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## Legal Consciousness and Cultural Capital

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In this article, we use a Bourdieusian framework to theorize the relationship between cultural capital and legal consciousness, and in turn to consider how variation in legal consciousness contributes to the creation and maintenance of legal hegemony. We investigate how cultural capital shapes the ways people navigate situations that force them to mediate between state-conferred rights, on one hand, and requests from state authority, on the other. Specifically, we analyze open-ended responses to a series of vignettes about constitutional rights in the criminal procedure context. We find that high cultural capital gives rise to a greater sense of self-efficacy in police–citizen interactions. This finding parallels the literature on the influence of cultural capital in the education context and may point to a more general pattern of self-advocacy within the juridical field. People with high cultural capital also evince a more salient sense of entitlement, understanding their own needs and desires as paramount. The social processes we identify may make people with limited cultural capital more vulnerable to investigative authority, and thus more susceptible to arrest and prosecution. Even if knowledge of a right and the opportunity to assert that right are equally distributed, meaningful access to that right remains inequitable.

When courts hand down rulings about police–citizen encounters, they often assume that rights assertion is a straightforward matter: If a suspect does not want her home searched without a warrant, she can refuse. If a suspect would rather not tell police where he went last night, he need not speak to them. Courts tend to hold, either implicitly (e.g., *United States v. Drayton* [2002]) or explicitly (e.g., *Salinas v. Texas* [2013]) that the rights assertion playing field is level—that is, that the US Constitution affords everyone a meaningful chance to assert his or her rights.

But as an empirical matter, we know little about this playing field. Do all innocent people feel equally enabled to assert their rights? What situational factors shape how people think about constitutional rights? Occasionally the Supreme Court has lamented this dearth of research. During oral argument in *Brendlin v. California* (2007), for example, Justice Stephen Breyer

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commented on the difficulty of assessing whether a suspect felt “free to leave” (the relevant legal standard) an encounter with police. Justice Breyer asked:

So what do we do if we don't know? I can follow my instinct. My instinct is he would feel he wasn't free because the [police car's] red light's flashing. That's just one person's instinct. Or I could say, let's look for some studies. They could have asked people about this and there are none.

Indeed, there have been few empirical investigations of rights consciousness in police–citizen encounters (for exceptions, see Kagehiro 1988; Lichtenberg 1999; Young 2009; Young and Munsch 2014; see also Nadler 2002; Chanenson 2004). Courts are frequently called upon to judge whether a suspect felt “free to leave” a police encounter, or when a “reasonable person” expects privacy, yet they lack data to help them make these determinations. The omission is significant; judges could make more informed assessments of how constitutional rights operate in practice if they understood how people engage with law. Additionally, the law and society literature would benefit from a more complete understanding of how constitutional rights work on the ground. The present study begins to fill this gap by looking at the relationship between legal consciousness and cultural capital.

## 1. Legal Consciousness

Legal consciousness refers to “the way in which law is experienced and interpreted by specific individuals as they engage, avoid, or resist the law or legal meanings” (Silbey 2001: 8626). Drawing on sociological, anthropological, and legal scholarship, the term encapsulates “a person's attitudes toward, willingness to mobilize, suppositions about, and experiences of the law” (Young 2014: 501) and is sometimes referred to as a person's “commonsense understanding” of how the law works (Nielsen 2004: 7). In part, the study of legal consciousness was developed to gain conceptual leverage on the persistence of legal hegemony and explain the social processes through which legal hegemony and state authority are created and sustained (Silbey 2005). It is an important way that the field of law and society has grappled with the gap between the law on the books and the law in action.

In 2005, a key scholar of legal consciousness declared that the concept had outlived its usefulness. Silbey wrote, “Rather than explaining how different experiences of law become synthesized into a set of circulating, often taken-for-granted understandings and habits, much of the literature tracks what particular individuals

think and do” (2005: 324). While scholars acknowledged that legal consciousness was an “ongoing, dynamic process” rather than a stagnant category (McCann 1994: 7), much of the legal consciousness literature (though not all of it—see, e.g., Abrego 2011; Hoffmann 2003; Zenmens 1983) documented the attitudes and actions of categories of actors. One important vein emphasized the differences between people’s beliefs about the law in different circumstances (Ewick and Silbey 1998; Fleury-Steiner 2003; 2004; Harding 2006; Levine and Mellema 2001; Marshall 2005; Merry 1990; Quinn 2000), and another examined the demographic factors associated with particular beliefs (Hirsh and Lyons 2010; Moustafa 2013; Nielsen 2000; Wagatsuma and Rosett 1987). These contributions were fundamental, but in Silbey’s estimation insufficient to sustain the subfield’s continued theoretical development.

In the years since Silbey pronounced legal consciousness in its final throes, other scholars have set about its resuscitation. One approach entails the recognition of legal consciousness as a relational phenomenon, shaped by collective social meanings in addition to individual cognition (Berrey and Nielsen 2007; DeLand 2013; Gallagher 2006; Marshall 2005; Young 2014). These frameworks, including Young’s characterization of legal consciousness as a “relational” process involving “second-order” beliefs and other contingent and socially produced understandings (2014: 504, 526), answer Silbey’s call for work on “the ground that enables perception” rather than on “the pixels of perception” (Silbey 2005: 358)—on social processes and mechanisms rather than stagnant states of mind (Gomez 2016). These elaborations provide a partial response to Silbey’s critique that earlier literature did not “capture the critical sociological project of explaining the durability and ideological power of law” (2005: 358):

[T]hese empirical surfaces ‘mask the structures that are realized in them’ (Bourdieu 1990: 126). Thus, when research manages to provide varying accounts of the law that correlate significantly with demographic categories... the authors need to show us how the different forms of consciousness or ways of participating work with each other to constitute the power of law, or legality... The structure enabling and constraining these perceptions, attitudes, opinions, or, in Bourdieu’s term, dispositions is absent (Silbey 2005: 357).

Power, here, is critical. Although Bourdieu’s handful of works on the sociology of law rarely appear in law and society literature, a Bourdieusian framework offers a way to think about legal consciousness as a social process and to explain continued inequality within legal systems.

## 2. Bourdieu and the Law

In one of Bourdieu's few works on the sociology of law, he analyzes the "juridical field" and its invisible influence on actors in the legal system. Employing his theory of fields, Bourdieu demonstrates that like other social fields, the juridical field comprises a system of micro- and macro self-sustaining structures that form a distinct culture. His analysis demonstrates that a set of social, psychological, economic, linguistic, and political practices contribute to the law's functions (Bourdieu 1986). In a sense, these invisible structures parallel law and society's overarching intellectual project of understanding how law works in everyday settings. Bourdieu's notion of "habitus," as applied to law, is "an intermediate concept between rules—in the legal sense—and causality or rules in a physical sense" (Villegas 2004: 65). Like legal consciousness, habitus involves the orientations, expectations, and dispositions acquired through a person's idiosyncratic, socially constructed experience.

