

Public Trust & Confidence through the Purposes & Responsibilities of Courts

September 30, 2020

1:00 pm (EST) – 2:30 pm (EST)

ZOOM

Ernie Friesen



#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"?

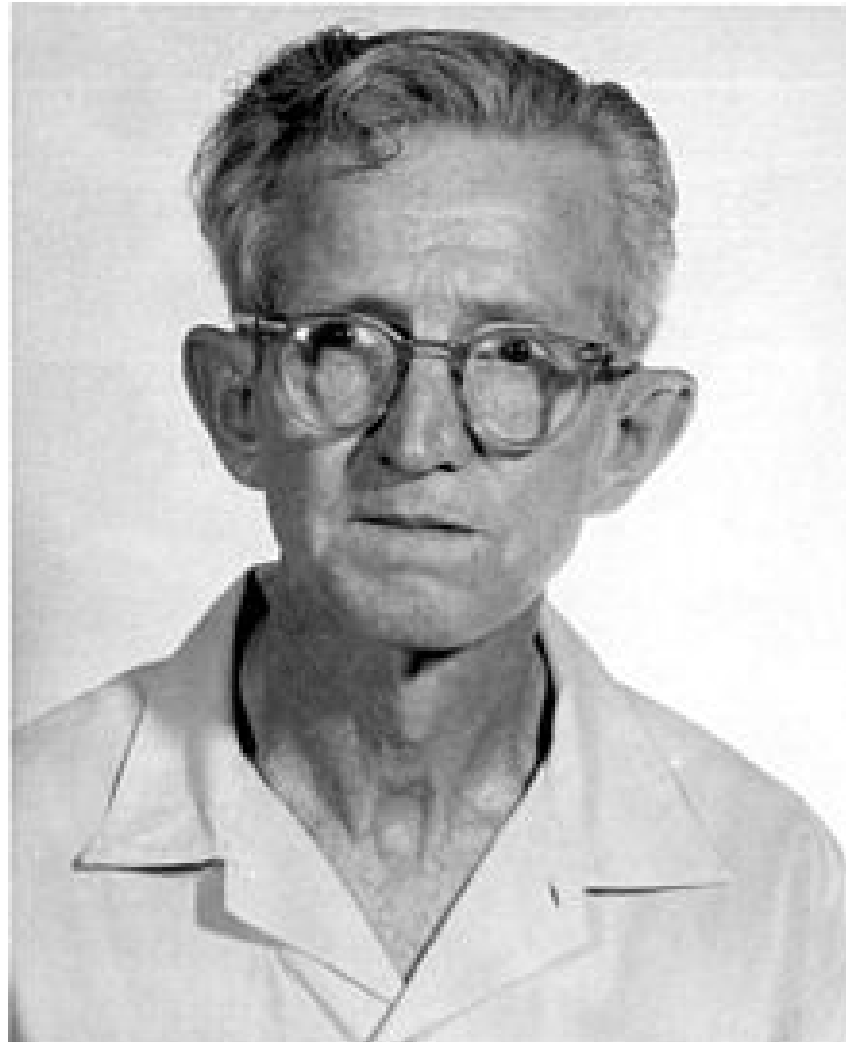


#3 Provide a forum for the resolution of legal disputes

- 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



#7 Rehabilitate persons convicted of crimes

"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* —

AZ QUOTES





I WEAR MY MASK FOR
Clark County
Teachers & Students

I WEAR MY MASK FOR
Health Care Workers



NEWS > PHOENIX METRO NEWS > CENTRAL PHOENIX NEWS



Multiple misdemeanor charges dismissed, protesters accuse Phoenix police of intimidation

