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***PERCEPTIONS OF THE COURTS IN YOUR COMMUNITY:
THE INFLUENCE OF EXPERIENCE, RACE AND ETHNICITY***

Executive Summary

National Center for State Courts

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Perceptions of the Courts in Your Community: The Influence of Experience, Race, and Ethnicity

Executive Summary

Objectives

This report addresses two questions fundamental to understanding contemporary public opinion about the courts. First, what differences exist in how African-Americans, Latinos, and Whites view the state courts? Second, what difference does recent direct court experience make in the opinions people hold about the state courts? The differences examined are in support for the courts, the perceived quality with which courts handle cases, the fairness of court procedures and court outcomes, and the willingness of individuals with recent court experience to return to court on a similar matter in the future. Reference is to the “courts in your community.”

The findings in this report are based on the first national survey designed to consider race and experience effects simultaneously. Therefore, the survey can examine where race and ethnicity intersect with court experience to establish if court experience influences the views of racial and ethnic groups in a similar or a different manner. Previous studies examined that intersection in individual cities and in specific states.

The survey initially was carried out to provide background information for a national conference, “Symposium 2000: Meeting the Justice Needs of a Multi-Cultural Society in the 21st Century” (held in August 2000).

Prior Research

Previous research on opinions about the state courts was reviewed to identify promising lines of inquiry and gaps in what was known. The following priorities emerged:

Most research to date relies on comparing majority to minority group views, combining African-Americans and Latinos into a single minority group. Some research concluded that Latinos are the group most dissatisfied with the courts; other research concluded that Latinos are the most satisfied group.

The precise impact of court experience remains uncertain. Typically, conclusions have been based on comparisons between those with any court experience

(undifferentiated by time or kind) and those without it. The impact of recent court experience (defined here as within the past year) has not been examined in national surveys. There is uncertainty as to the durability of any experience-based change in perceptions of the courts.

There also is evidence that the influence of experience varies by race and ethnicity. For example, previous research identified a positive influence from jury service. It is not clear if such an impact extends to African-American or to Latino jurors.

Students of the state courts point to extensive changes over the last two decades in the extent and nature of people's contact with the courts. Opinion surveys, however, suggest that opinion about courts has changed little over that time-period. The core public image of state and local courts appears to be a stereotype: the fixed, narrow "pictures we carry about in our head" that resist easy change. The same negative and positive images of the courts recur with varying degrees of forcefulness in all of the national and state surveys going back to 1973.

Research points to an important role of mass media in forming and sustaining opinion on the courts. Media influences appear to be national rather than local in source. However, some students of opinion on the courts claim that court experience trumps (the presumably negative) media influences. More needs to be known about the importance people attach to their recent experience against the media and other commonly cited influences on opinions about the courts.

Existing research offers little guidance to judges and court managers engaged in efforts to increase public support for the courts. One of the major dilemmas currently facing court leaders is how to respond to court cases that involve people with complex emotional and social problems. We do not know from previous research to what extent the public supports changes in traditional court processes that might help courts problem-solve (as manifest, for example, in drug courts) or whether such support reflects positive or negative views of the courts as they stand currently.

Methods

The broad parameters for the methodology were set in consultation with an advisory committee of experienced survey researchers.¹ The survey instrument and the sampling strategy were a compromise between aspirations for the survey and what the budget for the project could support. The resulting survey had several noteworthy features:

- A random sample of American adults (954 respondents)
- A random sample of individuals with court experience during the preceding 12 months (570 respondents)
- A common set of questions asked of both the general random sample and the court user samples
- A special block of questions through which court users could describe and evaluate their experience in court
- Oversamples of the two largest minority groups in the United States, African-Americans and Latinos, selected to augment both the general and court user samples

Researchers at the National Center for State Courts designed and refined the survey instrument based on a critique by the advisory committee members and staff from the Indiana University Public Opinion Laboratory, which conducted the survey.