If the social *field* of law is analogous to "law" in the sense of legal pluralism (see Merry 1988), then law's "habitus," at its core, is analogous to legal consciousness. The task of understanding habitus within the legal field is the task of understanding the social dynamics that underpin and perpetuate state violence, state authority, and legal hegemony. Thinking about legal consciousness this way is responsive to Silbey's critique (2005), and powerful coupled with the construction of legal consciousness as inherently relational.

What, then, would this Bourdieusian construction of legal consciousness look like? How can we study legal consciousness in a way that draws on its relational nature and "the structure enabling and constraining these perceptions, attitudes, opinions, or in Bourdieu's term, dispositions"? (Silbey 2005: 357). To understand the juridical field, Bourdieu writes, we must uncover the social structures that sustain it. This includes understanding how individuals in different power positions understand and interact with the law. Galanter's classic work, "Why the Haves Come Out Ahead" exemplifies this kind of analysis (1974). Drawing on Weber, Galanter explains how the legal system amplifies the advantages of "haves" over "have nots." Weber claims that formal equality before the law is synonymous with domination, since haves' advantages are reinforced by the formal structure (Weber 1954: 188–91)—a formulation on which Bourdieu relies as well.

Another example (and one Silbey points to) is Larson's 2004 study of security exchanges. Comparing regulatory implementation in Ghana and Fiji, Larson observes that identical regulations can result in widely divergent practices based on how stockbrokers are oriented to formal rules versus floor-based internal

norms. Legal consciousness becomes not a question of degree, but a means of coping with the “inherent indeterminacy of the law in action” (Silbey 2005: 360, citing Larson 2004). Larson conceives of legal consciousness as “an emergent feature of a field of social action” and explains how structural factors shape the “orientations, behavior, and relations of actors within the field” (2004: 737).

Gomez’s (2016) application of critical race theory to legal consciousness provides a third example. She reviews Obasogie’s *Blinded by Sight* (2013), demonstrating that the processes through which blind people learn about race, which Obasogie describes, parallel the processes through which people learn “commonsense” ideas about law. Gomez suggests that Obasogie’s study of the social processes that reproduce racial consciousness should serve as a template for legal consciousness scholars to study the processes that reproduce legal consciousness. Like Silbey, Gomez urges legal consciousness scholars “to explore law in everyday life in such a way as to illuminate the process of meaning making” (Gomez 2016: 1075).

### 3. Cultural Capital and Legal Consciousness

According to Bourdieu, cultural capital takes three forms: the embodied state (long-lasting dispositions of the mind and body, such as particular ways of approaching problems); the objectified state (cultural objects that can typically be converted into economic capital); and the institutionalized state (possession of socially recognized credentials, such as academic degrees) (Bourdieu 1986). Much of our analysis herein focuses on the embodied state and much of our operationalization focuses on the institutionalized state. Yet, the interrelation of the three forms is so tight that trying to separate them is not especially fruitful. Indeed, most articulations of cultural capital in the sociological literature encompass all three. Here, Lamont and Lareau’s definition of cultural capital is useful: the “institutionalized, i.e., widely shared, high status cultural signals (attitudes, preferences, formal knowledge, behaviors, goods, and credentials) used for social and cultural exclusion” (Lamont and Lareau 1988). We agree with Lareau and Weininger’s argument that this broad definition, as opposed to a narrower definition that focuses primarily on “highbrow” tastes or “elite status cultures,” is most generative (2003). Conceived in this way, cultural capital includes knowledge, skills, tastes, mannerisms, and interactional styles that can be parlayed into social advantage or power, shaping and being shaped by the class structure in societies (Bourdieu 1974; 1984).

Silbey writes:

“[T]he central theoretical issue is... whether the cultural terms with which we understand and communicate, and with which we constitute our lives, can be correlated with concrete inequalities. Legal consciousness should not be understood in relation to external power and internal will, but in relation to the material inequality of our social life and the cultural terms of our understanding” (2005: 359).

These “cultural terms of our understanding” and the social processes and interactions that situate and give rise to these terms constitute a person’s “feel for the game” (Bourdieu 1990). Although extant literature has rarely used cultural capital to examine people’s relationship to the legal field, it has been used extensively in sociological examinations of education (DiMaggio 1982; Dumais 2002; Khan 2011; Lareau 1987; 2002; 2011; Lareau and Weinger 2003; Marteleto and Andrade 2014; Sullivan 2001) and health care (Abel 2007; 2008; Khawaja and Mowafi 2006; Malat 2006; Shim 2010).

Education research shows that the cultures in which middle- and upper-class children are raised help them reap more educational benefits than working-class children (Aries 2008; Armstrong and Hamilton 2013; Calarco 2018; DiMaggio 1982; Khan 2011; Lareau 1987; 2011). Formal educational institutions, despite their theoretical (and, to some extent, actual [Downey et al. 2004; Mullen et al. 2003]) roles as social equalizers, reward upper-middle class culture. Lareau demonstrates that children are socialized to navigate institutions in ways that reflect and replicate their backgrounds (2002). Upper-middle class parents teach children to interact with authorities as equals, while working-class children are taught to approach institutions with suspicion and defer to authorities even when receiving unfair treatment. These class differences, which Lareau documented across children of different races, are salient in what Ridgeway and Fisk (2012) call “gateway interactions:” interactions between people from different social class backgrounds that are crucial for well-being and social mobility, such as job interviews, college interviews, and medical appointments. Children with more cultural capital learn to use it to reap benefits from people and institutions, while working-class children are socialized to act in ways that result in unsuccessful gateway interactions, further perpetuating inequality. Relatedly, Calarco found that compared to working-class children, middle-class children were more willing to ask teachers for assistance and interrupt them to seek help (2011; 2018), and Jack found that middle-class undergraduates were both more proactive and more comfortable engaging college authority figures than were their lower-income counterparts (2016).

Similarly, health scholars draw on the concept of cultural capital to identify causes of health disparities (Abel 2008; Malat 2006). Shim introduces the term “cultural health capital,” which she defines as the “repertoire of cultural skills, verbal and nonverbal competencies, attitudes and behaviors, and interactional styles, cultivated by patients and clinicians alike, that, when deployed, may result in more optimal health care relationships” (2010: 1). Cultural health capital theorizes the sources of different outcomes in patient-provider interactions by examining the production and reproduction of social inequality via these interactions. Others elaborate on this framework, describing the social processes through which habitus contributes to differential health outcomes (Dubbin et al. 2013; Glanville and Story 2018; Madden 2015).

The parallels between these lines of research and Silbey’s vision for legal consciousness are striking. Cultural capital and habitus have been conceptually deployed to understand people’s attitudes toward, suppositions about, and facility navigating, social fields. Yet their use in the law and society context to explain the gap between the law on the books and the law in action has been limited. We draw together Bourdieu’s and Silbey’s frameworks to examine the relationship between cultural capital and legal consciousness during people’s interactions with state authority.

