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

**Final Report**

**National Center for State Courts**

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**January 31, 2003**

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## *Chapter 1*

### **Public Opinion on the State Courts: Content, Variation, and Perpetuation**

#### **Overview**

This report addresses two questions fundamental to understanding public opinion about the courts. First, do African-Americans, Latinos, and Whites view the state courts differently? Second, what impact does recent direct court experience have on people's opinions about the state courts? The relevant differences are found in 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.

The distinctive contribution of this report is the exploration of where race and ethnicity intersect with court experience: Does court experience influence the views of racial and ethnic groups in a similar or a different manner. Previous studies examined that intersection in cities (Tyler, 1990; 2001) or states (e.g., Benesh and Howell, 2001). The findings reported here are based on the first national survey designed to consider race and experience effects simultaneously.

This joint emphasis has two rationales. First, the survey was conceived as a way to provide the information core for a major national conference sponsored by the National Association for Court Management, "Symposium 2000: Meeting the Justice Needs of a Multi-Cultural Society in the 21<sup>st</sup> Century" (held in August 2000). Second, the emphasis corresponds to major unanswered, or not definitively answered, questions from the extant literature. The priorities of practitioners and scholars coincided.

The 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 was asked 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
- Extensive reference to concepts derived from the procedural justice literature

- 
- Limited overlap with the kind of descriptive questions asked in the 1998 (American Bar Association) and 1999 (National Center for State Courts) national surveys about the courts and legal system

This chapter summarizes the relevant theoretical and research literature. Chapter 2 describes the survey methodology, noting strengths and weaknesses. Chapter 3 is devoted to racial and ethnic differences in perceptions of the courts held by court users and non-users. Chapter 4 is devoted to the influence of experience and the interaction of experience with race/ethnicity. Chapter 5 returns to the literature review to assess what the new survey and its analysis adds what we know about public opinion about the state courts, both for practitioners and scholars.

### **Relevant Conceptual and Empirical Studies**

This review of prior writings on public opinion concerning the state courts is structured around 11 assertions. The assertions begin with general observations but then hone in on specific topics central to the concerns that motivated the 2000 national survey.

- I. *Relatively little is known about the public image of state and local courts. The lack of knowledge is not attributable to a lack of data; rather, there has been insufficient analysis of the relevant evidence and inadequate conceptual thinking to guide analysis.*

There is no golden age of conceptual and empirical work on public opinion regarding state and local courts.<sup>1</sup> However, the 1970s stand out as a high mark in the rather flat terrain of opinion research on state courts. The ambitious 1977 *Public Image of the Courts Survey*<sup>2</sup> commissioned by the National Center for State Courts and, to a lesser extent, the ABA's 1973 *Legal Needs of the Poor* survey were the empirical high points. At the conceptual level, Sarat (1977) provided a framework based on American legal culture within which research on other legal institutions could be integrated with research on opinions about the courts.

The storehouse of existing opinion data relevant to the state courts is described in Table 1.1 (on the next page). Six national and 29 state surveys have been devoted in whole or in large part to the study of public perceptions of state courts. Five states have

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<sup>1</sup> Testimonials to that assertion include: "Few studies deal expressly with the impact of state courts [on the willingness of the public to comply with authority] in the 1950s and 1960s" (Clark, et. al., 1972:27). "Pollsters and scholars have paid little attention to the relationship between court and public for the state courts" (Caldeira, 1993:303). "Since 1980, little research has been conducted on the public's perceptions of the fairness of decisionmaking in local courts" (Roberts and Stalans, 1997:140).

<sup>2</sup> *The Public Image of the Courts* survey was a massive enterprise; certainly no subsequent survey about the courts or the legal system approaches its breadth and depth. Interviews were conducted face-to-face with 1,931 randomly selected adults (with over samples from states seen as having accomplished significant court reform agendas). Similar questions were asked of 317 "active" attorneys, 194 state and local judges, and 278 community leaders (mayors, state and local legislators serving on judiciary committees, local media staff, etc.).

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asked the same questions two or more times and another five states have replicated the survey questions first asked in the 1999 national *How the Public Views the State Courts* survey.<sup>3</sup>

The cumulative value of the data collected in these surveys is less than might be anticipated. Few state surveys have been analyzed to a point beyond displays of frequencies or simple cross-tabulations. There is little consistency in the questions they asked or the wording of questions. Also, few state-specific data sets were archived, and thus were unavailable for secondary analysis.

The limited accumulation of empirical evidence is matched with, and certainly related to, the limited conceptual development of ideas relating to opinion about state courts. The dominance of the United States Supreme Court in the study of public opinion on the court is a major reason for the lack of strong theoretical guidance. This is anomalous because:

“Public support, then, is especially important for state and local judges, yet our knowledge about public support for courts is based very heavily on support for the U.S. Supreme Court . . .” (Olson and Huth, 1998:42).<sup>4</sup>

Public support for the U.S. Supreme Court, which is high relative to other national institutions, may rest on a different foundation than that for local courts.

One explanation offered for the Court’s consistently high level of public support (relative to the other branches of government) is its unique national institutional role as guarantor of freedom. There appears to be a predisposition to support the U.S. Supreme Court, rooted in how people learn about our political system (Mondak and Smithey, 1997). At any given time, dissatisfaction with the Court may be high among particular population segments based on reactions to specific court opinions. However, the effect is short-lived because the Court is seen as protecting basic democratic values and as a champion of justice. In this view, the U.S. Supreme Court has legitimacy—it enjoys public support that is not contingent on satisfying specific demands. Ultimately the legitimacy of the U.S. Supreme Court rests primarily on the willingness to submit disputes to it for adjudication and acceptance of its decisions rather than on specific outcomes to disputes (see, also, Gibson, 1989:469).<sup>5</sup>

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<sup>3</sup> In addition, several state surveys have provided the data for academic studies: Washington State (Fagan, 1981), Utah (Olson and Huth, 1998), New Jersey (Silbey et al., 1993), and Louisiana (Benesh and Howell, 2001).

<sup>4</sup> Discussion of the applicability of findings drawn from research on the U.S. Supreme Court to state courts can be found in Olson and Huth (1998), Benesh and Howell (2001), and Rottman (1998).

<sup>5</sup> Recent events support such a view. The controversial and politicized decision in *Bush v. Gore* did not diminish overall public support for the Court. Rather, support from some groups (Democrats) declined but were cancelled out by an increase in support from other groups (Republicans) (Kritzer, 2001; see, also, Gibson, Caldeira, and Spence, 2001).

**Table 1.1**  
**NATIONAL AND STATE RANDOM POLLS OF PUBLIC OPINION ON THE COURTS**

<b>Year</b>	<b>State or National</b>	<b>Sample Size</b>	<b>Survey Type</b>	<b>Pollster Type</b>	<b>Name of National Survey</b>
1977	<b>National*</b>	1931	In Person	Commercial	<i>Public Image of the Courts</i>
1978	Utah	600	Telephone	Commercial	
1983	<b>National</b>	1004	Telephone	Commercial	<i>The American Public, The Media and the Judicial System: A Hearst Report</i>
1984	New Jersey	800	Telephone	University	
1986	Michigan	789	Telephone	University	
1988	Washington	800	Telephone	Commercial	
1989	Alabama	422	Questionnaire	University	
1989	Rhode Island	404	Telephone	Commercial	
1990	Utah	600	Telephone	Commercial	
1991	Massachusetts	400	Telephone	Commercial	
1991	Utah*	600	Telephone	Commercial	
1992	California*	1488	Telephone	Commercial	
1992	New Jersey	800	Telephone	University	
1992	Virginia*	1600	Telephone	Commercial	
1995	Iowa	803	Telephone	University	
1995	Mississippi	670	Telephone	University	
1995	North Carolina	800	Telephone	Commercial	
1995	Wisconsin	522	Telephone	University	
1996	<b>National</b>	1085	Telephone	University	<i>National Opinion Survey on Crime and Justice</i>
1996	Florida	1042	Telephone	Commercial	
1997	Arizona	511	Telephone	Commercial	
1997	New Mexico	403	Telephone	Commercial	
1998	<b>National</b>	1000	Telephone	Commercial	<i>Perceptions of the US Justice System</i>
1998	Connecticut	1200	Telephone	University	
1998	Kansas	1226	Telephone	University	
1998	Louisiana*	1200	Telephone	University	
1998	Maryland	600	Telephone	Commercial	
1998	Texas*	1215	Telephone	University	
1999	<b>National*</b>	1200	Telephone	University	<i>How the Public Views the State Courts</i> , a national survey funded by The Hearst Corporation
1999	<i>Minnesota</i>	<i>1,100</i>	<i>Telephone</i>	<i>Commercial</i>	
1999	<i>New Mexico</i>	<i>601</i>	<i>Telephone</i>	<i>Commercial</i>	
1999	<i>Washington</i>	<i>1825</i>	<i>Telephone</i>	<i>Commercial</i>	
2000	<b>National*</b>	1574	Telephone	University	<i>Public Opinion on the Courts: A National Portrait and Interpretation</i>
2000	<i>Virginia</i>	600	Telephone	Commercial	
2002	<i>Nebraska</i>	<i>1,473</i>	<i>Telephone</i>	<i>University</i>	

\* The random sample was supplemented through oversampling of members of minority groups, opinion leaders, judges, lawyers, persons with recent court experience, or residents in states with and without particular court reforms.

States in italics indicate that the survey replicated some or all of the questions in the 1999 “How the Public Views the State Courts” survey.

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Two theoretical perspectives guide current research on public perceptions of state and local courts. One perspective begins by reviewing the applicability of theories developed in the course of studying support for the U.S. Supreme Court (e.g., Olson and Huth, 1997; Benesh and Howell, 2001). The potential for direct contact with trial courts is the starting point for generating testable hypotheses.

The second perspective is based on procedural justice, a theoretical framework rooted in social psychology that has been applied to many organizational and hierarchical settings after a beginning in criminal justice-related research (see, especially, the recent work of Tom Tyler and his associates in Kramer and Tyler, 1996 and Braithwaite and Levi, 1998, and also the work of Hibbing and Theiss-Morse, 2001). The procedural justice perspective is reviewed in section VI below.

Both perspectives generate expectations of how evaluations of courts will differ among racial and ethnic groups and between those with and those without court experience. In practice, the two paths have converged during the 1990s due to consensus that procedural fairness is *the* criterion by which people evaluate state and local courts.

**II.** *The core public image of state and local courts is a stereotype—one that seems to change little over time or differ from state to state or locality to locality.*

By stereotype we refer to the fixed, narrow “pictures we carry about in our head” that resist easy change (Lippman, 1922/97:59).<sup>6</sup> In this conceptual sense, stereotype is not pejorative; rather, it describes social psychological processes necessary to function in a complex society.<sup>7</sup> Stereotypes are “cognitive consolidations” of how the world works (Glynn, 1999:150).<sup>8</sup>

The stereotype of courts is evident in the same negative and positive images that recur with varying degrees of forcefulness in all of the national and state surveys going back to 1973. Perceptions of key features of the courts do not vary across geographic regions, judicial selection system (Waxman, Lovrich, and Sheldon, 1986), investment in court reform (Yankelovich et al., 1978), or among the individual states.<sup>9</sup> All or many of the questions from a 1999 national survey (*How the Public Views the State Courts*) have been replicated in five state-specific surveys (Georgia, Minnesota, New Mexico,

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<sup>6</sup> Lippman’s depiction and understanding remains influential in sociology (e.g., Marshall, 1994:512; Glynn et. al., 1999:149-59).

<sup>7</sup> “In putting together our public opinions, not only do we have to picture more space than we can see with our eyes, and more time than we can feel, but we have to describe and judge more people, more actions, more things than we can ever count, or vividly imagine. We have to summarize and generalize” (Lippman, 1922/97:95).

<sup>8</sup> Toharia (2001) and Olson and Huth (1998:56) also apply the label of stereotype to public perceptions of the courts.

<sup>9</sup> Plans are afoot to carry out opinion surveys in localities saturated with community-based court reform efforts. In large urban areas, the impact of even locally based and sweeping reform efforts may not filter down to public opinion.

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Virginia, and Washington). State differences from the national parameter estimates tend to be slight. A common, stylized public image of the courts appears to be present.<sup>10</sup> There is little evidence of change over long stretches of time in the public's perceptions on components of the stereotype. For example, some of the same questions were asked in the 1973 *Public Needs of the Poor* survey and the 1999 *How the Public Views the State Courts* survey. The pattern of responses given in 1973 and 1999 are very similar.<sup>11</sup>

What is that image? The negative image centers on perceived inaccessibility due to cost and complexity, delays, unfairness in the treatment of racial and ethnic minorities, leniency toward criminals, and a lack of concern about the problems of ordinary people.<sup>12</sup> Specific concerns include perceived leniency in sentencing and favoritism toward the corporate sector and the wealthy in the civil justice system. There also is strong evidence from recent surveys of public concern that political considerations, and especially campaign fundraising, exert an undue influence on the judiciary.

The stereotype of local courts also contains a strongly positive image. The core of that image is a perception that judges are honest and fair in case decisions and well trained, that the jury system works, and that judges and court personnel treat members of the public with courtesy and respect.

A mix of positive and negative components is to be expected: "Stereotypes are quite cognitively complex, often containing both positive and negative elements" (Glynn et al., 1999:149). One striking aspect of that complexity is the glaring inconsistencies in perceptions. For example, the public overwhelmingly believes that judges are honest and fair in case decisions; by an equally overwhelming margin, however, the public also believes that judges' decisions are influenced by "political considerations" (e.g., National Center for State Courts, 1999).

Respondents in telephone opinion surveys, which gather more emotional than reasoned responses, appear to answer questions based on the stereotypical image of courts in their head.<sup>13</sup> Their responses reference a generic image; they are not primarily about a particular court or a particular state's courts. It may also be *national media*

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<sup>10</sup> Indeed, international comparisons suggest that such an image may be broadly shared across the Western democracies. Some of the *How the Public Views the State Courts* survey questions were also included in a public opinion survey in Spain (Toharia, 2001). The distribution of responses to questions about fairness in the courts is similar across the two countries.

<sup>11</sup> The replicated questions to which respondents were asked to agree or disagree were "Judges are generally honest and fair in deciding each case" and "Judges do not give adequate time and attention to each individual case."

<sup>12</sup> For a summary of the positive and negative images of courts, see David B. Rottman, "On Public Trust and Confidence: Does Experience with the Courts Promote or Diminish It?" *Court Review* 35, No. 4. p.14.

<sup>13</sup> This is not a reason for dismissing opinion about the courts as unimportant: "The public in America (and elsewhere) is generally quite sophisticated in its reactions to crime and criminal justice . . . This is true even though the knowledge base on which the public draws is frequently poor" (Roberts and Stalans, 1998:54).

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depictions have more influence as a source and reinforcer of opinion about courts than about most other public institutions.

The core image of courts may be similar but the standing of the courts (in terms of approval, support, or confidence) is less constant over time and across space.<sup>14</sup> Public support may fluctuate in reaction to particular court cases or decisions. For the most part, this relates to what political scientists term “specific support,” that resting on policy outputs. Some observers claim to discern a secular trend toward greater public approval (Miethe, 1995: American Bar Association 1998). Other observers are skeptical (Rottman, 1998).

There is also evidence of differences in the level of support across the United States. The clearest such tendency is for the judiciaries of states in the Midwest to register higher ratings from the public than do states in other regions. However, there is evidence that the level of support can be very different in states within the same region. Survey questions replicated in a number of New England states offer a glimpse of intra-regional diversity in support for the courts (Doble and Greene, 2000:38-9). The question: “How would you rate the job being done by (the state’s) judges in an overall sense?” The favorable (excellent or good) responses summed to 29 percent in Delaware (1991), 61 percent in New Hampshire (1998), 17 percent in Pennsylvania (1993), and 53 percent in Vermont (1999). The proportion of the public with a favorable view of the judiciary in Vermont had grown from 46 percent in an earlier survey (in 1994).

**III.** *The durability of the court stereotype is in large measure attributable to low interest in the courts and a belief that they are not important in solving major social problems.*

Courts lack an “attentive public,” one concerned and informed about their operations and policy outputs; courts are not “visible or salient to the American people” (Sarat, 1977:438).<sup>15</sup> The reasons for this disinterest have been explored mainly for the special case of the U.S. Supreme Court. Recent theory and research suggests that the public perceives the Court as of limited relevance to solving the problems it regards as most important (Hibbing and Theiss-Morse, 1995:54). The mystery of the process surrounding the process through which the Court reaches decisions may also contribute to keeping the Court in its day-to-day operations out of the limelight (Hibbing and Theiss-Morse, 1995: 148; see also Franklin and Kosaki, 1995:373).<sup>16</sup>

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<sup>14</sup> The same conclusion might be made about the courts as seen in the various European countries. European data reported by Toharia shows a wide range of approval levels among EU countries: ranging from Finland (61%) to Italy (8%) in the proportion of the general population that considers court performance “good.”

<sup>15</sup> Attentiveness has been linked to levels of support for the U.S. Supreme Court—the greater the amount of attention, the more positive the support (Gibson and Caldeira, 1992:1136).

<sup>16</sup> Lower expectations of the Courts relative to those held for other government institutions and a public face of the decision-making process that corresponds to the process by which people want government bodies to reach decisions contribute to the (relatively) high regard in which the Court is held (Hibbing and Theiss-Morse, 1995:44 and 143). Institutions tend to attract higher public support than do the members of those institutions for the legislative and congressional branches, but not for the judicial branch. The Court



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Low levels of attentiveness in part reflect the way young people are taught about government. The judicial branch is given limited and disconnected treatment in textbooks on American government: “The not very subliminal message conveyed by this brief coverage and quick progression to other topics is that the courts are not very important to understanding our system of government” (Zemans, 1991:727).

Public attentiveness to the state courts is lower still than that afforded to the U.S. Supreme Court. A quasi-experimental study with “before” and “after” public opinion surveys indexes the lack of public attentiveness to a state’s courts. Through a federal grant, the State of Utah took steps to encourage and facilitate local media coverage of that state’s courts. Those efforts yielded more than 100 newspaper articles and 50 television programs on topics related to the courts (Olson and Huth, 1998:48). The newspaper coverage was found to have reached 9 percent and the television coverage 11 percent of the Utah public.

Another case in point is the Midtown Community Court in the Times Square Area of Manhattan. Five years after the Court opened to considerable fanfare and massive city and neighborhood media coverage, only 20 percent of residents in local neighborhoods had heard of it. And, of those who knew about the court, one-half said they “were not at all familiar” with it; a mere 7 percent of those who had heard of the Court claimed to be very familiar with it (Sviridoff et al., 2001:7.23).

Attentiveness can be thought of as distinct from the knowledge that a person has or believes that they have about an institution (Olson and Huth, 1998:47-48).<sup>17</sup> Indeed, while attentiveness is seen as being associated with high levels of approval, greater knowledge is seen as being associated with low level of support or confidence. However, a large number of studies claim to find that self-rated or tested knowledge has a negative relationship to support for trial courts (see Rottman, 1998).

Whatever the impact of knowledge about the courts, it is a rare commodity. The low level of self-rated court knowledge does not appear to have changed over time. A national and two state surveys used the same question to measure knowledge of the courts (see Table 1.2).

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is “associated with the constitutional system but is viewed as being above the Washington system; decisions seem firm and clear, with bickering and deal making sheltered from public view, notwithstanding an occasional aberration or expose.” (148)

<sup>17</sup> Attentiveness was measured by two survey questions. One question asked if the respondent had “seen or read any media coverage of the state courts during the past month;” the other question asked if they “were aware of any changes in the court system in the past five years.”

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**Table 1.2: Self-Rated Familiarity with the State Courts**

Please tell me how familiar you are with state courts?

	USA <u>1977</u>	California <u>1992</u>	Florida <u>1996</u>
	Percentages		
Intimately	1	4	4
Broadly	6	13	7
Familiar	19	22	10
Somewhat familiar	44	40	48
Not familiar at all	30	21	31

A recent national survey shows a public only modestly confident in what it knows about the state courts (National Center for State Courts, 1999). The following responses were given to the question, “How much would you say you know about the courts?”

	Percentages
A lot	14
Some	48
A little	31
Nothing at all	6

Knowledge levels measured by a short test reveal low levels of public knowledge. The available evidence suggests that the pool of citizens knowledgeable about the courts has not become larger over time (ABA, 1998:23).

The import of attentiveness and knowledge in understanding variation in the level of support for the state courts is not clearly established. For example, the direct effects of awareness and knowledge were not statistically significant as predictors of support for the Utah courts in the research carried out by Olson and Huth (1998).<sup>18</sup>

**IV.** *One consequence of the lack of public attentiveness is that national media—not local media—effects are strong in shaping the image of courts.*

Media coverage of the courts is sporadic and unrepresentative (“There is evidence that people’s opinions about crime and punishment often are based on the unusual, dramatic and unrepresentative cases that they learn about from the mass media”) (Tonry, 1998:24) and also inaccurate (“the public is regularly exposed to misrepresentation of the judicial process [by the media]”) (Zemans, 1991:727). Indeed, it is reasonable to conclude that the media misrepresent what the public wants of the criminal justice system (Roberts and Stalans, 1998:55).

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<sup>18</sup> The extent of public ignorance about the U.S. Supreme Court is itself a matter of contention. Two recent studies suggest that the tests used to date tend to understate public knowledge (Gibson et al., 2001; Kritzer, 2001).

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The relevant media appears to be national, not local. The Utah experiment in using the media to increase awareness of the state courts suggests that the public's point of reference is national and, arguably, stereotypical. The kind of local coverage courts receive centers on issues like crime and family dysfunction. However, "issues involving chronic problems like crime show little correlation between media coverage and public attention" (Neuman, 1990 as quoted in Franklin and Kosaki, 1995:354).

Media-driven images are not challenged because of low public attentiveness and interest in the courts. The considerable power of the media is suggested in a survey designed to predict future litigative intent. "Persons reporting greater contact with media sources about lawyers and the legal system . . . were more likely than their counterparts to reject legal solutions to their future problems" (Miethe, 1995:578). Exposure to the media was the only influence that created personal barriers to use of the law.

More generally, Sherman (2000:17) notes, "for the majority of Americans who have little if any personal contact with the criminal justice system, the level of trust in criminal justice may depend on how legal agencies are portrayed in entertainment and news media." About one-half (53 percent) of American adults have had some direct contact with the courts (National Center for State Courts, 1999). The entertainment industry fills the information gap for the other half of the population. A 1983 survey (Hearst Corporation, 1983:21) asked a random sample of adults who were not employed by law enforcement or criminal justice, "Where do you most frequently get information about courts." The fourth most common source (out of 11 possible ones) was "television drama" (after television news, newspapers, and radio news).

V. *Despite the national stereotype, distinctive views of the courts are associated with race and ethnic groups.*

African-Americans tend to have distinctly lower evaluations than do Whites of the performance, trustworthiness, and fairness of courts. Latinos emerge as generally holding the most positive assessments of the state courts, but present a mixed picture in terms of specifics: in some respects they share the more positive assessments of Whites and in other respects they share the negative assessments of African-Americans. This pattern is strongly present in the national 1977 *Public Image of the Courts* survey (1978:102) and 1999 *How the Public Views the State Courts* survey (National Center for State Courts, 2000), as well as in state surveys conducted in Arizona (1997), California (1992), New Jersey (1992, as reported in Silbey et al., 1993), Texas (1998), and Washington State (1999).

Foreign- and native-born Latinos have similar levels of support for the courts, a rate higher than for African-Americans or Whites (de la Garza and DeSipio, 2001, reproduced in Appendix B below). The general sense of unfairness in the courts among African-Americans is evident in the fact that African-Americans perceive a greater likelihood of unfair treatment to Latinos than do Latinos themselves (National Center for State Courts, 1999; Roberts and Stalans, 1997:174; Silbey et al., 1993).

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One recent survey came to a different conclusion about race/ethnic differentials in support for the courts. An analysis of data collected in the 1995 National Opinion Survey on Crime and Justice concluded, “Although African-Americans were more concerned with specific issues, Hispanic respondents were more dissatisfied overall” (Myers, 1996:59). Despite this dissenting view, the overwhelming weight of empirical evidence finds African-American and Latino opinions about the court are substantively different. Moreover, the direction and substance of the differences are consistent with the larger context of the Latino experience in the United States and Latino political and cultural opinions generally (de la Garza and DeSipio, 2001).<sup>19</sup>

Mapping those differences is hindered by a tendency (or necessity) in most surveys about the courts to combine all minority group members into an omnibus “minority” category. Asians, the only other ethnic group for which relevant survey data exist (e.g., California, 1992) appear to hold views on the courts that are similar to those of Whites (Roberts and Stalans, 1997:154). However, by focusing only on the African-American/White divide “we are in danger of overlooking critical and important differences in culture, history, experiences, and resources among racial groups (Silbey et al., 1993:108; see also Roberts and Stalans, 1997:153).