ZACH CRENSHAW

STEVE IRVINE

KATIE RAML

ABC15 ARIZONA | AT 10

MORE LOCAL NEWS

abc 15 ON THE CW61 ARIZONA

WEEKNIGHTS AT 9

OVER-THE-AIR CHANNEL 61 / COX CABLE 1006

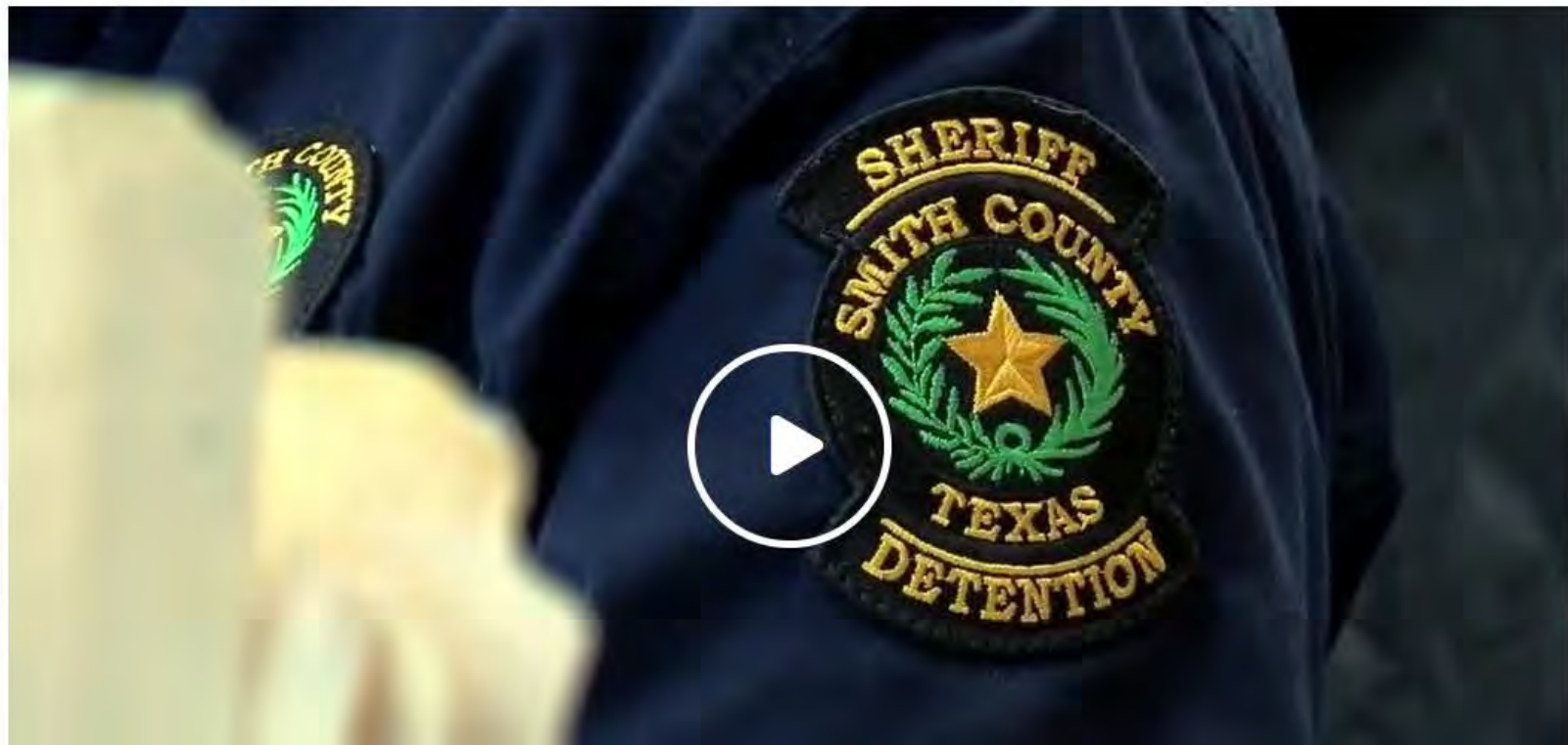
ABC15 News on CW61



NEWS

County jails faced with overcrowding problem due to effects of pandemic

Petition calls for expedited pretrial release process in Smith County



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Currently in Tyler, TX

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Lauren Lee White

Jun 08, 2020

SHARE



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.

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PARKING STRUCTURE
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SUNDAY NOON - 7 PM

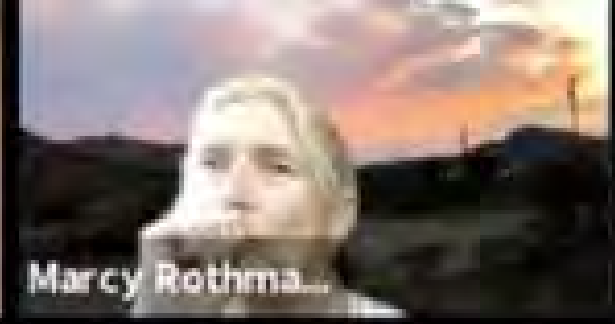
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L.A.M.C. SEC 80.71.4

Forgive Our Rent





Cory Itkin



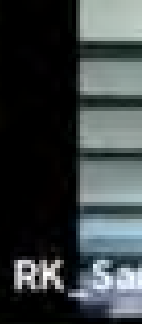
Marcy Rothman...