## **4. Methodology**

### **4.1 Study Design**

As Larson argues, the law in action is inherently indeterminate, and we can understand legal consciousness as the means through which people negotiate this indeterminacy (2004). Conceived this way, legal consciousness is relevant in a wide span of situations, from housing to personal finance to travel. We use the policing context to examine the relationship between cultural capital and law, since police–citizen interactions are a clear incarnation of state authority. Police have broad investigatory discretion (Ferguson and Bernache 2008; Harris 1994) and we want to know how cultural capital affects people’s ability to mediate, manage, and understand the inherent indeterminacy of interactions with law enforcement. Specifically, we are interested in situations where the law on the books would support and justify multiple responses. That is, we are not interested in who chooses to violate or resist the law; instead, we want to understand how people handle legal indeterminacy in the context of state authority. Calarco shows that children use class-based strategies to navigate situations when teachers’ expectations or institutional rules are unclear (2018). Ambiguous legal situations may operate similarly,

highlighting or entrenching cultural capital disparities as part of the production and reproduction of legal consciousness.

In the US legal system, the state confers certain rights on all citizens, intended partly to guard against excesses of state authority. We want to understand the relationship between cultural capital and legal consciousness as people mediate situations where state authority demands something of them, on one hand, and grants them the power to resist this demand, on the other. In the remainder of this section, we explain our methodological approach. In the following section, we explain our survey design.

We were initially skeptical that a survey could adequately examine the situations in which we were interested. Indeed, as Gomez argues, echoing McCann (1996) and Merry (1990), consciousness is often more appropriately studied by qualitative methods. Quantitative examinations are susceptible to the kinds of “linear, instrumental conceptions of causality” (McCann 1996: 460) against which Silbey cautions. Moreover, a series of naturalistic observations would allow observation of how people act in real-time police–citizen encounters.

Nonetheless, for the phenomena in which we are interested, naturalistic observations have significant downsides. Most importantly, case law assumes that people decline to assert constitutional rights because they lack knowledge about those rights. But by using vignettes, we could inform respondents of the rights they possessed, ensuring that differential rates of assertion would not be caused by differences in knowledge. Additionally, in naturalistic settings, suspects are sometimes guilty of crimes, and their actions may be motivated by a desire to conceal illegal behavior. In an ethnography of police–citizen interactions, there is no way to know if a refusal to consent to a search stems from a desire to hide wrongdoing. By contrast, a vignette study allowed us to craft scenarios where respondents were factually innocent.

We designed the survey as best we could to mitigate that method’s downsides and avoid the reductionist understanding of legal consciousness that Silbey, McCann, and others have critiqued. We are not merely interested in whether people assert a right in a particular situation, but how their individual habitus—“the cultural terms with which [they] understand and communicate” (Silbey 2005: 359)—intersects with material inequalities. That is, we want to understand how Bourdieu’s framework, vis-à-vis Silbey, helps explain how legal consciousness is produced and reproduced, and how it sustains hegemony. Instead of limiting our instrument to binary responses about rights assertion, we included open-ended items for every question, allowing us to look at the reasoning underlying people’s decisionmaking, and to examine their “process of meaning-making” (Gomez 2016: 1075).

We operationalized cultural capital in multiple ways, looking at parental education, which tells us something about how respondents were raised, and current educational context, which tells us something about respondents' acculturation within different kinds of academic institutions. We discuss these measures in more detail below.

## 4.2 Survey Design

We used a series of hypothetical scenarios to examine how cultural capital affects individuals' reactions to legal indeterminacy, which is an approach used to examine cultural capital in other contexts (e.g., Calarco 2018). The survey first presented five vignettes in the second-person point of view. Each question described a situation where respondents were being investigated by police, were innocent of wrongdoing, and knew they possessed a particular right. They were asked whether they would assert the right. For example, the first vignette read:

One day before you leave for work, an officer knocks on your door and says that there have been drug sales reported on your block. He says you don't have to let him in, but that he's checking the homes in the suspected area, and that it will only take 20 minutes. You are already late for an important meeting. You have nothing illegal in your house. Do you let the officer search?

The other vignettes gave respondents similar opportunities to assert rights.<sup>1</sup> Questions were pre-tested to ensure clarity, written

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<sup>1</sup> The other four vignettes read:

(2) The company you work for is being investigated, and a few people, including you and your boss, are arrested at work. The police take you to the station, read you your rights, and start asking questions. You're 100% sure that you have not done anything wrong. You have the right to remain silent if you wish. Do you answer the police's questions?

(3) A friend asks you if you'll give one of her friends, Ben, a ride to work. You've never met Ben, but you agree. You pick Ben up, and a few minutes later, he slips something into his pocket that you are sure is marijuana. He looks at you and says, "It's no big deal." Distracted, you run a red light and are pulled over by a police officer, who asks you both to step out of the vehicle. Before Ben gets out, he tosses the marijuana under your seat. The officer writes you a ticket, then asks whether she can search your car. You know the drugs are under your seat, and you don't trust Ben to tell the truth. You have the right to refuse. Do you let the officer search?

(4) You're taking a bus trip with friends, and you're using a duffel bag to carry your things. After an hour, the driver stops the bus and two policemen in uniforms get on. They announce that they want to conduct a search. To your surprise, one of the officers walks up to you and asks to look in your bag. You have some very embarrassing items inside, but nothing illegal. You don't want your friends, or a bus full of strangers, to see what's inside. You know you have the right to say no. Do you allow the cop to search your bag?

(5) One morning, police knock on your door and tell you that they are investigating a robbery that happened the night before. The same kind of car you own was seen driving away from the scene, and they are questioning a few people in the area who drive that kind of car. You were home alone all night, watching television. Do you ask for a lawyer before answering their questions?

to encompass settled issues in constitutional criminal procedure, and phrased in both positive and negative forms (where a “yes” *or* a “no” might denote refusal) to ensure that sentence construction did not bias responses. After each item, respondents were asked, “Why or why not?” and given space to write an explanation. At the end of the survey, respondents answered a demographic inventory that included race, gender, and parents’ or guardians’ educational attainment.

This design has at least two drawbacks. First, there is no way to know whether someone would respond to a police officer in a vignette the same way she would respond to a police officer at her door. Such is an inherent limitation of vignette studies. Nonetheless, response patterns tell us something about the thought processes that underlie people’s orientations toward the topics the vignettes address. Second, Silbey advises that in studying legal consciousness, it is advisable to ask questions with a “legal probe” to get at subterranean beliefs about law (Silbey 2005: 355–57). For example, in a study of legal consciousness and housing, it might be more useful to ask, “What would you do if your landlord asked you to leave your apartment?” than to ask, “Would you call a lawyer if your landlord asked you to leave your apartment?” The latter invokes law directly, missing the chance to learn whether a respondent understands the scenario as legal. Our scenarios’ discussion of “legal rights” frames the issues as *per se* legal. However, particularly since police–citizen encounters already invoke legality, we decided that the advantage of controlling respondents’ rights knowledge outweighed the disadvantage of making the situations seem more “legal.” We also invited respondents to explain their reasoning without the constraint of pre-determined categorical responses; this way, they could give legal *or* nonlegal justifications. These downsides underscore the importance of multiple approaches to legal consciousness. As we discuss herein, alternative methods could enable the discovery of more emergent forms of legal beliefs and law-related reasoning.