Within race (non-linear) effects of class, income, and education effects have been identified. The most noteworthy such effect is for high income, well-educated African-Americans to express less specific support (that is, support based on policy outputs) for the courts than do less well-off African-Americans:

Higher-income African-Americans express more skepticism about the chances of blacks to receive equal treatment in the courts. Additionally, better-off African Americans have less confidence in the court’s handling of specific types of cases (Brooks and Jeon-Slaughter, 2001:261).<sup>20</sup>

However, when it comes to diffuse support (as measured through the question, how much confidence do you have in the “courts in your community” or in the U.S. Supreme Court) the pattern is reversed. Confidence is highest among better-off African-Americans; they have the greatest good will and respect for the judicial system. Based on the analysis of a 1999 national opinion survey, they conclude, “the general pattern of black middle-class dissatisfaction with American political, economic and legal institutions may stop short of

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<sup>19</sup> The generally positive perception about courts attributed to Latinos is contrary to the objective experiences of Latinos as a group in the courts. Latinos receive harsher sentences in the federal courts (Steffensmeier and Demuth, 2000) and in the Pennsylvania Courts (Steffensmeier and Demuth, 2001). The “main finding is that Hispanic defendants are the defendant subgroup most at risk to receive the harshest penalty.” (2001:170). Latinos are also the racial/ethnic group most likely to become a crime victim (Rennison, 2001:9).

<sup>20</sup> Brooks (2000) put forward a cost/benefit explanation for this pattern in which higher income African-Americans perceived the high costs (violation of civil liberties, aggressive policing) in low income black communities but do not perceive the benefits residents experience in the form of crime reduction.

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the judiciary” (261).<sup>21</sup>

There is evidence that the pattern for middle-class African-Americans to be the most critical of the courts applies to Latinos. The relationship between income level and support for the courts is non-linear among Latinos, albeit to a weaker degree than among African-Americans. By contrast, the relationship among Whites between income and support was linear (Brooks and Jeon-Slaughter, 2001).

An age cohort effect has been identified in the relationship of African-Americans to the U.S. Supreme Court: “those who were most clearly and directly influenced by the Supreme Court during their early adult years are the most supportive of the institution” (Gibson and Caldeira, 1992:1135). A reservoir of good will that the U.S. Supreme Court garnered from African-Americans during the Warren Court era is one possible explanation. Similar cohort effects have not been found for opinions about the state courts (Olson and Huth, 1997).

There also is some evidence of a gender within race effect. Among African-Americans, women were less confident than men in the courts (Brooks and Jeon-Slaughter, 2001).

The media’s influence on opinions may also vary by race. In part, this follows from differential patterns of media consumption (de la Garza and DeSipio, 2001). African-Americans, Latinos, and Whites tend to rely on different media for information about the courts (National Center for State Courts, 1999). Racial and ethnic groups also form “interpretive communities” within which people make sense of what is presented in the media (Hunt, 1998:133-5). There is tentative evidence suggesting that African-Americans and Latinos are more likely than Whites to challenge media depictions of criminal justice issues (Hunt, 148).

**VI.** *Demographic variables, including race and ethnicity, tend to lose their predictive power when measures of perceived procedural justice are considered.*

Recent work on public support for government finds that “demographic variables are not particularly useful in specifying the kind of person likely to be dissatisfied with government (Hibbing and Theiss-Morse, 2001:150). The literature on the courts has moved in much the same direction, while making allowance for some specific demographic effects.

The early (1970s and 1980s) literature on public perceptions of the courts examined the relative predictive weight of demographic and attitudinal factors (Fagan, 1981; Flanagan, et al., 1985) without conclusive results, although attitudinal variables

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<sup>21</sup> This is consistent with Gibson and Caldeira’s findings about support for the U.S. Supreme Court. They argue that African-American attitudes toward the political system tend to be more reality-based attitudes than do the attitudes of Latinos or Whites (Gibson and Caldeira, 1992:1125). As a result, the diffuse support of African-Americans for the Court is a function of their specific support.

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explained more of the variation in confidence than did demographics.<sup>22</sup> Age emerged as the most useful demographic factor after attitudinal variables had been considered. Self-reported social class was also significant. Contrary to findings in studies of the U.S. Supreme Court, race “has not been related to views about fair procedures or honesty at the local level” (Roberts and Stalans, 1997: 142).

The lingering significance of demographics largely rests on the extent to which they are correlates of attitudes not included in explanatory models or have indirect influences expressed through “effects within race” or “effects within class of court user.”<sup>23</sup>

In the court context, attitudes toward leniency in sentencing and access to civil justice have been found to be influential, but not consistently so (see the discussion of the impact of court experience below). After 1990, the attitudinal variables given weight concerned fairness, and particularly the fairness of procedures (procedural justice). “The procedural justice argument is that, on the general level, the key concerns that people have about the police and the courts center around whether these authorities treat people fairly, recognize citizen rights, treat people with dignity, and care about people’s concerns” (Tyler, 2001:216).

Four elements of procedural justice are given prominence in the recent literature:

*Interpersonal Respect:* Being treated with dignity and respect, and having one’s rights protected.

*Neutrality:* Decision-makers that are honest, impartial and base decisions on facts.

*Participation (voice):* The opportunity to express one’s views to decision-makers.

*Trustworthiness:* Benevolence of the motives of authorities: Decision-makers that are motivated to treat you fairly, sincerely concerned with your needs, and consider your side of the story.

Tyler’s recent writing gives emphasis to trust as the key element in shaping judgments of procedural fairness (Tyler, 1998:273).

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<sup>22</sup> “Unlike previous studies, our findings indicate that demographic characteristics are significant correlates of public perceptions of courts. However, the influence of these demographic characteristics is outweighed by the effect of related social attitudes” (Flanagan et. al., 1985:66).

<sup>23</sup> A recent appraisal started with the expectation that age, education, income, gender, and race were “not expected to have direct effects on confidence their effects are expected to be mediated by the attitudinal variables.” Demographic variables were included in their models to control for other, unmeasured, attitudinal variables correlated with demographic characteristics” (Benesh and Howell, 2001:203). Other formulations allow room for demographics to matter (that is, to be significant once procedural justice measures have been considered) for some kinds of cases and in other contexts.

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The perception of procedural fairness is more important than favorability of court outcomes to litigant satisfaction with those outcomes, willingness to comply with court orders, and having confidence in the judiciary. The impact of fair procedures is powerful indeed: “When police acted in a procedurally fair manner when arresting assault suspects, the rate of subsequent domestic violence was significantly lower than when they did not” (Paternoster et al., 1997:163).<sup>24</sup>

Various government entities have been associated in the public mind with high or low levels of procedural justice. There is evidence that the public tends to give the courts low rankings on the access elements of procedural justice and higher marks on neutrality in the sense that they assemble full information before making a decision, relative to other institutions (specifically, local legislatures). (Gibson, 1989:484).

**VII.** *The strongest and more conceptually interesting features of racial and ethnic differences are found in the relative importance of various factors as predictors of opinions on the courts.*

Procedural justice considerations dominate the evaluations that all segments of the population make of the courts: “expectations about fairness and values about procedural justice are the influences” (Roberts and Stalans, 1997:148). Group differences in what matters most in explaining support for the courts have been identified, however.

African-American respondents are especially likely to be influenced by their judgments about whether the Courts treat different groups unfairly [in terms of outcomes]; while Hispanics and Whites are especially likely to be affected by their judgments about the quality of treatment that people receive from the Courts. The strongest impact of performance assessments is found among Whites. White respondents are affected by their judgments concerning the structural problems in the courts [e.g., orders not enforced, inadequate attention is paid to cases]. No one seems particularly influenced by cost related evaluations (Tyler, 2001:227-8, content of brackets added).

Models predicting support for the courts tend to generate higher proportions of explained variance for Whites than for either African-Americans or Latinos (Tyler, 2001:228).

In terms of the elements of procedural justice, there is evidence that Whites and African-Americans are particularly attentive to issues of respect and trust, while Latinos rely particularly on indicators of neutrality in reaching evaluations of the courts (Tyler, 2001:232).

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<sup>24</sup>Sherman (2000) describes a set of field tests of the procedural justice thesis in the criminal justice arena.

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There is also evidence that groups of recent immigrants (Cubans are cited as an example) tend to have higher expectations for the extent to which the criminal justice system can control crime (Roberts and Stalans, 1997:142).

**VIII.** *The effect of direct court experience on the opinions of jurors, litigants, and others is not established.*

The most ambitious survey of opinion on the courts (conducted in 1977) reached a dramatic conclusion about the impact of experience: “Those having knowledge and experience with the courts voiced the greatest dissatisfaction and criticism” (Yankelovich et al., 1978: 21).

Whether the original data justify such a conclusion has been challenged (Mahoney et. al., 1978; Kritzer and Vokleh, 1999) and supported (Benesh, 2000) based on secondary analysis of the 1977 data set. However, the negative relationship between contact and approval *The Public Image of the Courts* survey was consistent with contemporary readings of American legal culture. Arguing by extension from the larger research literature on police and lawyers (Sarat, 1977:438) concluded, “widespread public ignorance should enhance their support [for the courts].” The direct evidence from court-specific research in the 1970s pointed toward the same conclusions, that “support is eroded by experience with or knowledge about them. This is especially true for those who are involved in a lawsuit.” (Sarat, 1977:439).

State surveys conducted since 1984 made comparisons between the attitudes and ratings of those with and those without court experience, often differentiating by the type of court contact. The most straightforward assessment was to ask litigants, jurors and others whether their experience had a positive or negative effect on the image of the courts. In Arizona, a 1997 survey found that forty-eight percent of court users came away with a more positive impression of the courts and thirty-nine percent had a more negative impression. Generally, court users in New Jersey (1984 and 1992), Virginia (1992), and Connecticut (1998) tended to say that their experience did not change their image of the courts. Where a change in opinion was reported, it tended to be in a negative direction (people reporting a negative change outnumbered those reporting a positive change by two to one in New Jersey and by three to two in Connecticut and Virginia).<sup>25</sup>

Less direct, but still relevant, evidence is available from six states that compared the ratings and attitudes of court users in various categories to those of respondents who reported no court contact. The simplest comparison is in terms of the overall ratings of

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<sup>25</sup> The difference between Arizona and the other two states is likely to be attributable to question wording. Arizona did not offer survey respondents the choice of “no change,” recording it only if volunteered by the respondent. The New Jersey and Virginia surveys included “unchanged” as an option read to the respondents. This is a good lesson: survey findings rarely, if ever, speak for themselves and differences across surveys need to begin with an examination of the question wording, placement in the survey (what kinds of questions preceded the question being examined), and the way “don’t know” responses were handled. There is often no “right” approach to question wording but even a slight difference in wording can drastically alter the way the question is understood by survey respondents.



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the courts, which can be made for three states (California, Michigan, and New Mexico). Here, jurors (in one state) and litigants (in two states) tended to rate the courts lower than did those without court experience. These differences were not substantial, however, and no difference existed for one-half of the comparisons. All in all, state surveys suggest a reduction since 1977 in the ratings gap between court users and non-users, but the gap persists.

- IX.** *There is evidence from cross-sectional surveys that direct court contact suppresses the influence of media depictions on orientations toward the court. However, the durability of that influence has not been identified through longitudinal research.*

There is some agreement on why and how direct experience shapes or changes opinions about the courts. In particular, most researchers argue that experience changes the rank ordering of a common set of criteria used by the experienced and inexperienced. The fundamental divide in the literature, however, is that between scholars and researchers that emphasize a general “experience” effect and other scholars and researchers who stress the polarizing effect of court experience.

#### *General Influences*

The nature of the “general effect” is considered first. A strongly stated claim for the effect of court experience is found in Olson and Huth’s (1998:56) secondary analysis of a Utah state survey. “When people do have access to in-court experience, they appear to rely on it more and rely relatively less on socialized attitudes or stereotypes.” The change in point of reference can have a dramatic impact: in the Utah survey, a perception the judges sentence criminals leniently was a statistically significant influence on support for the courts only for individuals *without* prior court experience. There was no influence on the level of support offered by individuals *with* experience. Procedural fairness concerns dominated (were the strongest predictor of) the evaluations offered by persons with court experience.

Silbey and her associates offer a more subtle formulation of the experience-to-opinion link based on their secondary analysis of a 1992 New Jersey state survey (1993:100). They found that although experience “does not affect the overall assessment, it does seem to affect particular attitudes, although the direction is not uniform” (Silbey et al., 1993:100). For example, experience makes people more likely to see the legal system as responsive to needs of ordinary citizens and less likely to see it as needlessly complicating problems. This view does make a strong claim for the directionality of the experience-to-opinion relationship: legal experience shapes attitudes, not the reverse (Silbey, 1993:103).

Personal and direct court experience has been linked to a number of effects that might be expected to modify opinions and evaluations:

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- The importance of fairness as an evaluative criterion is amplified (Olson and Huth, 1998; Tyler, 2001). Procedural fairness concepts explain significantly more of the variation (generate a higher R-Squared) in opinions of court-users than in the opinions of non-users.
  - Courts are demystified through experience (Silbey et al., 1993).
  - Direct legal experience trumps media effects. The frequency of exposure to media sources about the legal system influences litigative intentions only for people *without* direct experience of the system (Miethe, 1995:579).
  - Those with experience in a local court will use it when evaluating courts; those without such experience will differentiate less between local and national courts (Olson and Huth, 1998:52).
  - The relative importance people attach to performance issues like efficiency and delay is changed. Here, there are two views on the nature of that effect. Tyler (2001) concludes that cost and delay considerations are of diminished importance for people with prior court experience; Olson and Huth (1998) conclude that experience sensitizes people to the problems courts face in those areas.
  - The civil side of trial court business is emphasized (Olson and Huth, 1998). Media depictions of courts focus on criminal justice. People's business before the courts concerns civil justice matters.
  - "Experiences may serve as filters that distort interpretations to confirm what people expected to receive. Positive value placed on the procedures determines the influence procedural justice considerations have on a specific experience in changing diffuse support" (Roberts and Stalans, 1997:149-50).

#### *Court Experience as a Polarizer of Opinions*

All court experiences are not equal (e.g., Benesh and Howell, 2001). It is likely, for example, that experiences differ systematically based on the role the person played and whether the experience was positive or negative.<sup>26</sup>

Benesh and Howell (2001:204) offer a conceptual framework in which the size of the stakes involved and the amount of control a participant has in court shapes the impact of their experience. In this schema, low control and high stakes promote the lower evaluations (applicable to criminal defendants, civil litigants, victims, and parties to domestic relations disputes); low stakes and high control promote higher evaluations (applicable to jurors, lawyers, and court staff); and medium stakes and medium control

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<sup>26</sup> Another way of slicing the courts' clientele for analytical purposes contrasts the criteria used by those who ask the court for help with people who are involved in a "police or court-initiated" encounter: "People who ask the court for help were more concerned with accuracy, impartiality, and correctability of decisions (Roberts and Stalans, 1997:148).

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promote a neutral influence (applicable to witnesses, courtroom observers, and traffic case defendants).<sup>27</sup>

There is evidence that jury service tends to improve support for the courts (Antonio and Hans, 2001:79). The conclusion is supported by a recent study of satisfaction levels of North Carolina jurors before and after their service. Of the jurors, 20 percent changed their views in a positive direction and the proportion giving a neutral rating of performance (the mid-point of a five-point scale), declined. Most people, however, did not change their level of satisfaction (Cutler and Hughes, 2001). Other studies report modest positive change (Schuman and Hamilton, 1992) or no change (to a statistically significant degree) among former jurors (Diamond, 1993).

Another way of slicing the courts' clientele for analytical purposes contrasts the criteria used by those who ask the court for help with people who are involved in a "police or court-initiated" encounter: "People who ask the court for help were more concerned with accuracy, impartiality, and correctability of decisions" (Roberts and Stalans, 1997:148 drawing upon Tyler's Chicago study of 1990).

Negative court experiences are assumed to be more consequential for people's opinions than positive experiences. There is evidence, however, that positive experiences can be influential (e.g., American Bar Association, 1998).

Finally, "any explanation of how positive and negative experiences change diffuse support cannot ignore the possibility that different ethnic groups may base diffuse support on different criteria" (Roberts and Stalans, 1997:151). The research evidence suggests that the different criteria fall within the narrow range of fairness of process evaluations—different elements of fairness matter more to some groups than to others. However, Roberts and Stalans (148-9) claim that the meaning of procedural justice varies more across situations than across people—expectations about fairness and values about procedural justice make a difference (for example, people who value civil liberties more than they value crime control may define procedural justice differently than others).

Despite the primacy of differences based on elements of procedural fairness other differences have emerged. For example, one study concluded that jurors of all racial and ethnic groups have a positive response to jury service. However, in the context of high levels of satisfaction with jury service, minorities, including Latinos "experience the dynamics of trial deliberations differently" (for example, they perceive less conflict than do Whites) and are less positive about jury service than Whites (Antonio and Hans, 2001:79). There is some evidence that African-American jurors see the justice system as less fair than do African-Americans without jury service experience (Schuman and Hamilton, 1992—the difference was not statistically significant, however).

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<sup>27</sup> They derive from this an ordinal scale in which a score of one indexes low stakes/high control; two indexes medium stakes/medium control; and a three indexes high stakes/low control.

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### *A Conundrum*

The effect of court experience on opinions appears to be slightly negative or neutral whether assessed in terms of support or perceived procedural justice in the courts. The lack of a strong experience-based effect, however, coincides with important differences in how court users and non-users evaluate the courts. The research by Olson and Huth and by Silbey and her colleagues point to differences in what is a statistically significant influence on opinions between those who have had any type of experience and at any time in their life and all others who lack court experience. Most court contacts involve minor rather than life altering issues and outcomes. Court contact also does not appear to dramatically change people's support for the courts. It is striking, therefore, that cross-sectional surveys of randomly selected adults show such a strong difference in what factors influence opinion about the courts.

We lack data from longitudinal studies that tracks the duration of court experience effects. From one (State of Wisconsin) study, it appears that more people leave the courthouse with a positive image of the courts than emerge with a negative image. However, that body of positive experiences does not translate into a positive public image of state courts. One approach to an explanation stresses the durable power of negative perceptions formed through the mass media. Court experience tends to promote trust and confidence. But the positive influence erodes rapidly, giving way to the negative image of courts promoted by the media. The evidence for this perspective is weak, based on a single state and a clever but opportunistic research design. Exit surveys of jurors and other court users find relatively high levels of satisfaction. Follow-up surveys with court users a few months later find that levels of satisfaction have declined. A still lower satisfaction level is found in random opinion surveys of the state's general population (Kritzer and Voelker, 1998).

**X.** *The link between satisfaction with treatment in and by the court and the expressed willingness to use the courts to resolve future disputes is weak at best.*

"Past legal experiences significantly influenced future intentions but that the direction of the observed effects varied by the type and nature of those experiences." (Miethe, 1995: 578). Persons who used lawyers before are more likely than persons with no direct experience to have litigative intentions; persons reporting greater contact with media sources are less likely to have such intentions.

Experience, then, seems to erode citizens' faith in the fairness, that is, the color and gender blindness, of law, as well as the responsiveness of legal institutions. *It does not, by contrast, erode their view of law as a useful or effective problem-solving instrument* (Silbey et al., 1003:103-4, emphasis added).

African-Americans and Latinos have a greater preference than Whites to solve problems formally rather than informally (Silbey et al., 1993) and, indeed, report feeling more willing and able than Whites to use the courts (National Center for State Courts,

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1999, unpublished analysis). The strongest antecedent to willingness to go to law is the perception that the courts are effective problem solvers (Silbey et al., 1993:93-6). There was no observed difference, however, in the use of law and legal remedies by the three-racial/ethnic groups in New Jersey. A similar conclusion emerged from a study of litigative intentions, "White respondents (not the non-Whites) were less likely to endorse hiring a lawyer for future problems" (Miethe, 1995:579).

**XI.** *The apparent lack of significant change in public opinion about courts is curious given the sea change that took place in the relationship between courts and the public since the late 1970s.*

The environment in which opinions on the courts are formed and maintained has changed dramatically over the last two decades. Since 1977 the nature of the disputes that bring people to the courthouse has changed, the proportion of Americans with jury experience may have quadrupled, small claims dockets have become universal, offering a kind of people's court, and many Americans have the experience of representing themselves in court.

The changing nature of disputes is evident in trends in court workload. Between 1984 and 1996, *civil* case filings increased by thirty-one percent, *criminal* filings by forty-one percent, and *small claims* cases by forty-one percent. The largest increases, however, were in the areas of domestic relations, where case filings grew by seventy-four percent, and in juvenile cases, which rose by sixty-three percent. Traffic cases, once a major reason for court contact, declined by fifteen percent. As a point of comparison, the United States population increased by twelve percent over those years.<sup>28</sup> National and state surveys indicate the public's experience with courts is mainly on the civil side of the court's business.

Jury service has become far more prevalent and representative of the general population. The 1977 national survey estimated that six percent of Americans had served as a juror;<sup>29</sup> state and national surveys in the late 1990s estimate that between 20 and 30 percent of Americans have experienced jury service (Rottman, 1998:17). Over the same period, jury pools have become more representative of the adult population through

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<sup>28</sup> Brian Ostrom, et. al., *Examining the Work of the State Courts 1996*, 1997.

<sup>29</sup> The report prepared based on the 1977 survey offers conflicting estimates of the proportion of the American public that has served as jurors: at various points rates of 6, 8, and 12 percent are offered. See Mahoney, *supra* note 1, at 94 n. 20. The 6 percent figure is cited here because it is based on responses to the most direct question, which asked if the interviewee had ever served on a jury. The jury service estimates cited from state surveys refer to that or a very similarly worded question. Variations include "served on a jury in a case" (Massachusetts) and "ever been a juror" (Iowa). It is uncertain if such wording allowed respondents to clearly distinguish *having served* on a jury from *having received a jury summons but not served*. However, the North Carolina (1995) survey offers reassurance: while 22 percent reported having been called and served as a juror, an additional 31 percent reported being called but not having served "in the past, but not in the last year" (7 percent said they had been called but did not serve in the last 12 months, and 2 percent that they had been called and served). See Wilkerson and Associates, *North Carolina Court System Research*, 34, 1995.

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reform of jury source lists and reductions as discriminatory.<sup>30</sup> Overall estimates of the proportion of the adult population with a court experience tend to hover around 55 (the 1999 ABA survey appears to be an outlier, claiming that 78 percent of the public “have been in court as an active participant”).

Third, more people are representing themselves in court. By the mid-1990s, at least one party was self-represented in more than two-thirds domestic relations cases in California and in nearly 90 percent of divorce cases in Phoenix, Arizona, and Washington DC (Goldschmidt, 1998:8-9).<sup>31</sup> As noted, the largest increase in court caseloads has occurred in areas of the law like domestic relations in which self-represented litigants are prevalent.

Fourth, the extent and content of exposure to fictional depictions of court proceedings has been transformed. “Reality-based” television shows have proliferated, building on the older “Divorce Court” and Judge Wapner’s People’s Court, and the “vener of realism” makes such programs dangerous (Zemans, 1991 quoting Abner Mikva). The confrontational and rude manner of the “judge” may reinforce people’s fears about how judges act (Sherman, 2000:18).<sup>32</sup> However, the negative effect of exposure to such programs may be overstated: in a recent national survey, viewers of “reality-based” television were significantly less likely than non-viewers to agree with the statement, “It would be possible for me to represent myself in court if I wanted to” (National Center for State Courts, 1999:25).

Finally, a new and largely negative source of media images of judges and courts emerged in the 1990s: television ads run in judicial election campaigns. Television ads run by candidates themselves and by political parties, and special interest groups are common in many of the 39 states that elect all or some of their judges (Champagne, 2002

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<sup>30</sup> The expanding pool of former jurors is the product of an era of reform that featured the removal of legal prohibitions to jury service by women and members of minority groups and the practice of lawyers using exemptions to discourage their jury service. In 1977, the impact of the “key-man” system, in which jury commissioners selected their jury pools from persons, essentially men, known to them as honest, upstanding members of their community was still pervasive. The federal courts abolished the “key-man” system in 1968. States followed the federal court’s lead with varying degrees of speed. The cumulative effect of court opinions and new statutory provisions opened up jury service to an extent never before experienced. In 1977, the probability that an adult of any age had ever served on a jury was slight; thereafter, that probability grew—and it rose from near zero for many minority groups to rates roughly comparable to those for Whites (Munsterman and Hannaford, 1997).

<sup>31</sup> Even in tort and contract cases in courts of general jurisdiction many courts report over five percent of litigants were self-represented in many large urban courts, rising to 13 percent (Goerdet et al., 1995:43); a considerable proportion of misdemeanor defendants in state and federal courts also appear to appear pro se (Harlow, 2000).

<sup>32</sup> A 1989 survey found that only 29 percent of Americans could name a member of the U.S. Supreme Court but 54 percent were able to name the judge of the TV show “The People’s Court.” Two recent surveys suggest that the public’s ignorance may be exaggerated (Gibson, Caldeira, and Spence, 2001; Kritzer, 2001).

