Chapter 9: Communication Tools

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Communication Tools

Introduction

Communication is the foundation of all our interactions with others. It influences how we perceive and judge not only other people but also the facts and circumstances of cases. The court system rests heavily on the communication skills of its various participants. This chapter surveys the communications challenges facing judges in cases involving persons representing themselves. It describes techniques that judges can use to get the information they need to make appropriate decisions and to convey those decisions in ways that are more likely to result in compliance.

I. Communication Challenges With Self-Represented Litigants

Under the time pressure and stress of heavy and intense calendars, judges must determine how they can best perform their fact-finding and decision-making functions when the involved parties are not legally trained or familiar with courtroom culture. Judges have to decide how to make sure that parties who do not have attorneys as intermediaries nonetheless understand and comply with the court's orders and rulings. How can a judge make sure that justice is not more difficult to attain for self-represented litigants than for those with counsel?

A judge's communication skills—something that *everyone* can improve—will help determine success in this endeavor. A judge's communication choices will influence not only the amount and quality of the information successfully conveyed in the courtroom (both information given and information received) but also the likelihood of

compliance with court orders and, ultimately, both the actual and perceived fairness of the court proceedings.

Good communication also involves being aware of those persons in the courtroom who are waiting for their cases to be heard. Through "teachable moments" the bench officer can draw the audience's attention to the cases being heard, increasing their comprehension of the process and the ability of persons in the audience to work within the process when their own cases are called.

Verbal communication refers to the words used, either written or spoken. *Nonverbal* communication is everything communicated except the words. It includes vocal elements—how something is said—as well as what is commonly called "body language." Listening, of course, is another basic element of communication, one that usually combines both verbal and nonverbal communication.

Communication between the judge and self-represented litigants will necessarily involve the content of actual words spoken or written, how those words are conveyed, and listening or reading skills. Word content can be general or specialized (e.g., "legalese"), formal or informal, and high- or low-grade-level equivalent, and the context within which words are conveyed can increase or decrease the likelihood of their comprehension. Nonverbal communication can be even more significant than verbal communication, and listening may be the most used but least taught communication skill.

II. Word Content, Formality, and Overall Language Level

A. The Importance of Understandable Terms and Definitions

In all cases, especially those involving self-represented litigants, it is important to try to make sure that the information and ideas conveyed are understood by listeners, whether those listeners have a law degree or not. Consider the terms used. Obviously, judges must be able to use and understand legal vocabulary, but they do not *always* have to use it. Using the specialized language of a profession can be a good shortcut if everyone understands it, but it is not a good shortcut if the listener does not understand it.

When there is no alternative to the use of a specific legal term and there is a possibility that the parties may not understand it, it is helpful to briefly explain the term. It is not necessary to sound erudite in order to sound professional and to have the record hold up on review. On the contrary, adapting to the listener is a hallmark of an effective communicator in any field. And it is essential in dealing with self-represented litigants.

Most professionals are not aware of how specialized their language is. When professionals think back to law school or to any time that they were introduced to a new area of law, some terms that might have seemed incomprehensible at first are probably now second nature. Like most professionals, judges tend to think in the "terms of art" of their profession, some to the point where they cannot "translate" legal terms except by using more of them.

Here are a few commonly used terms and their possible nontechnical equivalents:

1. alleged—claimed
2. appellant—a person who asks a higher court to reverse (or change) the findings of a lower court
3. bears a significant resemblance to—is like
4. in compliance with—comply, follow
5. the court—the judge
6. defendant—the person who is accused or sued
7. effectuate—cause
8. entitlement—having rights to particular benefits
9. evidence—what is used as proof to establish facts, including testimony from the parties, testimony from witnesses, or exhibits (documents or other objects)
10. exhibit—documents or other objects produced in court as evidence (proof)
11. hearsay—the report of another person's words; a statement, either oral or written, by a person who is not in court as a witness
12. jurisdiction—the right to decide a case, the official power to make legal decisions and judgments about particular cases
13. legal elements—the components or factors that need to be proved legally
14. litigant—a person involved in a lawsuit
15. make contact with—see, meet, talk to
16. moving party—the person who asked the court to make a decision