### 4.3 Sample

Participants included students from two academic institutions in 2008: undergraduates from a high-status, private research university ( $n = 108$ ) and students at a community college ranked in the bottom quartile of the state’s community colleges ( $n = 247$ ). After securing permission from instructors, researchers distributed surveys in introductory social sciences and humanities courses that filled general education requirements. Participation was voluntary and no course credit or compensation was given.

Presumably since hard copies of the survey were distributed during class time, the response rate was 100%.<sup>2</sup>

Our two-pronged measure of cultural capital allows us to capture a more complete picture of respondents' cultural capital than survey designs typically encompass. The first measure is which of the institutions a respondent attended. Enrollment in the community college requires a limited amount of social, cultural, and financial capital. Nor is that institution a "feeder" to four-year colleges. By contrast, enrollment in the private university is highly competitive, requiring numerous essays, high test scores, and recommendation letters. Within higher education, the two schools are at opposite ends of the status spectrum. Our second measure of respondents' cultural capital is their parents' or guardians' education. Numerous social scientists use parental education as a proxy for social class because it tracks with material and knowledge-based resources in a person's upbringing (Lareau 2011; Merry 1990; Morrill et al. 2010).

Our analysis focuses on two sub-groups within the respondent pool: those with the lowest amount of cultural capital (community college students without a parent or guardian who had attended college) and those with the highest amount of cultural capital (elite university students with two parents or guardians holding college degrees). The rest of our respondents possess various amounts of cultural capital along these measures (e.g., a first-generation college student attending the elite university or a community college student whose parents attended college), but for purposes of our analysis we are interested in the extremes of the cultural capital spectrum insofar as it can be represented within our data. To operationalize cultural capital's relationship to legal consciousness as robustly as possible, we compare these two groups.

Note, too, that our respondents all possess at least modest amounts of cultural capital relative to the US population. The pursuit of higher education at any institution distinguishes this sample from people who do not pursue higher education. Still, our argument is about relative, not absolute, cultural capital. Although our sample does not represent low cultural capital in the US overall, the community college students whose guardians did not attend college possess less cultural capital than students at the elite institution whose parents both attended college. Hence, we refer to these groups as the "limited cultural capital" and "high cultural capital" groups, respectively.

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<sup>2</sup> Instructors reported that all students completed the survey. However, it is possible that a few students handed back blank surveys without the instructors knowing.

The Achilles's heel of our cultural capital typology is its lack of explicit engagement with race. Though we touch upon race in our analysis, our sample size, coupled with our study design, prevents us from focusing (in this stage of our work) more precisely on the relationship between race and legal consciousness—a relationship which is crucial (Webb 2018). We made this choice for several reasons, and not without weighing its drawbacks. First, prior research suggests that in some ways, cultural capital manifests in people's lives similarly across race (Lareau 2002). More importantly, a significant body of literature focuses on the connections between criminal justice and race, while less work focuses on the connections between criminal justice and social class or cultural capital. We believe an explicitly Bourdieusian framework complements extant research. Ideally, we would have it both ways, analyzing the effects of race and class individually and interactively by oversampling certain racial groups in each category of respondents. Unfortunately, the limited scope of our respondent pool prevented this. Nonetheless, given the racial composition of our sample, our findings may be relevant to race-related processes that underpin legal consciousness. The high cultural capital group comprised 52 white respondents (68%), while the limited cultural capital group comprised only 27 white respondents (18%). However, both respondent pools were quite racially diverse, and we are wary of overclaiming the significance of our findings to the relationship between race and legal consciousness. Additionally, consistent with research on social class and police interactions (Epp et al. 2014; Smith 1986), respondents with limited cultural capital were more likely to have previous experience with police. Sixty-four of the 154 respondents in the limited cultural capital group (41.56%) reported a previous police search or arrest, compared to only 13 of 76 respondents in the high cultural capital group (17.11%).

We used NVivo to code the limited- and high cultural capital participants' open-ended responses. With 230 participants in these two groups, and five rights assertion scenarios, this amounted to 1150 open-ended responses. Seventy-three responses were omitted, leaving 1077. To code them, we first used a modified grounded theory approach (McDermott 2006) to open code themes related to dispositions and attitudes about criminal justice, police, and the legal system. We were especially attuned to themes salient in the law and society canon, such as "lumping it," "perceptions of justiciability," and "trust/distrust." Code families emerged as we created subcodes within general themes (e.g., "entitlement," "help police," "truth-will-prevail reasoning"). After cataloguing these subcodes, both authors independently coded all of the qualitative data. Intercoder reliability was

approximately 97%. Where our coding did not match, we compared the piece of data in question to the parameters we had created for our subcodes, then discussed it until we reached an agreement. During the entire coding process, data were randomized to conceal respondents' group membership, so that while coding, neither of us knew which group of respondents a piece of content belonged to.

## 5. Results

### 5.1 Rights Assertion

We find significant differences in the rates at which people from the high- and limited cultural capital groups said they would assert their rights. Across the items, respondents with high cultural capital said that they would comply 101 times out of a possible 378 (26.7%), whereas respondents with limited cultural capital said that they would comply 423 out of a possible 767 times (55.1%) (missing responses are omitted). This difference between the groups' rates of compliance is significant ( $\chi^2 = 82.222$ ,  $p < .0001$ ).

However, reporting this difference is only a first step, not a central finding about the dynamics that underpin legal consciousness.<sup>3</sup> We are less concerned with binary outcomes than with the social processes via which people navigate ambiguous legal situations. That is, *how* do people think about their decisions regarding rights assertion? What patterns of orientations, ideas, and beliefs characterize the habitus a person brings to these interactions? What are the mechanisms through which that habitus becomes relevant? We turn to respondents' qualitative explanations to answer these questions. Table 1 presents a summary of these chi-square results.

### 5.2 Entitlement

We use the term "entitlement" to refer to expression of the primacy of one's own needs, rights, or desires in relation to the objectives of law enforcement or the legal system. For example, in explaining why she would refuse a search of her home, a respondent might say, "I'm already late and my job is more important to me than this search," or, "I would tell the officer to come back at some convenient time after my meeting so that he could search." In addition, we coded for various versions of entitlement (e.g.,

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<sup>3</sup> One of us devotes a separate piece to the legal implications of this result (Young and Munsch 2014).

**Table 1.** Justifications for Rights Assertion Decisions, by Cultural Capital Group

Theme	Limited Cultural Capital	High Cultural Capital	Chi-Square
Entitlement	131/154 (85.1%)	72/76 (94.7%)	4.51*
Entitlement (2+ Instances)	72/154 (46.8%)	64/76 (84.2%)	29.332***
Entitlement (3+ Instances)	24/154 (15.6%)	32/76 (42.1%)	19.312***
Entitlement during Compliance	91/234 (38.9%)	15/182 (8.2%)	50.708***
Trust (Help Police)	24/154 (15.6%)	4/76 (5.3%)	53.174***
Trust (Truth Will Prevail)	114/154 (74.0%)	37/76 (48.7%)	14.379**
Distrust	87/154 (56.5%)	54/76 (71.1%)	4.554*
Futility	96/154 (62.3%)	30/76 (39.5%)	10.632***
Futility (2+ Instances)	32/154 (20.8%)	6/76 (7.9%)	6.109*

NOTES:

\* $p < .05$ .\*\* $p < .01$ .\*\*\* $p < .001$ .

responses that emphasized the value of a respondent's time versus those that emphasized constitutional rights). We also noted the context within which entitlement arose, specifically whether a respondent expressed entitlement in the context of complying with a police request or in the context of refusing to comply with one.

