



Phase II: Focus Groups and Interviews

Trust and Confidence in the California Courts

*Public Court Users and Judicial Branch Members
Talk About the California Courts*



Commissioned by the Administrative Office of the Courts on behalf of the Judicial Council of California, December 2006.

This report was produced for the Judicial Council of California, Administrative Office of the Courts. The Judicial Council recognizes the need for surveys of the public and for reporting regularly and publicly on the courts—as well as determining the most effective ways of communicating with the public and other stakeholders. To that end, the Judicial Council has indicated that comments on this report will be welcomed.

FOR ADDITIONAL INFORMATION, PLEASE CONTACT:

Dianne Bolotte, Assistant Director
Executive Office Programs Division
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Dianne.Bolotte@jud.ca.gov
415-865-7633

COMPANION DVD AND STUDY REFERENCES

As a helpful reference, the Administrative Office of the Courts has prepared a companion DVD to accompany the phase II report. The video on the DVD and copies of the phase I and phase II reports can also be viewed on the California Courts web page at:
www.courtinfo.ca.gov/reference/4_37pubtrust.htm

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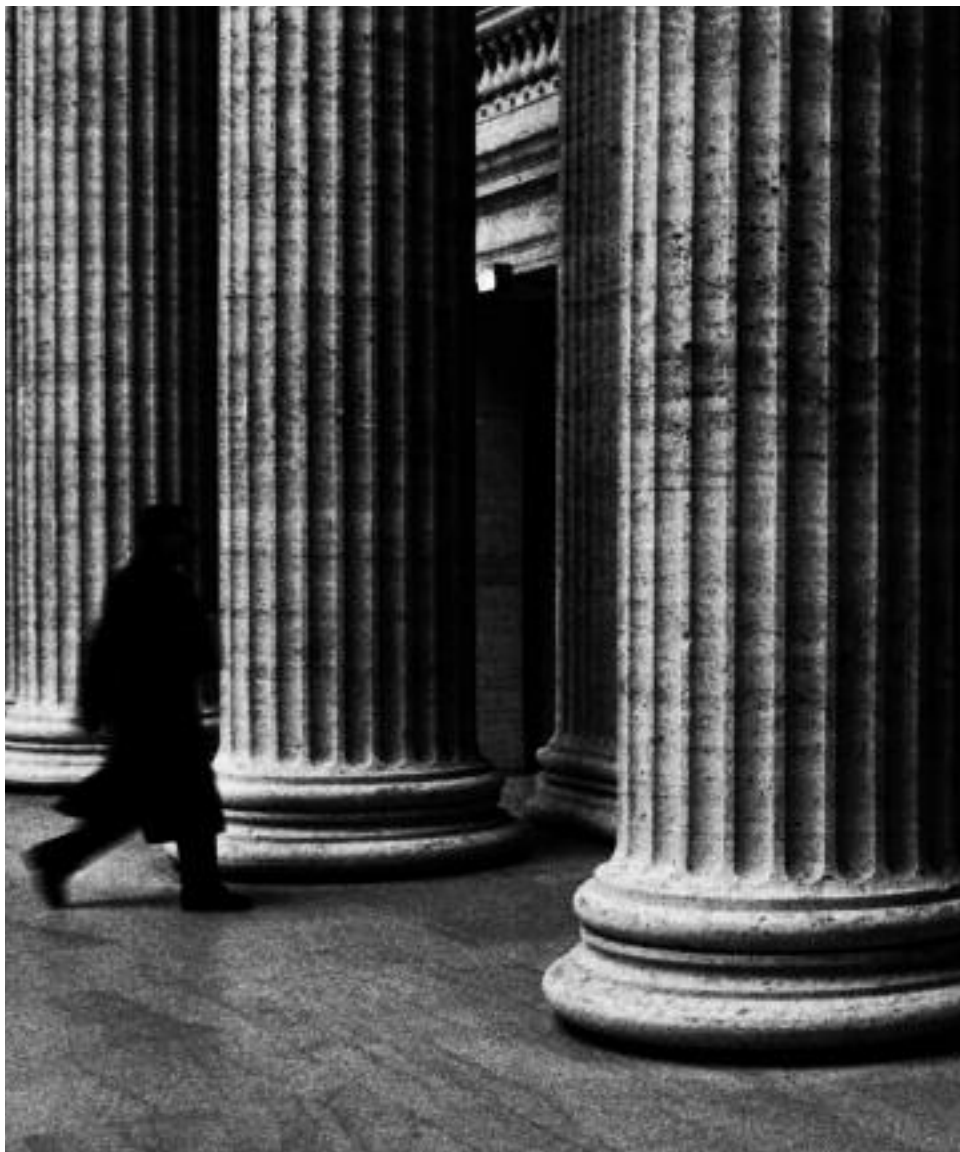
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Ruth Wooden