17. obtain relief—to receive a court award of damages or an order requiring the defendant to do or not do something
18. the parties—the sides
19. petitioner—the person who asked the court to make a decision
20. plaintiff—the person who brings a case against another in a court of law
21. the proceeding—the action taken in court, what's happening in court
22. prove the elements—demonstrate the truth or the existence of the necessary components
23. provisions of law—law
24. pursuant to—under
25. respondent—the defendant in a lawsuit, someone who has to respond to or answer the claims of a person who asked the court to make a ruling
26. rules of evidence—the rules for what is considered evidence or proof in a court of law, and how that evidence must be presented
27. sufficient number of—enough
28. under oath—sworn to tell the truth
29. weight—importance

Many judges find it useful to think through common questions to ask them in a way to make it more likely to get better information.

Does the matter stand submitted?
Do you have anything else to say before I make my ruling?

Did you cause to be filed?
Did you file?

Do you want a continuance?
Do you want to have this hearing at a later date?

B. Formal Versus Informal Speech

To communicate better with self-represented litigants, many judges find it helpful to use practices common to informal spoken language even in the more formal environment of the court.

Less formal language includes the use of the following:

1. Contractions—"it's," not "it is";
2. Shorter sentences;
3. First and second person—"I," "we," and "you," not third person (e.g., "one");
4. Active voice—"You need to understand," not passive ("It should be understood"); and
5. Informal connectors to open a sentence—"And," "Now," "Then," "Because," not "Additionally," "At this point in time," "Subsequently," "In light of the fact that."

C. Language Level as a Barrier, a Diagnostic Tool, and a Solution

Judges should be aware of the level, or grade equivalent of language, and adapt it so that it is accessible to listeners, without being condescending. Most commonly used software programs have measures for assessing the grade level of a document. Measures such as the Flesch-Kincaid Grade Level Score, which is included as a tool in Word and WordPerfect, include the word length (how many letters), sentence length (how many words), sentences per paragraph, and use of the passive voice. Using these tools can be very helpful.

D. Value of Written Materials

Some information is best provided in written form. When information is complex or lengthy, a handout—ideally with oral summaries or a question-and-answer session—reduces pressure on the listeners and makes it more likely they will both receive and process the information. Some written material is best provided before the court proceeding (e.g., by the clerk, through Web sites or self-help centers), which will greatly increase the likelihood that both sides will be better prepared.[55] By being in writing, it also allows for multilingual translation and gives litigants the opportunity to obtain help to understand the materials. Some information is important enough to be conveyed in both written and spoken form.

[55] Albrecht et al., p. 45.

E. Recognizing the Literacy Barrier

However, judges must always remember that as a practical matter, information given in written form is inaccessible to many of the self-represented.

It is estimated that over 2 million native English speakers in California are functionally illiterate,[56] which is defined as being unable to read, write, and communicate in English at a level necessary to function on the job and in society. The Correctional Education Association estimates that 65 percent of adult prisoners are functionally illiterate.[57]

In *Judging for the 21st Century: A Problem-Solving Approach*, Justice Paul Bentley (Ontario Court of Justice, Ottawa, Canada) has written that

> judges must learn to recognize and read the signs of low literacy. People may try to hide literacy problems by:
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> - Saying they cannot read a document because they forgot to bring reading glasses;
> - Claiming to have lost, discarded, forgotten to bring, or not to have had time to read documents;
> - Asking to take home forms to "read later";
> - Claiming to have a hurt arm and are therefore unable to write;
> - Glancing quickly at a document and then changing the subject, or becoming traumatized, quiet, or uncommunicative when faced with a document;
> - Hesitating when asked to read a document and/or reading it excessively slowly; or
> - Appearing to read a document very quickly, although they are unable to summarize its contents."[58]