Members of the high cultural capital group were significantly more likely to express entitlement at least once across their five explanations than were members of the limited cultural capital group. Seventy-two out of 76 high cultural capital individuals (94.7%) expressed entitlement at least once across their answers, compared to 131 out of 154 members (85.1%) of the limited cultural capital group ( $\chi^2 = 4.51, p = .034$ ).

These differences are even more pronounced in within-respondent patterns. Within-respondent frequency across a person's open-ended explanations is useful in thinking about his or her general disposition toward rights, because we might imagine that many people would feel entitled to assert their rights in *some* circumstances, but that it would be rarer for a person to feel an overarching sense of entitlement across different types of police-citizen interactions. Since our vignettes span many places and circumstances, looking across multiple items provides a robust measure of how entitlement contributes to the processes underlying legal consciousness. First, we looked at how many people in the high cultural capital group gave an entitlement-related justification in response to at least two questions (64 out of 76, or 84.2%), as opposed to people in the limited cultural capital group (72 out of 154, or 46.8%). The difference between the two groups is statistically significant ( $\chi^2 = 29.332, p < .0001$ ). We then looked at how many people in the high cultural capital group gave an entitlement-related justification in response to at least three questions (32 out of 76, or 42.1%),

as opposed to people in the limited cultural capital group (24 out of 154, or 15.6%). Again, the difference between the groups is statistically significant ( $\chi^2 = 19.312, p < .0001$ ). These results suggest that an abiding sense of entitlement in police–citizen interactions is associated with cultural capital.

Next, recall that the vignettes gave respondents the option of asserting a right or complying with a police officer’s request. We might imagine that entitlement would be associated with rights assertions—and indeed, this was often so—but entitlement sometimes arose in the context of compliance with a police request as well. These responses include statements like, “I would allow the cop to search my bag, but outside the bus” (respondent accommodates police, but asks for a change in the search location) and, “I would tell him he can come back at a more convenient time” (respondent indicates he would accommodate police, but expresses his immediate needs). Entitlement arose 234 times in the limited cultural capital group and 182 times in the high cultural capital group. These responses appear in the context of compliance 91 times (38.9% of entitlement responses) in the limited cultural capital group and only 15 times (8.2% of entitlement responses) in the high cultural capital group. This difference is statistically significant ( $\chi^2 = 50.708, p < .0001$ ). It suggests that not only do individuals with limited cultural capital evoke personal entitlement in police–citizen interactions less frequently than individuals with high cultural capital do, but that even when people with limited cultural capital evoke personal entitlement, they are more likely to do so within the context of accommodating a police request.

### 5.3 Trust and Distrust

We coded “trust” broadly to encompass open-ended responses that endorsed any part of the criminal justice system as effective, trustworthy, or moral, or which expressed a desire to assist police or the criminal justice process (since this may connote a belief in the system’s legitimacy, see Sunshine and Tyler 2003; Tyler et al. 1989; Tyler and Huo 2002). We use the term “trust” advisedly here. Obviously, believing that the criminal justice system is reasonably effective may not be strongly correlated with “trusting” the police. More importantly, our data collection took place *before* the killings of Trayvon Martin, Michael Brown, and Eric Garner. The Black Lives Matter movement and the growing awareness of police violence in the United States may have transformed the measures we label “trust;” we are currently in the data collection phase of a new project that tests this hypothesis. In the data we

analyze here, two main patterns emerged in respondents' explanations within the "trust" category.

First, many respondents expressed a desire to help the police. They indicated that they would comply with a police request because they wanted to assist law enforcement. For example: "Maybe my answers will give them info that will help," or, "I want to help the police." The other common manifestation of trust was the expression of faith that the criminal justice system would ultimately discover the truth. For these respondents, factual innocence justified cooperation. They explained their actions with statements like, "[T]here's nothing to be afraid of, [since] I know that I didn't do anything bad," and, "I feel that if I knew I did nothing wrong I shouldn't need a lawyer." Note that although we are terming both veins of reasoning "trust," one aligns the self with the interests of legal authority—an active desire to assist police—while the other evinces faith in the system's ability to reach a fair result. For this latter group, resisting police requests would be tantamount to resisting discovery of the truth. These incarnations of trust do not necessarily conflict with one another, but nor are they identical.

Both forms of trust were more common in the limited cultural capital group than the high cultural capital group. Among the 154 respondents with limited cultural capital, 24 (15.6%) expressed at some point across their five explanations that they wished to help the police, compared to 4 of the 76 respondents with high cultural capital (5.3%). This difference is significant ( $\chi^2 = 53.174, p < .0001$ ). Similarly, 114 of the 154 respondents with limited cultural capital (74.0%) expressed a belief that if they cooperated, the truth would prevail (i.e., innocence was sufficient to justify compliance) at least once, compared to 37 out of 76 (48.7%) of respondents with high cultural capital. This difference is significant as well ( $\chi^2 = 14.379, p < .001$ ).

We also coded for expressions of *distrust*. Here, "distrust" encompasses statements that criminal justice authorities may not be trustworthy (e.g., "I don't trust them not to try to trick me;" "I don't trust the police to be straight forward [sic] with me"), as well as suggestions that authorities, ill-intentioned or not, may focus erroneously on the respondent (e.g., "Although I am innocent, the police might cause me to say something that sounds incriminating;" "Because once police think they've found the culprit it's hard to convince them otherwise"). We also included statements that suggested that the truth alone might be inadequate to protect an innocent person from criminal justice action (e.g., "Since I was alone I have no alibi, therefore I would want a lawyer to ensure that I do not say anything that may be seen as incriminating;" "It is easy to get confused and say the wrong thing"). Again, we

coded across all five open-ended responses. As we might expect, some people expressed both trust and distrust at various points in the surveys. This apparent contradiction, which we explore in greater depth below, reflects the textural complexity of interactions with legal authority.

The frequency of responses evincing distrust differed between the groups. Eighty-seven of the 154 respondents in the limited cultural capital group (56.5%) expressed distrust at least once across the five scenarios, compared to 54 out of 76 respondents in the high cultural capital group (71.1%). This difference is statistically significant ( $\chi^2 = 4.554, p = .033$ ).

#### 5.4 Futility

The code “futility” refers to explanations that asserting a right would be useless. This category of responses explained that police have more power than citizens, which made refusal pointless, or that noncompliance would only lead police to conclude that the person under investigation is guilty. For example, in response to questions about whether to let an officer conduct a warrantless search, answers included, “Because he is going to search the car one way or the other,” and, “If you say no then you’re suspicious.” Both the quantity and the content of futility responses differed between the limited and high cultural capital groups.