President
Public Agenda

John Doble

President
Doble Research Associates



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A Changing California Requires Strategic Forethought

When it comes to innovation and progress, California always has been a leader. For decades, and of necessity, the state has been on the leading edge of social, economic, and governmental change—a global trend-setter in every field of human enterprise. Californians are motivated to drive these innovations, to be leaders of forces that demand careful planning and strategic forethought.

Since 1990, California's population has more than doubled, and the diversity of California's more than 36.5 million residents is staggering. The state is home to immigrants from over 60 different countries. Figures from the 2000 census show that Latinos, Asians and Pacific Islanders, African Americans, and other minorities already account for more than half of California's population. By 2021, Latinos will be the single largest racial or ethnic group in the state.

For those serving in California's government, these realities warrant careful attention to the needs of an ever-changing and diverse population. The facts demand careful planning, and that must encompass listening to Californians, hearing what they have to say about their institutions of government—and giving due consideration to their thoughts and feelings. In 2004, California's judicial branch, led by the Judicial Council, began laying the groundwork for a six-year strategic planning cycle by doing just that—deciding to commission a survey to listen to the people of California and solicit a diverse stream of stakeholder input.

For the nation's largest court system, the impetus for such public outreach was obvious. With nearly 9 million case filings annually, and with 9 to 10 million persons summoned for jury service in the California courts each year, understanding how its residents perceive the courts, how best to serve the needs of the public, and how to make the best use of limited public resources was good common sense. A key component of the California judicial branch's outreach effort has been the Public Trust and Confidence public opinion research assessment, phases I and II, sponsored by the Judicial Council. The report that follows, *Trust and Confidence in the California Courts, Phase II: Public Court Users and Judicial Branch Members Talk About the California Courts*, represents a significant milestone toward ensuring that Californians have a voice in shaping the strategic priorities and policies that guide their court system.

The Judicial Branch Listens to Californians

TRUST AND CONFIDENCE, PHASE I: A SURVEY

In 2004, the Judicial Council engaged the National Center for State Courts (Williamsburg, Va.) and the Public Research Institute (PRI) at San Francisco State University to undertake

phase I of an assessment of trust and confidence in the California court system—the first such large-scale assessment since 1992. The resulting phase I report, *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys, 2005*, presented the findings of a survey that involved more than 2,400 members of the public and more than 500 practicing attorneys. This survey revealed that 67 percent of the public has a positive attitude about the courts, compared to less than 50 percent in 1992. The landmark survey also showed that the key predictor of public trust and confidence is that court procedures be perceived as fair to all parties. The phase I report became the foundation for phase II of the assessment.

TRUST AND CONFIDENCE, PHASE II: A SERIES OF DIALOGUES

In 2006, Public Agenda (New York, N.Y.), together with Doble Research Associates (Englewood Cliffs, N.J.), was pleased to undertake phase II on the Judicial Council's behalf. Charged with delving more deeply into key issues raised by judicial branch stakeholders in phase I, our researchers sought information from court users with direct experience in court—new information that could yield specific, effective strategies for addressing the customer concerns identified by the 2005 survey.

Phase II also solicited input from two previously untapped stakeholder groups—judicial officers and court administrators—to yield an insiders' perspective on the California courts, as well as to identify possible means of improving the delivery of justice. We were particularly attuned to identifying any gaps in attitudes between these varied audiences.

PROCESS AND PARTICIPANTS FOR PHASE II

To establish an in-depth dialogue with members of the public who have actual court experience in an array of court venues, the phase II researchers relied primarily on an in-depth focus group methodology (a full description of the research methodology is found in Appendix B of this report). The focus groups, as well as lengthy one-on-one and group interviews, revealed why stakeholders feel the way they do about the courts. Group participants also discussed how the courts might better serve public needs.



"To maintain the strength of our state and our nation, we must ensure that we have a court system with integrity—one that is fair and objective, that hears and resolves disputes in a timely fashion, that is open and truly accessible to all, and finally that is worthy of the respect and confidence of the public we strive to serve."