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[56] S. White and S. Dillow, *Key Concepts and Features of the 2003 National Assessment of Adult Literacy* (National Center for Education Statistics, U.S. Department of Education, 2005); L. Jenkins and I. Kirsch, *Adult Literacy in California: Results of the State Adult Literacy Survey* (Educational Testing Service, 1994).
[57] A. Bazos and J. Hausmann, *Correctional Education as a Crime Control Problem* (UCLA School of Public Policy and Social Research, 2004), p. 28.
[58] P. Bentley, *Judging for the 21st Century: A Problem-Solving Approach* (National Judicial Institute, Canada, 2005).

Possible markers of low literacy include the following:

1. A person who has not completed high school or has difficulty speaking English;
2. A person who has filled in a form with the wrong information or has made many spelling and grammatical errors;
3. A person who claims to go to legal aid every day, but states that he or she doesn't have time to fill in the relevant forms;
4. A person who seems not to relate to or understand questions about particular times, dates, and places;
5. A person whose writing and speaking styles don't match; or
6. A pre-sentence report that indicates that an individual left school at a young age or before completing grade 10, or that chronicles a history of unemployment or refusal of job training, promotion, or reassignment.

Persons who have limited literacy skills may attempt to cope with feelings of fear, embarrassment, or inadequacy by behaving in ways that can appear flippant, dishonest, indifferent, uncooperative, belligerent, defensive, evasive, indecisive, frustrated, or angry. These emotional markers of low literacy may appear on the surface to be markers of a "bad attitude."

F. Overcoming the Literacy Barrier

To address low literacy in the courtroom, judges can do the following:

1. Be aware of their own biases relating to low literacy – remember – low literacy does not equal low intelligence.
2. Educate themselves about low literacy in their community and in the courtroom;
3. Make it easier for people to understand by
    a. Slowing down,
    b. Doing as much orally as possible,
    c. Speaking clearly and repeating important information,
    d. Supplementing oral information with a written note that the person can mull over in private or have someone read later, and

e. Previewing or reading aloud documents in the courtroom;

5. Keep literacy in mind when sentencing; consider literacy training as part of rehabilitation; keep in mind that most rehabilitative programs (job skills training, anger management, substance abuse, spousal abuse, etc.) are literacy based; or
   a. Use plain language instead of "legalese,"
   b. Use short sentences and clear language,
   c. Use words consistently,
   d. Use the active voice, and
   e. Avoid strings of infinitives ("authorize and empower").

III. Increasing Listener Comprehension

Various techniques have been shown to increase a listener's comprehension of verbal information.

A. Setting Ground Rules

It is far easier for people to follow the rules when they know what they are. For example, courtroom protocol includes wearing appropriate clothing, standing when the judge enters the courtroom, not interrupting, and so forth. These ground rules may be available in written form at different steps in the process such as at the clerk's office, self-help centers, or legal services offices. They can also be conveyed by a court clerk, self-help center staff, or bailiff. Procedural examples include how to state objections and how to present different types of evidence.

B. Providing a Mental Map

It is helpful to give court participants a "mental map" of what's ahead—what will take place. After each major stage, judges should let them know where they are in the process and what comes next.

For example, the following statement could be used: "The first thing I need to find out is whether this court has jurisdiction—that is, the court's power to decide this case. Then I need to find out whether the financial situation of the parent who does not have custody has

changed, and if it has, I need to decide what change in monthly support would be appropriate."[59]

Some judges use visual aids to supplement understanding such as the PowerPoint presentation in the appendix.[60]

C. Using Repetition

Given that this is often new information to self-represented litigants, it can be helpful to repeat important information. As mentioned above, judges will want to consider having important information in both written and spoken form. It is helpful if the same information is also conveyed to litigants at all steps in the process so that the clerks, self-help center staff, and court are providing consistent information to litigants.