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Iyengar, 2002).<sup>33</sup> Attack ads, mainly run by special interest groups, appear to have been effective in winning elections. The nastiness and injudicious nature of the ads became major news stories in Alabama, Michigan, and Ohio. The long-term effect, however, is likely to be growing cynicism about the judicial process and the courts.

In sum, the world of the state courts has changed in fundamental ways since the 1977 *Public Image of the Courts Survey*. There is little evidence that public opinion has shifted greatly thus far in response to those changes.

## **Conclusion**

The review of the existing literature identifies some questions that the current survey is well placed to answer. The survey is the first national study since 1977 that can look simultaneously at the influences on opinion about the courts associated with race/ethnicity and with prior court experience.

First, the opinions and reactions to court experience of Latinos needs to be placed in the context of those found among Whites and African-Americans. Most research to date relies on comparing majority to minority views. Such a practice is questionable given the tendency of Latinos to find common ground with Whites on some issues and with African-Americans on others. The research question, then, is whether Latinos represent a distinct group or are more closely tied to views of Whites or African-Americans.

Second, the impact of court experience remains uncertain. Typically, conclusions have been drawn on that topic based on comparisons between those with any court experience (undifferentiated by time or kind) and those without it. The current survey sets a specific timeframe—the previous 12 months. Do individuals with recent court experience differ from those with more distant experience in the antecedents and nature of their views?

Third, the influence of experience needs to be understood in the context of race and ethnicity. The survey permits comparisons to be made within racial groups among jurors, litigants, and witnesses (although with tentative results for Latinos). Does the presumed positive influence of jury service on opinions extend to African-Americans? To Latinos?

Fourth, the extent and nature of contact that members of the public have with the courts have changed markedly over the last two decades. Trial courts are changing to cope with and improve the response to court cases that involve complex emotional and social problems. Substance abuse and mental illness are two examples. No study has looked at the extent to which the public supports such changes or whether public dissatisfaction with traditional ways of doing business feeds public discontent. In

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<sup>33</sup> Gibson (1989:492) foresaw a decline in the perceived legitimacy of judicial institutions because of competitive elections for judicial posts.

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addition to measuring the support for non-traditional court roles, the current study can investigate whether such support promotes positive or negative views of the courts as they currently stand.

Fifth, the media has a role in forming and sustaining opinion on the courts that is intriguing but not well understood. There is evidence for strong media influences, influences that appear to be national rather than local in source. Indeed, some students of opinion on the courts claim that court experience trumps media influences. The current survey can assess the importance people attach to their recent experience against other commonly cited influence on opinions about the courts.

Sixth, and finally, the existing literature has little advice to offer judges and court managers interested in increasing public support for the courts. One way in which the current survey can help fill that gap is by identifying factors that make people willing to return to the courts in the future and by establishing whether such factors work in a similar manner across racial and ethnic groups.





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## *Chapter 2*

### **Methodology**

#### **Background**

A new national survey was proposed for two main purposes. The first purpose was to inform court administrators, judges, and community leaders about “meeting the justice needs of a multicultural society,” the theme for a national symposium convened every ten years to take stock of the problems facing the state judiciaries. The second purpose was to build upon a series of national and state surveys of opinion on state courts conducted since 1995: to pursue promising lines of inquiry and to fill gaps in what was known.

The broad parameters for the methodology were set in consultation with an advisory committee of experienced survey researchers:<sup>1</sup>

- The survey should focus on individuals with court experience
- The court experience should have taken place within the previous 12 months
- The views of African-Americans, Latinos, and Whites should be compared to the extent possible
- The opinions of persons with recent court experience should be compared to individuals without such contact
- The main elements of procedural justice should be considered in depth
- The diversity of the Latino population (foreign vs. native born, nation of origin, etc.) should be accommodated
- Public expectations of the courts should be investigated in relation to the changing role of judges

The survey instrument and the sampling strategy adopted were a compromise between these ambitious objectives and what the budget for the project could support.

This chapter incorporates material on “sampling” and “composition of the final sample” drawn from a report prepared by the Indiana University Public Opinion Laboratory staff (Vargas et al., 2000).

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<sup>1</sup> 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).

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## Survey Instrument

The project staff at the National Center for State Courts designed the survey instrument and revised it based on a review by the advisory committee members and staff from the Indiana University Public Opinion Laboratory.

The final survey instrument is reproduced in Appendix A. There were in effect two questionnaires. The first set of questions (questions 1-8 and 14-21) was asked of all respondents. Respondents with recent court experience were asked an additional set of questions (9-13) about their experience in court.

The interviewers began with a statement of the purpose of the survey designed to focus the respondent's attention on the courts rather than on other parts of the justice system and on the specific courts in their state. The statement read:

*Hello, my name is (INSERT NAME) and I'm calling from the Indiana University Public Opinion Laboratory. We are conducting a national survey of 1,500 adults to help trial courts around the country better serve the public. We would very much like to learn your opinions about the courts in your community. I promise we are not trying to sell anything. Please be assured that your individual answers will be kept in strictest confidence—nothing that you say will be identified with you in any way.*

First, I would like for you to think about the courts in your community. By courts, I mean the judges, their staff, and clerks who work in the courthouse, but **not** the police, prosecutors, or lawyers in court representing clients.

A translator under contract to the Indiana University Public Opinion Laboratory prepared a Spanish version of the survey instrument. That translation was reviewed and revised by two certified Spanish court interpreters, first independently and then jointly. Both court interpreters had extensive experience constructing tests for certifying court interpreters as competent in Spanish. Revisions were made to the wording of questions and response categories to ensure that the language was specific to the court environment.

Pre-tests refined the survey instrument, which was revised before the questionnaire was implemented in its entirety. The interviews were conducted by professional interviewers at the Indiana University Public Opinion Laboratory from special facilities on the Indiana University-Purdue University Indianapolis campus. All interviewers received at least four hours of general interviewer training, in addition to specific training for this particular project instrument (the questionnaire). Most of the interviewers were experienced interviewers having participated in many other survey research projects.

Interviews with the general population averaged about eight minutes. Interviews with persons who had recent court experience averaged 15 minutes.

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Up to 20 attempts were made on some phone numbers. A number was not called again if:

- The respondent refused to participate on three separate occasions
- A disconnected or not in-service number was encountered
- Attempts to the number yielded a *no answer, busy or answering machine* on 20 separate occasions

Each interviewer was given a set of answers—“What the Respondent Might Like to Know”—to provide standard responses to any questions asked by the people contacted for an interview.

### **Sampling**

The basic sample was a national random digit-dialing sample with quotas based upon the Trolldahl-Carter-Bryant method of respondent selection (see Trolldahl and Carter (1964); and Bryant (1975), reprinted in Lavrakas, 1987). Survey Sampling provided a random sample of United States residences. Public Opinion Laboratory interviewers completed telephone interviews with 1,005 residents across the United States.

In addition to a target sample of 1,000 randomly selected respondents, there were two supplemental over-samples of about 300 African-Americans and about 250 Latino-Americans. Survey Sampling also provided the samples for the African-American over-sample and the Latino over-sample.

The sampling strategy sought to correct for the tendency of telephone surveys to under represent members of minority groups. Such under representation creates two significant problems. First, the force of minority group opinions is not adequately represented in the survey findings. Second, there are too few minority respondents to study variation in African-American and Latino opinions.

Among all groups, approximately one-half of the participants were to be selected based upon recent (within the past twelve months) experience with the courts in their area. This proved difficult to implement. The probability that an adult will have contact with the courts in any given year is small. Reliable national estimates of that probability are not available. However, it is reasonable to assume that somewhere in the range of 2 to 4 percent of the adult population has contact with the court in any given year. The sampling procedures adopted and the resulting racial composition of the national samples can be found in Chart 2.1.

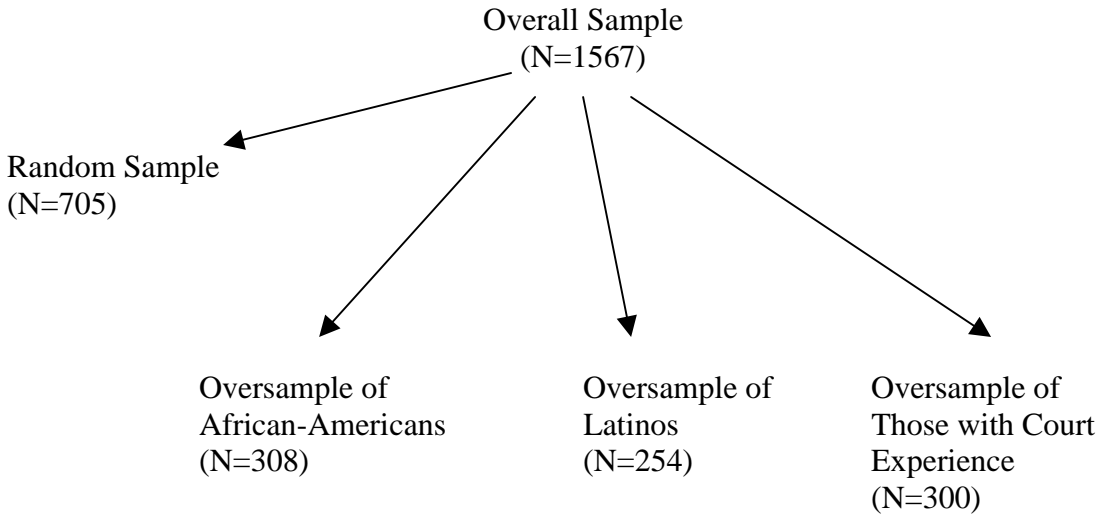
Latinos with recent court experience and who were willing to be interviewed proved difficult to locate. A very large number of telephone calls were required to identify a single Latino or Latina with recent court experience. The cost per interview reached a point where it was necessary to stop the data collection process for that

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subgroup. As a result, 40 percent rather than the desired 50 percent of Latinos in the sample had had a recent court experience.

The number of African-Americans and Latinos with recent court experience included in the sample is small, particularly for Latinos. Findings based on their responses should be viewed as indicative rather than definitive. This important caution is repeated at appropriate points in the text of this report.

**Chart 2.1**



**The Final Sample**

The maximum margin of error in the general national sample (when comparing sub-cells) is 3.15 percent. That means if the same questions were asked of a similar sample, 19 out of 20 times you would receive answers within +/- 3.15 percentage points of those reported in this document. “Of course there are other possible errors in addition to sampling error, including question order and wording, respondent inattention, pace of speech of interviewer and numerous other factors. Each of these potential sources of error was given special attention during data collection so they are minimized as much as possible. We have no reason to believe there are any significant biases in the data collected for this research” (Vargas et. al., 2000).

The African-American over-sample included 308 interviews with a margin of error of 5.7 percent and 254 interviews were conducted for the Latino over-sample with a margin of 6.3 percent. Sampling errors rise significantly for each of the sub-samples and are indicated in the report when applicable.

**Table 2.1: The Distribution of Respondents in the Overall Sample**

	Court Contact		Total
	Yes	No	
White	311	684	995
African-American	166	117	283
Latino	95	114	209
Total	572	915	1487

Table 2.1 shows the number of respondents in each of the subgroups considered in Chapter 3, which compares respondents with recent court experience with those without such experience, differentiating among Whites, African-Americans, and Latinos.

**Table 2.2: The Distribution of Respondents by Court Role and Race/Ethnicity**

	Type of Court Contact			Total
	Litigant	Juror	Witness/other	
White	155	85	45	285
African-American	100	41	14	155
Latino	60	21	12	93
Total	315	147	71	533

Table 2.2 shows the number of respondents in the principle subgroups considered in Chapter 4. Respondents with court contact are divided into three categories based on why they were in court (juror, witness, litigant), with distinctions made among African-Americans, Latinos, and Whites.

The survey data was independently analyzed by two prominent students of Latino politics—Rudolfo de la Garza and Louis DeSipio—to place the survey findings in the context of Latino history and general perceptions of American institutions. In their analysis they noted two concerns about the Latino subsample. First, the sample underrepresents foreign-born Latinos, who represent 40 percent of the national Latino population but 22 percent of the Latinos included in the sample. Second, Latinos resident outside of Texas are underrepresented: 55 percent of the Latino sample resides in Texas, the home to 21 percent of Latinos nationally. They also note: “On a number of other demographic characteristics—education, number of people residing in respondent’s household, income, and age, the sample is roughly representative of the Latino adult population” (de la Garza and DeSipio, 2001:247).

The data were collected from March 22, 2000 through May 3, 2000. The cooperation rate for this survey was acceptable, according to the AAPOR formula (see [www.aapor.org](http://www.aapor.org)), as established by the American Association for Public Opinion Research. The information necessary for calculating the cooperation rate can be found in Table 2.3 below. The response rates are affected by the quotas implicit in the research design. The purpose of many of the telephone calls was to identify extremely rare households such as Latinos with court experience during the preceding 12-month period.

**Table 2.3: Cooperation Rates for the National Sample and Oversamples**

**National Sample**

<u>DISPOSITIONS</u>		
No Answer	19282	35.75%
Busy	4843	8.98%
Answering Machine	11873	22.01%
Refusal*	3389	6.28%
Not in Quota	7854	14.56%
Disconnected	1370	2.54%
Not in Service	768	1.42%
Break-off	275	0.51%
Callback	2866	5.31%
Need Spanish-speaking Inter.	408	0.76%
Complete	1005	1.86%
<i>TOTAL DIALINGS</i>	<i>53933</i>	

**African-American  
Over-sample**

**Latino  
Over-sample**

<u>DISPOSITIONS</u>			<u>DISPOSITIONS</u>		
No Answer	8468	38.25%	No Answer	14011	42.41%
Busy	1249	5.64%	Busy	2061	6.24%
Answering Machine	3987	18.01%	Answering Machine	4146	12.55%
Refusal*	1430	6.46%	Refusal*	1254	3.80%
Not in Quota	3108	14.04%	Not in Quota	3558	10.77%
Disconnected	807	3.64%	Disconnected	770	2.33%
Not in Service	419	1.89%	Not in Service	372	1.13%
Break-off	145	0.65%	Break-off	69	0.21%
Callback	2146	9.69%	Callback	1851	5.60%
Need Spanish-speaking Inter.	73	0.33%	Need Spanish-speaking Inter.	4688	14.19%
Complete	308	1.39%	Complete	254	0.77%
<i>TOTAL DIALINGS:</i>	<i>22140</i>		<i>TOTAL DIALINGS:</i>	<i>33034</i>	

\* This number reflects total number of refusals. A single telephone number could have up to three refusals.

**Attitudinal Scales**

The concepts being considered in this report—support for the courts, procedural fairness, court performance—are complex, and thus poorly measured by any one question. The following “summated” scales were created to support the analysis, combining questions on a topic into a single index:

**Table 2.4: Scales**

	Alpha	Mean	St. Dev.	(Min,Max)
Discrimination in Society	0.78	5.78	2.38	3, 12
Discrimination by the Courts	0.86	11.79	3.66	4, 20
Overall Evaluation Index	0.86	18.56	5.22	6, 30
Performance Index	0.63	7.20	2.25	3, 12
Quality of Treatment	0.88	19.59	5.18	7, 28
Support Changing Role for Courts	0.73	12.97	2.79	4, 16
Procedural Justice Index	0.88	3.07	0.93	1, 4

Chronbach’s Alpha coefficient measures a scale’s reliability. Alpha ranges from a low of 0 to a high of 1.0. All of the scales meet conventional standards for reliability.

The first scale, *Discrimination in Society*, includes the following questions: Does America provide equal opportunity for African-Americans, for Latinos, and for you to get ahead in life? Another scale focused on how the *courts* treat particular sub-groups was used. This scale, *Discrimination by the Courts*, asked respondents whether courts treat African-Americans worse, Latinos worse, non-English speakers worse, and people with a low income worse than the courts treat other sub-groups.

Several scales measure how the respondents felt about the courts. An *Overall Evaluative Index* (developed in Tyler, 2001) asks respondents how they feel in general about courts in their community (favorability), and how they feel courts handle specific case types (criminal cases involving violence such as robbery, criminal cases involving drug abusers or drunk drivers, civil cases such as auto accidents and medical malpractice claims, and family relation cases such as divorce and child custody). For some analyses, the five questions on case handling are combined into a scale (that is, excluding the favorability rating).

Courts also were judged on their performance in more practical matters. Thus, the *Performance Index* (also developed by Tyler, 2001) asked if respondents thought it is affordable to bring a case to court, court cases are resolved in timely manner, and courts make decisions based on facts.

Other scales measure the concept of procedural justice. The first, general measure, the *Quality of Treatment Index*, was asked of all respondents (with and without court experience). The reference is to how courts usually treat people. Seven questions asked whether courts are concerned with people’s rights; courts treat people with dignity and respect; courts treat people politely; judges are honest in their case decisions; courts take the needs of people into account; courts listen carefully to what people have to say; and, courts are sensitive to the concerns of average citizens.



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Another measure of procedural justice was constructed for individuals who had recent court experience. Sixteen variables contribute to the *Procedural Justice Index*. The constituent questions asked if respondents agreed based on their recent court experience that: people were treated politely; court staff showed concern with people's rights; people were treated with dignity and respect; decisions were made based on the facts; judges were neutral in the way people were treated; the court staff was neutral in the way people were treated; differing views of people were taken into account; and, the needs of people were taken into account. Another set of procedural justice questions included in the scale asked for agreement or disagreement with: I was treated politely; I was able to say what was on my mind; my views were considered; I was treated the same as everyone else; the judge and court staff cared about my concerns; I was able to make my views known; I was treated with dignity and respect; and my rights were taken into account.

Finally, respondents were asked whether they supported a less traditional, more changing role for the courts. The *Support for Changing Role for Courts* scale was based on four statements with which the respondents were asked to agree or disagree: whether courts should hire drug treatment counselors and social workers as court staff; courts should order a person to go back to court and talk to the judge about treatment progress; courts should take responsibility for enforcing local agencies to provide help with drug abuse problems; and, courts should consider what psychologists and doctors know about emotional problems when making decisions about people in court.

#### A Note on the Statistical Analysis

The two chapters that follow rely upon a number of statistical procedures to describe and compare responses to the survey questions. This section offers a brief overview of those procedures for those not familiar with social science statistics.

Patterns of responses to questions are described in two ways. First, percentages show the proportion of respondents choosing each possible response option. Percentages make intuitive sense to most readers but are cumbersome to display and do not take advantage of the power of descriptive statistics. Second, the "mean" (the arithmetic average) offers comparisons based on a measure of the central tendency in the survey responses. The mean often is accompanied by the standard deviation, a measure of how tightly the respondents' answers cluster around the average (the higher the standard deviation relative to the mean value, the more widely distributed are the responses).

Comparisons among race\ethnic group or between those with and those without court experience are made to establish whether any differences in the proportions or means we observe are statistically significant (unlikely to be due to chance or random factors). Two-Way Analysis of Variance is the usual method for determining if observed differences are statistically significant. In Chapter 3, two influences are considered: (a) the race\ethnicity of the respondent and (b) whether the respondent had been to court within the previous 12 months. In Chapter 4, the important influences are race\ethnicity

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and the role a person played during their court experience (e.g., juror, witness, criminal defendant). In Two-Way Analysis of Variance, race\ethnicity and experience each has an independent, direct influence that we test for significance. The two possible influences considered may also interact. In this instance, a statistically significant interaction effect would indicate that the influence of having court experience differs depending on whether you are African-American, Latino, or White.

In both Chapters 3 and 4 special statistical analyses are used to establish which of various factors influence people's responses to the main concerns of the report: support for the courts, court performance, perceptions of equal treatment, and support for courts taking on non-traditional roles as problem-solvers. Two forms of regression analysis are used.

The most frequently used type of regression analysis is multiple regression (more specifically, ordinary least squares regression). A model is put forward indicating, for example, specific factors as likely to influence how strongly people support the courts. The usefulness of that model is measured in terms of how much of the total variation among respondents in their support for the courts (the dependent variable). The measure of usefulness is the "R-squared statistic", which ranges from zero (no influence) to 100 percent (can predict all of the responses exactly). This report uses "Adjusted R-Squared" statistics.<sup>2</sup>

Each multiple regression model reports the strength of the relationship each influence has on what we are trying to predict. The larger the "beta" coefficient, a standardized measure of influence, the stronger the relationship. However, beta coefficients may not be statistically significant. An asterisk indicates which beta coefficients have a statistically significant relationship to the what we are predicting.

In a few instances, another form of regression is used to test a model of influences. Logistic regression is used here when the factor we are trying to predict consists of a binary set of categories (e.g., would or would not go to court again). The interpretation of logistic regression is less straightforward than multiple regression (it estimates probabilities), but the report's text will note the statistical significance of the individual influences considered in the model and of the model's success as a whole.

Finally, a technique called Discriminant Analysis is used in Chapter 3 to make an overall assessment of whether the views of African-Americans, Latinos, and Whites differ systematically. The basic question is, if we know how a person responded to questions about the courts, can we predict their racial\ethnic group?

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<sup>2</sup> This report uses "Adjusted R-Squared" statistics. The adjustment takes into consideration the number of possible influences included in the regression model. There is a tendency for R-Squared to increase as the number of influences considered increases, an artificial contribution to the size of the coefficient.



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## *Chapter 3*

### **In the Eye of the Beholder: Racial, Ethnic and Experience-Based Differences in Perceptions of “the Courts in Your Community”**

#### **Introduction**

This chapter is devoted to presenting and analyzing the survey questions asked both of respondents with and without recent court contact (Questions 1-9 and 14-18). The principal objective is to compare opinions across racial and ethnic groups, looking separately at recent court-users and non-court users. Particular attention is placed on locating the views of Latinos in relation to White and African-American respondents. Responses on two evaluative measures are also compared: the first is a measure of diffuse support (the reservoir of good will afforded the courts) and the second is a measure of specific support (tied to specific policy outputs) for how well courts are perceived to handle various types of cases.

This chapter is organized to answer the following research questions.

- How fair are court outcomes and procedures perceived to be? What aspects of court procedures are viewed most positively?
- Are some groups viewed as being treated worse than others by the courts?
- Does the public support a changing role for courts?
- How strong is public support for the courts?
- Who supports the courts?
- Are Latinos closer to Whites or to African-Americans in their views of the courts?

Chapter 4 provides a more nuanced portrait of the views held by people with recent court experience, distinguishing among jurors, litigants, and witnesses and among those involved in civil, criminal, or family cases. That chapter draws on the body of questions asked only of persons with recent court experience (Questions 10-13).

#### **How fair are the Courts?**

The survey included a number of questions that inquired directly about the perceived fairness of (a) court outcomes and (b) court procedures. Answers were solicited from three points of reference:

- How courts usually act
- How a court acted in a particular case
- How a court might act in a future case

The first set of questions about how courts usually act was asked of all survey respondents; the other questions were asked only of persons who had been a litigant, juror, or witness within the previous year and will therefore be considered in Chapter 4.

*How often are courts fair?*

Survey respondents both with and without recent court contact were asked (a) “How often do you think people receive fair outcomes when they deal with the courts?” and (b) “How often do you think the courts use fair procedures in handling cases?” The possible responses were “always,” “usually,” “sometimes,” “seldom,” and “never.” The distribution of answers is shown in Table 3.1.

**Table 3.1: The Frequency of Fair Outcomes and Procedures: Views by Race and Recent Court Contact**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>How often are outcomes fair?</b>						
Always/Usually	57%	49%	21%	15%	35%	40%
Sometimes	35%	35%	61%	52%	52%	37%
Seldom/Never	7%	15%	18%	33%	13%	23%
<b>How often are procedures fair?</b>						
Always/Usually	64%	57%	27%	25%	53%	40%
Sometimes	29%	27%	54%	50%	40%	42%
Seldom/Never	7%	16%	19%	25%	8%	18%

Overall, respondents see procedures as slightly fairer than outcomes. Perceptions of fairness differ by race and ethnicity. For example, among recent court users, nearly half of Whites (49 percent), just over one-seventh of African-Americans (15 percent), and four out of ten Latinos (40 percent) believe that court outcomes are always or usually fair. It is striking to find that twice as many African-Americans with recent court contact believe that outcomes are seldom or never fair than believe that outcomes are always or usually fair. Whites are twice as likely as African-Americans to say that court procedures are “always” or “usually” fair.

Whether individuals had court experience within the last 12 months influences their perceptions of the fairness of courts. In each racial/ethnic group, those with recent court experience viewed courts as less fair than did those with court experience. The independent effects of race and court experience on perceived fairness of both outcomes and processes are statistically significant. Their interaction effect is not significant, though (indicating that the relationship between court experience and perceptions is not mediated by one’s race).<sup>1</sup>

<sup>1</sup> Unless otherwise noted, group differences cited in the report are statistically significant based on Two-Way Analysis of Variance or MANOVA tests.

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## What Aspects of Court Procedures are Fair?

A number of specific elements are seen as underlying a perception that procedures are fair or unfair. Previous research suggests four elements—interpersonal respect, neutrality, participation, and trustworthiness—are of particular relevance to understanding public evaluations of the courts.<sup>2</sup>

The survey asked all respondents one or more question related to each element. The series of questions began “I am going to read you a list of statements about courts in your community. Please tell me how strongly you agree or disagree with each.”