First, members of the limited cultural capital group were more likely to express futility. Ninety-six out of 154 limited cultural capital respondents (62.3%) communicated futility at least once, compared to 30 out of 76 high cultural capital respondents (39.5%). This difference is statistically significant ( $\chi^2 = 10.632, p = .001$ ).

As we did for the entitlement responses, we tested for differences in the frequency of futility responses a person gave across the five scenarios in order to give us a measure of a person’s overarching sense of futility in interactions with police. We found that 20.8% (32 out of 154) in the limited cultural capital group, compared to 7.9% (6 out of 76) in the high cultural capital group, expressed futility in at least two responses ( $\chi^2 = 6.109, p = .014$ ). We then compared how many people in the limited versus high cultural capital groups gave futility justifications in at least three responses—8 out of 154 (5.2%) compared to one out of 76 (1.3%), respectively. This difference is not statistically significant, although the trend is the same; a greater proportion of individuals from the limited cultural capital group gave three or more futility responses ( $\chi^2 = 2.05, p = .152$ ).

In addition to these differences in the frequency of futility reasoning, the substantive content of this reasoning differed between the groups. High cultural capital respondents tended to

characterize rights assertion as “too much hassle,” and to explain compliance as “less trouble than fighting [the officer].” That is, even on the comparatively rare occasions that they expressed futility in the face of police–citizen encounters, the high cultural capital respondents framed compliance as a strategy that would minimize trouble and inconvenience for themselves. The limited cultural capital group’s futility responses, by contrast, rarely expressed a similar sense of strategy or personal agency. Instead, they said things like, “[I would allow the search] [b]ecause they are going to [search] anyway,” and, “Because the officer is not going to ask to search your car he is just going to do it.” These differences were present across responses to all five scenarios. It is also worth noting that individuals with high cultural capital did not engage overtly in the *opposite* of “futility” reasoning. This absence may indicate that they did not seriously consider the possibility that police would ignore their rights assertions.

## 6. Discussion

Our results point to individual and relational social processes that shape the ways a person copes with the “inherent indeterminacy of the law in action” (Silbey 2005: 360, citing Larson 2004). Cultural capital emerges as an important structural factor that is strongly associated with people’s negotiation of the tension between state-conferred legal rights, on one hand, and requests by state law enforcement authorities, on the other. Our results point to multiple ways cultural capital is associated with the production of legal consciousness, suggesting how differences in cultural capital may accentuate and reproduce existing social inequalities in legal situations—even those situations where people’s knowledge of their rights and their opportunity to assert their rights are equal across groups.

Compared to respondents with limited cultural capital, those with high cultural capital were more likely to draw on a sense of entitlement in thinking about how to navigate interactions with the police. The precise content of this entitlement varied; they invoked ideas about personal dignity, the value of their time, the urgency of competing obligations, and their mere possession of a right. But the common denominator was the primacy of their own need or value over the police officer’s request. This finding aligns with research on cultural capital in the context of educational institutions. People with high cultural capital tend to have styles of engagement that align with the norms and values of elite institutions and the people who inhabit them. For example, children from working-class families are socialized in ways that lead them to

ask for teachers' help less frequently than children from families with more cultural capital (Calarco 2011). Similarly, undergraduates from lower-income families, particularly those who attended economically distressed high schools, are less proactive in engaging authority figures (Jack 2016). Armstrong and Hamilton (2013) find that students with more cultural capital employ engagement styles that lead them to derive more institutional benefits from college.

Cultural capital helps maintain material inequality partly because schools and teachers end up rewarding students based on their interactions with institutions. Our results suggest that encounters with legal authorities may function in similar ways. Even among people with full knowledge of their relevant rights and no criminal behavior to conceal, high cultural capital is associated with a greater sense of entitlement in people's navigation of legal situations. The apparent absence of doubt, in the high cultural capital group, that police will heed their rights assertions suggests that they have a greater sense of self-efficacy in their interactions with the law. This difference may translate into a greater sense of agency in interactions with legal authorities. Thus, cultural capital may represent an important constitutive source of social variation in legal consciousness—one that deepens the gulf between the law on the books (the ideal of equal rights) and the law in action (gross inequalities in justice system outcomes).

While inequalities in substantive outcomes have been documented at virtually all stages of criminal justice processing, we know much less about *how* beliefs, predilections, navigational tendencies, and other aspects of legal consciousness might influence, exacerbate, or mediate inequalities. As one of us has theorized, cultural capital may be associated with rights consciousness in ways that perpetuate and deepen inequalities in criminal justice processing (Young 2009; Young and Munsch 2014). More recently, Clair gives an excellent account of how early encounters with police shape attitudes and experiences, pointing out that "While theories of social disorganization and of discrimination are important and likely account for a considerable proportion of arrest disparities, neither considers the interactional processes between alleged offenders and legal authorities" (2018a: 113). Clair observes criminal defendants' meetings with their attorneys and points to key differences in interaction styles; defendants with more cultural capital interact in ways that facilitate effective advocacy (2018b). Our results suggest analogous differences in people's interactions with police. People with less cultural capital may hesitate to use state-granted legal entitlements to shield their activity from police officers. Socially rooted variations in legal consciousness are associated with different ways people navigate the tension between state-conferred rights and the immediate

demands of state law enforcement authority. These differences may render people with limited cultural capital more vulnerable to investigative authority even absent any disparities in rights knowledge, police behavior, or amount of criminal culpability.

The processes we identify exist alongside numerous other mechanisms that contribute to disparate outcomes, including overt discrimination (Legewie 2016; Morrow, White, and Fradella 2017; Nascimento 2017) and implicit bias (Correll et al. 2007; Eberhardt et al. 2004; Plant and Peruche 2005). We strongly doubt that people with more cultural capital are simply more “adept” at interacting with police (as researchers have suggested in the health care contexts [see Shim 2010]). Yes, people with limited cultural capital may think about their rights in ways that lead them not to assert these rights. But police may also be less likely to heed, or more likely to punish, some people’s assertions than others’. Armenta’s (2017) ethnographic account of a roadside stop exemplifies how this might unfold. She describes being pulled over, refusing a search, and being made to wait on a very hot day. While she was protected by her citizenship, valid driver’s license, and unaccented English, she notes that the “system of laws, institutional policies, and bureaucratic practices *ensures* that these types of police encounters unfold differently for residents who do not have the benefit of legal presence,” such as undocumented immigrants (2017: 153). Armenta describes the police’s use of bureaucratic loopholes to justify their search of her car after she asserted her rights. Her description echoes explanations from our limited cultural capital group—for example, “[The officer] is going to search the car one way or the other.” In many situations, it may be rational for people with limited cultural capital not to bring a salient sense of entitlement into police–citizen interactions. After all, extensive literature documents differences in police treatment on the basis of race (Epp et al. 2014; Goff et al. 2016; Zimring 2017) and class (Epp et al. 2014; Smith 1986).