D. Using Paraphrasing

It is often productive to ask court participants to paraphrase important information out loud in their own words to check their understanding. This will also increase retention.

This example combines explanation and paraphrasing: "You are required to sign a piece of paper promising the court to do certain things. If you do not keep your promise, the consequences are . . . Are you clear what you need to do? What is that?"

E. Asking Questions to Clarify Comprehension

Frequently ask if court participants have questions, and PAUSE—for at least 5 seconds for fairly basic questions and at least 8–10 seconds for more complex ones. Make sure that participants understand that it's okay to have questions.

1. Count to yourself if necessary to make sure the pause is long enough to allow listeners to process your question and formulate their own.

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[59] Adapted from Albrecht et al., p. 46.
[60] Zorza, p. 23.

2. Use nonverbal behaviors to show that you are open to questions. Include some of the following: establish eye contact, pause, sit up straight or lean forward slightly, tilt your head a little to one side, use a nonthreatening vocal tone, gesture with open hands.

3. Watch the listener's nonverbal cues to see if he or she has questions but is hesitant to ask them. This is especially important for people who speak English as a second language or others who might be confused or intimidated by the surroundings and the process.

4. Answer likely questions even if your listeners don't ask them, if you think the information is important. "A question people often have is . . ."

IV. Nonverbal Communication

A. Cultural Context of Nonverbal Communication

Anytime oral communication is involved, nonverbal communication is a factor. Even when the judge is not speaking, he or she is still communicating nonverbally. Indeed, nonverbal messages can be more significant than verbal ones. They cannot be avoided, they vary with background and culture, and they are often difficult to interpret.

Within the courtroom setting, nonverbal communications reflect the relationships between various pairs of participants, build confidence and trust in the judge and in the process, and help maintain courtroom traditions. Consciously or, more often, unconsciously, they affect perceptions of credibility and are interpreted as expressing emotion.

Research on communication shows that we rely on nonverbal behaviors even though we often misinterpret them and even though there are no absolute formulas for their interpretation. For instance, crossed arms do not always mean "closed to communication," although some people might respond to crossed arms as if they do. Interpretation of nonverbal behavior becomes more accurate when "clusters" of behavior, or several behaviors, indicate the same conclusion.

There are, of course, *major* cultural differences over the meaning and interpretation of nonverbal behaviors. For example, the accepted length of a pause before answering a question varies greatly—some cultures consider it disrespectful to answer too quickly (it's more respectful to really consider the question before answering it). These differences take effort to understand, and while they are not the specific subject of this benchguide, they indicate the need to be cautious in cross-cultural situations when interpreting the nonverbal behavior of persons from various cultures.

B. Paths of Nonverbal Communication

Judges should be aware that they are sending—and receiving—messages through all of these nonverbal paths:

1. Voice (volume, articulation, pace and rhythm, pitch and inflections, pauses);
2. Eye contact;
3. Facial expressions;
4. Gestures;
5. Posture, movement, and body orientation;
6. Use of space and room arrangement;
7. Appearance and objects (clothing, jewelry, items on the bench, etc.);
8. Time (on time or not, time allotted, time allowed to speak, etc.);
9. Silence (differences in meanings assigned to silence, length of silence); and
10. Others—anything that people can interpret as being meaningful is communication (blushing, sweating, blinking, touching, crying, etc.).

C. Effective Nonverbal Communication

The following are tools for effective nonverbal communication on the bench:

1. Awareness of the communicative power of voice-vocal tone and inflections are key components in conveying respect for others. In addition, the rate of speaking will have an impact on the message's clarity, something that is particularly important when there are cultural differences.

2. Looking at a person while they are speaking shows attentiveness and makes it easier to see the speaker's body language and to regulate the interaction better. Judges should not be offended when litigants are shy about looking at them—power and cultural differences are often reflected this way.

3. Orientation of the body toward the speaker and sitting up straight or leaning forward slightly demonstrates engagement in the interaction, reinforces that the speaker should be directing his or her remarks to the judge, and encourages more active listening.