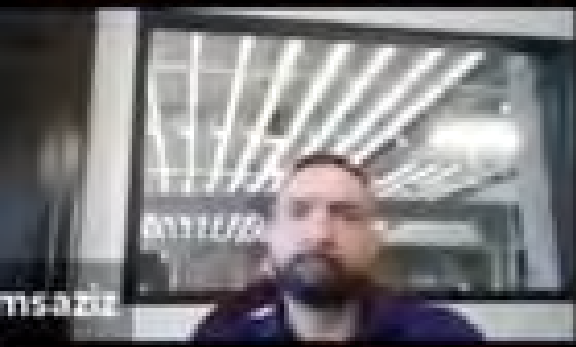
Troy Ford



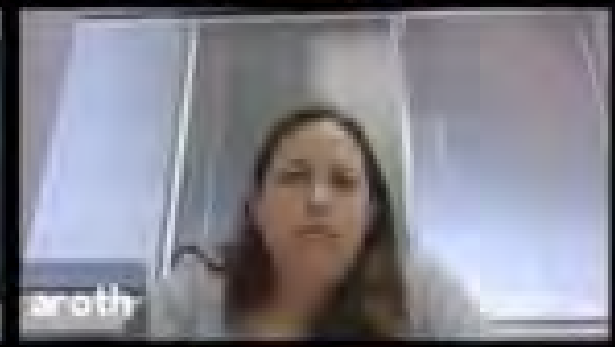
Reginald McKa...



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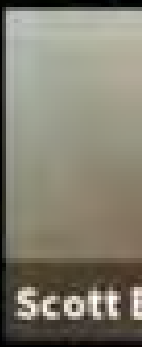
aroth



Lisa Massey



Kim Spurlock



Scott B



Will Adams's iPhon...



ANigam's iPhon...



Eric Carl Nords...



Mike Lowenber...



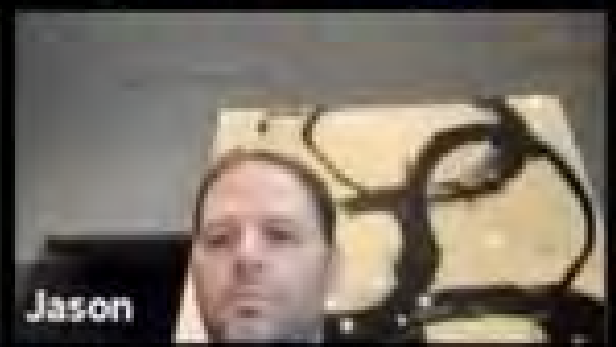
LR-Pho



Mo Taherzadeh



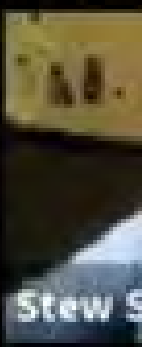
iPhone



Jason



Matias Adrogu...



Stew S

JURISPRUDENCE

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.