Telephone interviews were conducted between March and May of 2000. A random digit-dialing sample of 1,005 residents across the United States was generated. Those interviews were supplemented with over-samples of about 300 African-Americans and about 250 Latinos. Among all groups, approximately one-half of the participants were selected because they had had contact with the courts within the past 12-months. The combination of minority oversamples and quotas for recent court users was expensive to implement. One consequence was a smaller than desired number of Latino respondents with recent court experience (95 instead of the target 125).

¹ Advisory Committee Members: Louis DeSipio (University of Illinois at Chicago), Rodolfo de la Garza (University of Texas at Austin), Larry Heuer (Barnard College), Barry Mahoney (Justice Management Institute), Alan Tomkins (University of Nebraska at Lincoln), and Tom Tyler (New York University).

Court Users and Non-Users Compared

Respondents with and without recent court experience were asked a common set of general questions about the courts in their community. A summary of the key findings from the analysis of their responses follows, followed by a discussion of their import.

Overall fairness. Court procedures were seen as slightly fairer than outcomes. Perceptions of fairness differed by race and ethnicity. African-Americans perceived the most unfairness. Twice as many African-Americans believed that court outcomes are “seldom” or “never” fair as believed that they are “always” or “usually” fair. Those with recent court experience in all racial/ethnic groups viewed courts as less fair than did those without such experience.

Procedural Justice. Procedural justice refers to the perception that decisions have been made through processes that are fair. People often accept as fair and are satisfied with decisions whose outcomes are unfavorable. The survey respondents agreed or disagreed with a series of statements about the fairness of court procedures. African-Americans with court experience agreed courts were fair on average with 49 percent of the statements, compared to average agreement levels of 64 percent for Whites and 69 percent for Latinos.

Respect, neutrality, meaningful participation, and trustworthiness are constituent elements of procedural justice. A perception that courts treat people with *respect* is strong among Whites, moderately strong for Latinos, and weak among African-Americans. A perception that courts are *neutral* was weak among African-Americans, who were less likely than Latinos or Whites to agree that courts decide cases on the facts or that judges are honest in their decisions. Latinos and Whites tended to agree that courts permit meaningful *participation* (between two-thirds and three-quarters agree). African-Americans, particularly those with recent court experience, were less positive.

Trustworthiness is the core of procedural justice. Courts scored low on that element. A majority of recent African-American litigants disagreed with such statements as “courts take needs into account” and “courts are sensitive to concerns.”

Unequal group treatment. Across racial lines, those with recent court experience were more likely than those without such experience to believe that courts treat certain groups unequally. Whites tended to see unequal treatment as infrequent; African-

Americans and Latinos tended to see it as frequent. The respondents expressed the strongest sense of worse treatment was for “someone with a low income.” People at all income levels agreed strongly with that statement.

Support for the courts. Respondents were asked how favorably they felt toward the courts (and, for comparison, toward the police and schools). Persons with recent court experience were less favorable toward the courts than people without such experience (they were also less favorable toward the police, but not schools).

Courts were rated less favorably than police or schools. Only 26 percent of Whites without recent court contact rated the courts in a positive manner (some 60 percent rated police and schools positively). African-Americans gave the courts less support than Whites (18 percent were positive). Latinos were slightly more likely (28 percent) than Whites to be positive. Overall, most respondents rated the favorability of courts as neutral (neither positive nor negative).

The survey asked respondents to rate how well the courts handle five specific kinds of court cases. Average ratings tended to lie close to the mid-point value of three (on a scale of one to five). Ratings were higher among those without recent court experience (except for Latinos). African-Americans gave the lowest ratings.

Non-traditional court roles. There is overwhelming approval for the judicial and court roles associated with drug courts and other problem-solving courts. African-American respondents tend to be the most supportive of the new roles, followed closely by Latinos. Whites were less enthusiastic in their support of new roles for judges and courts (but favorable nonetheless).

Discussion about user/non-user differences. Some implications of the survey data are clear. People with recent court experience tend to hold less positive views of the courts than do those without that experience. African-Americans tend to have a negative view of the courts. It is notable that the difference in views between African-Americans with and without court experience is slight compared to differences observed among Whites or Latinos.

