and confidence in the courts.

### **Confidence in Government Institutions**

Finally, the public opinion literature suggests that much of citizens' opinions about political institutions are developed through a process of socialization. These opinions are often so general that citizens fail to distinguish between branches and/or levels of government (Olson and Huth 1998). Furthermore, a number of studies (Caliendo 1996; Fagan 1981; Lenhe and Reynolds 1978; Murphy, Tanenhaus, and Kastner 1973; Zemans 1991) report that "support for courts [is] found to be related to confidence or trust in governmental institutions generally" (Olson and Huth 1998, 57). A variable measuring generalized support for governmental institutions was therefore added as a control in the model.

### **Data and Estimation Methods**

In October 1999, the Supreme Court of Georgia created the Commission on Public Trust and Confidence to explore ways in which the legal system could "improve the delivery of services to citizens and improve the quality

of justice” (Judicial Council of Georgia 2000). The Georgia study was coordinated by the Carl Vinson Institute of Government at the University of Georgia with assistance from the university’s Survey Research Center (CVIORG 2000). Responses to a telephone survey (largely modeled after the study conducted by the National Center for State Courts) were obtained from 325 Georgians between July and October 2000; each person was surveyed about his or her trust or confidence in state court access, timeliness, fairness, independence, and responsiveness.<sup>5</sup> Subsamples were identified to ensure that Georgia’s major ethnic minorities (African Americans and Hispanics) were adequately represented. In addition, a Spanish-language version of the questionnaire was developed that accommodated local dialects and was comparable to the English version. The study was paid for and subject to design specifications proposed by a blue ribbon panel appointed by the Supreme Court of Georgia.

### Dependent Variables

The Georgia Public Trust and Confidence survey asked half of the respondents in the sample how much confidence they have in the governmental institutions (including courts in their community), and half were asked how much trust they have in those same institutions. The remainder of the survey asked all respondents questions about their experiences with and perceptions of Georgia’s courts. A total of 325 survey responses included information on all questions relevant to this study, 154 responding to questions concerning their confidence in state courts, and 171 responding to questions concerning their trust in state courts.

The dependent variable for confidence in the community courts is ordinal in nature: 1 = no confidence at all; 2 = some confidence; 3 = a lot of confidence; and 4 = a great deal of confidence in community courts. The dependent variable for trust in community courts is also ordinal in nature: 1 = no trust at all; 2 = some trust; 3 = a lot of trust; and 4 = a great deal of trust.

### Independent Variables

#### *Perceptions of Fairness*

The “perceptions of fairness” (or “judicial independence”) variable is composed of two measures: “procedural justice” and “distributive justice.” Procedural justice (Cronbach’s  $\alpha = .580$ )<sup>6</sup> was assessed by asking respondents to rate how strongly they agreed (1 = strongly agree) or disagreed (4 = strongly disagree) with the following statements regarding how decisions are made in the courts:

1. Most juries are not representative of the community.
2. Judges are generally honest and fair in deciding cases.
3. Not enough court proceedings are open to the public.
4. Judges base their decisions on what important people in the community think.
5. Judges follow the public’s wishes rather than the law.
6. Courts generally make reasonable efforts to ensure that individuals have adequate attorney representation.
7. Courts encourage alternative solutions to settling disputes before a case goes to trial.

The measures composing the variable of procedural justice were recoded for consistency so that higher scores indicate better performance, and lower scores, poor performance. Favorable perceptions of procedural justice should correspond with increased confidence and trust in community courts.

The measure distributive justice (Cronbach’s  $\alpha = .842$ ) is a scale combining questions about how different groups of citizens are treated in the courts. Survey respondents were asked, “Do you think that the following groups receive (1) far better treatment, (2) somewhat better treatment, (3) the same treatment, (4) somewhat worse treatment, or (5) far worse treatment?”

- People like you
- Men

- Women
- African Americans
- Hispanics
- Non-English-speaking people
- Children
- Poor people
- Wealthy people

Since the concepts of distributive justice and customer service are predicated on the concept of equal treatment for all, any response other than “(3) the same treatment” would indicate that the courts are less than fair. For that reason, distributive justice is a scale of the absolute value of responses to each question subtracted from the neutral score.<sup>7</sup> Possible scores range from 0 to 2 and are expected to be negatively related to confidence and trust in community courts. Dummy variables for African American and Hispanic respondents also were included for the variable of perceptions of fairness.