4. If verbal and nonverbal behaviors are inconsistent, people tend to believe the nonverbals. Maintaining congruence between the verbal and nonverbal messages, that is, sending a consistent message, will reduce uncertainty and add strength to the message.

V. Effective Listening Techniques

Effective listening means understanding the speaker's entire message, bringing together verbal and nonverbal communication skills. As the proverb says, "Speaking is when you sow, listening is when you reap." The skills discussed below should be considered from the perspective of the judge as listener *and* of others in the courtroom as they listen to the judge.

A. Active Listening: Capturing and Confirming the Message

Active listening usually involves four steps. First, focus on the speaker and his or her message. This should involve both *being* attentive and receptive and *demonstrating* that the listener is attentive and receptive—using nonverbal behaviors such as eye contact, nods, a positive tone of voice, and upright posture or a slight forward lean as well as verbal encouragers such as "I see," "Mm hmm," "Go on."

If the listener has to look down to take notes, he or she should explain that "what you are telling me is important and I am writing it down. I

may not be looking at you when I am writing, but I am listening. Please continue."

Second, draw out the message as necessary. It might be necessary to initiate the interaction, to encourage fuller responses or bring the speaker back from a tangent. Of course, one of the best ways to do this is to ask questions. The type of question will affect the answer.

1. Close-ended questions allow for short, direct answers; they often start with *is, are, did, do, when.* These are effective when specific information is needed and when it is necessary to establish control of the topic or the proceeding.

2. Open-ended questions allow for a broader range of responses; they often start with *what, how, why, describe, explain, tell, give an example.* These are effective when probing for information and when answers of greater depth are needed. Examples include "How so?" "Give me a little more information about," "Help me understand," "Tell me more about," "Give me some specific details about," and "Give me a word picture—like a slow-motion instant replay of."

Third, communicate understanding of the message. There are usually several levels of meaning in every exchange.

1. Content: facts, information. Paraphrasing is one of the most useful tools there is for checking (and showing) understanding of a message's content.

    a. "If I understand you correctly . . ."

    b. "What I'm hearing is . . . Is that right?"

    c. "So, you're saying . . . ?"

2. Emotions: feelings, reactions. When emotions play an important role in the message, it can be effective to acknowledge their existence. Even if the emotions aren't relevant to your decision, reflecting the emotions back lets the litigants know they've been heard and often allows them to move past the emotions to give you the information needed.

a. "It sounds like you're very frustrated. What I need from you now to help me make my decision is . . ."

b. "I'm sorry that you and your family are going through this at this time; could you tell me more about . . ."

3. Intent: why they're giving you this message, what they're trying to achieve with it, what the connection to the overall proceeding is.
   a. "You believe this information proves that . . ."
   b. "You want to make sure that I understand that . . ."

Fourth, encourage confirmation or clarification of the meaning. To make sure that the listener got the message, the judge should give the litigant a chance to verify or clarify the judge's interpretation ("Yes, that's what I meant" or "Well, not quite, your honor. What I meant was . . .").

Voicing the speaker's own feelings can be useful in conveying empathy: "I can tell that you really tried to…"; "I can tell that you really care about …"[61]

B. Additional Tips for Better Listening

1. Listeners should begin with the desire to listen. Attitude affects effectiveness.

2. Listeners should focus on the message. Tune out distractions, including those created by the speakers themselves (e.g., nervous quirks) and their own internal distractions.

3. Listeners should try to understand the speaker's viewpoint. Life experiences affect perspective. Some effort can overcome the potential for misunderstanding that sometimes comes with differing life experiences.

[61] *Ibid*.

4. Listeners should withhold judgment as long as possible. Once we label something as right or wrong, good or bad, we lose objectivity.

5. Listeners should reinforce the message. Everyone can think four times faster than most people speak. One can become a better listener by making good use of this ratio—mentally repeat, paraphrase, and summarize what the speaker is saying.

