

How do you wish you had been treated?

- Respectfully (with eye contact, addressed by name)
- Given an explanation
- Invited to ask questions and be heard



As professionals, what do we want?

What do the people the court serves want?




What is Procedural Justice?

The perceived fairness of **court procedures** and **interpersonal treatment**



As contrasted with:

- **Distributive justice:** perceived fairness of the **outcome** ("win" or "lose").

Why do people obey court orders?

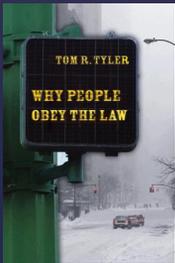
People are more likely to accept decisions when they:

- Believe they were treated with dignity and respect
- Understand the process
- Had a chance to be heard (voice)
- Believe the decision-making process is neutral and unbiased (neutrality)



These are the key elements of procedural justice.

Procedures vs. Outcomes



Most people like to win!
Outcomes matter.

Procedural justice theory assumes:

- People know they can't always win.
- People will be more likely to accept losing if they perceive as fair the procedures and interpersonal treatment they received.

Procedures vs. Outcomes

Procedural justice is the primary factor in litigants' willingness to accept decisions – regardless of why the litigant came to court.



In other words: winning isn't everything!

Tom Tyler, Yale Law School



Benefits of procedural justice

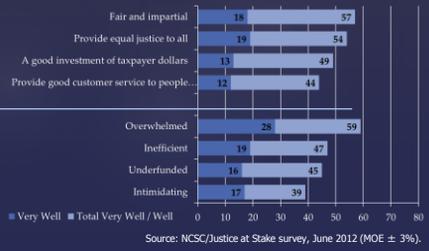
Increased compliance means:

- Fewer violations, revocations, and returns
- Compliance with the law generally (i.e., reduced recidivism)
- Smaller dockets
- Cost and resource savings

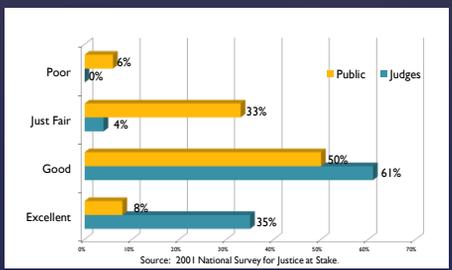


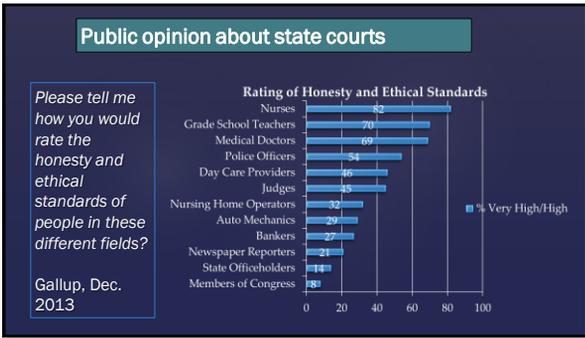
Public opinion about state courts

Thinking about the (state) court system, please tell me whether, in your opinion, each of the following words or phrases describes the state's courts very well, well, not very well, or not well at all.



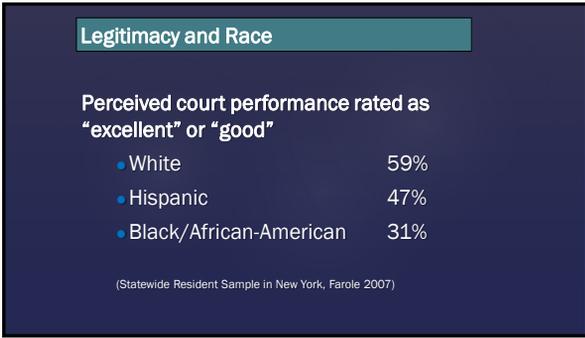
Public opinion about state courts





Our legitimacy is not assumed by many who come before us.

Trust must be earned in each encounter.



Study excerpt: defendant perceptions

"I was coming from the bus stop, me and my boyfriend, he was walking with me. And do you know that the cops stopped us? They threw him on the freakin' bench like he was a murderer or something. They sprained my wrist ... Do you know that Judge Calabrese [Red Hook's judge] made them apologize? 'Cause I went in with a wrist band. Yeah, they don't care over here. They was just rollin' by out there like they was ready to jump out.... But Judge Calabrese, he's the man back here."

Study of the Red Hook Community Court (Lee et al. 2013)

Influence of court professionals

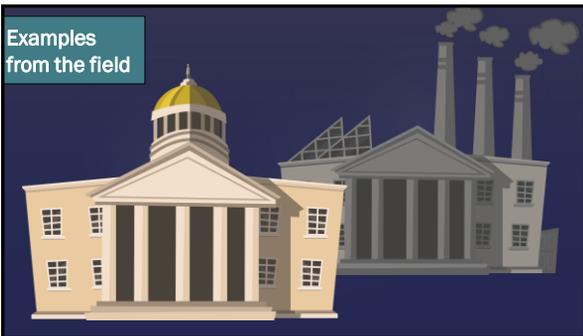
Which court professionals influence perceptions of fairness most?