Perceptions that courts use fair procedures and treat groups equally are the strongest predictors of favorability toward the courts and approval of how courts handle cases. This applies across racial and ethnic groups, and for recent court users as well as

non-users. Perceptions that courts are timely and affordable also influence the amount of support that people give to the courts.

The fairness of procedures and other factors considered in this report proved stronger influences or opinions for those with recent court experience than for the general population.

Some of the findings are not clear. The position of Latinos is a prime example. Latinos sometimes share the concerns of African-Americans over the fairness of outcomes and procedures but tend overall to be close to the positive views that Whites hold about the courts. Statistical models that sought to predict support for the courts or the fairness of court outcomes fared poorly for Latinos compared to their efficacy for African-Americans or Whites. Factors not considered in this study may be the prime movers of Latino opinions on the courts.

The Voice of Experience: Jurors, Litigants, and Witnesses

To achieve greater clarity, a more differentiated view of court experience was sought by making a three-fold distinction among former jurors, litigants, and witnesses. These findings emerged.

Fairness. Perceptions of how fairly they were treated tended to be moderately positive. Former jurors perceived experiencing higher levels of procedural justice than did witnesses or litigants. African-Americans with recent jury experience rated the courts lower than former White or Latino jurors. Among recent litigants, the perceptions of African-Americans and Latinos tended to be more negative than for Whites.

A substantial proportion of African-American and Latino respondents perceived unfairness based on their racial or ethnic group. Former litigants tended to perceive low levels of trustworthiness in the courts. There were no significant racial/ethnic group differences. Former jurors and witnesses, on the other hand, tended to agree that the court was trustworthy. That trend was less pronounced for African-Americans.

Support for the courts was highest among Latino former jurors and litigants; African-Americans were the least supportive. However, when considered jointly with other factors, neither race/ethnicity nor role played in court influenced favorability or support ratings to a statistically significant degree. For all groups positive perceptions of

the fairness of court procedures are the predominate source of high levels of favorability toward the courts.

Expectations. Recent court users anticipated fair treatment if they were to be a party to the same kind of case in the future. Former jurors and witnesses anticipated fairness by overwhelming margins. Litigants were less optimistic, but a majority believed that they would be treated fairly. This was true for African-American litigants.

Although most respondents believed that they would receive fair outcomes and fair procedures in a future court experience, there was limited enthusiasm for using the courts as an institution in the future. A majority of former jurors and witnesses reported being likely to go to court to resolve a similar dispute at some point in the future. Former litigants tended to be equally divided between those likely and unlikely to go to court again.

Race and ethnicity did not influence the likelihood of using the court in the future. Instead, the greatest influence came from the perceived level of procedural justice respondents experienced. For some purposes, the person's role in court also made a difference.

Information sources. African-Americans and White respondents rated their recent court experience as the most important influence on their overall impression of courts. This was not true for Latinos, who appear to reference a wider range of sources. Both African-Americans and Latinos rated electronic and print news media as more important sources than did Whites. The strongest group difference came in the importance both minority group's members attached to programs like "Judge Judy" or "The People's Court" as sources of information.

Conclusions

As in other studies, perceptions of procedural justice dominate the influence from demographic factors, including race and ethnicity. A few other influences vied with procedural justice as influences on support for the courts, notably concerns about the speed and cost of court proceedings. Where present, the influences on opinion associated with race and court experience were independent. That is, the influence of one was not conditioned on the other.

As a group, people with recent court experience tend to be slightly negative about the courts even though they rate their own experiences rather positively. It is curious, and disconcerting to those interested in increasing public support for the courts, that recent court users had a more positive view of how *they* would be treated in the future than in the extent to which people generally or usually are treated fairly.

Whether the respondent had been a juror, litigant, or witness was associated in some measure with how they viewed their experience. Jurors tended to be the most positive in their ratings of their experience in court but unenthusiastic about the prospects of having a similar experience in the future. The influence of role was rarely strong, however, and at times absent altogether. A more refined approach, distinguishing between plaintiffs and defendants in civil cases and between jurors in civil and criminal cases might prove more illuminating. The present sample had too few respondents with experience to make such distinctions feasible.