6. Listeners should provide feedback. They can use both the verbal and nonverbal channels when possible. (See below for tips on giving verbal feedback.)

7. Listeners should listen with their whole body and look at the speaker. Being physically ready to listen usually includes sitting erect, leaning slightly forward, and placing both feet flat on the floor. Not only will the speaker feel that the listener is actually listening to them, but the listener is more likely to listen better (behavior both reflects and affects attitudes).

8. Listeners should listen critically. Even though listeners should try to understand a speaker's viewpoint and withhold early judgment, they obviously need to test the merits of what is heard. This is the real balance—being open-minded *and* being able to critically evaluate what is heard and the credibility of the sources.

C. Constructive Feedback for the Listener

When it is particularly important that the listener receive feedback, the following tips may make it less likely that the listener will become defensive and tune the message out. Speakers should do the following:

1. Begin with a positive statement;
2. Be specific—make clear both what is meant and what is to be done about it;
3. Be honest but tactful (a real skill!);
4. Personalize your comments by using the listener's name occasionally and using "I" language to describe your

perceptions and reactions, to reduce defensiveness and help establish rapport;
5. Reinforce the positive and mention what they've done well;
6. Tell them what's in it for them (positive consequences of getting this feedback);
7. Emphasize a problem-solving approach to the negative; and
8. End with a positive statement. Sandwiching the negatives between positives makes them more palatable.

D. Tips for Helping Others Listen Better

Judges should also consider these choices in addition to using the techniques discussed earlier.

1. Visual Supporting Materials. Getting the information through more than one channel enhances comprehension and retention. There are many different types of learners—visual and auditory are two—and using more than one channel will build on the strengths of more listeners and reinforce the information for everyone.[62]

2. Conducive Listening Environment. Even though speakers may not have control over such factors as the acoustics, the seating and temperature, the frequency of breaks, the ambient noise, the number of interruptions, and so forth, they can significantly affect how well the listeners can concentrate. Controlling the factors that one can, and balancing the others by using as many techniques as possible for better communication, will help.

3. Decreasing "Distance." The courtroom environment and procedure, including the level at which the judge sits and the robe and demeanor, establish the judge's clear position of authority. But "judicial demeanor" does not mean that a judge has to be intimidating. Judges should speak directly and personally to the litigants. The judge will appear to be more in control and will get better responses when they seem comfortable with the litigants as people and appear to want to understand their needs and problems.

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[62] *Ibid*.

4. Building Self-Awareness and Skills. A speaker's mannerisms can distract even good listeners—try to identify any distracting habits (videotaping can help to identify these) and to work on removing them.

VI. Potential External Barriers to Communication

The following can be significant barriers to communication.

A. Physiological and Environmental Factors

1. Thinking ahead of the speaker;
2. Preoccupation/boredom;
3. Message overload/listener fatigue;
4. Physical distractions (noise, disruption);
5. Stress, physical discomfort, fear;
6. Mental illness; and
7. Time pressures.

B. Individual Differences and Assumptions

1. Personal mannerisms;
2. Fear of appearing ignorant; and
3. Assuming that listening is passive and effective communication is the responsibility of the speaker.

C. Bias, Both Conscious and Unconscious

1. Power or status;
2. Language comprehension and proficiency;
3. Accent;
4. Culture or ethnicity;
5. Economic level or factors;
6. Gender and sexual orientation;
7. Education level;
8. Age;
9. Physical or mental ability or disability;
10. Appearance; and
11. Other differences.

VII. Tools for Dealing With Cross-Cultural Communication Issues

Cultural norms and values shape all communication experiences. Because the mainstream American culture and justice system place a high value on explicit, direct communication (what is said—the content and exact meaning of words), there is ample opportunity, if not a likelihood, for miscommunication in cross-cultural exchanges where the context of words, *how* words are said or written, and the circumstances surrounding the communication event are emphasized. Strategies to minimize potential barriers created by cross-cultural communication include all the techniques, especially listening, mentioned but might also include the following.