The following tables display the responses to eight procedural justice statements subdivided into the relevant element of fairness. Percentages indicate the proportion of respondents in agreement with a statement. The differences associated with recent court experience and race emerge clearly from a comparative review of the proportion of respondents that “strongly disagrees” with each statement. All statements are coded so that high values index a sense that courts are fair. The effects of court experience and race are consistently statistically significant for all measures of procedural justice, with one exception: responses to the statement “Judges are honest in their case decisions” did not differ to a statistically significant degree between those with and those without recent court experience. The race by experience interaction was never significant.

### *Interpersonal Respect*

Interpersonal respect is the sense that decision-makers treat you politely and with dignity and respect. Respect also follows from the sense that one’s rights are being protected. Three of the survey questions seek to tap this aspect of fairness (Table 3.2).

A perception that courts treat people with respect is strongest among Whites, somewhat less strong for Latinos, and considerably less evident among African-Americans. Indeed, a slight majority of African-American respondents with recent court experience disagree with two of the statements concerning respect (that people are treated with respect and that courts treat people politely).

Differences among the three racial and ethnic groups are similar for both those with recent court experience and those without such experience.

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<sup>2</sup> There are many formulations of the elements. See Tom Tyler, “Citizen Discontent with Legal Procedures: A Social Science Perspective on Civil Procedure Reform, *American Journal of Comparative Law* 45 (4), Fall, 1997, pp. 887-92.

**Table 3.2: The Proportion of Respondents Agreeing that “Courts are concerned with people’s rights”, “Courts treat people with dignity and respect” and “Courts treat people politely”**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Concerned with rights</b>						
Strongly Agree	31.2%	34.4%	20.2%	18.9%	38.7%	27.7%
Somewhat Agree	53.2%	36.4%	45.6%	36.6%	42.3%	40.4%
Somewhat Disagree	10.1%	13.6%	21.1%	17.1%	11.7%	18.1%
Strongly Disagree	5.5%	15.6%	13.2%	27.4%	7.2%	13.8%
<b>Treat with respect</b>						
Strongly Agree	26.8%	26.1%	19.1%	13.0%	35.5%	28.0%
Somewhat Agree	52.0%	42.3%	39.1%	36.4%	42.7%	38.7%
Somewhat Disagree	15.7%	16.8%	20.0%	22.2%	14.5%	19.4%
Strongly Disagree	5.5%	14.8%	21.7%	28.4%	7.3%	14.0%
<b>Treat politely</b>						
Strongly Agree	26.6%	32.7%	15.2%	13.3%	28.6%	22.3%
Somewhat Agree	55.1%	42.8%	45.5%	33.9%	47.3%	41.5%
Somewhat Disagree	13.1%	11.4%	19.6%	26.7%	14.3%	14.9%
Strongly Disagree	5.2%	13.1%	19.6%	26.1%	9.8%	21.3%

*Neutrality*

The neutrality element of procedural fairness refers to a sense that decision-makers are honest and impartial, and base their decisions on the facts.

**Table 3.3: The Proportion of Respondents Agreeing that “Courts make decisions based on the facts” and “Judges are honest in their case decisions”**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Decide on facts</b>						
Strongly Agree	26.2%	28.4%	20.4%	19.4%	33.6%	35.9%
Somewhat Agree	58.2%	45.1%	46.0%	34.5%	46.4%	37.0%
Somewhat Disagree	10.6%	10.8%	19.5%	21.2%	12.7%	13.0%
Strongly Disagree	5.0%	15.7%	14.2%	24.8%	7.3%	14.1%
<b>Honest in decisions</b>						
Strongly Agree	30.9%	29.4%	17.0%	15.6%	28.44%	33.7%
Somewhat Agree	53.9%	42.8%	53.6%	40.0%	48.6%	41.3%
Somewhat Disagree	9.8%	14.4%	19.6%	23.8%	15.6%	15.2%
Strongly Disagree	5.4%	13.4%	9.8%	20.6%	7.3%	9.8%

African-American respondents are less likely than others to agree that the courts are neutral. African-Americans with court experience are about as likely to disagree as agree that courts decide on the facts or that judges are honest in their decisions.

## Participation

A sense of participation follows when litigants have an opportunity to express their views to decision-makers. Only one statement relevant to participation was asked of all survey respondents: “Courts listen carefully to what people have to say.”

**Table 3.4: The Proportion of Respondents Agreeing that “Courts listen carefully to what people have to say”**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>Listen carefully</b>						
Strongly Agree	21.1%	23.1%	19.3%	17.7%	28.2%	18.1%
Somewhat Agree	52.6%	41.9%	42.1%	31.1%	47.3%	48.9%
Somewhat Disagree	18.6%	19.8%	21.1%	18.9%	14.5%	12.8%
Strongly Disagree	7.7%	15.3%	17.5%	32.3%	10.0%	20.2%

A perception that courts listen carefully is equally present among Whites and Latinos (between two-third and three-quarter agree with the statement). African-Americans, and particularly those with recent court experience, are less positive in their rating of whether courts do or do not allow meaningful participation.

## Trustworthiness

Trustworthiness refers to the sense people have of the decision-maker’s motivation and sincerity—to his or her benevolence. A trustworthy decision-maker is motivated to treat litigants fairly, to be concerned with their needs, and to consider their side of the story.

**Table 3.5: The Proportion of Respondents Agreeing that “Courts take the needs of people into account” and “Courts are sensitive to the concerns of the average citizen.”**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>Needs into account</b>						
Strongly Agree	15.1%	13.0%	8.1%	7.9%	21.3%	22.6%
Somewhat Agree	55.1%	48.2%	46.8%	37.0%	48.1%	46.2%
Somewhat Disagree	19.4%	20.7%	25.2%	25.5%	20.4%	12.9%
Strongly Disagree	10.4%	18.1%	19.8%	29.7%	10.2%	18.3%
<b>Sensitive to concerns</b>						
Strongly Agree	16.1%	15.7%	12.3%	11.4%	26.9%	23.1%
Somewhat Agree	56.5%	46.2%	43.0%	28.9%	50.9%	42.9%
Somewhat Disagree	17.7%	19.7%	24.6%	28.9%	10.2%	14.3%
Strongly Disagree	9.7%	18.4%	20.2%	30.7%	12.0%	19.8%

Generally, fewer respondents agree with statements indicating the trustworthiness of courts than agreed that courts are respectful and neutral. The lack of trust in the courts



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among African-American respondents is striking. The majority of recent African-American litigants disagreed with the two statements that relate to trustworthiness (courts take needs into account and courts are sensitive to concern).

Overall, the responses viewed comparatively give emphasis to the importance of race and ethnicity in perceptions of fairness in court procedures. For example, African-Americans with court experience agreed on average with 49 percent of the statements, compared to average agreement levels of 64 percent for Whites and 69 percent for Latinos. The responses to the questions also suggest that in each racial or ethnic group people with recent court experience are less convinced of procedural justice in “the courts in their community.” Differences in perceptions associated with race/ethnicity are statistically significant. Differences based on recent court experience also were significant with the exception of the statement “Judges are honest and fair in their case decisions.”<sup>3</sup>

### *Cost and Delay*

The set of statements to which respondents were asked to agree or disagree extended to the traditional core concerns of court administration—cost and delay. The statements read:

- It is affordable to bring a case to court
- Court cases are resolved in a timely manner

Levels of agreement with those statements varied by court experience and by race/ethnicity (Table 3.6). Recent court experience was associated with a perception that courts are not affordable or timely in all three groups (that is, disagreement with the statement). This applies to all three racial and ethnic groups. There is also a trend in which Latinos are the most likely to agree with the statements, Whites the next most likely, and African-Americans the least likely to agree (with one exception: the average ratings of Whites and African-Americans are the same for people with recent court experience). The influences of court experience and race/ethnicity are statistically significant; the race by experience interaction is not significant.

### **Are Some Groups Treated Worse than Others by the Courts?**

All of the survey respondents were asked to indicate how frequently African-Americans, Latinos, non-English speakers, and people with low incomes are treated worse than other groups by the courts. The questions have been regarded as indicators of distributional justice: the fairness of case outcomes (Tyler, 2001).

The specific question read: “Some people say that the courts treat everyone equally, while others say that the courts treat certain people differently than others. How often is each of the following groups of people treated worse than others by the courts?”

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<sup>3</sup> Based on a MANOVA test.

**Table 3.6: The Proportion of Respondents Agreeing that Courts are Timely and Affordable**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Timely</b>						
Strongly Agree	10.3%	14.1%	8.4%	8.0%	24.0%	20.7%
Somewhat Agree	37.9%	28.8%	27.0%	20.9%	32.7%	23.9%
Somewhat Disagree	29.1%	23.9%	26.1%	23.9%	20.4%	17.4%
Strongly Disagree	22.8%	33.3%	38.5%	47.2%	23.0%	38.0%
<b>Affordable</b>						
Strongly Agree	7.8%	5.8%	12.3%	9.5%	18.2%	12.4%
Somewhat Agree	27.7%	25.1%	29.2%	20.3%	33.9%	19.1%
Somewhat Disagree	30.6%	23.4%	23.3%	21.5%	23.4%	24.7%
Strongly Disagree	33.9%	45.7%	35.2%	48.7%	24.5%	43.8%

The answers given by Whites, African-Americans, and Latinos are compared in the following four tables that distinguish respondents from those without recent court experience.

Across racial lines, those with court experience believe that courts treat certain groups worse more often than do those without recent court exposure. However, Whites tend to see unequal treatment as infrequent relative to the perceptions of widespread unequal treatment characteristic of African-Americans and Latinos.

**Table 3.7: How Frequently are African-Americans Treated Worse than Other Groups?**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Always/Often</b>	19%	23%	45%	52%	31%	31%
<b>Sometimes</b>	46%	39%	42%	35%	42%	41%
<b>Rarely/Never</b>	35%	38%	13%	13%	26%	28%

**Table 3.8: How Frequently are Latinos Treated Worse than Other Groups?**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Always/Often</b>	16%	23%	35%	37%	27%	38%
<b>Sometimes</b>	49%	37%	50%	47%	48%	32%
<b>Rarely/Never</b>	35%	41%	15%	16%	26%	30%

**Table 3.9: How Frequently are Non-English Speaking Treated Worse than Other Groups?**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
	<b>Always/Often</b>	18%	22%	28%	38%	36%
<b>Sometimes</b>	48%	39%	48%	39%	36%	34%
<b>Rarely/Never</b>	33%	39%	25%	24%	28%	27%

**Table 3.10: How Frequently are People with Low Incomes Treated Worse than Other Groups?**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
	<b>Always/Often</b>	24%	31%	43%	52%	36%
<b>Sometimes</b>	46%	38%	38%	32%	42%	31%
<b>Rarely/Never</b>	30%	30%	18%	16%	22%	24%

The strongest sense of worse treatment is found for “someone with a low income.” This emerges from the ratings offered by all three groups. African-American respondents with court experience were as likely to perceive discrimination against low-income people as they were against African-Americans as a group. Still, one-half of African-Americans (52 percent of those with recent court contact and 45 percent of those without it) believe that their group is “always” or “often” treated worse than other groups. Perceptions by African-Americans of discriminatory treatment by the courts are broad based: African-Americans are close to Latinos in the extent to which they believe that “Latinos as a group are treated worse than other groups.”

Latinos perceived more discrimination against low-income people than against Latinos as a group and perceived the same level of discrimination against low-income people and non-English speakers.

African-Americans believed the courts treated them, as a group, worse more often.<sup>4</sup> Similarly, Latinos perceived the court’s treatment of Latinos to be worse more often than did members of other racial groups.<sup>5</sup> However, a person’s household income did not influence assessments of whether low-income people were treated worse than other groups. Respondents from low-income groups were not more likely than those from high-income groups to agree that courts treated persons of low income worse than others.

Perceptions of unequal treatment by the courts can be compared to the general sense people have of discrimination in American society. A summated scale was created of three questions that asked whether America had provided various people with equal opportunities to get ahead in life. The questions were prefaced with:

<sup>4</sup> ( $t(1289) = 10.92, p < .05$ )

<sup>5</sup> ( $t(1229) = 2.36, p < .05$ )

“I am going to read you a list of statements about opportunity and discrimination. Please tell me how strongly you agree or disagree with each. Would you say you strongly agree, somewhat agree, somewhat disagree, or strongly disagree?”

- a. America has provided me with an equal opportunity to get ahead in life.
- b. America has provided African-Americans an equal opportunity (the same opportunity) to get ahead in life.
- c. America has provided Latinos an equal opportunity (the same opportunity) to get ahead in life.

The *Discrimination in Society* scale formed by summing responses to the three statements meets the criteria for reliability ( $\alpha=.78$ ). The distribution of responses to the three items included can be found in Table 3.11a.

The scale finds that African-American respondents perceived significantly higher discrimination against African-Americans, Latinos, and themselves personally than any other racial group (although on average, they responded in a fairly neutral manner regarding the statements of equal opportunities). Latinos and Whites generally believed all groups were provided equal opportunities. Racial and ethnic differences in the *Discrimination in Society* measure were statistically significant.<sup>6</sup> A post-hoc contrast demonstrates that African-Americans as a group differed significantly from both Latinos and Whites.<sup>7</sup>

**Table 3.11a: Proportion of Respondents Agreeing that America Provides Equal Opportunities.**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>Equal Opportunity for me</b>						
Strongly Agree	64.9%	61.0%	38.0%	33.1%	58.7%	51.6%
Somewhat Agree	27.8%	27.4%	35.5%	32.5%	31.7%	25.3%
Somewhat Disagree	4.8%	5.8%	12.4%	9.6%	3.8%	12.6%
Strongly Disagree	2.4%	5.8%	14.1%	24.7%	5.8%	10.5%
<b>Equal Opportunity for Blacks</b>						
Strongly Agree	36.5%	34.0%	23.3%	16.9%	46.3%	47.3%
Somewhat Agree	42.7%	40.9%	31.4%	28.9%	34.0%	26.9%
Somewhat Disagree	14.5%	14.2%	18.6%	21.7%	10.3%	16.1%
Strongly Disagree	6.3%	10.9%	26.7%	32.5%	9.4%	9.7%
<b>Equal Opportunity for Latinos</b>						
Strongly Agree	35.2%	33.3%	31.6%	14.6%	39.5%	45.3%
Somewhat Agree	41.8%	40.1%	32.0%	34.2%	38.0%	30.5%
Somewhat Disagree	16.5%	16.5%	18.2%	27.8%	14.1%	14.7%
Strongly Disagree	6.5%	10.1%	18.2%	23.4%	8.3%	9.5%

<sup>6</sup> ( $F=71.16, p < .05$ )

<sup>7</sup> ( $t(410.7)=-9.54, p < .05$ ).

Latinos, therefore, appear to assess unequal treatment by the courts differently than they assess inequality of opportunities in American society. Latinos are similar to African-Americans in their assessment that courts treat groups unequally. However, Latinos are similar to Whites in their assessment that there is a low level of unequal group treatment in American society.<sup>8</sup>

The survey asked another question relevant to understanding the link between perceived society discrimination and opinions about the courts (See Table 3.11b). The question took the form of agreement or disagreement with the statement, “In the past I have been discriminated against in my dealings with the police.”

African-Americans answered affirmatively 62 percent of the time if they had recent court experience (of any kind) and 49 percent of the time if they did not. The comparable percentages for Whites are 20 percent and 34 percent. The responses of Latinos tended to be closer to those given by African-Americans than to those offered by Whites: 50 percent of Latinos with court experience and 40 percent of those without court experience stated that they had been discriminated against by the police. The effects of both court experience and race on perceived discrimination, but not their interaction, are statistically significant.

**Table 3.11b: Proportion of Respondents Agreeing that “I have been discriminated against in my dealings with police.”**

	White		African-American		Latinos	
	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>	<i>No Court Contact</i>	<i>Court Contact</i>
<b>Police Discrimination</b>						
Strongly Agree	6.2%	17.9%	37.4%	47.9%	21.9%	28.4%
Somewhat Agree	13.6%	16.4%	11.8%	14.6%	19.9%	21.6%
Somewhat Disagree	13.0%	9.9%	19.5%	9.7%	14.6%	9.1%
Strongly Disagree	67.2%	55.7%	31.3%	27.8%	43.7%	40.9%

### Does the Public Support a Changing Role for Courts?

One purpose of the survey was to take stock of public support for changes to the traditional role and operations of trial courts. Previous research suggests that there tends to be strong support for non-traditional approaches to case adjudication (see Doble and Greene, 2000, on community reparation boards in Vermont and Sviridoff et al., 2001 on the community court model in New York City’s Midtown Community Court).

<sup>8</sup> A multiple regression model was used to establish if demographic characteristics were useful in predicting variation in people’s perceptions of societal discrimination. The overall association of such factors with perceived discrimination was weak (Adjusted R<sup>2</sup> = .025). The only significant demographic influences involved a greater likelihood that African-American and better-educated respondents perceive societal discrimination.

The specific changes considered by the survey respondents relate to drug treatment courts and, more generally, to therapeutic justice concepts (Rottman and Casey, 1999). In non-traditional processes persons are more important than cases, needs-based considerations are balanced against rights-based considerations, the process is more collaborative than adversarial, and the attention paid to interpretation and application of social science knowledge rivals that given to interpretation and application of the law (see Rottman and Casey, 1999:140).

The preamble to the question read: “Some people think that courts should stick to their traditional role of looking at the facts in a specific case and then applying the law. Other people think that it is now necessary for the courts to go beyond that role and try to solve the problems that bring people into court. I am going to read you a few statements about the role of the court. Do you strongly agree, somewhat agree, somewhat disagree, or strongly disagree that courts should . . .”

- a. Should courts hire drug treatment counselors and social workers as court staff members?

**Table 3.12: Should Courts Hire Treatment Counselors and Social Workers as Court Staff Members?**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>Strongly agree</b>	35%	34%	59%	60%	55%	46%
<b>Somewhat agree</b>	33%	26%	22%	25%	24%	24%
<b>Somewhat disagree</b>	13%	15%	10%	9%	7%	13%
<b>Strongly disagree</b>	20%	25%	9%	7%	13%	17%

- b. Should courts order a person to go back to court and talk to the judge about their progress in a treatment program?

**Table 3.13: Solve Problems by Having the Offender Report Back to the Judge on his Progress**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
<b>Strongly agree</b>	55%	54%	67%	69%	68%	59%
<b>Somewhat agree</b>	31%	29%	23%	20%	23%	27%
<b>Somewhat disagree</b>	7%	9%	5%	7%	4%	4%
<b>Strongly disagree</b>	7%	9%	4%	4%	5%	10%

- c. Should courts take responsibility for making sure local agencies provide help to people with drug abuse and/or alcohol problems?

**Table 3.14: Should Courts Solve Problems by Coordinating the Work of Local Agencies?**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
Strongly agree	52%	48%	72%	73%	67%	70%
Somewhat agree	30%	32%	18%	21%	22%	19%
Somewhat disagree	8%	11%	4%	4%	6%	6%
Strongly disagree	10%	9%	6%	3%	5%	4%

- d. Should courts consider what psychologists and medical doctors know about the causes of emotional problems when making decisions about people in court cases?

**Table 3.15: Should Courts Solve Problems Using the Knowledge of Psychologists and Doctors?**

	White		African-American		Latinos	
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact
Strongly agree	45%	45%	61%	67%	58%	56%
Somewhat agree	44%	38%	35%	23%	33%	27%
Somewhat disagree	8%	7%	2%	5%	3%	9%
Strongly disagree	3%	10%	2%	4%	5%	8%

Respondents gave a highly favorable reaction to all four changes to the traditional role of courts. High support is indexed by a value of 1.0 (strong agreement with the statement). African-American respondents tend to be the most supportive of change, followed by Latinos. Whites are distinctly less enthusiastic in their support of new roles for judges and courts. The magnitude of the differences in levels of support is evident in the proportion of “strongly agree” responses to the four statements.

The lowest level of support, across all three groups, is given to the hiring of treatment counselors and social workers. That change to traditional processes, however, marks the sharpest racial and ethnic difference. Whites are less supportive, although a majority still is in agreement with the change, than are minority group members.

The differences among the racial and ethnic groups, and between those with and without recent court experience, are best examined through a comparison of average (mean) levels of agreement with the proposed change (Table 3.16). Average scores provide a single measure of respondents’ support, avoiding the display of five separate response categories), and provide a summary measure—the standard deviation—of how tightly the responses cluster. Also, average scores make it possible to provide a condensed table within which comparisons by race/ethnicity and by court contact can be displayed.

Summing the responses to the four specific policy changes creates an overall scale *Support Changing Roles in the Courts* (with Chronbach’s Alpha = .73). A two-way ANOVA shows that the main effects were significantly different for the race/ethnicity ( $\alpha$

= .000) and (marginally) significant for court contact ( $\alpha = .058$ ). The interaction between race/ethnicity and experience was not significant.

**Table 3.16: Average Scores on Support for Non-Traditional Court Roles\***

Court contact-recorded	Respondent race or ethnicity		Solve problems by hiring drug treatment counselors?	Solve problems by telling judge progress?	Solve problems by agency oversight?	Solve problems by psychology and medical advice?
No Court Contact	White	Mean	<b>2.18</b>	<b>1.67</b>	<b>1.76</b>	<b>1.68</b>
		Std. Deviation	1.11	.89	.97	.74
	African-American	Mean	<b>1.69</b>	<b>1.46</b>	<b>1.42</b>	<b>1.44</b>
		Std. Deviation	.98	.78	.81	.64
	Latinos	Mean	<b>1.79</b>	<b>1.47</b>	<b>1.50</b>	<b>1.56</b>
		Std. Deviation	1.06	.80	.83	.80
Court Contact	White	Mean	<b>2.31</b>	<b>1.71</b>	<b>1.82</b>	<b>1.80</b>
		Std. Deviation	1.18	.94	.96	.93
	African-American	Mean	<b>1.64</b>	<b>1.46</b>	<b>1.37</b>	<b>1.46</b>
		Std. Deviation	.92	.80	.70	.78
	Latinos	Mean	<b>2.01</b>	<b>1.65</b>	<b>1.45</b>	<b>1.69</b>
		Std. Deviation	1.14	.95	.80	.94

\* 1 = Strong support; 4 = Low support

The favorable public reaction to a problem-solving orientation is consistent with what we know about public expectations of the judiciary. The emphasis in legal training on a “rights perspective may account in part for the growing schism between the courts and the public which tends to rely on both a rights and a care perspective in their decision-making (Daicoff, 1997: 1411).”<sup>9</sup>

### How Much Support is there for the Courts?

The survey established strong support for a change in the traditional role of the courts. That finding may be taken as good or bad news for the courts. It is good news to the extent that the public believes that the courts are able to make an important contribution to solving some of our most difficult social problems. It is bad news to the extent that the desire for change is rooted in unhappiness with current levels of court performance.

The survey included two basic indicators of the current extent of support for the “courts in your community.” The first indicator is general and seeks to establish how favorably people report they feel towards the courts. The second indicator is formed from a set of questions asking respondents to rate how well the courts in their community handle specific kinds of cases. Scores on those indicators are compared based on

<sup>9</sup> “Lawyers are actually more like engineers than they are like nurses or teachers, being logical and unemotional, yet unlike engineers in that their work is inextricably involved in interpersonal conflicts and issues” (Daicoff, 1997:1412). Research on the attributes of lawyers suggests that they rely disproportionately on analytic, rational thought to make decisions and are not “interpersonally sensitive, meaning not attuned to the emotions, needs, and concerns of other people and not concerned with interpersonal issues or harmony” (Daicoff, 1997).



race/ethnicity and recent court experience of the respondents. The next section considers alternative models for understanding the basis of variation in support for those institutions.

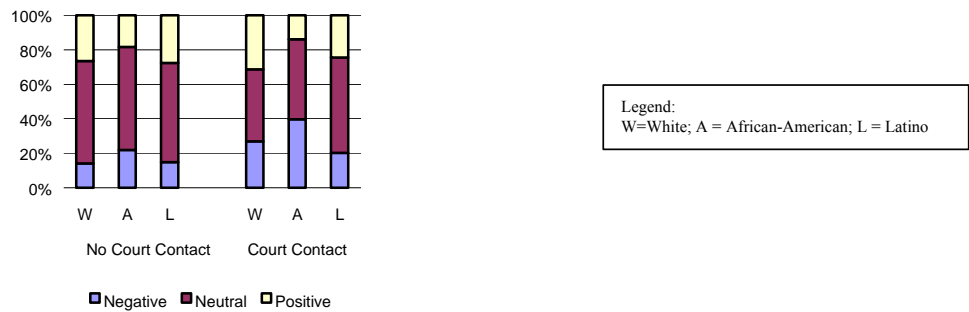
*How do you feel about the courts in your community?*

The first direct evaluation was a measure of how favorably people feel about the courts in their community. The question read, “On a scale from 1 to 5, with 1 being the least favorable and 5 being the most favorable, how would you rate how you feel about the courts in your community? If you feel neutral, use 3.” The same question was asked of how people feel about their local police and their local schools. The responses can be interpreted as an indicator of diffuse support for the courts.