On the rare occasions that respondents with high cultural capital expressed futility, they framed it as a “decision” or “strategy” that emphasized their own agency—for example, explaining that assertion was “too much hassle,” or that they were engaging in a longer-term strategy to reduce the chance of future entanglement. They framed compliance as a choice, while respondents with limited cultural capital emphasized their lack of agency relative to police.

More work is needed to understand the root of this greater sense of self-efficacy among people with high cultural capital. They may see themselves as occupying a higher status position than police, which may lead them not to consider the possibility that police would steamroll over their rights assertions—a

possibility very much contemplated by the limited cultural capital group. Even if respondents with high cultural capital see rights assertion as a risk, they implicitly know that if something goes awry in the interaction, they will have the resources (familial, financial) to take care of the problem. Nothing *too* bad, they may assume, is likely to happen to them. Put differently, even if being pulled over makes *everyone* feel like they are walking across a tightrope, people with more cultural capital can walk the tightrope more boldly because they assume there is a net beneath them. Cultural capital's associations with different patterns in legal consciousness may be due to an analogous—perhaps quite unconscious—thought process.

In a sense, our findings about futility might seem in tension with our findings about expressions of trust and distrust. Although people with limited cultural capital were more likely to believe that asserting rights was futile, they were also more likely to believe that factual innocence would lead to a just result. Assuming police might ignore your rights assertion seems to suggest a belief in the system's illegitimacy, whereas assuming that the criminal justice system will ultimately find the truth seems to suggest a belief in its legitimacy. Yet, the common denominator between these results is a perceived lack of individual agency in navigating the system. In both cases, respondents' reasoning ("There's nothing I can do to stop the police from searching me," and, "I didn't do anything wrong so I won't be found guilty of a crime") suggests their legal consciousness is oriented not toward an individual sense of empowerment in navigating the legal system, but toward a lack of individual agency—to being *subject* to the system. It is not that people with limited cultural capital feel helpless, but rather that, unlike those with high cultural capital, they do not assume the system will prioritize their needs, so they act accordingly. This interpretation is consistent with other research on cultural capital that suggests that early socialization cultivates interpersonal styles and dispositions that influence interactions with authority, and that these styles are tied to differences in cultural capital (Lareau 2011). People from modest social class backgrounds are more likely to believe in an external, versus internal, locus of control (Franklin 1963; Lachman and Weaver 1998; Lefcourt 2014; Nelsen and Frost 1971). In other words, people who hail from privileged classes perceive more control over their life outcomes than people who hail from less privileged classes. Working-class strategies of deference alongside beliefs in an external locus of control may contribute to the distinction between perceiving oneself as agentically navigating the legal system versus navigating the legal system as best you can while assuming that you are a subject *of* it. Repeated frustrating,

discouraging, or unfruitful interactions with bureaucracies may, over time, whittle down a person's sense that he or she has a meaningful degree of agency (Edin and Schaefer 2015; Feeley 1979; Felstiner et al. 1980; Galanter 1974; Levine 2013). Relatedly, modest social class backgrounds have long been associated with interaction styles that law enforcement authorities read as threatening, which further inscribes inequality into these interactions (Piliavin and Briar 1964).

The access to justice literature details a similar process. Experience with the law influences “decisions about what options to explore and to pursue” in remedying justiciable problems (Sandefur 2007: 1196). Sandefur's discussion of how people approach legal problems parallels Bourdieu's definition of habitus—a set of dispositions providing blueprints for possible behavioral responses to social situations. A person learns what is possible and what is not, and puts this learning into practice in interactions. Dispositions are cultivated partly through experience. Cultural capital is associated with patterns in people's personal histories of interaction with authority figures and institutions. In *Ain't No Trust*, Levine (2013) documents low-income mothers' widespread distrust across numerous contexts: romantic relationships, social networks with family and friends, and formal institutions. These women told stories of how distrust shaped their behaviors, beliefs, and interactions with formal and informal institutions. They had “placed trust in others whom they later deemed unworthy of that trust” (2013: 192), which then cultivated more skeptical dispositions. These processes echo the psychological concept of learned helplessness (Abramson et al. 1978; Maier and Seligman 1976; Peterson et al. 1993; Wang et al. 2017). Exposed to events beyond their control, people learn it is rational to separate actions from outcomes. If people with limited cultural capital find that their actions do not help determine outcomes of police–citizen interactions, futility is a reasonable response. Additionally, hearing accounts of family members' and friends' dealings with police—accounts that vary greatly across background (e.g., Epp et al. 2014)—may shape the questions, fears, and assumptions a person brings into interactions with police. And while a sense of futility may sometimes worsen outcomes by preventing people from engaging in potentially beneficial self-advocacy, it can also be highly functional, realistic, and adaptive. Levine's findings resonate here as well; low-income mothers' distrust sometimes acted as a protective shield, and other times prevented them from accessing beneficial childcare and employment opportunities. As Hardin writes, “Trust is functional in a world in which trust pays off; distrust is functional in a world in which trust does not pay off” (2002: 96).

At first blink, our findings may seem in tension with naturalistic data on police–citizen encounters (e.g., Goffman 2014; Rios 2011; Stuart 2016) suggesting that people with limited cultural capital have antagonistic, untrusting relationships with police officers. They may run away, evade surveillance, fight back, and so on. But while these actions certainly entail a form of agency, they do not entail agency in navigating legal bureaucracies, particularly not in the terms those bureaucracies dictate. They are more about avoiding these bureaucracies altogether. The assertion of legal rights would, in our view, not necessarily be correlated with resistance or antagonism toward police. Theoretically, it *could* be, but only if a person believes that using his or her constitutional rights will be effective—a possibility on which our findings about futility shed doubt. Indeed, in a sense, rights assertion can be understood as a form of trust or endorsement in the legal system; if a person anticipates that police officers will respect her assertion, she will be more likely to assert a right, which was the pattern among the high cultural capital respondents in our sample. Yet, as we discuss above, other forms of trust, such as an interest in helping the police, were more prevalent among people with limited cultural capital. These results underscore the complexity of trust and distrust, pointing to the need for future research to disentangle different forms of these concepts, as well as the situational factors associated with different forms, in people’s interaction with legal authorities.

Apparent acquiescence or deference to system authority may also reflect broader cultural differences between people from different backgrounds. For example, working-class people are more likely to perform prosocial behaviors (Piff et al. 2010), focus on others’ needs (Kraus et al. 2012; Kraus and Keltner 2009), and experience a more acute physiological reaction in response to others’ distress (Stellar et al. 2012). Working class individuals’ more collective orientation may help explain why those with limited cultural capital were more likely to express a desire to help the police, even alongside their cynicism about the likelihood that police would honor their rights assertions. Indeed, this group may view compliance as helpful to society, while self-orientation among people with high cultural capital may lead them to prioritize their own needs or convenience over a more abstract greater good. As we have described, the high cultural capital group was more keenly self-interested, taking steps to ensure that nothing untoward happened to them personally. They approached police–citizen interactions in ways that let them hedge their bets and advocate for their needs. That is, what we coded as “distrust” may have more to do with risk aversion and self-preservation than a feeling that the system cannot be relied upon.