### *Efficiency*

To evaluate the hypotheses regarding the variable “court efficiency” (or “court performance”), the measure “case management” (Cronbach’s alpha = .765) was created as an index of answers to questions about how well courts handle different types of cases. In particular, survey participants were asked whether they thought courts handle a variety of different cases in a poor, fair, good, or excellent manner, including

- civil cases such as auto accidents, malpractice claims, and landlord-tenant disputes;
- criminal cases such as crimes of violence, robbery, and shoplifting;
- cases such as traffic, probate, bankruptcy, or small claims in which a person can act as his or her own attorney;
- family relations cases such as divorce, child custody, and child welfare; and
- juvenile delinquency cases.

The scale ranges from 1 (poor) to 4 (excellent) and is expected to be positively related to confidence and trust in community courts.

The second measure of efficiency is perceptions of delay (Cronbach’s alpha = -.560). Respondents were asked to identify how much “the slow pace of justice” adds to the costs of going to court and how strongly they agree or disagree with the statement, “Cases are not resolved in a timely manner.” Given that excessive delay is a denial of justice and that expenses increase the longer legal proceedings take, slow court action may inhibit use of the courts by those who lack time or financial resources. Thus, higher values indicate a less favorable view of courts’ efficiency. As with the case management variable, the measure has a possible range from 1 to 4, with higher values associated with perceptions of greater delay.

### *Access*

Citizens’ perceptions regarding the usability of courts are important to the concept of access. One measure of the variable of access concerns whether citizens perceive the courts as being user-friendly. Respondents were asked how strongly they agree with five statements on a scale of 1 (strongly agree) to 4 (strongly disagree). The five statements were as follows:

1. Court personnel are helpful and courteous.
2. Courts are set up to deal with ordinary as well as large cases.
3. Going to court requires a lot of personal time, such as missing work or being away from home.
4. Courts are out of touch with the community.
5. Judges treat everyone with the same level of courtesy and respect.

Responses were recoded such that larger values corresponded to more favorable views of accessibility, and smaller values were associated with less favorable views. This measure

should be positively related to confidence and trust in the courts.

The second measure related to access—affordability—was assessed by asking respondents how strongly they agreed or disagreed with the statement, “It is affordable to bring a case to court.” Responses are ordinal and range between 1 (strongly disagree) to 4 (strongly agree). A court system that is affordable is more likely to have widespread support, so higher values on the affordability measure should indicate higher levels of confidence and trust in community courts.

### *Citizen Awareness*

Three measures of the variable “citizen awareness” (or “information about courts”) are analyzed: attentiveness, knowledge, and experience. To measure “attentiveness” (Cronbach’s  $\alpha = .571$ ), respondents were asked “Would you say you (4) regularly, (3) sometimes, (2) seldom, or (1) never receive information about courts from the following sources?” Attentiveness captures responses to two types of news sources: television, radio, or Internet; and newspapers, magazines, or other printed material. Higher scores indicate greater attentiveness.

Although previous studies have asked respondents to name justices or recall specific information about courts, this type of factual question was not solicited in the Georgia survey. However, the Georgia survey did ask respondents to self-rate their knowledge of community courts. With regard to the measure “knowledge,” respondents were asked, “Overall, how much would you say that you know about the courts in your community?” Response choices were (4) a lot, (3) some, (2) a little, or (1) nothing at all. The relationship between knowledge and the dependent variable is expected to be positive.

“Jury experience” is simply a dummy variable, coded 1 if the respondent had ever served on a jury, 0 otherwise.

### *Support for Governmental Institutions*

The Georgia survey asked respondents to indicate levels of support for not only courts

in the community but also governmental institutions, including public schools, the local police or sheriff’s department, the Georgia legislature, and the U.S. Supreme Court. The variable of general political confidence and trust used here, “support for governmental institutions” (Cronbach’s  $\alpha = .645$ ), is an index of responses to each of the four questions. These two variables are used respectively in the separate analyses of the confidence and trust dependent variables.<sup>8</sup>

Tables 1 and 2 show the descriptive statistics for the variables and the expected direction of each independent variable in relation to the dependent variables (i.e., confidence or trust in courts).