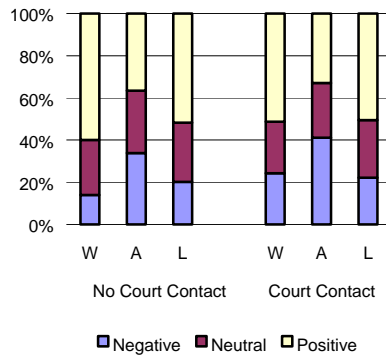
The answers to questions about all three institutions (see the charts below) suggest that courts are rated less favorably than the police or schools and that they were rated in a very distinct manner. In terms of the perceived favorability toward the courts, 26 percent of Whites without recent court contact rated the courts in a positive manner (score of 4 or 5). This compares with 60 percent positive ratings the same group gave to police and schools. African-Americans and Latinos without recent court experience also were less likely to give favorable ratings to the courts but the margin of difference was not so large as among Whites (18 percent for courts versus 29 percent for the police and 37 percent for schools among African-Americans). Among Latinos, 28 percent rated the courts positively and 53 and 52 percent, respectively, rated the police and schools positively.

While the courts attracted fewer positive ratings (scores of 4 or 5) than the police or schools, the courts also tended to receive fewer negative ratings (scores of 1 and 2) among minority group members. For example, 22 percent of African-Americans without recent court contact gave the courts a negative rating. This compares to the 43 percent negative ratings African-Americans gave to the police and 34 percent to schools.

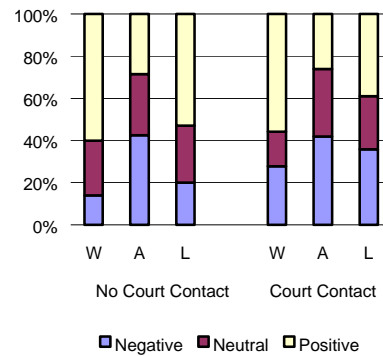
**Chart 3.1: Perceived Favorability of Courts**



**Chart 3.2: Perceived Favorability of Schools**



**Chart 3.3: Perceived Favorability of Police**



Legend:  
W=White; A = African-American; L = Latino

The trend in opinions leaves the courts with a large proportion of neutral ratings (3 on the rating scale), twice the proportion of neutral ratings received by the police or schools. The courts appear to elicit less passion than some other public institutions.

The responses of persons with recent court contact tend to be less favorable toward the courts than those given by respondents with no such contact. People with recent court contact are also less favorably inclined toward the police but not toward the schools. A substantial proportion of recent court users were defendants in criminal cases. People with recent court experience are less likely than those without experience to give the courts a neutral rating.

The favorability ratings given to schools, police and courts are moderately interrelated. There is a statistically significant correlation between schools and police ( $r = .332$ ) and a slightly stronger correlation between courts and police ( $r = .399$ ). Ratings of courts and schools are correlated ( $r = .268$ ).<sup>10</sup>

*How well do courts handle types of cases?*

The survey offers several specific measures of public support for the courts based on questions about how well “the courts in your community” handle five kinds of cases. The responses can be interpreted as indicating the level of specific support afforded to the courts.

<sup>10</sup> Together, the favorability ratings of schools and police predict 17 percent of the variation in the ratings given to the “courts in your community,” based on a multiple regression model.

The survey interviewers asked each respondent, “On a scale from 1 to 5 with 1 being the very lowest rating and 5 being the very highest, please tell me how well you think the courts in your community handle each of the following kinds of cases:

- Criminal cases involving violence, such as robbery
- Criminal cases involving drug abusers or drunk drivers
- Civil cases, such as auto accidents and medical malpractice claims
- Family relations cases, such as divorce, child custody, etc. and
- Juvenile delinquency cases.”

The interviewers were given a separate category to note where the respondent said that they lacked sufficient information to answer a “court handling” question.

Average (mean) ratings were calculated for each type of case (see Table 3.17), along with the standard deviations associated with the average. Generally, respondents rated the courts’ treatment of violent criminal cases and civil cases best on average. On the other hand, courts were thought to have handled juvenile cases the worst, whereas respondents judged the courts’ performance more neutrally in family and drug cases.

**Table 3.17: Average Scores on How Well Courts Handle Types of Cases\***

Court contact-recorded	Respondent race or ethnicity		Drug Crimes	Violent Crimes	Juvenile Crimes	Family Cases	Civil Cases
No Court Contact	White	Mean	<b>3.15</b>	<b>3.43</b>	<b>3.05</b>	<b>3.21</b>	<b>3.31</b>
		Std. Deviation	1.26	1.15	1.16	1.11	.98
	African-American	Mean	<b>3.00</b>	<b>3.07</b>	<b>2.80</b>	<b>3.03</b>	<b>3.24</b>
		Std. Deviation	1.35	1.26	1.26	1.30	1.17
	Latinos	Mean	<b>3.27</b>	<b>3.28</b>	<b>2.97</b>	<b>3.22</b>	<b>3.22</b>
		Std. Deviation	1.28	1.18	1.29	1.06	1.09
Court Contact	White	Mean	<b>3.05</b>	<b>3.34</b>	<b>2.83</b>	<b>3.05</b>	<b>3.23</b>
		Std. Deviation	1.32	1.22	1.20	1.27	1.09
	African-American	Mean	<b>2.65</b>	<b>2.88</b>	<b>2.54</b>	<b>2.73</b>	<b>2.99</b>
		Std. Deviation	1.28	1.33	1.19	1.32	1.24
	Latinos	Mean	<b>3.30</b>	<b>3.30</b>	<b>2.91</b>	<b>3.30</b>	<b>3.39</b>
		Std. Deviation	1.31	1.28	1.25	1.12	1.08

\* 5 = highest rating; 1 = lowest rating

African-Americans consistently gave the lowest ratings. That tendency is stronger for African-Americans with recent court experience than for those without such an experience. Latinos typically provided the highest ratings. Latino ratings also did not differ based on whether the respondent had been to court recently.

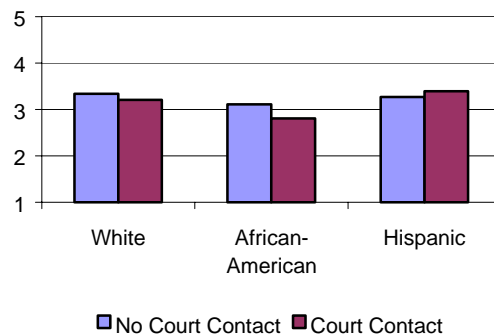
Average ratings tend to be near the midpoint value of three. Still, there is variation by race and by court involvement. The highest average rating on a scale of 1-5 where five is the highest rating is 3.4 (by Whites without court contact for violent crimes) and the lowest is 2.5 (by African-Americans with court contact for juvenile cases). Small but noteworthy differences exist nonetheless between those with and without recent court experience and, within each level of experience, across racial and ethnic groups.

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Respondents with recent court experience tended to rate the courts somewhat lower in how they handled cases; the difference was most evident in the ratings of family cases and, to a lesser degree, of juvenile cases. Overall, race/ethnicity effects are statistically significant. Recent court experience is not statistically significant in its influence on how people rate court handling of cases. The interaction between race/ethnicity and court experience is also not significant (based on a Multivariate Analysis of Variance test).

An overall measure of how well courts handle cases was formed by taking the sum of the answers to the five questions and dividing by the number of questions that a respondent answered (that is, did not respond “Don’t Know” or “Not familiar”) The resulting scale is reliable (Cronbach’s Alpha = .79). High values on the scale represent a perception that courts handle cases well.

**Chart 3.4: Mean Overall Evaluation of How Well Courts Handle Cases**



Latinos, on average, give the courts the highest ratings on how well cases are handled, African-Americans the lowest (Chart 3.4). The average scores in all groups hover around the middle value of three in the range (from one to five). Latinos are distinctive in that, on average, recent court users have a higher evaluation than non-users of how courts handle cases. The effects of both race/ethnicity and whether the respondent had been to court recently were statistically significant. The interaction between those influences was not significant.

#### *A Note on Confidence in Ability to Rate the Courts*

Questions tapping specific case types reveal the topics on which the general public is most informed and concerned. There are a large (relative to other questions in the survey) proportion of “Don’t Know” and “Non-Response” answers. The largest proportion of missing responses was for civil cases (22 percent did not respond). Substance abuse cases were the most frequently evaluated; still more than one person in ten did not answer that question.<sup>11</sup>

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<sup>11</sup> The “Don’t Know”/ “No Answer” responses reflect two types of answers. Respondents who stated that they lacked sufficient information to respond were coded as “Not Familiar.” The “Don’t Know”

**Table 3.18: Non-Response Rate by Racial or Ethnic Groups**

	Whites	African-Americans	Latinos	Total by Case Type
Drug Crimes	17.3%	6.8%	8.3%	10.8%
Violent Crimes	21.6%	7.2%	9.4%	12.8%
Family Cases	25.8%	11.4%	14.8%	17.3%
Juvenile Cases	28.7%	10.5%	11.2%	16.8%
Civil Cases	30.7%	13.7%	20.8%	21.7%
Total Race	24.8%	9.9%	12.9%	

The real story, however, is the difference between majority group and minority group patterns of “Don’t Know” responses. Overall, Whites did not answer the court handling questions approximately one-quarter of the time. Latinos did not answer 13 percent of the time and African-Americans 10 percent.

Whites by a substantial margin are *less* likely than Latinos or African-Americans to give an answer to questions on how cases are handled. The gap between the two minority groups is largest for civil cases (14 percent of African-Americans and 21 percent of Latinos did not provide a rating). The gap between Whites and African-Americans is great. The rate of non-response for Whites is about three times as great as for African-Americans when drug, violent, and juvenile cases were the subject.

**Table 3.19: Non-Response Rate by Racial or Ethnic Groups**

	Whites		African-Americans		Latinos		Total by Case Type
	No Court Contact	Court Contact	No Court Contact	Court Contact	No Court Contact	Court Contact	
<b>Drug Crimes</b>	20.8%	10.3%	7.3%	6.4%	8.6%	8.0%	10.2%
<b>Violent Crimes</b>	24.8%	15.2%	8.3%	6.4%	10.7%	8.0%	12.2%
<b>Family Cases</b>	29.8	17.8%	15.8%	8.5%	14.0%	15.9%	17.0%
<b>Juvenile Cases</b>	31.3%	23.4%	14.7%	7.8%	12.9%	9.2%	16.6%
<b>Civil Cases</b>	32.3%	27.5%	13.6%	13.7%	17.5%	25.0%	21.6%
<b>Total by Race</b>	27.8%	18.8%	11.9%	8.6%	12.7%	13.2%	

More of the story is revealed by looking at non-response rates to questions concerning how well courts handle kinds of cases. African-Americans and Latinos with recent court experience are not significantly more likely to answer such questions than their counterparts who lack that experience. Things are different for White respondents. There is a consistent pattern, most pronounced for drug crimes but strong for violent, family, and juvenile cases as well, in which Whites without court contact are far less likely to answer the rating questions.<sup>12</sup>

proportions shown in the preceding two tables consist of about equal numbers of “Not Familiar” and “Don’t Know” responses (see pages 3 and 4 in Appendix A for the percentages falling into each category).

<sup>12</sup> A somewhat similar pattern for “Don’t Know” responses was found for the four questions in the survey asking respondent whether courts treat some groups worse than others. “Don’t Know” responses ranged from 6 percent to 17 percent, with the treatment of non-English speakers attracting the highest rate of “Don’t Know.” Rates of “Don’t Know/Non-Response” for other sets of questions were small, generally in the 2–5 percent range (see the frequencies in Appendix A). Procedural justice and similar questions tended

## What Underlies People’s Assessments of the Courts?

### *Favorability of Courts*

A multiple regression model was developed setting forth factors that, based on previous research, might underlie favorability toward the “courts in your community.” Perceived favorability was predicted based on whether outcomes are believed to be fair, whether procedures are believed to be fair, whether court administration is efficient (affordable and timely),<sup>13</sup> and support for changes to the traditional role of courts. Race/ethnicity and age are considered as well.

**Table 3.20: Predictors of Court Favorability: All Respondents:  
Multiple Regression**  
Beta Coefficients

	<u>Contact</u>	<u>Non-Contact</u>
Fair Outcome	.27*	.28*
Fair Procedure	.30*	.20*
Speed and Cost	.21*	.21*
Support for New Role	.05	.01
African-American	.01	.06
Latino	.04	.00
Age	.02	.00
Adjusted R-Squared	.40*	.26*

\* P < .05

The same sets of factors are important (almost to the identical degree) for both persons with and persons without recent court contact as indexed by the beta coefficients, which indicate the strength of a relationship. First, no demographic variable was statistically significant. Support for non-traditional roles was also insignificant for both groups. Perceptions of fair outcomes, fair procedures, and efficiency were significant. Second, the only notable difference between the two groups is that perceived fairness of court procedures exerted a larger influence (Beta =.30) on favorability ratings for those with court contact than for those without (Beta=.20). For that and other reasons, the models explain significantly more of the variation of ratings among those with court contact. Specifically, the models explain 40 percent of the variation in favorability for people with court contact and 26 percent of the variance for those who lack recent contact.

The second set of comparisons is across the three racial and ethnic groups. The same three variables—fair outcomes, fair procedures, and efficiency—are significant for

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to attract about 2 percent “Don’t Know” responses among people with recent court contact and 7 percent for those with no recent experience.

<sup>13</sup> A scale comprised of responses to two agree/disagree statements: “It is affordable to bring a case to court” and “Court cases are resolved in a timely manner.” A high score on the scale indexes *disagreement* with the view that courts are efficient.

all three racial/ethnic groups and support for non-traditional roles is not significant for any group.

The beta weights for Whites are stronger than for African-Americans or Latinos. The difference is striking: the simple model accounts for 41 percent of the variation in favorability among Whites, 30 percent of the variation among African-Americans, and 16 percent of Latinos. The latter Adjusted R-Square is not statistically significant.

**Table 3.21: Predictors of Court Favorability: By Race:**  
Multiple Regression

	Beta Coefficients		
	<u>White</u>	<u>African-American</u>	<u>Latino</u>
Fair Outcomes	.29*	.22*	.16*
Fair Procedures	.25*	.13*	.19*
Speed and Cost	.21*	.18*	.15*
Support New Role	.001	.06	.06
Adjusted R-Squared	.41*	.30*	.16

\* P < .05

### *Equal treatment*

The importance of basic set of demographic and attitudinal factors on opinions was also considered in the context of what influences perceptions of unequal group treatment. An overall measure of perceived unequal group treatment (*Discrimination in the Courts*) was formed by creating a summated scale using the four group treatment questions included in the survey ( $\alpha=.86$ ). A high value indicates a belief that groups are treated *unequally*. The average score on the scale varies among racial/ethnic groups. African-Americans perceived discrimination more often than Latinos or Whites.<sup>14</sup>

The results (Table 3.22) differ from what was found when the favorability of courts was at issue. The fairness of court outcomes, as indexed by a single survey question, did not make a difference in people's views of how equally groups are treated. That variable had a stronger relationship to how favorably people viewed the court than did the question about fair procedures.<sup>15</sup>

The statistically significant influence of procedural justice is equaled by the influence of whether courts are seen as efficient (that is, timely and affordable). The

<sup>14</sup>F(2,1110)=44.99, p <.05

<sup>15</sup> Other socio-demographic factors are not included in the model. As in prior research, gender, age, income, and educational attainment are unrelated to perceptions of discrimination. When combined in a multiple regression model with the race/ethnicity of the respondent, the following beta weights were obtained: Gender (.00), age (.03), income (.05), education (.05), African-American (.27 and statistically significant at the .05 level), and Latino (.14 and statistically significant at the .05 level). The Adjusted R-Squared was .068.

more people believe that courts are neither procedurally fair nor efficient, the more likely they are to perceive unequal court treatment of minority and low-income groups. Support for non-traditional roles is associated with a greater sense of unequal group treatment to a statistically significant degree for respondents *without* recent court contact. Similar support does not influence the assessments of unequal treatment made by people with recent court contact. Such a finding is consistent with findings from other studies that people with court experience rely less on political beliefs or social philosophy than do those without experience when evaluating court performance.

African-Americans and Latinos are more likely than Whites to perceive unequal group treatment. Age, the other demographic factor considered, is not statistically significant.

**Table 3.22: Predictors of Equal Treatment of Groups: All Respondents:**  
Multiple Regression

	Beta Coefficients	
	<u>Contact</u>	<u>Non-Contact</u>
Fair Outcome	.01	.07
Fair Procedure	.18*	.16*
Efficiency	.19*	.17*
New Role	.05	.14*
African-American	.22*	.15*
Latino	.09*	.12*
Age	.08	.06
Adjusted R-Squared	.17*	.15*

\* P < .05

The models were run separately for Whites, African-Americans, and Latinos. The same predictors are statistically significant for Whites and African-Americans. The exception is support for new court roles, which is significant only for Whites. No variable makes a statistically significant contribution to explaining the perceptions by Latinos, and the model explains 2 percent of the variation (compared to 12 and 11 percent, respectively, for Whites and African-Americans).



**Table 3.23: Predictors of Equal Treatment of Groups: By Race:**  
Multiple Regression

	Beta Coefficients		
	<u>White</u>	<u>African-American</u>	<u>Latino</u>
Fair Outcomes	.04	.12	.16
Fair Procedures	.19*	.19*	.06
Efficiency	.15*	.27*	.02
Support New Roles	.15*	.06	.05
Adjusted R-Square	.12*	.11*	.02

\* P < .05

The intersection of race and court experience can be pursued further by adding perceived discrimination by police to the mix of other factors taken into account. A simple model was developed and run separately for each racial/ethnic group. Favorability toward the courts was predicted by favorability toward the police, discrimination by the police, and recent court contact.

**Table 3.24: Predictors of Favorability of Courts: By Race:**  
Multiple Regression

<u>Predictors</u>	Beta Coefficients		
	<u>Whites</u>	<u>African-Americans</u>	<u>Latinos</u>
Police Favorability	.31*	.41*	.40*
Yes Court Contact	.03	-.18*	.03
Not Discriminated Against by Police	.20*	.22*	.11
Adjusted R-Squared	.18*	.31*	.19*

\* P < .05

Perceived police discrimination has a strong, statistically significant negative relationship to favorability ratings for Whites and for African-Americans, but not for Latinos. Favorability toward the police has a positive influence on court favorability for all three groups, but it is stronger (based on a comparison of the beta weights) for African-Americans and Latinos than for Whites. Court contact is statistically significant only for African-Americans; African-Americans with recent court contact have more negative views of the courts than do their counterparts without such contact.

*How well specific kinds of cases are handled*

To examine the basis for people's evaluations of how well courts handle cases, demographic characteristics (race/ethnicity, age, gender, education, and income), assessments of procedural and outcome fairness in the courts, and support for non-traditional court roles were included in a predictive model. A high score on the case handling scale indicates approval for the courts.

Combined, these variables explain between one-fifth and one-sixth of variation in ratings of how well courts handle cases. The variables had a stronger linear relationship to assessments for cases involving drugs and cases of violent crime.

**Table 3.25: Predictors of How Well Courts Handle Various Types of Cases:**  
Multiple Regression

	Beta Coefficients				
	<u>Violent</u>	<u>Drugs</u>	<u>Civil</u>	<u>Family</u>	<u>Juvenile</u>
Outcomes are fair	.24*	.22*	.24*	.21*	.22*
Procedures are fair	.27*	.27*	.18*	.24*	.23*
Support new roles	-.12*	-.08*	-.02	-.07*	-.06*
Age	-.01	-.00	.04	.02	-.01
African-American	-.04	.02	.04	.01	-.00
Latinos	-.02	.07*	.02	.07*	.00
Gender	-.02	.00	.03	.03	.03
Education	-.07*	-.06*	-.08*	-.03	-.05
Adjusted R-Squared	.22*	.20*	.14*	.17*	.16*

Perceptions of how fair are court outcomes and court procedures mattered in about equal measure as factors underlying the ratings people gave to how all five types of cases are handled (Table 3.25). There also were statistically significant relationships between support for non-traditional court roles and how cases are handled: the greater the support for non-traditional roles, the more negatively courts' handling of cases was viewed (with the exception of civil cases). The influence was strongest for evaluations of how well courts handle violent crimes. This is an intriguing finding. One interpretation is that the kinds of role changes included in the scale are unmet expectations for what courts should be doing.

Some demographic influences were found. Latinos tend to have a more favorable view than African-Americans or Whites of how well courts handle drug offenses and family cases. The more formal education a person has completed, the less positive the view of how violent offense cases, drug cases, and civil cases are handled.

*Overall evaluation: The Tyler index*

The five court-handling questions and the question on how favorably people viewed the court can serve as an overall index of court performance (Tyler, 2001:228). The impact of demographic, procedural justice, and other factors on that evaluation was compared in two ways. The first comparison involved people with and people without recent court experience (Table 3.26). The same factors are tied to the performance evaluations that were made by both groups, and are of similar levels of importance (as indexed by the size of the beta coefficients).

**Table 3.26: Predictors of Overall Evaluation of Courts: All Respondents:**  
Multiple Regression

	Beta Coefficients	
	<u>Contact</u>	<u>Non-Contact</u>
Fair Outcome	.32*	.27*
Fair Procedure	.25*	.25*
Efficiency	.28*	.28*
New Role	-.10*	-.07*
African-Americans	-.03	-.04
Latinos	.06	.01
A-Squared	.06	.05
Adjusted R-Squared	.48*	.39*

\* P < .05

The statistically significant factors include support for non-traditional court roles (a negative relationship). Stronger relationships are present from perceived fairness of outcomes and procedures and from efficiency (cost and speed). Race is not a significant factor, nor is age. The factors combined explain a substantial proportion of the variation in how people evaluate the courts (48 percent for recent court users and 39 percent for people without such court contact).

A second set of comparisons is by racial and ethnic groups. All of the factors considered, including support for new roles for courts, are statistically significant for Whites and African-Americans. Weaker relationships to support levels exist among African-Americans for perceived fairness of outcomes, fairness of procedures, and cost/delay. Support for new court roles was not significant, which may reflect the lack of variation among African-Americans in the views on that topic. For Latinos, only fairness of outcomes proved statistically significant.

**Table 3.27: Predictors of Overall Support for Courts: By Race:**  
Multiple Regression

	Beta Coefficients		
	<u>White</u>	<u>African-American</u>	<u>Latino</u>
Fair Outcome	.29*	.22*	.30*
Fair Procedure	.27*	.23*	.14
Efficiency	.31*	.24*	.19
New Role	-.10*	-.06*	-.13
Adjusted R-Squared	.50*	.39*	.25*

\* P < .05

The four factors taken together explained one half (50%) of the variation in White perceptions, 39 percent of African-American perceptions, and one-quarter (25%) of Latino perceptions.

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## Is there a “Minority” Perspective on the State Courts?

A question-by-question review of the extent to which African-Americans, Latinos, and Whites differ in their evaluations of the courts does not reveal a clear pattern in which Latino views are more closely aligned with Whites or with African-Americans. It depends on the topic. A multivariate test of statistical differences is needed to establish if there is an overall pattern—one that simultaneously considers whether the three groups differ in their opinions.

Discriminant Analysis is a formal statistical method for detecting the presence of group differences. In this application, the technique is used to predict membership in racial and ethnic groups based on the responses that were given on various questions (in this case attitudes about the quality of treatment). The measure of success is the proportion of cases in which respondents were classified correctly (or, more specifically, how much that information improves on what would be predicted based on chance).

Applying Discriminant Analysis to the three groups (White, Latino, or African-American) using attitudes of the quality of treatment by the courts through discriminant analysis found very low classification percentages (46.7%). In other words, based on attitude scores of treatment by the courts predicting racial group was successful less than half of the time. Using this model, Latinos were the most difficult to classify (see the left section of Table 3.28).

The Discriminant Analysis was re-run for only African-American and White respondents. Classification improved drastically, with 70.4 percent of the respondents correctly classified. Latinos altered between sharing opinions with African-Americans and Whites. Thus, when they were removed the groups in the analysis the two racial groups (Whites and African-Americans) were more distinctly classified. The results of the analysis are shown in right hand section of the table.

Latinos, therefore, do not hold opinions about the fairness of court procedures that place them either in the minority or majority side of a schema in which the views of Whites are to be contrasted to those of all people of color. However, although on many measures Latinos fall between the views of African-Americans and Whites, there is little evidence that they cohere particularly well as a distinct group. This may reflect the diversity within the Latino-American community itself (based on nation and place of origin, for example).<sup>16</sup>

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<sup>16</sup> This survey, however, does not, however, highlight sharp differences along those dimensions (see De la Garza and DeSipio, 2001). However, Latino respondents to the survey on which this report is based are not as diverse as the national Latino population. As noted previously, native born and Texas residents are over-represented. A far larger survey would be needed to consider the various sub-groups in the Latino community formed by nation of origin, place of birth, and region of residence. Also, the survey respondents do not reflect the diversity in the national Latino population. Survey respondents over-represent the native born and Texas-resident segments of the Latino national population.

