Public Trust & Confidence through the Purposes & Responsibilities of Courts

September 30, 2020
1:00 pm (EST) – 2:30 pm (EST)
ZOOM
#1 Do individual justice in individual cases

• Core purpose

• Focuses on individual
#2 To appear to do justice in individual cases

What's so important about "appearances"?
#3 Provide a forum for the resolution of legal disputes

- Ancient purpose
- The alternatives?
- Civil cases
#4 Protect individuals against the arbitrary use of government power
#5 Provide a formal record of legal status

**Finality**
#6 Deter criminal behavior

Speedy trials
"I'm not a social worker"

Probation Officers
#8 Separate those convicted of crimes from society
Other purposes...?
Can the Purposes of Courts Withstand the Pandemic?
Justice delayed is justice denied.

William E. Gladstone
Justice too long delayed is justice denied.

—Martin Luther King
Multiple misdemeanor charges dismissed, protesters accuse Phoenix police of intimidation
County jails faced with overcrowding problem due to effects of pandemic
Petition calls for expedited pretrial release process in Smith County
PROBATION CONDITIONS RELAXED DURING THE PANDEMIC. SOME SAY THEY SHOULD STAY THAT WAY.

Public safety is not improved by stricter probation and parole rules, researchers have found.

For the Los Angeles County Probation Department, the coronavirus pandemic has posed an unprecedented challenge: remotely tracking 40,286 adults, about 3,200 of whom have no fixed address. Every probation office in the county is closed, and the department is prioritizing home visits for “high-risk individuals” who are in quarantine with spouses, children, or elderly people they’ve been convicted of abusing.
Forgive Our Rent
American Courts’ Failure to Respond to the Coronavirus Could Be Catastrophic

Lawyers and court staff described packed courtrooms, indifferent judges, and a public health disaster.
The real virus is RACISM
JUST SO YOU KNOW, I'VE BEEN SILENTLY JUDGING YOU THIS WHOLE TIME!
Preserving Public Trust and Confidence in the Pandemic Era

Todd Brower
Professor of Law
Director of Judicial Education
The Williams Institute
UCLA School of Law
What’s more likely to kill you?
When making assessments, we commonly rely on things with which we are familiar
True or False?

When most court users think about their court experience, At least 50% of them are unhappy - because someone has to win, and someone has to lose.

Best predictors of trust and confidence in courts are ratings of procedural equity and efficiency.

_Procedural equity_ is measured by neutrality, honesty, evidence of efforts to be fair, politeness, and respect for the voice and rights of individuals.

- Also includes the ordinary citizen’s involvement in the process.

_Procedural efficiency_ is present when the process is forthright, easily understood, involves the fewest steps/participants necessary, and where decision-makers consider relevant evidence.

Politeness, dignity, and respect for court users and their rights and clearly explaining court processes and court users’ roles

Opportunity to tell their side of the story, to explain their situation and views to an authority who listens carefully.

Authorities treat court users fairly and neutrally, including consistent legal principles and assistance from court personnel. Court decisions: emphasizing importance of specific facts and clearly explaining the reasons for a decision.

Behavior and actions used to indicate trust in authorities’ character and sincerity and that authorities are aware of and genuinely concerned with their needs.

What are the features of your courts that are designed to ensure procedural fairness?
• Advocates for each side, each side presents case
• Juries of peers
• Impartial judges – fairness and appearance of fairness (Judicial ethics canons)
• NACM: Model Code of Conduct for Court Professionals
• Court reporters, recordkeeping, access to files, etc.
• Court security, physical, mental health safeguards
• Access processes: accommodations for persons w/ disabilities, translators, self-help centers
• Case management procedures for prompt/appropriate resolution
• Leadership/change-management processes and procedures
• Community engagement and partnerships
Why this matters

When litigants believe the court process was fair, they are more likely to comply with court orders and to follow the law.

The monkey experiment

Each monkey has a task and will receive a reward.
The task is to give a rock to the scientist.

Fairness is ingrained in us
Monkeys like cucumbers

But they love grapes
<table>
<thead>
<tr>
<th>Agree or Disagree?</th>
<th>White</th>
<th></th>
<th>African</th>
<th>American</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agree</td>
<td>Disagree</td>
<td>Agree</td>
<td>Disagree</td>
</tr>
<tr>
<td>The Court system is fair and impartial</td>
<td>66%</td>
<td>34%</td>
<td>36%</td>
<td>64%</td>
</tr>
<tr>
<td>The Court system provides equal justice for all</td>
<td>56%</td>
<td>44%</td>
<td>29%</td>
<td>71%</td>
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NCSC State of the Courts 2018 (2019 data flawed on these questions)
<table>
<thead>
<tr>
<th>Which comes closer to your own view?</th>
<th>Total</th>
<th>White</th>
<th>African-American</th>
<th>Hispanic (Latino/a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In general judges in [STATE] courts reflect the values of our communities and understand the challenges facing the people who appear in their courtrooms</td>
<td>43%</td>
<td>46%</td>
<td>28%</td>
<td>38%</td>
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<tr>
<td>Too many judges in [STATE] courts don’t understand the challenges facing people who appear in their courtrooms and need to do a better job of getting out into the community and listening to people</td>
<td>52%</td>
<td>48%</td>
<td>68%</td>
<td>61%</td>
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NCSC State of the Courts 2018 (2019 data flawed on these questions)
• Remote hearings by zoom/online
• Impact on people who have internet access deficiencies. Phone-only access or access via public libraries
• Court backlogs and uneven demand for services during- and post-pandemic
• 2020 revealing weaknesses/stresses on many governmental and other systems. E.g., health care, social safety net, economy
• Shake confidence in all institutions, incl. courts
<table>
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<tr>
<th>Section</th>
<th>Question</th>
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<tr>
<td>Access to the courts</td>
<td>How does the public learn about your courts, access information, get to the courts, and get around inside of courthouses?</td>
</tr>
<tr>
<td>Interaction between court staff and the public</td>
<td>How does your court staff communicate with the public on the telephone, the web/Zoom, and in person; and is that communication respectful and informative?</td>
</tr>
<tr>
<td>Understanding court proceedings</td>
<td>What steps do your courts take to ensure court users receive the information they need to understand and complete their cases?</td>
</tr>
<tr>
<td>Ensuring individual voice</td>
<td>What opportunities exist for court users to express themselves in court and in the courthouse, present their side of a case, and report on their court experiences?</td>
</tr>
</tbody>
</table>
**When:** Throughout the court experience from accessing websites, entering courthouses, counters/clerk services, waiting, appearing in court, and through leaving court at the conclusion of a case.

**Where:** Jury service, Traffic, Small Claims, Family and Juvenile Cases, Counter and other staff services

**Who:** Self-Represented, Limited English, and Culturally Diverse court users
Staff and court personnel
Confusion: “courts” include law enforcement
For more information please contact:

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