Speakers should

1. Speak audibly and distinctly, but without exaggeration;
2. Speak in a relaxed and unhurried manner, and slowly, if necessary;
3. Not speak louder in an effort to be understood (a common reaction, but often interpreted as intimidating, even hostile);
4. Be willing to take the time to explain or rephrase what is said, if necessary;
5. Communicate concepts clearly and in an orderly manner;
6. Give examples to demonstrate;
7. Learn the correct pronunciation of a person's name;
8. Not expect tone of voice that is meant to convey emotion (e.g., sarcasm, humor, praise, blame) to be understood (messages not intended literally may be interpreted as such);
9. Avoid colloquialisms, slang, and mixed language;
10. Not rely on eye contact (or lack thereof) to indicate respect, honesty, credibility, guilt, and innocence;
11. Not ask questions in the negative;
12. Remember that "Yes" or "OK" may mean "I am listening" or "I have heard what you said" rather than agreement, or that nodding may be a sign of respect, not of agreement; and
13. Understand that nondirect answers, or brief limited answers, are not necessarily signs of lying or withholding.

Listeners should

1. Ask the speaker to slow down, enunciate more clearly, repeat, rephrase, or simplify;
2. Rephrase or summarize for clarification and confirmation; Make it clear that you really want to understand what the speaker is saying;
3. Not interrupt, unless necessary;
4. Respect silence;
5. Allow extra time;
6. Not make assumptions about facial expressions, body movement, or hand gestures (or lack thereof);
7. Not make assumptions about tone of voice or nonlanguage sounds;
8. Not misinterpret an effort to make oneself understood by speaking more loudly as anger or aggression;
9. Not interpret silence as agreement;
10. Expose themselves to different accents to get used to them; and
11. Educate themselves as much as possible on cultural issues of the communities the court serves.

In asking questions of persons from different cultures, it is helpful to remember that the frame of reference can make a large difference in communications. For example:

> Context is so important! I once interpreted in a case where a Guatemalan was asked to describe one of the parties. He said that she was a tall blonde. Well, that was true from his perspective, but to the judge and most members of the jury, she looked more like a medium-height brunette. And it seemed like he was lying. Instead of asking for a description, I recommend that judges ask if there is a person in the courtroom who looks like the person being discussed.
>
> - Court Interpreter

1. Persons who have grown up in most countries other than the United States or England use the metric system. It may be easier to ask the person to compare the length of the object in question to something in the courtroom.

2. In many countries, December 14 would be written as 14/12 rather than as 12/14. In asking about dates, it is helpful to ask for the name of the month and date.

3. In Mexico, the father's surname appears first and the mother's second. For example, Jose Garcia Chavez would generally go by the name of Jose Garcia. Judges may want to ask what the father's last name is in order to determine the person's "official" last name.

4. Students in Spanish-speaking countries are generally not taught to spell in their head. Thus it can be difficult to spell their name out for the judge or court reporter. It is generally better to give them the opportunity to write out their name in order to avoid discomfort and misspellings.

5. In traffic cases, questions like "Were you going southbound or northbound?" may be difficult to answer for persons from cultures more apt to think of landmarks—toward the ocean, toward the mountains, toward the city.

6. Many persons from other cultures find it rude to point at others. Thus they can be asked where the person is sitting, what clothing they're wearing, or similar identifying questions.

Conclusion

Judges who use the techniques in this chapter report that they obtain more information from litigants on which to base a decision and that they feel more in control of their courtroom. Research indicates that good communication results in a higher level of compliance with court orders.[63] Thus these techniques have the potential not only to make the judicial experience more satisfying but also to improve the quality of justice.

[63] D. Eckberg and M. Podkopacz, *Family Court Fairness Study* (Fourth Judicial District of the State of Minnesota, Fourth Judicial District Research Division, 2004).