**Table 3.28: Discriminant Analysis Results**

	All Racial Groups		No Latinos
	Function I	Function II	Function I
Wilk's Lambda	0.91	0.98	0.91
$\chi^2$	123.50**	24.18**	99.03**
Canonic correlation	0.28	0.14	0.30
<b>Correlations between discriminant function and variable</b>			
Courts concerned with people's rights	0.24	-0.30	0.24
Courts treat people with respect	0.20	0.40	0.19
Courts treat people politely	0.64	-0.96	0.65
Courts make decisions based on fact	0.16	0.23	0.14
Judges are honest in decisions	0.16	-0.04	0.15
Courts take people's needs into account	-0.08	0.53	-0.07
Courts listen carefully to people	0.018	-0.23	-0.17
Courts are sensitive to concerns	0.04	0.74	0.04
<b>Percent of Correct Classification</b>			
African-American	46.9		56.7
White	48.0		74.7
Latino	40.9		--
Overall	46.7		70.4

\*\*p<.001

### **In the Eyes of the Beholder: Patterns in Public Opinion About Courts**

This chapter provides a descriptive overview of findings from a national public opinion survey conducted in the spring of 2000. The survey was designed to simultaneously examine the influence of race and recent court experience on perceptions about court procedures and outcomes and on support for the “courts in your community.”

Some of the findings are clear. African-Americans do not have a high opinion of the state courts. People with recent court experience tend to hold less positive views of the courts than do those without that experience. The effects of race/ethnicity on opinions of the courts are to some degree intertwined with those associated with court experience. It is notable, for example, that the difference in views between African-Americans with and without court experience is slim compared to differences among Whites or Latinos.

The findings also support the claim that perceptions that courts use fair procedures and treat groups equally are the strongest predictors of favorable evaluations of court performance. This applies across racial and ethnic groups and for recent court users as well as non-users. However, perceptions that courts are timely and affordable at times contribute substantially to the support that people give to the courts. The dominance of procedural justice considerations may not be as overwhelming as other studies have concluded.

Procedural justice and other factors considered in this report can explain more of the variation in the views of those with recent court experience. The same factors usually

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are significant statistically as predictors of views among the general population but the relationships are weaker. Also, the models tested tended to work best for predicting the views of Whites; the models tended to work least well when predicting the views of Latinos. We appear to know little about what moves Latino opinion about the courts.

Public support is strong for non-traditional judicial and court roles that help solve the problems that bring people into court. That support extends to solving problems using the knowledge of psychologists and doctors and to bringing offenders to report back to the judge on their progress. Support for non-traditional court roles is strongest among African-Americans, the group most critical of the courts in their communities.

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. Overall, models predicting support for the courts or the fairness of court outcomes fare less well for Latinos than for other groups.

The interpretation and policy implications of the high support for non-traditional court roles also are unclear. Some insight is provided by the nature of the statistical relationship between support for non-traditional roles and support for the courts generally. A positive statistical relationship (with individuals with high support for the courts being the most likely to favor the courts assuming non-traditional roles) suggests that confidence in the courts leads people to give courts a larger role in solving complex social problems. The statistical relationship, however, is negative. Support for non-traditional roles tends to be associated with having *low* levels of support for courts as they now operate. Arguably, support for non-traditional roles is fed to a large extent by unmet expectations that people have about what courts should do.

Other findings also 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. Neutral ratings dominated the responses people gave about the courts but were infrequently used in rating the police or schools. The result is that courts may have both fewer supporters and fewer critics than other public institutions. Overall, it seems that questions concerning the job being done by judges and courts arouse little passion when people respond.

The lack of passion in people's views of the court may reflect a lack of attentiveness. Specific questions about how courts handle kinds of cases led to a relatively large proportion of respondents saying that they did not know enough to answer. The proportion not responding was highest among Whites, who did not answer one quarter of the time.



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## *Chapter 4*

### **The Voice of Experience: Jurors, Litigants, and Witnesses Look Back on their Time in Court**

#### **Introduction**

This chapter relates the perceptions of those survey respondents who had been to court within the previous 12-month period. The perceptions of primary interest are how fairly they were treated and how fairly they would be treated in a future court appearance. The likelihood that recent court users would go to the courts to resolve a similar, future dispute is treated as a bottom-line indicator of the overall effect of experience with the courts.

The specific topics examined are:

- Who has court experience
- Perceptions of fairness in the courts
- How much support former court users give to the courts
- How fair are courts likely to be in a future case
- The most important information sources shaping opinions of the courts
- The likelihood recent court users will return to court
- The distinctiveness of Latino perceptions about the courts
- The uniqueness of recent court experience

The last chapter offered some support for claims that court experience tends to have a neutral or mildly negative influence on support for the court. The comparisons that provided that support were crude, however, pitting those with any kind of experience within the previous year against all those without such experience. The current chapter looks at how specific kinds of court experience are related to the assessments people make of how fairly they were treated when in court. A three-fold distinction is made among those with experience according to the type of court experience: jurors, litigants, and witnesses/others.

The previous chapter also lumped together individuals with no court experience of any kind with individuals who had prior court experience at some more distant point in their lives. A more refined look is taken in this chapter by distinguishing for some purposes among those with recent experience, with more distant experience, and with no experience.

In taking a more detailed look at court experience, the primary concern remains on the extent to which the impact of that experience is mediated by race and ethnicity. There are limits on what the current survey can accomplish in that respect. Few Latinos are included (93 out of the 533 respondents for whom their role in court could be identified) for reasons explained in Chapter 2. The main limit comes in differentiating



the views of witnesses from those held by jurors and litigants. A very small number of African-Americans (14) and Latinos (12) were identified in the survey as having been witnesses.

### Who Has Court Experience?

Two roles dominated the pool of people in the survey with court experience (see Table 4.1). Serving on a jury was the most frequent role (30.2%). Being a defendant in a criminal case ran a very close second (28.8%). Other reasons included appearing as a witness (12.0 percent), a plaintiff in a civil case (8.8 percent) and a defendant in a civil case (10.2 percent).<sup>1</sup>

Nearly one-half of the respondents were involved in a criminal matter (45.5%). Another fifth had experiences with either civil cases (22.8%) or family matters (18.0%). Another five percent of respondents listed traffic court experience under a separate category.

The reason for the recent court experience varied somewhat by race and ethnicity (also see Table 4.1). Points of difference include the proportion of respondents with jury experience (with the highest proportion being among Whites and the lowest among Latinos) and criminal defendants (the highest proportion being among Latinos and the lowest proportion among Whites).

**Table 4.1: What was your role in the case?  
Percentage Distribution by Race/Ethnicity**

	<b>White</b>	<b>African- American</b>	<b>Latino</b>	<b>All</b>
The defendant in a criminal case	26.5% (84)	30.0% (45)	34.8% (32)	28.8%
The person being sued	10.1 (32)	12.7 (19)	6.5 (6)	10.2
The person filing the lawsuit	18.6 (59)	18.7 (28)	19.6 (18)	18.8
A juror	31.5 (100)	29.3 (44)	27.2 (25)	30.2
A witness	13.2 (42)	9.3 (14)	12.0 (11)	12.0
	100%	100%	100%	100%

<sup>1</sup> That distribution of experiences across roles is broadly consistent with other state and national surveys (Rottman, 1998; Sweeney, 1998) except for the proportion of former criminal defendants, which is high relative to their presence in other surveys, and the proportion of traffic court defendants, which is low relative to other surveys. Chapter 5 makes some recommendations on how the screening questions used to identify people with prior court experience could be standardized across surveys to promote consistency in who is included in the “experienced” category.

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There is evidence from other studies that under representation on juries is most pronounced for income or class rather than race or ethnicity. Middle class and upper income African-Americans and Latinos are as likely as are their White counterparts to serve as jurors. The net effect is for the poorest members of minority groups to be the truly excluded from the jury pool (Fukurai, 1996).<sup>2</sup>

The current national survey supports that characterization of jurors for African-Americans but not for Latinos. More than half of the former jurors in the current survey (59 percent) reported annual household incomes of larger than \$50,000. A smaller proportion—43 percent—of the general population sample fell in that higher income group. African-Americans and Whites in the higher income group were overrepresented to the same substantial degree: the proportion of former jurors in the high-income group was about 58 percent larger than the proportion in the general population. The comparable percentage among Latinos was 15 percent.

## **Perceptions of Fairness in the Courts**

### *General Perceptions*

The survey instrument was structured to begin with a set of questions about the perceived fairness of court outcomes and court procedures. The reference is to how courts usually act.<sup>3</sup> In this chapter, the same questions offer a generalized view of courts—one not tied by wording to a specific experience with the courts. It is unlikely that the views of recent court users are monolithic within racial and ethnic group. A basic distinction to consider is the difference between recent litigants, recent jurors and witnesses or others with court experience (the relevant comparisons are in Table 4.2).

A cautionary note is necessary. The percentages in the table, and all others looking separately at jurors and especially witnesses/other court users, are based on a relatively small number of African-American and Latino respondents. The small numbers reduce our confidence that we would find the same pattern of findings if the survey were to be repeated at a future point in time.

The results show that White jurors are more likely than African-American or Latino jurors to perceive fair outcomes. The difference between the perceptions of White and African-American jurors is deep: 63 percent of White and 21 percent of African-American (former) jurors believe that outcomes are always or usually fair. Latinos occupy a middle ground with 48 percent of former jurors believing that outcomes are always or usually fair.

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<sup>2</sup> A single jurisdiction study (Orange County, California) concluded, “Those with lower occupational status and lower annual incomes are particularly significantly underrepresented” (Fukurai, 1996:82-3). Minority group jury pools were found to especially overrepresent more affluent group members.

<sup>3</sup> However, the screening question used to identify people with recent court experience for inclusion in the quota might have been prompted to think about that experience when answering the initial bank of fairness questions despite the wording of those questions.

**Table 4.2: The Frequency of Fair Outcomes and Procedures: The Views of Recent Court Users**

	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness/ Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/ Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/ Other</i>
<b>How often are outcomes fair?</b>									
Always/Usually	40.5	63.4	60.9	12.5	20.9	6.9	34.1	47.8	39.9
Sometimes	42.7	25.1	29.2	48.6	58.1	58.6	36.0	52.2	31.9
Seldom/Never	16.8	10.4	9.9	38.9	21.0	34.5	30.0	0.0	28.3
<b>How often are procedures fair?</b>									
Always/Usually	49.2	71.8	60.8	23.0	26.4	20.7	28.0	67.6	60.6
Sometimes	31.9	17.9	29.0	47.5	56.3	58.6	50.4	28.1	22.0
Seldom/Never	19.0	10.3	10.1	29.5	17.2	20.7	21.6	4.3	17.3

Furthermore, there is a slight difference between the perceptions of African-American litigants and African-American jurors; jurors are more positive. Among Whites and Latinos, however, jurors are far more likely than litigants to perceive fair procedures. African-American jurors are far less positive about the fairness of outcomes and procedures than their White and Latino counterparts. Only one in four sees procedures and one in five sees outcomes as “always” or “usually” fair.

Among recent litigants, the perceptions of African-Americans and Latinos tend to be more negative than Whites. African-Americans again are highly negative: 39 percent see outcomes and nearly one-third see procedures as seldom or never fair.

The main effects of race and type of court experience were statistically significant (at the .0001 level). Main effects refer to the influence of one variable when the other is held constant, as measured through a Two-Way ANOVA. The interaction between race and type of experience was not significant.

*How fair was the court in your case?*

Survey respondents with a recent court experience were read two statements describing the extent to which court outcomes and court procedures were fair. They were then asked, “Based on what you saw judges or court staff do or say, please tell me whether you strongly agree, somewhat agree, somewhat disagree or strongly disagree with each statement:”

- Fair procedures were used to make decisions about how to handle the situation
- The outcome of those procedures was fair

The proportion of respondents that strongly or somewhat agree with those statements is shown in Table 4.3.

**Table 4.3: The Proportion of Court Users with a Positive View of Fairness in Outcomes and Procedures**

	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>
<b>Saw Fair Outcomes</b>									
Strongly Agree	44.3	69.0	54.1	27.5	70.3	45.5	41.5	76.2	54.5
Somewhat Agree	16.4	21.1	16.2	18.7	13.5	18.2	24.5	19.0	18.2
Somewhat Disagree	12.9	7.0	5.4	12.1		9.1	5.7	4.8	18.2
Strongly Disagree	26.4	2.8	24.3	41.8	16.2	27.3	28.3	0.0	9.1
<b>Saw Fair Procedures</b>									
Strongly Agree	41.0	68.0	52.5	32.0	54.3	61.5	44.6	85.7	75.0
Somewhat Agree	21.5	24.0	17.5	26.8	37.1	0.0	21.4	14.3	16.7
Somewhat Disagree	13.9	4.0	12.5	10.3	2.9	7.7	7.1	0.0	0.0
Strongly Disagree	23.6	4.0	17.5	30.9	5.7	30.8	26.8	0.0	8.3

The majority of White and Latino respondents believe that they observed fair outcomes and fair procedures when in court. While Latinos tended to be more positive than Whites in their perceptions of procedural fairness, African-Americans were distinctly less positive, particularly in reference to fairness of outcomes. The influence of race/ethnicity was not statistically significant, however. The influence of race/ethnicity on whether procedures were fair came close to significance (.06).

When asked about the court case in which they were involved, jurors are often dramatically (for African-Americans) more likely than litigants to agree that they saw fair outcomes and procedures. Witnesses and those with other court involvement experienced both outcomes and procedures as more fair than litigants, but less fair than jurors. The influence of court role was statistically significant for both aspects of fairness. (NB: the base of African-Americans and Latinos in the witness/other category is very small, and thus an unstable base on which to calculate a percentage. However, this is the best, if not only, data that speak to the influence of serving as a witness as it might vary by race or ethnic group. )

*Procedural Justice Evaluations*

Survey respondents with recent court experience were asked to say whether they agreed or disagreed with a set of statements drafted to represent various elements of procedural justice. This statement prefaced the questions:

11. Now I am going to ask you about how you think you were personally treated in that court case. I am going to read you a list of statements about that court case. Based on what you saw judges or court staff do or say, please tell me whether you strongly agree, somewhat agree, somewhat disagree or strongly disagree with each statement. Remember we are asking about how **you** were treated personally.

The percentages in Table 4.4 indicate the proportion of favorable responses (strongly agreeing or agreeing that they were favorably treated). The statements are

presented according to the element of procedural fairness that they were designed to measure.<sup>4</sup>

**Table 4.4.1: The Percentage of Court Users with a Positive View of How Respectfully They Were Treated**

RESPECT	<i>Litigant</i>	White			African-American			Latinos		
		<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	
<b><i>I was treated politely</i></b>										
Strongly Agree	57.4	83.3	70.5	38.8	81.6	69.2	49.2	90.5	58.3	
Somewhat Agree	23.0	15.5	20.5	25.5	10.5	23.1	25.4	4.8	33.3	
Somewhat Disagree	7.4	1.2	4.5	11.2	2.6	0.0	11.9	4.8	8.3	
Strongly Disagree	12.2	0.0	4.5	24.5	5.3	7.7	13.6	0.0	0.0	
<b><i>I was treated with respect and dignity</i></b>										
Strongly Agree	53.1	79.5	72.7	37.8	71.1	69.2	48.3	85.7	75.0	
Somewhat Agree	21.8	19.3	6.8	25.5	15.8	23.1	25.9	9.5	25.0	
Somewhat Disagree	10.9	0.0	11.4	9.2	5.3	0.0	10.3	0.0	0.0	
Strongly Disagree	14.3	1.2	9.1	27.6	7.9	7.7	15.5	4.8	0.0	
<b><i>My rights taken into account</i></b>										
Strongly Agree	42.6	74.7	73.2	36.8	61.8	75.0	46.7	85.7	75.0	
Somewhat Agree	25.7	16.5	9.8	23.2	26.5	8.3	20.0	14.3	25.0	
Somewhat Disagree	12.2	5.1	7.3	8.4	2.9	0.0	8.3	0.0	0.0	
Strongly Disagree	19.6	3.8	9.8	31.6	8.8	16.7	25.0	0.0	0.0	

Litigants consistently perceived the least amount of respect. Jurors tended to be the most positive, although in some instances witnesses perceived the same or even slightly higher levels of respectful treatment. The highest levels of agreement to all three questions were by Latino jurors. The gap between litigants and jurors was large for African-Americans and Latinos; at times, that gap came close to being two to one in agreement levels.

Only the kind of court experience exerted a statistically significant influence for all the variables indexing the respect element of procedural fairness. The exception was the relationship of race to the statement “The judge and staff did not care about my concerns.” The main effects of role in court were significant for all variables relating to respect. There was an interaction between race and court role in agreement with the statement, “I was able to say what was on my mind.” There, the influence of court role was conditioned upon the respondents racial/ethnic group.

<sup>4</sup> A similar pattern of findings emerges from a series of statements describing what the respondent observed in the courtroom rather than what they experienced (for example, “People were treated politely” and “A person’s race or ethnic group made no difference in how the court treated them”).

**Table 4.4.2: The Percentage of Court Users with a Positive View of How Neutrally They Were Treated**

NEUTRALITY	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>
<i>My race made a difference</i>									
Strongly Agree	10.4	8.5	12.5	26.3	11.4	30.8	26.3	14.3	8.3
Somewhat Agree	8.1	9.8	5.0	20.0	17.1	0.0	12.3	19.0	8.3
Somewhat Disagree	10.4	7.3	7.5	13.7	14.3	7.7	17.5	4.8	16.7
Strongly Disagree	71.1	74.4	75.0	40.0	57.1	61.5	43.9	61.9	66.7
<i>I was treated the same as others</i>									
Strongly Agree	53.6	82.1	69.0	40.0	74.4	61.5	41.1	85.7	91.7
Somewhat Agree	17.1	13.1	11.9	20.0	5.1	15.4	28.6	9.5	8.3
Somewhat Disagree	14.3	2.4	2.4	12.2	12.8	0.0	5.4	4.8	0.0
Strongly Disagree	15.0	2.4	16.7	27.8	7.7	23.1	25.0	0.0	0.0

The two questions chosen to index the element of neutrality dealt with race, one directly and one indirectly. African-American and Latino former litigants had relatively similar views on whether they were treated the same as others. A substantial proportion of respondents in those groups perceived unfairness based on their racial or ethnic group. There is a similar pattern for former jurors in the response given to the statement, “My race made a difference.” Overall, though, the majority of respondents in each subcategory agreed that the courts had treated them neutrally. The influence of both race and role in court were statistically significant. That significance was marginal in the influence of race on the statement “I was treated the same as everyone else” and the influence of court role on the statement “My race made a difference in how I was treated.”

**Table 4.4.3: The Percentage of Court Users with a Positive View of Their Ability to Participate**

PARTICIPATION	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>
<i>I was able to speak my mind</i>									
Strongly Agree	43.1	77.5	47.6	41.5	73.0	92.3	30.4	81.0	72.7
Somewhat Agree	17.4	12.5	23.8	13.8	10.8	0.0	17.9	14.3	18.2
Somewhat Disagree	12.5	2.5	4.8	7.4	5.4	0.0	7.1	4.8	0.0
Strongly Disagree	27.1	7.5	23.8	37.2	10.8	7.7	44.6	0.0	9.1
<i>My views were expressed</i>									
Strongly Agree	41.8	82.5	59.5	39.6	76.3	76.9	32.1	80.0	75.0
Somewhat Agree	23.3	10.0	11.9	14.6	7.9	15.4	23.2	15.0	25.0
Somewhat Disagree	13.7	2.5	7.1	6.3	2.6	0.0	12.5	0.0	0.0
Strongly Disagree	21.2	5.0	21.4	39.6	13.2	7.7	32.1	5.0	0.0

Jurors tended to believe that they were able to participate. There is no real difference among racial and ethnic groups. Litigants were less positive. A significant proportion of litigants consistently disagreed with the statements positing that they had a voice in the proceedings.

Table 4.4.4: The Percentage of Court Users with a Positive View of the Trustworthiness of Courts

TRUST	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness</i>
<i>My views were considered</i>									
Strongly Agree	37.4	80.2	64.3	32.6	66.7	53.8	36.2	65.0	75.0
Somewhat Agree	22.4	9.9	14.3	23.2	12.8	15.4	24.1	25.0	25.0
Somewhat Disagree	11.6	1.2	7.1	8.4	7.7	7.7	10.3	5.0	0.0
Strongly Disagree	28.6	8.6	14.3	35.8	12.8	23.1	29.3	5.0	0.0
<i>The judge and staff did not care about concerns</i>									
Strongly Agree	26.6	2.5	16.3	34.4	22.9	23.1	33.3	4.8	8.3
Somewhat Agree	11.9	1.3	16.3	15.6	5.7	15.4	19.3	4.8	8.3
Somewhat Disagree	20.3	16.5	9.3	12.5	8.6	23.1	10.5	28.6	8.3
Strongly Disagree	41.3	79.7	58.1	37.5	62.9	38.5	36.8	61.9	75.0

Former litigants tended to perceive low levels of trustworthiness in the courts. There were no significant racial/ethnic group differences. A distinctive pattern also present for all three racial/ethnic groups is the polarized nature of levels of agreement to the statements. Responses were clustered in the two “strongly” options (agree or disagree).

Former jurors and witnesses, on the other hand, tended to agree that the court was trustworthy. That trend was less pronounced for African-Americans than for their White or Latino counterparts.

African-American and Latino litigants responded less positively than Whites to statements regarding neutrality and participation. Jurors across all racial and ethnic groups rated the courts as treating them very fair overall. However, jurors expressed the most negative rating on whether courts treated people differently based on their race or ethnicity.

We can step back from the responses to individual questions or individual elements of procedural justice to glimpse the forest from the trees. Overall, respondents with recent court experience tend to have a generally positive view of how fairly they were treated. On average, Whites responded in a positive manner to 78 percent of the statements included in Table 4.4, African-Americans to 66 percent, and Latinos to 71 percent.

An overall index *Procedural Justice Index* combines responses the questions considered into a summated (Questions 10 and 11, with Chronbachs Alpha = .88). The low value on the scale is one and the high value a four. The average scores reinforce the points made above (see Table 4.5). Recent jurors and witnesses in all racial and ethnic categories have a positive view of how they were treated by the courts; recent litigants have gloomier assessments, especially African-Americans and Latinos.

**Table 4.5: Average Procedural Justice Experienced  
by Role in Court and by Race\***

	<i>Litigant</i>	<i>Juror</i>	<i>Witness/ Other</i>
White	2.92 (.91)	3.68 (.49)	3.23 (.92)
African-American	2.61 (1.05)	3.42 (.71)	3.23 (.84)
Latino	2.77 (.91)	3.68 (.42)	3.57 (.52)

\*Parentheses contain the standard deviation for each average

The influence of both race/ethnicity and role in court are statistically significant, the interaction term is not.

### How do Former Court Users Rate the Courts

#### *Favorability*

Respondents with recent court experience were shown in the last chapter to view the courts in their community less favorably than did the general population. Favorability was rated on a scale of one to five, with five the highest rating. Respondents with recent court contact scored, on average, 2.9 (standard deviation, 1.1) and those without experience scored an average of 3.1 (standard deviation, .9). The average scores for each combination of race/ethnicity with role in court are found in Table 4.6 (parentheses report standard deviations).

**Table 4.6: Average Ratings for How Respondents Feel About Courts**

	<i>Litigant</i>	<i>Juror</i>	<i>Witness/ Other</i>
White	2.81 (1.07)	3.18 (1.03)	3.15 (1.02)
African-American	2.41 (1.09)	2.73 (.95)	2.59 (.64)
Latino	2.92 (.98)	3.24 (.81)	2.92 (.77)

All averages lie close to the middle value of 3.0. Among former jurors, Latinos are the most favorably inclined and African-Americans, by a considerable margin, the least favorably inclined. The direct influences of race/ethnicity and court role on favorability toward the courts are statistically significant. The race/ethnicity by court role interaction is not significant.



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### *Handling of Cases*

Support for the court of a more specific kind was rated based on how well courts were perceived to handle five types of cases. The survey offers several specific measures of public support for the courts based on questions about how well “the courts in your community” handle five kinds of cases. Interviewers at the Public Opinion Lab asked each respondent, “On a scale from 1 to 5, with 1 being the very lowest rating and 5 being the very highest, please tell me how well you think the courts in your community handle each of the following kinds of cases” (see Table 4.7 for the list of cases).

The last chapter identified a tendency for respondents with recent court contact to have less specific support for the courts. The gap in support based on court experience was not great and was in the reverse direction for Latinos: those with recent court contact provided more support than those without such experience (based on a summated scale combining the responses to the five relevant questions).

Looking at the role respondents played in court indicates some association between type of court experience and how well cases are perceived to be handled. Moreover, there were distinctive patterns associated with the three racial and ethnic groups being considered. The direction and magnitude of the differences can be gauged in Table 4.7 (see next page).