By MARK JOSEPH STERN

MARCH 16, 2020 • 7:08 PM

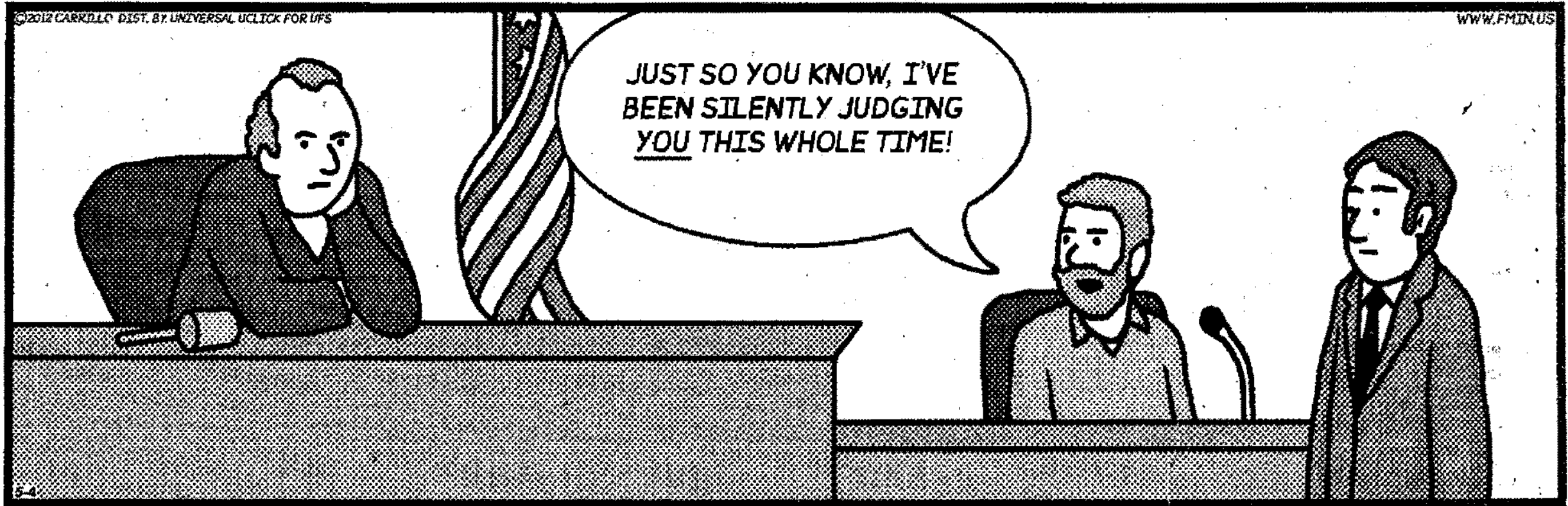
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The real
virus is
RACISM

Public Trust & Confidence

F MINUS



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



School of Law
Williams Institute

What's more likely to kill you?



When making assessments, we commonly rely on things with which we are familiar

Availability
heuristic

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.

Rottman, David. Public Perceptions of the State Courts: A Primer. (NCSC August 2000), p.5; Casper, J. D., Tyler, T., and Fisher, B. (1988). "Procedural Justice in Felony Cases." *Law & Society Review* 22: 483-507; Tyler, T.R. and Huo, Y. J. 2002. *Trust in the Law*. New York, NY: Russell Sage Foundation.

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.

Respect
Voice
Neutrality
Trust

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
- <https://www.ncsc.org/topics/court-management/leadership-and-change-management/resource-guide>
- <https://www.ncsc.org/topics/court-community/public-trust-and-confidence/resource-guide>

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

Lind, A.E., Kulik, C. T., Ambrose, M. and de Vera Park, M. V. 1993. "Individual and Corporate Dispute Resolution: Using Procedural Justice as a Decision Heuristic." *Administrative Science Quarterly*, 38: 224-251; Paternoster, R., Brame, R., Bachman, R., and Sherman, L. 1997. "Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault." *Law & Society Review*, 31: 163-204; Pruitt, D.G., Pierce, R. S., McGillicuddy, N. B., Welton, G. L, and Castrianno, L. M. 1993. "Long-Term Success in Mediation." *Law and Human Behavior*, 17:313-330.; Thibault, J.W. and L. Walker. 1975. *Procedural Justice: A Psychological Perspective*. Hillsdale, NJ: Lawrence Erlbaum; Tyler and Huo, 2002).

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



What
you need
to know

Agree or Disagree?	White		African American	
	Agree	Disagree	Agree	Disagree
The Court system is fair and impartial	66%	34%	36%	64%
The Court system provides equal justice for all	56%	44%	29%	71%

NCSC State of the Courts 2018 (2019 data flawed on these questions)

Which comes closer to your own view?	Total	White	African-American	Hispanic (Latino/a)
In general judges in [STATE] courts reflect the values of our communities and understand the challenges facing the people who appear in their courtrooms	43%	46%	28%	38%
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	52%	48%	68%	61%

- 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

Impacts of
COVID,
protests, and
other current
events

Self- Assessment Take-Home

Access to the courts: How does the public learn about your courts, access information, get to the courts, and get around inside of courthouses?

Interaction between court staff and the public: 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?

Understanding court proceedings: What steps do your courts take to ensure court users receive the information they need to understand and complete their cases?

Ensuring individual voice: 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?

Self- Assessment Dimensions

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

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