## **Methods**

Ordered probit is an extension of the ordinary binary probit model and is appropriate to use when ranked, multiple, discrete dependent variables are employed (see Greene 2001). Because the dependent variables in this study are ordinal (coded 1 to 4), it was appropriate to use STATA 7.0 ordered probit function to conduct the analysis. Table 3 presents the two models for public confidence and trust in the courts.

## **Results**

### **Confidence Model**

The results presented in Table 3 demonstrate that confidence in state courts is determined by perceptions of distributive justice, case management, and affordability. These three elements reflect specific dimensions of independence, efficiency, and access. Regarding independence, citizens who believed that the courts treated different groups unequally had less confidence in the courts. However, there were no racial differences in these results: African Americans and Hispanics were no less confident in the courts than were other respondents. Moreover, the measures of procedural justice reflecting respondents’ perceptions concerning the fairness and impartiality of judges in general are not related to their

**Table 1.** Confidence Model

Concept	Variable/Expected Relationship to Dependent Variable	Descriptive Statistics			
		Mean ( $\mu$ )	Std. dev. ( $\sigma$ )	Min.	Max.
Independence (fairness)	Procedural justice (+)	2.610	.812	1.5	4.00
	Distributive justice (-)	.813	.453	0.0	1.89
	African American respondent (-)	.410	.493	0.0	1.00
	Hispanic respondent (-)	.012	.112	0.0	1.00
Efficiency (court performance)	Perceptions of case management (+)	2.420	.632	1.0	4.00
	Perceptions of court delay (-)	2.580	.456	1.5	4.00
Access	Perceptions of affordability (+)	2.830	1.040	1.0	4.00
	Perceptions of courts as user-friendly (+)	2.600	.420	1.6	3.80
Citizen awareness (information about courts)	Attentiveness to courts (+)	3.380	.661	1.0	4.00
	Knowledge of courts (+)	2.940	.711	1.0	4.00
	Jury service (+)	.352	.479	0.0	1.00
Support for governmental institutions	Confidence in political institutions (+)	2.980	.577	1.0	4.00
Confidence in courts	(Model 1 dependent variable)	2.920	.812	1.0	4.00

N = 156.

**Table 2.** Trust Model

Concept	Variable/Expected Relationship to Dependent Variable	Descriptive Statistics			
		Mean ( $\mu$ )	Std. dev. ( $\sigma$ )	Min.	Max.
Independence (fairness)	Procedural justice (+)	2.590	.490	1.5	3.75
	Distributive justice (-)	.818	.481	0.0	2.00
	African American respondent (-)	.263	.441	0.0	1.00
	Hispanic respondent (-)	.163	.371	0.0	1.00
Efficiency (court performance)	Perceptions of case management (+)	2.390	.583	1.0	4.00
	Perceptions of court delay (-)	2.520	.487	1.5	4.00
Access	Perceptions of affordability (+)	2.870	.949	1.0	4.00
	Perceptions of courts as user-friendly (+)	2.540	.454	1.4	4.00
Citizen awareness (information about courts)	Attentiveness to courts (+)	3.260	.748	1.0	4.00
	Knowledge of courts (+)	2.780	.785	1.0	4.00
	Jury service (+)	.298	.458	0.0	1.00
Support for governmental institutions	Trust in political institutions (+)	2.210	.785	1.0	4.00
Trust in courts	(Model 2 dependent variable)	2.870	.813	1.0	4.00

N = 171.

confidence in the courts. As for efficiency, citizens are not as concerned about delay as they are about whether courts are able to “handle” their caseload effectively. The measures of access suggest that citizens’ confidence in the courts is related to affordability. The expense of litigation undermined their confidence that courts were effective, accessible institutions.

Two other variables were statistically significant; respondents who were more attentive to the courts and more knowledgeable about them were no more confident about the judiciary than were less informed citizens. On the other hand, citizens who had first-hand experience in the courts through jury duty were significantly more confident in the judiciary.