Silbey writes that legal consciousness is “a tool for examining the mutually constitutive relationship” between law in action and law on the books (2005: 359). The persistence of the gap between the two, she says, “provides an alibi for the particular form that the gap takes” (2005: 360). Our results point to a need for greater focus on how cultural capital contributes to the persistence and texture of that gap. Doing so may help us understand the bureaucratic complexity of criminal justice processing (Feeley 1979; Stuntz 2011) and criminal justice processing’s increasingly well-documented function as a managerial tool of governance (Kohler-Haussman 2018; Natapoff 2012; Simon 2012), as well as the contingent, relational social processes that underpin legal consciousness (Young 2014) and render people with limited cultural capital more vulnerable to arrest and prosecution. The patterns we have described in people’s navigation of police–citizen interactions exemplify the ways that the “cultural terms of our understanding” (Silbey 2005: 359) come to constitute, and to be constituted by, our legal consciousness.

## **7. Conclusion**

Our data suggest that legal consciousness may be an important a mechanism through which observed inequalities are created. As a starting point for investigation into the relationship between cultural capital and legal consciousness, we sought to understand how a two-part measure of cultural capital is associated with the ways people navigate situations that require them to mediate between state-conferred rights, on one hand, and requests from state authority, on the other. We analyzed open-ended responses to rights assertion scenarios, which provide a window into the individual and relational processes that shape legal consciousness. We identify several mechanisms that underpin the relationship between legal consciousness and rights assertion. Centrally, we found that high cultural capital is associated with a greater sense of agency or self-efficacy in police–citizen interactions. This finding echoes the literature on cultural capital in the health care and education contexts and may point to a more general pattern within the juridical field. People with high cultural capital brought a more salient sense of entitlement to the vignettes we presented, understanding their own needs and desires as paramount in navigating ambiguous interactions with state authority. Our findings underscore the complexity of the relationship between legal consciousness and cultural capital, which has generative implications for multiple areas of sociolegal research.

First, our results offer a new vein of research for law and society scholars who seek to understand how people think about law and legality, and in particular the social and structural factors associated with differences in how legal beliefs, attitudes, and orientations are produced and experienced. This work is often termed “legal consciousness,” but relates as well to other work on everyday experiences of legality, such as legal cynicism and legal pluralism. What can the relationship between cultural capital and legal consciousness tell us about how legal consciousness underpins “in Bourdieu’s term, [people’s] dispositions” (Silbey 2005: 357)? In addition to examining how intersectional factors such as race and gender shape the processes we have described, future studies might turn to ethnographic methods to more effectively interrogate the relationship between legal consciousness and cultural capital. Bourdieu used survey data in *Distinction* (1984), but returned to naturalistic observations to more fully capture cultural capital’s embodiment. This approach facilitates discovery of “subterranean” patterns in legal consciousness. We might imagine naturalistic observations of criminal booking procedures, real-time searches, or other points of contact between everyday people and justice professionals. This type of work could get at the legal consciousness surrounding justice system contact more holistically. Ethnographic studies of police and the policed, though they rarely contain an explicit focus on legal consciousness, underscore this possibility (Anderson 1990; Rios 2011; Goffman 2014; Stuart 2016 — to name a few). Qualitative, observational, and longitudinal data (see, e.g., Lareau 2015) can even more effectively examine the social mechanisms that underlie variations in legal consciousness.

Second, and more specifically in the policing context, future research might probe the relationship between race, cultural capital, and the production of legal consciousness. Procedural justice strikes us as a potentially generative intersection, with both theoretical and normative implications (Tyler 2004; Sunshine and Tyler 2003). How might a better understanding of cultural capital inform community policing initiatives grounded in the procedural justice and legitimacy research traditions? Building on the research of Young (2009; Young and Munsch 2014) and Clair (2018a; 2018b), as well as on recent ethnographic work on policing (e.g., Stuart 2016), cultural capital may shape criminal justice experiences in ways that give rise to differing conceptions of law enforcement’s legitimacy. For example, we might ask when perceptions of legitimacy hinge on the kinds of dispositions and interaction styles shaped by cultural capital—or an interaction between race, gender, and cultural capital—particularly for people who are frequent targets of police action, such as young black men. Our

finding that some people expressed both trust *and* distrust of state authority at various points in their responses bespeaks a complex, textured relationship between trust and legal consciousness. What implications does cultural capital have for the way procedural justice functions from one context to the next, and what can these intersituational differences tell us about legal consciousness? Does cultural capital interact with race differently in the criminal justice context than it does in, say, the education or health care contexts?

Our findings also have implications for the growing access to justice research, most of which is done in the civil realm. For example, justiciable decision-making points such as receiving an eviction notice, seeking a divorce, experiencing credit problems, or contemplating filing a claim with the Better Business Bureau all have legal consciousness and rights consciousness implications. If we are correct that the relationship between cultural capital and legal consciousness is an important source of social variation in the ways people understand and navigate their legal problems, this finding points to useful directions in access to justice reform. Understanding how different people experience justiciable problems—and particularly understanding the social mechanisms that give rise to these different experiences—is key to figuring out what Sandefur refers to as “the fundamental, and rightly contested, question of what ‘lawful resolution’ means” (2019). This approach centers everyday people’s experiences of their problems, rather than the technical legal components of these problems. It requires understanding that just as lawyer unavailability is not the primary cause of the access to justice crisis (Sandefur 2014), increasing the provision of lawyer services is unlikely to be its most effective solution (see Sandefur 2010; 2019; Hagan 2019; Pleasance and Balmer 2019). Bringing the cultural capital and legal consciousness literatures into conversation with the access to justice work has the potential to provide new understandings of how social experience influences the ways people think about problems they face, which in turn may open new avenues for civil justice remedies.

Finally, by identifying a set of social processes that perpetuate legal hegemony, our findings challenge assumptions about human behavior that have long been enshrined in US constitutional criminal procedure doctrine. In theory, all citizens are granted identical rights that they can use in interactions with legal authorities. However, even when knowledge of a right and the opportunity to assert that right are equally distributed, meaningful constitutional access to that right remains woefully inequitable. Putting the onus on individuals to exercise their rights in encounters with state authority allows the system to pretend that everyone has the same meaningful access to these rights. It reinscribes inequality,

contributing to a collective plausible deniability about equal justice and perpetuating a constitutional mythology that cornerstones of modern criminal procedure (e.g., the “consent” search; the “free to leave” doctrine) ensure constitutional equality. As Silbey writes, the gap between law in action and law on the books “is infinitely useful to the powerful, because its persistence provides an alibi for the particular form that the gap takes” (Silbey 2005: 359–60). If the state wants to confer substantively identical rights upon all its citizens, it cannot pretend that all of its citizens are identically situated. Requiring a citizen to assert a right instead of making that right self-executing results in the reproduction of social inequality. It allows disparities in cultural capital to widen two crucial gaps in American law—the one between the haves and the have nots, and the one between the law in action and the law on the books.

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