Former jurors and witnesses are more positive in their ratings than were litigants among Whites and African-Americans. There is no clear difference in the averages of the ratings given by Latino jurors and litigants. Both groups provide high, in a relative sense, ratings of 3.4 (litigants) and 3.2 (jurors/witnesses). Few differences are statistically significant. Race effects are significant for violent offenses (and close to the .05 level of significance for drug and juvenile cases). Role in court matters to a statistically significant degree for ratings of the handling of violent offenses and juvenile cases. Interaction effects are not significant (based on Two-Way Analysis of Variance tests).

### *Antecedents to Evaluations about the Courts*

The antecedents of feelings of favorability toward the courts among former court users were examined in a logistic (binary outcome variable) regression including as predictors demographic variables, the role a person played in court (distinguishing civil from criminal), their support for non-traditional court roles, perceived procedural justice that they experienced, and whether courts are timely and affordable (speed and cost).<sup>5</sup> The array of demographic variables is more extensive than in previous regressions. Income and education are included as categorical variables. The dependent variable has a value of one if the respondent is favorably inclined and zero if unfavorably inclined toward the courts

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<sup>5</sup> An OLS regression was run with the same variables, with equivalent results.

**Table 4.7 \***  
Average Ratings of How Well Cases are Handled,  
by Race/Ethnicity and Type of Court Experience

	<u>Litigant</u>	<u>Juror</u>	<u>Witness</u>
<b>Court handles violent crimes?</b>			
White	<b>3.1</b> (174)	<b>3.6</b> (89)	<b>3.3</b> (49)
African-American	<b>2.7</b> (101)	<b>3.0</b> (43)	<b>3.0</b> (14)
Latino	<b>3.2</b> (63)	<b>3.7</b> (22)	<b>3.3</b> (11)
<b>Court handles drug crimes?</b>			
White	<b>2.9</b> (183)	<b>3.2</b> (90)	<b>2.9</b> (51)
African-American	<b>2.5</b> (100)	<b>2.8</b> (44)	<b>2.7</b> (14)
Latino	<b>3.3</b> (62)	<b>3.4</b> (21)	<b>2.9</b> (13)
<b>Court handles civil cases?</b>			
White	<b>3.1</b> (167)	<b>3.3</b> (87)	<b>3.2</b> (43)
African-American	<b>3.0</b> (102)	<b>3.2</b> (38)	<b>3.2</b> (14)
Latino	<b>3.4</b> (59)	<b>3.3</b> (21)	<b>3.3</b> (11)
<b>Court handles family cases?</b>			
White	<b>3.0</b> (176)	<b>3.2</b> (85)	<b>3.2</b> (45)
African-American	<b>2.7</b> (100)	<b>3.0</b> (40)	<b>2.7</b> (14)
Latino	<b>3.3</b> (60)	<b>3.3</b> (22)	<b>3.4</b> (11)
<b>Court handles juvenile cases?</b>			
White	<b>2.7</b> (176)	<b>3.0</b> (85)	<b>2.6</b> (43)
African-American	<b>2.5</b> (102)	<b>2.7</b> (39)	<b>2.5</b> (14)
Latino	<b>2.9</b> (63)	<b>3.4</b> (21)	<b>2.5</b> (11)

\*Standard deviations are not reported. They fall in the range of 0.9-1.4, yielding mean to standard deviation ratios of 3:1 or 2:1

**Table 4.8 Logistic Regression: Influences on the Favorability Toward the Courts**

<u>Variable</u>	<u>B</u>	<u>Sign.</u>	<u>Exp (B)</u>
Constant	-1.370	.382	.254
Procedural justice	1.359*	.000	3.893
Cost and Speed	-.187*	.028	.829
Support for New Roles	.040	.378	1.040
Juror	.254	.498	1.289
Civil defendant	.045	.899	1.046
Civil Plaintiff	-.131	.784	.877
Criminal Defendant	-.542	.173	.582
Education		.906	
Level 1	-.059	.900	.942
Level 2	-.219	.613	.803
Level 3	-.018	.969	.982
Income		.563	
Level 1	-.355	.341	.701
Level 2	.013	.963	1.013
Age	-.007	.489	.993
African-American	.202	.473	1.224
Latino	-.728	.065	.483
<i>Log Likelihood</i>	<b>426.057</b>		
<i>LR<math>\chi^2</math></i>	<b>165.169</b>		

Logistic regression models are evaluated by goodness of fit measurements shown at the bottom of the table. The models fit the data. Overall, 80 percent of the time this model can predict who is favorable toward the courts. Nonetheless, only two variables, both attitudinal, are statistically significant. The stronger a person's perception of procedural justice, the higher the favorability rating. Perceptions of cost and delay lower favorability. Demographic characteristics and the role a person played in court were not related to favorability ratings. Therefore, the results are nearly identical to those found in Chapter 3 for people with recent court experience. At least in this analysis, whether a person was a juror, witness, or litigant does not appreciably affect how favorably they view the courts in their community.

Factors other than court role and race/ethnicity also underlie differences in how people rate the way courts handle various kinds of cases. A series of multiple regressions was carried out, one for each kind of case<sup>6</sup>. The equations included other demographic characteristics (gender, age, education, household income), support for non-traditional court roles, perceptions of procedural justice, as well as whether the respondent had been a juror, litigant, or witness.

<sup>6</sup> Multiple regression is the appropriate statistical technique because the variable being predicted, how well courts handle cases is not binary: possible scores range from 1 to 5.

The models explain a moderate amount of the variation in the ratings people gave (from a low of 8 percent for juvenile cases to 20 percent for violent offenses like robbery). Procedural justice dominates all of the models (Table 4.9). It is the sole significant variable in the model for family cases. Role in court was significant for none of the types of court cases. Race was significant in predicting ratings of how courts handle drug cases and violent offenses: African-Americans tended to give lower ratings to the courts for those cases.

Support for non-traditional court roles has a negative relationship to ratings on how well courts handle cases, suggesting that support comes from people disaffected from the courts as they currently operate. That relationship is marginally significant for juvenile, civil, and drug cases (at 0.10 level), and significant for violent offenses (at .05 level).<sup>7</sup>

Table 4.9: Influences on Ratings of How Well Courts Handle Kinds of Cases:  
Multiple Regression

	Beta Coefficients				
	<u>Violent</u>	<u>Drug</u>	<u>Civil</u>	<u>Family</u>	<u>Juvenile</u>
Respondent gender (high=female)	-.07	<b>-.10*</b>	-.08	.03	-.04
Respondent age	-.03	-.09	-.03	-.06	-.07
Grouped education levels	-.04	-.04	-.04	-.02	-.02
Grouped income	-.05	.02	-.07	-.02	.01
African-American	<b>-.11*</b>	<b>-.09*</b>	-.06	-.05	-.07
Latino	-.01	.09	.01	.06	.01
Criminal defendant	-.07	.02	.01	.05	.01
Civil defendant	-.05	<b>.10*</b>	.09	-.03	.06
Civil plaintiff	-.06	.02	.03	.00	-.02
Juror	-.07	-.01	.02	.01	.01
Support new roles	<b>-.09*</b>	<b>-.09*</b>	-.04	-.03	-.07
Procedural justice (higher more pj)	<b>.43*</b>	<b>.37*</b>	<b>.32*</b>	<b>.41*</b>	<b>.31*</b>
Adjusted R-Squared	.20*	.15*	.10*	.17*	.08*

P < .05

### How Fair Are the Courts Likely To Be in a Future Case?

After respondents were asked to rate the fairness of their court experience, the respondents were asked: “Based on your experience in that recent court case, if you appeared in court as a party in the same kind of case in the future: How fair do you think the outcome you received from the court would be? And how fair do you think the judge would be in the way he or she treated you and handled your case? Would you say very fair, somewhat fair, somewhat unfair, or very unfair?”

Recent litigants and jurors anticipate fair outcomes and fair treatment if they returned to court on a similar matter (Table 4.10). African-Americans are less optimistic, but the influences on expected treatment coming from race/ethnicity are not statistically

<sup>7</sup> Other variables of marginal significant (that is, at .10 level) include gender in the model for violent offenses (women tend to give lower ratings, other things being equal) and a negative influence on ratings for drug crimes from having been a civil defendant.

significant. However the influence of role in court is significant for expectations recent court users hold of both outcomes and treatment. There is a tendency for respondents with all kinds of recent court contact to give the courts higher marks for procedural fairness than for outcome fairness.<sup>8</sup>

**Table 4.10: The Proportion of Court Users with a Positive View of Fairness in Outcomes and Procedures**

	White			African-American			Latinos		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>
<b>Expect Fair Outcomes</b>									
Strongly Agree	30.5%	54.4%	38.1%	22.7%	47.2%	28.6%	14.8%	60.0%	50.0%
Somewhat Agree	41.8	36.7	35.7	34.0	36.1	35.7	51.9	30.0	41.7
Somewhat Disagree	9.9	7.6	9.5	19.6	8.3	28.6	16.7	10.0	8.3
Strongly Disagree	17.7	1.3	16.7	23.7	8.3	7.1	16.7	0.0	0.0
<b>Expect Fair Procedures</b>									
Very Fair	39.2	57.8	46.7	24.7	47.2	28.6	25.5	73.7	66.7
Somewhat Fair	32.2	34.9	31.1	34.0	44.4	57.1	43.6	21.1	25.0
Somewhat Unfair	14.0	6.0	11.1	30.9	2.8	7.1	14.5	5.3	8.3
Very Unfair	14.7	1.2	11.1	10.3	5.6	7.1	16.4	0.0	0.0

### How Likely are Recent Court Users to Return to Court in a Future Dispute?

A telling assessment of someone’s recent court experience comes in response to a question about one’s behavioral intentions. “How likely would you be to go to the courts to resolve a similar dispute you became involved in at some point in the future?” A significant minority (44 percent overall) replied that they were “very unlikely” or “unlikely” to return to court.<sup>9</sup>

**Table 4.11: How Likely are Recent Court Users to Go to the Courts in a Future Dispute?**

	White			African-American			Latino*		
	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>	<i>Litigant</i>	<i>Juror</i>	<i>Witness/Other</i>
Very Likely	30.7	28.4	54.8	37.8	36.8	42.9	19.0	30.0	41.7
Likely	19.0	29.6	19.0	19.4	13.2	21.4	22.4	30.0	33.3
Unlikely	19.6	24.7	4.8	11.2	18.4	0.0	24.1	15.0	8.3
Very Unlikely	30.7	17.3	21.4	31.6	31.6	35.7	34.5	25.0	16.7

\*NB: Percentages for witnesses/others are based on very small numbers.

<sup>8</sup> The category of litigant contains a higher proportion of former criminal defendants among Latinos, relative to African-Americans and Whites.

<sup>9</sup> The question (No. 20 in the survey) about likelihood of returning to court was asked of all respondents with court experience, litigants, jurors and witnesses alike. The question’s wording references “a similar dispute you became involved in at some point in the future?” Participation in a “similar dispute” is typically not voluntary—few of the respondents in the survey chose to have the contact with the court that led to their inclusion in the present survey. The question nonetheless has value as an index of how people evaluated their court experience. Only 3 percent of respondents did not answer the question. The context of the question provides confidence in its utility. It was asked after 25 questions specifically based on the respondent’s court experience. Also, the question was the third in a set of questions about expectations of treatment in a future court case, prefaced by, “Based on your experience in that recent court case, if you appeared in a court as a party in the same kind of case in the future . . .”

Latinos are the least likely litigants (41 percent are “very likely” or “likely”) and, by a slim margin, the most likely jurors or witnesses (60 percent) to be willing (that is, “very likely” or “likely”) to return to court.

African-Americans are about equally likely to return to court whether their experience was as a litigant (57 percent) or as a juror (50 percent). Among whites, 50 percent of litigants and 58 percent of the former jurors felt that they were likely to return to court.

Neither role in court nor race are very consequential, however, for predicting which recent court users are likely to use the courts in the future. The influence associated with race/ethnicity is not statistically significant, while that based on court role is significant at the .05 level (.034). It is noteworthy that there is little apparent enthusiasm for returning to court even among former jurors.

### Do Experiences Affect Decisions to Use Courts in the Future?

There have been claims that negative court experience leads to lower support for the courts, but that positive experiences have no lasting influence on orientations toward the courts. Respondents in the current survey were not asked directly to rate their experience as positive or negative. They were, however, asked to rate the fairness of the procedures they encountered and the kind of treatment they expected to receive in a future encounter with the courts. The two questions used, on expected fairness of procedures and on expected fairness of outcomes, were combined into a single scale. That scale was combined with the role a person played in court and their demographic characteristics into a model predicting the likelihood of going to court again (Table 4.12).

**Table 4.12 Likelihood of Future Court Use: Logistic Regression**

[0 = not likely; 1 = likely]

<u>Variable</u>	<u>Coeff</u>	<u>Sign.</u>	<u>Exp (B)</u>
Constant	-.900	.336	.407
Procedural justice	.779*	.000	2.179
Expect Fairness	-1.77*	.037	.837
Juror	-.983*	.001	.374
Litigant	-.559*	.031	.572
African-American	.325	.178	1.384
Latino	-.239	.413	.788
Age	-.007	.369	.993
Education		.060	
Education 1	.624*	.010	1.865
Education 2	.093	.761	1.097
Education 3	.286	.439	1.331
<i>Log Likelihood</i>	<b>572.020</b>		
<i>LR<math>\chi^2</math></i>	<b>105.670</b>		

A logistic (binary outcome variable) regression analysis was conducted on how likely respondents would be to go to court again (see Table 4.12). Logistic regression models are evaluated by goodness of fit measurements shown at the bottom of the table.

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Overall, 71 percent of the time this model can predict who will be likely to return to the courts at a later date to resolve a dispute.

The index of perceived procedural justice strongly affected the likelihood of returning to court to resolve a future dispute. The better treatment, the more likely they were to return, regardless of other demographic characteristics. Expectations for future treatment—fairness of outcomes and procedures—were also influential. The relationship is negative due to the way expectations are measured: the scale is constructed so that a low value means the respondent expects fairness.

In addition to the quality of treatment experienced, the court users' role was an important predictor of future court use. When controlling for how well the participants were treated and saw others treated by the courts, jurors and litigants were less likely to use the courts in the future compared to witnesses. Plaintiffs from civil suits were most likely to return to court in the future. Criminal defendants and defendants in civil cases were less likely than plaintiffs (but not quite to a significant degree).

Logistic regressions also were run separately for African-Americans, Latinos, and Whites (Table 4.13). There are some common findings from the three models. If respondents believed that courts were procedurally fair, they were more likely to return to court regardless of the racial/ethnic group. Former court users' expectations of fair outcomes and procedures also contributed to a likelihood of returning to court.

The respondent's role in court also made a difference to the likelihood of returning to court. However, the nature of that influence varied across groups. Latinos and Whites who had been criminal defendants were less likely to return (relative to the missing role of witness). Jurors were less likely than witnesses by a statistically significant degree to return among African-Americans and Whites, but not among Latinos. African-American respondents were least likely to return, regardless of whether they appeared as a criminal defendant or not. It is notable that having been an African-American juror was strongly and negatively related to the likelihood of returning to court in the future.

Overall, these models can predict the percentage of responses indicating that the respondent will return to court in the future based on the individual factors included in the model.<sup>10</sup> The percentage of correctly classified responses is listed in the table. The model best predicts African-American and White responses at 72.3 percent and 71.4 percent, respectively. The model as applied to Latinos was less successful, predicting likelihood correctly for 65.1 percent of the respondents. All three models do a better job at predicting the responses given by respondents than does the null hypothesis, which is the frequency of respondents saying they will return to court in the future (ranges between 52.3 and 58.4 percent).

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<sup>10</sup> A goodness of fit measurement often used with logistic regression is the '-2 log likelihood'. All three models meet the accepted standard set by the Chi-square tests with 8 degrees of freedom (there are 8 variables in the model).

**Table 4.13: Antecedents of Likelihood of Returning to Court: Logistic Regressions by Race/Ethnicity**

<i>White, Non-Hispanic</i>			
	<b>B</b>	<b>S.E.</b>	<b>Exp (β)</b>
Gender (high=female)	-.040	.292	.961
Age	-.012	.012	.988
Procedural Justice	.531*	.263	1.701
Expectation for Future Court Experience	-.314*	.120	.731
<b>Role in Court</b>			
Criminal Defendant	-1.117*	.451	.327
Civil Defendant	-.992	.544	.371
Civil Plaintiff	-.181	.451	.835
Juror	-.906*	.410	.404
[Reference Witness]			
Log Likelihood	298.707	LR $\chi^2$ (8)	57.078
			Constant .339
<i>African-American</i>			
	<b>B</b>	<b>S.E.</b>	<b>Exp (β)</b>
Gender	-.208	.412	.812
Age	-.013	.014	.987
Procedural Justice	.801*	.315	2.227
Expectation for Future Court Experience	.213	.163	.808
<b>Role in Court</b>			
Criminal Defendant	-.287	.590	.751
Civil Defendant	-.646	.680	.524
Civil Plaintiff	.571	.675	1.770
Juror	-1.201*	.584	.301
[Reference Witness]			
Log Likelihood	163.926	LR $\chi^2$ (8)	37.963
			Constant .300
<i>White, Hispanic</i>			
	<b>B</b>	<b>S.E.</b>	<b>Exp (β)</b>
Gender	.255	.509	1.290
Age	-.010	.021	.990
Procedural Justice	1.270*	.480	3.560
Expectation for Future Court Experience	-.268	.228	1.308
<b>Role in Court</b>			
Criminal Defendant	-1.488*	.749	.226
Civil Defendant	-1.298	1.152	.273
Civil Plaintiff	-.928	.832	.395
Juror	-1.125	.736	.325
[Reference Witness]			
Log Likelihood	101.497	LR $\chi^2$ (8)	17.538
			Constant .093

\*p<.05



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## What Sources of Information Shaped Opinions of Courts?

Respondents with recent court experience were asked to rate the relative importance to their overall impression of the courts of ten possible sources of information. The question was: “How important to you are the following sources of information to your overall impression of how the courts in your community work? Are they very important, somewhat important, or not at all important?”

All of the respondents considered here had been to court for some reason during the past year. Nearly one in four was a defendant in a criminal case. The self-rated importance of experience in court is high. However, it does not dominate other sources absolutely—or even largely. Vicarious experience a friend or relative had was very important to the respondents, but so is the person’s own job (see Table 4.14).

**Table 4.14: Proportion of Respondents Rating Various Information Sources as “Very Important”**

Source	
Your experience in court	71%
Experience by a household member	58
Your lawyer	62
Experience by a close relative	49
Experience of a friend	38
Experience of someone you work with	32
Your job	46
What you see on TV news	23
What you read in newspapers	27
What happens during TV Judge Programs	8

Ratings of “not at all important” were rare (based on analysis not presented here). That response was given by less than 10 percent of respondents for the first five sources referenced. Less than one in five respondents gave a “not at all important” rating for someone you work with, your job, and what you read in the newspapers. One respondent in four did not see “what you see on TV news” as unimportant. However, 68 percent rated “what happens during TV Judge programs” as of no importance.

There are differences associated with race and ethnicity (Table 4.15). Their own experience in court was cited most frequently as very important to their overall impression of courts.<sup>11</sup> This was less common among Latinos, however. Other highly important sources were court experiences of family or friends, news media and their lawyers. Less important for some people was one’s job or one’s colleagues’ experience.

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<sup>11</sup> Experience in court was a very strong correlate of how favorably people view the courts. A summated scale measuring how positive respondents’ personal experience was (in terms of procedural justice) has a correlation of .56 with ratings of favorability.

**Table 4.15: Percent Rating Source as “Very Important” on Overall Impression of Courts**

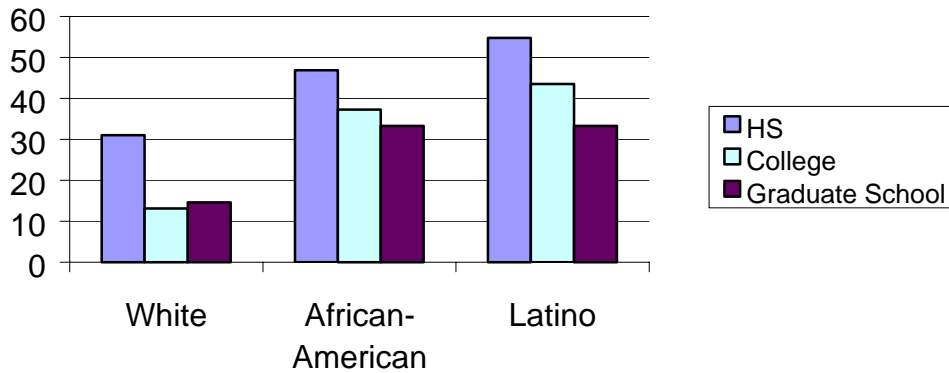
	<u>Whites</u>	<u>African-Americans</u>	<u>Latinos</u>
Your experience in court	70.4	77.0	55.0
Experience by a household member	59.0	63.0	53.0
Your lawyer	61.0	66.0	59.0
Experience by a close relative	46.0	65.0	54.0
Experience of a friend	39.0	41.0	33.0
Experience of someone you work with	29.0	32.0	28.0
Your job	41.0	61.0	53.0
What you see on TV news	21.0	33.0	42.0
What you read in newspapers	25.0	34.0	46.0
What happens during TV Judge Program	3.0	15.0	21.0

Generally, the three racial and ethnic groups report similar patterns of information sources. There are exceptions, however. African-Americans and Latinos tend to attach greater importance than Whites to print and electronic news media. The strongest difference is in the importance attached to “Judge Judy” or “The People’s Court”. Few (3 percent) Whites reported that these types of shows were very important to what they thought of the courts, compared to 15 percent and 21 percent, respectively, of African-Americans and Latinos.<sup>12</sup> Evidence from other surveys suggests that viewers distinguish between the “real” courts and those operating under the auspices of television networks. For example, viewers of “reality-based” television are less likely to agree with the statement: “It would be possible for me to represent myself in court if I wanted to” (National Center for State Courts, 1999:25).

The difference between Whites and minority group members is striking, but there is another noteworthy aspect to the rates at which groups rely on TV reality programs for information. Overall, respondents with lower education levels were the most likely to attach importance to TV judges. However, the relationship between educational level and reliance on TV programs differs by (that is, interacts with) race/ethnicity (see Chart 4.1). The negative relationship between education level and importance of TV judges as an information source is not as strong for African-Americans and (especially) for Latinos relative to Whites.

<sup>12</sup> If we combine the response categories of very important and important, we find that 18 percent of Whites, 43 percent of African-Americans and 47 percent of Latinos rely on TV judges as a source of information about the courts. A similar pattern (based on the frequency with which people report getting information about the courts) emerged from the 1999 national survey, *How the Public Views the State Courts* (National Center for State Courts, 1999:20) of the adult population (not only those with recent court experience). The same survey found that Latinos were significantly more likely than Whites to agree with the statement “The media’s portrayal of the courts is mostly accurate (page 21).” However, the comparison of the present findings to those from the 1999 survey suggests that reliance on TV judges is considerably higher among those with recent court experience, a reflection, no doubt, of selection effects associated with drawing a sample of recent court users rather than a precursor or consequence of court experience.

**Chart 4.1: Comparison of Race and Education Level on Importance of TV Judge Shows**



### **The Distinctiveness of Latino Perceptions about the Courts**

The previous chapter considered whether Latinos could be characterized as holding views about the courts that were distinctive from the views of African-Americans and Whites. Here, the analysis is extended to include responses that were given to questions based on a recent personal court experience.

What our data say about whether Latinos hold beliefs that are more similar to Non-Hispanic Whites or African-Americans is summarized in Chart 4.2. The pattern of opinions held by Latinos for each factor listed is categorized based on previously reported analyses either with African-Americans or Whites. In one instance, for the overall procedural justice index, Latino views did not match those held by either of the other racial\ethnic groups sufficiently to allow categorization.

The chart's first section illustrates that within the general population, Latinos are more likely to respond in a manner similar to Whites than to African-Americans. This is consistent with the tendency for Latinos as a group to share the views of Whites concerning the amount of discrimination in society at large. The only exception at the general level is that Latinos, like African-Americans, very strongly support changes to the traditional role of the courts.

Whites were less likely to support changes in the traditional court role and were less likely to perceive discrimination by the courts than African-Americans. However, Whites were more likely than African-Americans to rate the performance of the courts, quality of treatment by the courts, and an overall evaluation of the courts in various case types as positive. Latinos were more likely to respond in a manner similar to Whites on most of the predictor variables. Yet, Latinos were more closely aligned to African-Americans in terms of support for a change to the traditional hands-off approach by courts to underlying social and psychological problems.

The second section in Chart 4.2 specifies how Latino respondents with court experience compared to other racial groups. Overall, Latino court users reported that they saw fair treatment for the most part. However, when asked how well courts treated the respondents personally, both Latinos and African-Americans reported worse treatment than was reported by Whites. Latinos, like African-Americans, believed their race made a difference in how they were treated.