– Ronald M. George, Chief Justice of California

The phase II assessment engaged the public in 15 focus groups. These three-hour-long groups involved a demographic cross section of people who have direct court experience, either through jury service or a high-volume court venue such as family, juvenile, traffic, or small claims. These are the venues where the public is most likely to encounter the courts and to form their opinions based on that experience. The focus groups were conducted in varied locations around the state in order to capture California's regional diversity; seven of the groups directly engaged court users from the state's three largest minority groups—African Americans, Latinos, and Chinese Americans.

In addition to focus groups, other stakeholders provided input in individual interviews. By interviewing judicial leaders, alternative dispute resolution (ADR) specialists, and business and community leaders, the phase II researchers gained valuable insights into issues specific to these areas of practice and expertise. To ensure that California's diversity was properly represented in the phase II findings, the researchers also conducted interviews with community leaders from the Filipino, Vietnamese, and Korean-American communities (representing the three most prevalent languages spoken after English, Spanish, and Mandarin/Cantonese), as well as with leaders of other Asian-American communities, including residents of Southeast Asian descent (Hmong, Cambodian, Lao, Vietnamese, and Mein), and American Indians.

Finally, phase II charted new stakeholder territory not explored in phase I. Members of the judicial branch—both judicial officers and court administrators—were added to the study and met in seven separate focus groups. They listened to and responded to court users' views and experiences and helped identify other legitimate and important concerns that should be addressed by the branch.

PHASE II AREAS OF FOCUS

The following six thematic areas emerged from the 2005 survey results, and each is further explored in phase II:

- **Receiving and seeking information on the courts**
Fewer than one person in five believes that they are "intimately" or "broadly" familiar with the courts. In undertaking phase II, the Council sought to discover not only what the public already knows about the courts, but what they need to understand—as well as how the judicial branch could best respond.
- **Experience in a court case: incidence and consequences**
Direct experience with a court case is common, largely through jury service. Serving on a jury is associated with distinctly higher approval, and involvement in a family, juvenile, or traffic case is associated with distinctly lower approval. The Council wanted to understand the public's experience in each of these court venues and explore ways of improving their court experience.

- **Barriers to taking a case to court**

The cost of hiring an attorney is the most commonly cited potential barrier to court access. Phase II sought to learn how people found attorneys, what it was like to have or not have an attorney, and what other barriers might make it difficult for people to bring a case to court. Tapping the perspectives of judicial branch insiders, phase II researchers investigated various approaches to removing barriers and making the courts more accessible for all Californians.

- **Diversity and the needs of a diverse population**

The diversity of the public served by California's trial courts is striking—31 percent of the phase I survey respondents were born outside the United States. The Council resolved to reach out to all citizens of the state in phase II. Community and court leaders were asked to provide insights into the complexities, challenges, and potential rewards of collaboration among various justice system partners.

- **Fairness in procedures and outcomes**

Procedural fairness—the sense that decisions have been made through processes that are fair—is the strongest predictor by far of whether members of the public approve of or have confidence in the California courts. Listening to the public recount their experiences with the courts, their perceptions of the fairness of court procedures and processes—and how effectively the courts present those procedures and processes—is crucial to the development of improved branchwide policy.

- **Expectations and job performance**

Reporting on job performance was the number one unmet need cited by phase I survey respondents. The Council sought clarification—from internal and external stakeholders—regarding the nature of public expectations in this regard. Thus, phase II researchers set out to learn what court performance means and what can be done not only to improve court performance but to report on performance to the public.

DELIVERY OF REPORT

The preliminary findings from phase II were delivered to the Council in June 2006 at its annual planning meeting, held at the Presidio of San Francisco. Joining the Council in June were other branch leaders, including representatives from the State Bar. Major phase II findings and recommendations have been integrated into the Council's 2006–2012 strategic planning cycle, including its reassessment of the branchwide strategic plan, *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012*, which will be made public in 2007. The plan will establish a sound strategic course of direction for California's judicial branch and provide a vehicle to improve the quality of justice for all Californians. This report contains major findings and recommendations from phase II of the public trust and confidence assessment, and includes a detailed appendix of tactical recommendations for consideration by members of the California state court system.