The analysis presented in this report suggests that very recent court experience may be qualitatively different from court experience that occurred in the more distant past. The factors influencing opinions held by recent court users are different in some respects both from those operative for people with no experience and those with prior but not recent experience.

Some observations from the survey findings are speculative. Courts do not appear to weigh heavily on the public mind. Average ratings of support tended to lie close to the mid-point of the range of choices that respondents were given. The result is that courts may have both fewer supporters and fewer critics than other public institutions. The lack of passion may reflect a lack of attentiveness. Specific questions about how courts handle kinds of cases led to a large proportion (especially among Whites) of respondents saying that they did not know enough to answer.

Some new lines of inquiry were opened by the analysis. There is evidence from this survey that there is strong public support for the non-traditional roles that problem-solving courts employ. This includes giving consideration to what psychologists and medical doctors know about the causes of emotional problems when making decisions and hiring drug treatment counselors as court staff. Support for non-traditional roles is strongest among African-Americans and Latinos.

Support for non-traditional court roles is most plausibly linked to dissatisfaction with the courts. Support for new roles is likely to represent unmet expectations people hold of the courts.

Finally, the survey demonstrates that it is inaccurate to speak of a minority viewpoint on courts. African-Americans and Latinos appear to reach somewhat similar conclusions about the fairness of court procedures from *their* experience. For the most part, however, Latinos share the favorable non-experience based perceptions of Whites. Indeed, Latinos in many respects rate the courts in their community more highly than do Whites. It is not clear, however, from this research that we can identify a coherent, distinctly Latino viewpoint about the courts.

Some Policy Implications

Courts and the media. Judges and court officials face a fundamental problem in using the media to present positive messages. The courts lack an attentive public. A key concern, therefore, is to get the public's attention. At the national level, court leaders may need to call upon marketing researchers to do the kind of background research through which a message that resonates with the public can be crafted, one that connects the work of the "courts in your community" to values and concerns that rank high in the public mind.

A number of local court reform efforts do appear to have mobilized widespread public involvement and awareness. Research is needed to measure the public profile of those efforts and, if warranted, help unravel the reasons for their success. Courts have both fewer supporters and fewer critics than other public institutions. The public image of the court may prove susceptible to change after all.

Court and community collaboration. The survey's findings encourage individual trial courts and state court systems engaged in programs of court and community collaboration. Collaboration gives the public a legitimate and influential voice in their local courts. The public, or the community, becomes a part of a dialogue rather than merely a recipient of information without interfering with judicial independence in individual case decision-making.

Courtroom conduct. Greater attentiveness on the part of judges to procedural justice issues offers a ground up approach to enhancing the public standing of the courts.

Findings from the current survey highlight the crucial role that procedural justice plays in shaping people's views of the courts. Courts can adopt, where consistent with due process considerations, the kinds of behaviors and practices that are consistent with public expectations of a fair decision-making process.

Problem-solving courts. The role of drug court judges incorporate some of the key elements of procedural justice, particularly in relation to participation and trustworthiness. Courtroom interaction in problem-solving courts appears to satisfy the public's preferences for decision-making processes.

Systematic use of opinion surveys. Statewide surveys are expensive and survey findings need to be placed in a context to justify that cost. Jose Toharia, a Spanish sociologist, has proposed a way to systematically incorporate opinion research into court administration. Surveys of the general public provide insight into the concerns of potential court users. Toharia distinguishes three other publics need to be consulted systematically: operators (court staff), experts (legal scholars, journalists covering the courts, and legislators), and actual users. Taken together, opinion surveys from these publics yield a balanced measure of how well courts are performing.

A final note. It is important to reiterate some limits to what the survey data can tell us. One limitation is the small number of African-Americans and Latinos with recent experience as a witness. Observed differences in the views of witnesses across racial/ethnic group lines should be treated as indicative only. It is uncertain if they would be observed in a future survey. The composition of the overall Latino sample is another limit to the kind of inferences that can be drawn from the survey because it under-represents foreign-born Latinos and Latino residents outside of Texas. More generally, there are uncertainties inherent in the research task of identifying recent court users through a random sample of the adult population. People with court experience within any 12 month period are rare.