Although Latinos report that they anticipated being treated fairly in the future (as do Whites), they were unlikely, as is consistent with African-Americans, to feel it is likely that they would turn to the courts to resolve future disputes.

All court users were asked which sources of information were influential of their opinion of the courts. All three major racial and ethnic groups rated their own personal experience as most influential. Respondents only varied on a couple sources. For instance, African-Americans and Latinos were both more likely than Whites to report that the media (TV and newspapers) and TV Judge Shows (e.g., Judge Judy) was an influential source for opinions of the local courts.

**Chart 4.2: How Do Latinos Compare to Whites and African-Americans?**

	Whites	Middle	African-Americans
<b>General Population</b>			
Discrimination in Society	▲		
Discrimination by the Courts Index	▲		
Overall Evaluative Index	▲		
Performance Index	▲		
Quality of Treatment Index	▲		
Support for Changing Roles of Courts			▲
<b>Court Experience</b>			
Saw fair outcomes/procedures	▲		
Procedural Justice Index		▲	
Personal treatment			▲
Personally discriminated against			▲
<b>Future</b>			
Expect fair outcome/treatment future	▲		
Likely to use courts future			▲
<b>Sources</b>			
TV Judge Shows			▲

Latinos, thus, hold a distinctive profile of opinions about the courts in their community. There is no empirical basis for treating Latinos as consistently more like Whites or like African-Americans in matters related to the courts. There is some, but not conclusive evidence, that being in court is experienced similarly by African-Americans and Latinos, even if their overall support for the courts differ.

*The Effect of Recentness*

The focus of this report is on people with recent court experience. It was assumed that the impact of court experience would be most strongly present in the immediate aftermath of being to court. Previous research suggests that the influence of court experience is more lasting. People with any court contact, no matter how distant in the past, have been found, in comparison to people with no contact, to (a) rely on different criteria in forming their evaluations of the courts, (b) to rely more heavily on procedural justice considerations in making their assessments, and (c) to have opinions that are easier to predict (see Olson and Huth, 1998).

It is possible to test for the extent to which the same pattern of generalized and durable effects of court experience is present in the current survey. The general sample of randomly selected adults yielded 295 individuals with prior court experience that dates back *more* than 12 months previously and no more recent experience.

The findings from the current survey provide some support for the claims made by other researchers. The variables under consideration explain more of the variation of opinions for those with recent court contact, but not for those with more distant contact (see Table 4.16). That is consistent with findings from other studies (e.g., Olson and Huth, 1998).

**Table 4.16:**  
**Antecedents of Perceived Favorability Towards the Court:**  
Multiple Regression\*

	Beta weights		
	No court contact	Court contact not in last 12 months	Recent court contact
How often do people receive fair outcomes in court?	-.31*	-.24*	-.28*
How often do courts use fair procedures?	-.18*	-.24*	-.28*
Cost and speediness of courts	-.23*	-.19*	-.21*
Support changing roles	-.06		
		.05	-.02
African-American	-.04	.07	.00
Latino	-.01	-.02	.04
Adjusted R-Squared	.28*	.24*	.38*

\* P < .05

\*Low values indicate favorability.

In other respects, the three-fold distinction is unenlightening. There is no continuum in which people with some, but not recent, court experience represent a middle group between those with no prior contact and those with recent contact. There are, however, a few affinities that differentiate courts users as a group from respondents without any prior court experience. Procedural justice is a stronger influence among

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court users on people's assessments and fair outcomes a weaker influence for court users relative than for non-court users (see also Tyler, 2001:229-30).

### **A Look Back**

The data and analysis presented in this chapter supports in part and questions in part findings from previous studies of the joint influence of court experience and race on opinions about courts. In still other respects, the data and analysis point to directions not directly considered by previous studies.

Latinos and African-Americans are more positive about the fairness of outcomes and procedures they personally experienced than about how fairly courts in general treat people.

Perceptions of fairness tended to be moderately positive. Former jurors perceived higher levels of procedural justice when in court than did witnesses or litigants. African-Americans with recent jury experience, however, tended to rate the courts lower than did Whites or Latinos.

Respondents with court experience were neither very favorable nor unfavorable toward the courts in their community. The average score was just below the midpoint value of 3.0 on the five-point favorability measure. Latinos were the most favorable among former jurors and litigants and African-Americans the least favorable. However, favorability ratings were influenced positively by the fairness of procedures experienced and the affordability and timeliness of courts. Race and role in court did not influence favorability ratings.

Ratings of how well courts handle cases were shaped by perceptions of the procedural justice respondents themselves experienced. Demographic variables and the role a person played in their court experience did not influence ratings. However, support for non-traditional court roles was associated with lower ratings for how well violent crimes and substance abuse cases are handled.

As in other studies, procedural justice considerations are of great consequence in people's evaluations of the courts. However, the limited information available on efficiency issues like cost and speed suggests that procedural justice concerns vie with more practical concerns in molding opinions.

A person's race or ethnicity was not a consistent influence on support for the courts or for the likelihood of returning to court. Court role, at least as could be measured in the current survey, also did not consistently influence opinions.

Where race/ethnicity and court role were influential, there effect was direct (with one exception out of numerous criterion variables). The effect of the type of role one played in court was not conditioned upon racial or ethnic group membership. The same

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conclusion emerged in Chapter 3 for the overall influence of whether the respondent had had a recent court experience.

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 among the least positive group, 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 do not influence the likelihood of using the court in the future. Instead, the greatest influence comes from the perceived level of procedural justice respondents experienced. Role in court makes a difference, too. Former jurors were the group least inclined to return to court (relative to former litigants and witnesses). This was not the case among Latinos. The factors considered in this study did not fare very well in predicting whether Latinos say that they are likely to return to court if involved in a similar kind of case.

All in all, Latinos hold distinctive views of the courts. An omnibus category of minority group members, a necessity in most surveys of public opinion on the courts, is inherently unsound. Latinos tend to be similar to Whites in their overall orientation toward the courts. The only clear difference is that Latinos often are more positive than Whites. Latinos, however, experience the courts in a manner similar to African-Americans.

Finally, respondents rated their recent court experience as the most important influence on their overall impression of courts. This was not true for Latinos, however, who appear to regard a wider range of sources as very important in their influence. 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 attached to programs like “Judge Judy” or “The People’s Court” as sources of information by minority group members.

These findings about the influence of the media for Latinos can be tied to findings from other surveys. Specifically, Latinos are significantly more likely than Whites to agree with the statement “The media’s portrayal of the courts is mostly accurate.” Twenty-two percent strongly agreed and 42 percent agreed. The comparable proportions for Whites were 12 and 34 percent (National Center for State Courts, 1999:21; see also Texas, 1998).

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## Chapter 5

### Conclusions and Implications

#### Overview

This chapter looks beyond the array of specific findings drawn from the survey, *Public Opinion on the Courts: A National Portrait and Interpretation*, conducted in March and April 2000. It looks in two directions. The first direction is back to the review in Chapter 1 of findings from other research on opinions about the state courts. The purpose is to assess what had been learned that might benefit the scholarly literature. Findings from the survey are consistent with some conclusions drawn from previous studies but inconsistent with others.

The second direction is to the future, and the purpose is practical. The target audience is people who work in the state courts. Implications for policy and for court operations are considered. Suggestions are made on how to incorporate opinion surveys into the judicial branch's policy-making process.

#### Contributions to Research

##### **The report addressed two primary research questions.**

- What differences exist in how African-Americans, Latinos, and Whites view the state courts?
- What influence does recent and direct court experience have on opinions about the state courts?

The survey and sampling strategy were designed to look at the interrelationship between racial and ethnic group membership and court experience. Previous research had not looked extensively or with national data at the possibility that court experience influences the views of racial and ethnic groups in a similar manner.

The influences associated with race, ethnicity, and court experience were tested based on a number of indicators. The primary indicators were levels of 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.

#### *Main Findings*

Specific conclusions drawn from the survey data were summarized at the end of both Chapters 3 and 4. Taken together, public opinion of the courts can be characterized as follows. The public gives the courts middling ratings of support and low ratings of fairness in procedures, outcomes, and equality of group treatment. A sense of unequal



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treatment of people with low income was more pronounced than inequality in the treatment of African-Americans or Latinos. The survey also highlighted the continuing importance of perceptions that courts are too costly and slow (with delay seen as a major contributing factor to cost in other surveys) for people's overall support for the courts and evaluations of how well they perform.

As a group, people with recent court experience are slightly more negative about the courts, even though they tend to rate their own experiences rather positively. The most telling observation from the survey may be the general lack of enthusiasm for being a party to a future case of a similar kind. It is also curious, and disconcerting to those interested in how to improve 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 and usually are treated fairly. To some extent this supports the conclusion from other studies that positive experience with the courts does not contribute to a favorable image of the courts.

There was variation within these broad tendencies in how people regarded the courts in their community. The direct association between race/ethnicity on opinions tended to be moderate to low, and rarely significant when other factors, like perceptions of procedural justice, were taken into account. Exceptions include the strong association between race and beliefs that courts treat some groups worse than others.

The influence from court experience was stronger than that from race. Still, neither having been recently to court nor the type of experience one had (as could be measured in this survey) were strong influences consistently on support or other opinions. The absence of a strong effect from experience differs from the conclusions drawn from other cross-sectional survey of opinion on the courts (e.g., Silbey, et al., 1993; Miethe, 1995).

Where present, influences on opinion associated with race and with court experience were independent. That is, the effect of one influence was not conditioned on the other. In technical terms, race by experience interaction effects were not statistically significant.

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.

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 sample had too few respondents with recent court experience to make such distinctions feasible. Even the broad, three-fold division of people with recent court experience rested on very small numbers of respondents who were witnesses and small numbers of African-Americans and Latinos who had been jurors or litigants.

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As in other studies, procedural justice considerations tend to dominate influences from demographic factors, including race and ethnicity. Other influences vied with procedural justice as influences on support for the courts, notably concerns about the speed and cost of court proceedings.

The analysis presented in this report suggests that *recent* court experience may be qualitatively different from court experience that occurred in the past. The factors influencing opinions held by recent court users appear to be different in some significant ways from those operative for people with no experience or with prior but not recent experience.

The survey demonstrates that it is incorrect to speak of a minority viewpoint on the courts. African-Americans and Latinos appear to reach somewhat similar conclusions about the fairness of court procedures from their experience in court. For the most part, however, Latinos share the general perceptions of Whites. Indeed, Latinos in many respects rate the courts in their community more highly than do Whites. This is consistent with other recent national and state surveys (e.g., National Center for State Courts (1999) and state surveys in Arizona (1997), California (1992), Minnesota (1991), New Mexico (1999), Texas (1998), and Washington (1999)).<sup>1</sup> The conclusion of the report on another national survey (Myers, 1995) that Latinos are the group least satisfied with the courts must be viewed with caution.

### *Implications for Research*

The current survey has strengths and weaknesses that have implications for the practice of studying public opinion on the courts. The survey's strengths are the relatively large number of African-American and Latino respondents in the sample and the availability of data on respondents with recent court experience from both minority groups. Another strength is the detailed assessments by recent court users of the manner in which they were treated while in court.

The survey's weaknesses follow from the strengths. A primary weakness is the small number of African-Americans and Latinos in the three types of roles in court used in the analysis. The category with the largest number of minority group members with experience—litigants—mixes together criminal defendants with civil plaintiffs, along with civil defendants. Similarly, the large number of procedural justice questions used in the survey took up space that might otherwise have been devoted to questions concerning other aspects of court experience and to more detailed descriptions of the kinds of cases in which respondents were involved.

A number of methodological issues were raised by the survey. One issue is the lack of a standard practice for identifying persons with court experience. The existing set

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<sup>1</sup>This survey represents the best look at Latino opinion on the courts available to date. However, it does not reflect differences within the Latino community based on place of residence, national origin, or place of birth. A large national survey of Latinos with recent court experience will be necessary to reflect the variation within the Latino population.

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of national surveys of opinion about the courts yield very different estimates of the proportion of adults with court experience. The 1998 *Perception of the Justice System* survey (ABA, 1998) found that 89 percent of respondents had ever had court experience. The following year, the *How the Public Views the State Courts* survey (National Center for State Courts, 1999) estimated that 53 percent of the adult population had ever been to court. (The 1977 *Public Image of the Courts* survey produced an estimate of 43 percent).

These differences in the proportion of court users can to some extent be reconciled. The ABA survey included persons *summoned* for jury duty as having had court experience, while the National Center surveys (1999 and the current survey) included only persons who had *served* as a member of a jury.

The reason for other differences in who gets included in the pool of persons with court experience may be more difficult to identify. The ABA survey, for example, contains, relative to the National Center surveys, a very large proportion of persons who had been involved in a traffic case, as well as very large proportions of persons reporting that they had been spectators in court or had gone on a courthouse tour.

The wording of questions used to identify persons with court experience will to some extent depend on the purpose of a survey. That said, the varying approaches taken by existing surveys to screening places formidable obstacles in the way of comparing findings across surveys.

Another methodological issue is finding ways to measure the intensity of contact with the court. Intensity might be treated as having two dimensions. One dimension is the frequency of court contact. The second dimension is the seriousness of the matter that brought the person to court. To litigants, seriousness is relative to the potential consequences of the court's decision and, perhaps, to the kinds of emotions tied to the case. An intensity dimension also applies to jurors, some of whom helped reach verdicts in capital murder cases and others in misdemeanor theft cases.

Attempts at measuring the intensity of past court experience will present much the same set of problems encountered by crime victimization surveys, such as selective recall. Some of the methodological advances made in surveys of crime victims can be applied to the task of measuring the frequency and nature of court experiences. It is unlikely, though, that any agency or foundation can be interested in supporting research that would be specific to improving the study of people's encounters with the state courts.

A different strategy might be needed to advance the art of studying court experience. One line of approach is to use large-scale, continuous telephone survey enterprises to identify persons with very recent court experience. Persons so identified could be contacted later and asked to participate in a court-specific survey. A financial payment should suffice to obtain a good rate of response to such a survey.

Another approach might be a research design that starts in the courthouse. Researchers might randomly select courts and times of day to recruit participants in

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surveys about their experience in court. The potential of such a strategy has been shown by work in Wisconsin (Kritzer and Voelker, 1998). Again, it is likely, however, that a financial inducement comparable to that given to focus group participants would need to be offered to secure an acceptable response rate.

On the other hand, it may be that some research questions require a depth of information and thoughtfulness in responses that cannot be obtained in a telephone survey. The multi-methodology study in New Jersey by Silbey and her colleagues (1993) offers a model to build upon.

Some new lines of inquiry were opened by the analysis. The concept of a problem-solving judge is much in the news. There is evidence from this survey that there is strong public support for the non-traditional roles that problem-solving implies. Support is strongest among African-Americans and Latinos.

Support for non-traditional court roles is associated with dissatisfaction with the courts. That association needs to be refined into more than a correlation. It appears from the analysis presented in this and in the last chapter that the willingness to give the courts new responsibilities is not a reflection of trust in the motivations of judges and courts. Support for new roles might instead be viewed as unmet expectations people hold of the courts.

### **Contributions to Policy and Practice**

What the public wants from the courts is in large measure what it wants from government in general: “A process that matches a person’s preferences for how the process should work increases approval of government” (Hibbing and Theiss-Morse (2001:150).

The findings from the present survey provide some insight into the potential impact of approaches to improving the fit between the current judicial process and how the public prefers decisions to be made. Approaches to be considered include using the media more astutely to educate and woo the public, having courts work collaboratively with community-based organizations, enhancing the quality of judicial interaction with persons in the courtroom, and integrating opinion surveys into the judicial policy-making process.

#### *The Media*

Electronic media are cited as important sources of information about the courts, even among individuals with recent court experience. The importance extends in some measure to TV dramas and TV judges, which appear to be more frequent sources of information among African-Americans and Latinos than among Whites.

The content of the electronic image of the courts is not conducive to promoting an image of procedural justice. Arguably, TV judges would receive low ratings on the

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elements of procedural justice concerned with respect, neutrality, and trustworthiness. However, litigants on television programs seem to have more opportunities than real litigants to make their views known—the participation element of procedural justice.

The content of electronic information about the courts is of considerable importance to court leaders. The stakes are high, as Lawrence Sherman recently observed:

The future authority of the criminal justice system may well depend on how it appears not just to those directly involved in the system, but to all citizens. That, in turn, may depend very heavily on how criminal justice manages its image in the electronic media (Sherman, 2000:17).

But courts are poorly placed to influence their image in electronic media. People draw upon a stereotypical image in their heads of courts when answering survey questions about the courts. Their point of reference appears to be a generic image; they are not primarily about a particular court or a particular state's courts. National media depictions in our view have more influence as a source and reinforcer of opinion about courts than about most other public institutions. This is consistent with the limited change over the last quarter century in levels of support for the courts and in the views people hold about how courts conduct their business. Public opinion on the state courts seems highly resistant to change.

A root cause of the difficulty in making a dent in the opinions people have of the state courts is a lack of attentiveness. Courts do not weigh heavily on the public mind. This was clear, for example, in the large proportion of survey respondents choosing a neutral rating for the courts when given that choice. Far fewer respondents used the neutral category to rate the other institutions considered, the police and the schools.

What can be done in the face of these obstacles? The key concern here 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 can be crafted that resonates with the public, one that connects the work of the "courts in your community" to values and concerns that rank high in the public mind. This will be a challenge.

Courts can take steps to promote and improve their local image. Some earlier efforts to get the attention of the local public fared poorly. The best-documented attempt to use the media as a source of positive information, carried out in the early 1990s in Utah, produced many print and electronic stories about the court but little notice from the viewer audience (Olson and Huth, 1998). Similarly, ambitious community-based court reform efforts widely covered by city and neighborhood news media go largely unnoticed in the surrounding neighborhoods. Good news about the courts does not appear to travel far or make a lasting impression.

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There nonetheless are reasons for at least modest optimism. A number of local court reform efforts appear to have mobilized widespread public involvement and awareness. Two examples are the Franklin County, Massachusetts Reinventing Justice project (active since 1994) and the Oakland County, Michigan Youth Assistance Program (active continuously since 1953).<sup>2</sup> Research is needed to measure the public profile of those efforts and, if warranted, help unravel the reasons for their success.

If such efforts have succeeded in engaging the local public, the usual pattern of low interest and low awareness can be given a positive spin. The 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 provide encouragement to individual trial courts and state court systems engaged in programs of court and community collaboration (Rottman et al., 1998). Collaboration extends beyond the community court model to encompass the way in which an entire trial court relates to the public.

The generic traits of court and community collaboration are:

- ◆ *Commitment to Solving Community Problems.* This commitment is the hallmark of community-focused courts in general and, thus, an essential element of court and community collaboration.
- ◆ *On-going two-way consultation with the public about how the court should operate.* The public, or the community, becomes a part of a dialogue rather than merely a recipient of information or services from the court. Discussions deal with court operations without interfering with judicial independence or case decision-making.
- ◆ *Continuity.* Community involvement is integrated into the court's operational structure. Examples include the formation of standing citizen advisory committee or periodic public consultation meetings.

Collaboration offers trial courts access to resources necessary to adjudicate new types of disputes, including volunteers, and appears to enhance public understanding and support of the court. A specific benefit is the creation of a constituency that will speak in support of the courts. For present purposes, the main benefit may be to counter the negative image courts have of the element of participation in procedural justice—the perception that one can tell directly or through an intermediary one's side of the story (Gibson, 1989). Collaboration gives the public a legitimate and influential voice in their local courts.

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<sup>2</sup> Profiles of these and other examples of successful court and community collaborations can be found in Rottman et al., 1998.

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Successes at the local level have led several states to establish multi-site or statewide programs of court and community collaboration. The most developed examples are in California, Massachusetts, and New York State (Rottman, Efke, and Stump, 2002). The California model incorporates an ethos of court and community collaboration at the state policy-making level.

### *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. Other research tells us, for example, that a judge's demeanor while on the bench can affect how litigants evaluate their experience. One study, for example, found that the satisfaction of domestic violence victims, a difficult audience to sell on the fairness of the courts, improved "in part because they were surprised by friendliness and care shown by judges" (Roberts and Stalans, 1997:146).

Findings from the current survey highlight the crucial role that procedural justice plays in shaping people's views of the courts. People without court experience are influenced by their views on how people generally are treated by the courts. People with recent court experience based their support for the courts on the procedural justice they personally experienced. The procedural justice influence was particularly strong for recent court users.

Courts face two main challenges in using the courtroom to demonstrate the degree to which they are procedurally fair. One obvious challenge is to adopt, where consistent with due process considerations, the kinds of behaviors and practices that are consistent with public expectations of fair decision-making processes.

The second challenge facing the courts is to make positive experiences in courts more durable. Survey respondents with recent court experience tended to see themselves as having been treated rather fairly. The index of perceived procedural justice strongly influenced the likelihood of returning to court to resolve a future dispute. The better the treatment, the more likely respondents were to say they would return, regardless of their demographic characteristics. Yet, as a group, people with recent court experience tended to be more negative about the courts than were people without such experience.

Also, 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 significant minority (44 percent overall) of those with recent court experience said that they were "very unlikely" or "unlikely" to go to the courts to resolve a similar dispute.

Courts are responding to the first challenge in a number of ways. The academic literature on procedural justice has found its way into periodicals and newsletters aimed at audiences of judges and court administrators (e.g., Warren, 2000). Prominent procedural justice scholars like Tom Tyler appear on panels and make presentations at

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the annual meetings of the largest judicial and court management associations. Awareness of the importance of procedural justice is now widely distributed in the state court community.

Some individual trial courts are moving from awareness into action programs involving procedural justice. For example, the District Court in Hennepin County, Minnesota (Minneapolis) has conducted workshops specifically aimed at improving the court's performance on procedural justice matters.

The apparent success of drug courts in keeping clients in treatment and refraining from recidivism also encourages the adoption of an approach to courtroom interaction that meets the criteria of procedural justice. Some of the success of drug courts would appear to rest on the extent to which the drug court judge role conforms to the elements of procedural justice. As in many other contexts, procedural fairness by authorities in drug courts improves compliance with court decisions.

### *Courts as Problem-Solvers*

The survey found strong public backing for non-traditional judicial and court roles that contribute to solving the problems that bring people into the court. The link identified in this report between high support for non-traditional court roles and low levels of support for the courts as they currently stand is a correlation. It seems clear, however, from the analysis presented in this and in the last chapter that the willingness to give the courts new responsibilities is not a reflection of trust in the motivations of judges and courts. Support for new roles might instead be viewed as unmet expectations people hold of the courts.

Such an interpretation is consistent with research on the legal profession. The rights based approach given emphasis by the legal system neglects the caring dimension that the public values in decision-making. A problem-solving approach to how courts should conduct their business brings the courts closer to the public's preferences for reaching decisions. Research on the attributes of lawyers suggests that they rely disproportionately on analytic, rational thought to make decisions and are not "interpersonally sensitive, meaning not attuned to the emotions, needs, and concerns of other people and not concerned with interpersonal issues or harmony" (Daicoff, 1997:46). Adoption of non-traditional roles for judges and courts responds to the "ethic of care" dimension that people value in decision-making.

### *Opinion Surveys as Guides to Policy*

The majority of state judicial branches have commissioned a public opinion survey. Most of those surveys date from the mid-1990s. The surveys have contributed to the work of task forces and futures commissions, and, in some states, have fostered significant policy changes. More typically, the survey findings have a short shelf life. They are not incorporated into ongoing processes of policy development.



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Many reports based on state surveys barely scratch the surface of things, reporting basic frequencies and a few of the more obvious cross-tabulations that might be undertaken. Only a few states have carried out more than one opinion surveys.

Statewide surveys are expensive. Survey findings need to be placed in a context to justify the investment of resources they require and to make the findings useful tools for policy-makers. A way forward toward more sophisticated use of survey results has been proposed and partly implemented in Spain by Jose Toharia (2001). Toharia proposes the systematic incorporation of opinion research into court administration. Six aspects of court performance could be measured in this manner: independence, fairness, accountability, professional competence, accessibility, and efficiency (Toharia, 2001:16).

Surveys of the general public would provide insight into the views of potential court users. The other four publics Toharia distinguishes are operators (court staff), experts (legal scholars, journalists covering the courts, and legislators), and actual users. Public opinion surveys can be combined with information sources on the opinions of the other publics to obtain a balanced measure of how well the courts are performing.

One use Toharia proposes for public opinion surveys is to serve as a “*repertoire of symptoms*.” Such a *repertoire* has practiced applications:

If the citizens’ evaluation deviates significantly from expert assessments on the operation of a given institution (for instance, on the way the Justice system is performing) the urgent need arises to redress the public image of the institution—lest its legitimacy finally suffer. The adoption of an informative or ‘public relations’ policy on the part of the system of Justice is more likely to be effective if the symptoms of discontent provided by the analysis of opinion are adequately recorded and taken into consideration (Toharia, 2001:12).

The survey reported here provided a partial test of the usefulness of such an exercise by comparing the views of two publics, potential users and actual users. Members of the two publics tend to agree more than they disagree on the problems that they believe exist in the “courts in your community.”

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