**Table 3.** Ordered Probit Models of Confidence/Trust in the Georgia Courts

Variable	Model			
	Confidence <sup>a</sup>		Trust <sup>b</sup>	
	PE	SE	PE	SE
Independence (fairness)				
Procedural justice	.027	(.231)	.132	(.218)
Distributive justice	-.603	(.256)**	-.120	(.242)
African American respondent	.187	(.216)	-.943	(.242)**
Hispanic respondent	-.323	(.904)	-1.070	(.285)**
Efficiency (court performance)				
Case management	.806	(.194)**	.635	(.193)**
Perceptions of delay	.180	(.227)	.043	(.185)
Access				
Affordability	.371**	(.103)	-.143	(.107)
Usability	-.339	(.254)	.457	(.218)*
Information about Courts				
Attentiveness	-.077	(.156)	-.809	(.126)
Knowledge of courts	-.041	(.149)	.077	(.123)
Jury service	.421	(.212)*	.411	(.226)*
Confidence/Trust in Government				
Confidence in political institutions	1.210	(.203)**		
Trust in political institutions			1.06	(.212)**
Constant				
(1)		3.23		2.19
(2)		4.62		3.47
(3)		6.71		5.52

\* $p < .05$ ; \*\* $p < .01$  (one-tailed test)

<sup>a</sup> $N = 156$ . Log-likelihood = -129.93,  $p < .001$ .

<sup>b</sup> $N = 171$ . Log-likelihood = -150.65,  $p < .001$ .

Note: PE = parameter estimate. SE = standard error.

This finding suggests that knowledge alone based on media or other secondary sources is insufficient to make a difference in public confidence but that first-hand experiential information is likely to enhance citizens' confidence. Citizens who were more confident in government in general were likewise more confident in their local state courts.

### Trust Model

The second model evaluated the determinants of the dependent variable of trust in community courts. As seen in Table 2, the public's trust in the fairness of judicial institutions is dominated by racial considerations. Both African Americans and Hispanics were less trusting of the courts than were nonminority respondents, but general perceptions regarding procedural and distributive justice were

not significantly related to trust. In this case, it may be that questions of fairness are subsumed in racial considerations: once race is taken into account, even the concern for distributive justice evidenced in the confidence model is no longer influential. As with confidence, public trust in the judiciary is determined in part by perceptions of courts' ability to manage their diverse caseloads, but unlike the confidence model, concerns for cost or affordability are not related to trust in the courts. Rather, this model reveals a relationship to another access variable in the study: usability. In addition, first-hand knowledge of the courts gained through jury service enhances public trust; however, neither general knowledge nor attentiveness is related to the dependent variable. A general trust in government institutions is correlated with a trust in courts.

## Conclusion

The rule of law and the institutional legitimacy of courts often are taken for granted. Courts typically enjoy high levels of public support relative to the other branches of government; at the federal level, for example, one 1998 poll reported that 50 percent of Americans expressed a high level of support for the U.S. Supreme Court. In contrast, 26 percent expressed a similar level of support for the executive, and only 18 percent were highly supportive of Congress (Perretti 2002, 118). This support continues despite controversial case decisions, such as the recent decision of the U.S. Supreme Court in *Bush v. Gore* (2000) (Nicholson and Howard 2003).

Although most research that evaluates public confidence in courts focuses on the U.S. Supreme Court, very few Americans will ever be involved in litigation before the federal courts. There are relatively fewer studies of public confidence in lower-level courts—the institutions with which the majority of people interact. Indeed, it is the state courts that grant marriage licenses and preside over divorces, probate wills, handle most criminal matters, decide most local contractual disputes, adjudicate traffic violations, and resolve landlord-tenant issues, among many other things. When it comes to public perceptions of the rule of law, therefore, the performance of state courts is as important to democratic stability as is the performance of the U.S. Supreme Court.

This study has shown that it is important to distinguish between confidence and trust in the context of state courts. Although confidence may be conceptualized as a dimension of trust, it seems likely that confidence is more closely associated with institutional competence than with fiduciary responsibility. The statistical findings support this conclusion. Existing scholarship has found that racial minorities are less trusting of governmental institutions in general, and the findings of this study are consistent with those of previous studies. In this analysis, African Americans and Hispanics were significantly

less likely to trust courts than were nonminority respondents. On the other hand, race was found to be unrelated to confidence in the judiciary. Although racial or other bias is not completely unrelated to confidence (as the significance of the distributive justice variable in the confidence model would suggest), race does not correlate as highly with confidence as it does with trust in the judiciary. Indeed, African Americans and Hispanics may view the courts as competent in resolving disputes if judges are able to manage caseloads and produce dispositive, enforceable results. Nevertheless, racial minorities may not trust judges to treat them equally and therefore do not view courts as exercising their fiduciary responsibilities well. Moreover, affordability is related to competence but not to trust. This finding also suggests that trust is less related to institutional procedures and case dispositions than it is to competence.