1. Judges
2. Defense attorneys
3. Court officers and prosecutors (tied for third)

(Red Hook Community Court Study, Frazer 2006)

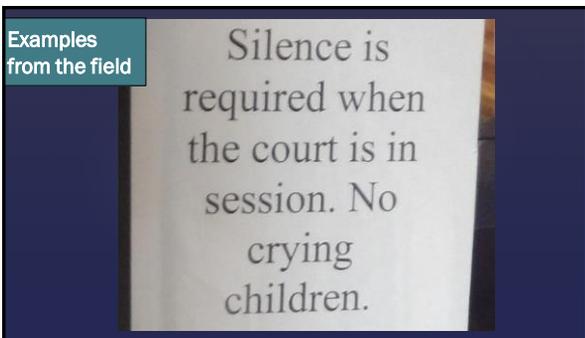


Examples from the field





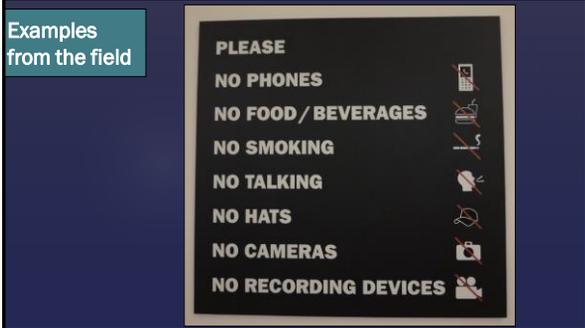
Examples from the field

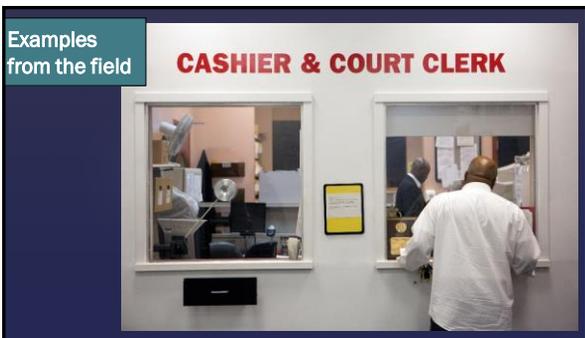


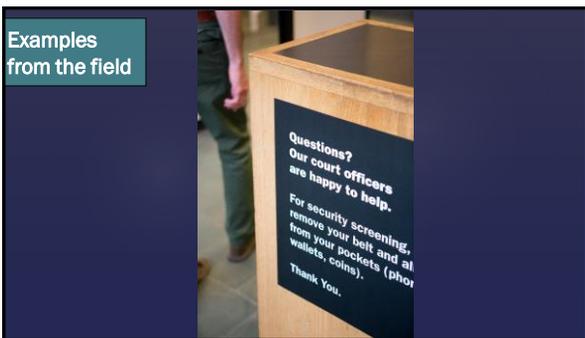
Examples from the field



Examples from the field









Examples from the field

**Welcome to
Judge Smith's Courtroom
(Branch #3)**

- Please sign in with the court officer when you arrive.
- If you have a lawyer, your case will not be called until your lawyer arrives.
- If you have a question about court procedures, please ask a court officer in between cases.

Si necesita un traductor, por favor diga su nombre y la palabra "Spanish" al agente del corte.

Restrooms are available on this floor. Handicap accessible restrooms are located on the ___ floor.

Examples from the field

WELCOME TO THE ARIZONA COURTS

WE WILL BE HAPPY TO HELP YOU IF WE CAN, AS WE MUST BE FAIR TO EVERYONE. WE ARE ALLOWED TO HELP YOU ONLY IN CERTAIN WAYS.

This is a list of some things court personnel can and cannot do for you:

We can explain and answer general questions about how the court works.

We can give you general information about court rules, procedures, and practices.

We can provide you with the number for lawyer referral services, legal aid programs, and other services where you can get legal information.

We can provide court schedules and information on how to get a case scheduled.

We can give you information from your case file that is not restricted.

We can provide you with court forms and instructions that are available.

We can usually answer questions about court deadlines.

We cannot tell you whether or not you should bring your case to court.

We cannot tell you what needs to be in your court papers or whether they are correct.

We cannot tell you what to say in court.

We cannot give you an opinion about what will happen if you bring your case to court.

We cannot conduct legal research for you.

We cannot talk to the judge for you or let you talk to the judge outside of court.

We cannot alter court documents.

OUR ABILITY TO ASSIST YOU WILL DEPEND ON THE TIME AND RESOURCES AVAILABLE AS WELL AS THE SCOPE OF OUR RESPONSIBILITIES, KNOWLEDGE AND EXPERIENCE.

Brainstorming Exercise

Four key components of procedural fairness

- Voice
- Neutrality
- Respect
- Understanding

DISCUSSION QUESTION:
What are promising practices for each?

Thank you!



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For more resources and assistance:
www.courtinnovation.org/proceduraljustice
<http://bit.ly/ProJust>

Additional Resources

- www.law.yale.edu/faculty/TTyler.htm
- www.proceduraljustice.org
- proceduralfairnessguide.org
- www.ncsconline.org/d_research/CourTools/ctTemplates.htm