This study also produced some unexpected results. Although procedural justice is often considered of great importance to court legitimacy, the variable measuring procedural justice was not statistically significant in either model. One interpretation suggests that procedural justice may matter less to those citizens who have not personally been involved in the judicial process. Many of the respondents had never been defendants or plaintiffs in court. For those inexperienced respondents, concerns for fair procedures may seem more remote. Indeed, the variable measuring jury service demonstrates the importance of first-hand knowledge of the courts to citizen satisfaction. Citizens who have direct personal knowledge—as opposed to knowledge gained through the media or other, perhaps spurious sources (see Galanter 1998)—may regard the system as reasonable and reliable and therefore be more confident and trusting of the judiciary (see Halvorsen 2003).

Courts, like other governmental institutions, must respond to increasing pressures to resolve disputes in the most efficient and cost-effective manner possible. However, the goal of courts is not only to resolve disputes

but also to dispense justice fairly and impartially (Feeney 1993, 468). As Spigelman (2001, 2) observes, “The enforcement of legal rights and obligations, the articulation and development of the law, . . . the deterrence of conduct in both criminal and civil trials, the deterrence of conduct by a public process with public outcomes—these are all public purposes served by the courts.” The notion that courts may be viewed as “dispute-resolution service providers” is perhaps most appropriate in the context of private civil disputes, in which parties resort to the courts to allocate economic responsibility when one party has harmed another or breached a contract. The analogy may be less apt in the context of criminal law, however, for criminal defendants likely do not view themselves as a willing “consumers” of court services. Regardless, the notion that the public’s perceptions of justice are strongly linked to judicial legitimacy remains an important principle for those who are charged with managing judicial institutions. The results of this study may provide helpful lessons to managers in other states and suggest that disparate approaches might be needed in order to cultivate trust in and positive perceptions of institutional competence.

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## Notes

1. As Fagan (1981, 414) notes, “Any examination of a public institution’s effectiveness must look at the public’s perceptions of that institution and the policies it represents.”
2. For examples of these efforts, go to the Web site of the National Center for State Courts’ Public Trust and Confidence Forum at [www.ncsconline.org](http://www.ncsconline.org).
3. On the other hand, excessive independence and insulation threatens the balance of power that drives democratic governance. One recent study shows the potential for budgetary reprisals against the courts and the effects of competing for resources in the political environment on judicial independence (Douglas and Hartley 2003).
4. De la Garza and DeSipio (2001) also note that the paucity of survey data on Latinos and the courts and methodological concerns with the NCSC study call for state-level studies throughout the United States. The data collected in Georgia allow for distinctions to be drawn effectively between Hispanic and African American citizens.
5. Only 325 of the original 985 surveys focused respondents’ attention to trust and confidence separately and included responses on all the relevant variables. Each questionnaire item included a “don’t know” alternative that could not be used in this analysis and was treated as missing data. In addition, several respondents did not complete the survey in the time allotted (12 minutes), which resulted in missing data. Moreover, originally, 83 respondents were asked questions related to both confidence and trust. There was a statistically significant difference between their perceptions of trust and confidence, thus supporting the distinction between the two concepts and the use of statistical models to evaluate the determinants of each separately. However, the design of the study did not permit the use of follow-up surveys to help explain how the concepts are conceived differently. The frequency of these responses and a test of significance between the frequencies are available from the authors.
6. Cronbach’s alpha is a measure of consistency of items within a scale.
7. The equation used is  $(3 - g)$ . In this manner, responses “far better treatment” and “far worse treatment” are given the value 2 because  $3 - 1 = 2$  and  $3 - 5 = -2$ . Therefore, “somewhat better” and “somewhat worse” treatment responses are coded as 1.

8. Several existing studies note a reciprocal relationship between trust in government (in general) and trust in individual institutions (such as the presidency or courts) (e.g., Hetherington 1998). One method to address this endogeneity problem is to specify a two-stage model incorporating instrumental variables that explain the endogenous independent variable or use a lagged independent variable. Unfortunately, no instrumental variables are available in the dataset to predict generalized governmental support, nor do computer programs readily estimate simultaneous equations models using ordered probit. The model was therefore estimated with robust standard errors (which control for heteroskasticity) and without the endogenous variables. Both approaches produced identical results.

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