Findings: Confidence in the California Courts

- Mirroring phase I, court users in the phase II focus groups hold generally high levels of confidence in the state's courts; court users have an especially high regard for judges.
- Judicial members in the phase II focus groups express high confidence in the dedication and commitment of all court workers, from front line court staff to judges.
- Mirroring phase I, court users in the phase II focus groups believe that the state courts strive to provide justice for every citizen; further, they believe the state's judges are honest, impartial, judicious, and expert in their duties.
- Confirming public responses received in the phase I survey, the phase II focus groups found that court users often confuse the roles and responsibilities of the courts with such justice system partners as law enforcement and corrections, and this confusion appears to negatively affect public trust and confidence in the courts.
- Judicial members in the phase II focus groups confirm a lack of public understanding of the judiciary as a distinct, third branch of state government, and call for greater public education and community outreach.

Findings: Receiving and Seeking Information on the Courts

- Confirming responses received in the phase I survey, both court users and judicial branch members in the phase II focus groups agree that disseminating clear information to the public in accessible, user-friendly language is a priority.
- Court users in the phase II focus groups are often frustrated when court staff do not give legal advice; judicial members in the phase II focus groups say that court staff often have trouble balancing permissible information with legal advice.
- Court users and judicial members in the phase II focus groups overwhelmingly favor more self-help centers inside the courthouse; court users in the phase II focus groups also favor newsletters and mobile self-help centers in key community locations.
- Mirroring phase I, relatively few court users in the phase II focus groups have used court Web sites; however, those who have visited the Web sites are very positive about their content and helpfulness.

Recommendations

1. Recognize that judges are the courts' best asset when communicating with the public—they should be featured prominently in any communications about the courts.
2. Review judicial branch programs, policies, and practices to identify opportunities for informing the public about how the courts' functions differ from those of executive branch law enforcement agencies like the police, prosecution, and corrections.
3. Partner with education stakeholders to improve public understanding of the courts and the role of the judiciary as a third branch of government.

Recommendations

1. Provide court staff with training in the appropriate language and explanations to use when answering general questions from the public about the role of the courts and judges.
2. Continue to develop and provide information in plain English as well as in the languages most commonly spoken by court users.
3. Establish a branchwide working group to identify the lessons learned from the existing self-help centers and to recommend a strategy for making self-help centers available in all counties.
4. Create a coordinated branchwide plan for disseminating information on how to use the courts that builds on the respective strengths of on-site information kiosks, self-help centers, mobile self-help centers, periodic newsletters, and the branch's Web site.

Findings: Experience in a Court Case: Incidence and Consequences

- The way Californians are treated in court can dramatically affect their opinion of the courts.
- Californians who use some of the highest-volume courts often report feeling stress and confusion. These court users are more likely to give the courts a less favorable rating.
- Although some want more information, most of those with jury experience give the courts high ratings. Further, they appreciate recent changes in the jury system.

Findings: Barriers to Taking a Case to Court

- As in phase I, the phase II focus groups cited finding a good, affordable attorney as the main barrier preventing Californians from taking a case to court.
- One consequence of this barrier has been the rise in the number of *pro per* litigants who represent themselves in court. This increase has led to court delays and a drain on the court system's resources, according to judicial branch members.
- Court users also mention inconvenient hours, a lack of childcare, and safety concerns as barriers to taking a case to court.
- To alleviate these issues, judicial branch members support expanding court hours, finding ways to help Californians locate low-cost legal services, encouraging attorneys to unbundle legal services, and making other types of legal advisers and alternative means of resolving disputes available.

Recommendations

1. Evaluate and improve court operations to improve the court user experience, particularly to reduce delays; be more sensitive to court users' discomfort in the public forum of the courtroom.
2. Support efforts to improve the quality of service to users in family court, as well as the desirability and value of family court assignments for bench officers.
3. Leverage the positive views most former jurors have of the courts by providing them with information they can use in explaining their experiences and the role of the courts to friends, colleagues, and family.

Recommendations

1. Partner and work with the bar and other legal service providers to increase *pro bono* services, reduced-fee assistance, and lawyers who will unbundle their services.
2. Develop and expand innovative court programs, such as family law facilitators, that will meet the current and increasing number of *pro per* court users.
3. Increase, to the extent feasible and appropriate, court-provided and court-affiliated alternative dispute resolution (ADR) opportunities in family, small claims, and other court venues.
4. Partner with ADR providers to identify ways to expand the availability of ADR to meet the needs of business and a broader constituency of court users.
5. Establish guidelines for individual courts to use in deciding when night and weekend calendars might be needed for some of the highest-volume court venues. These guidelines should involve surveying local court users to determine the desirability of expanding court hours.
6. Ensure adequate safety in the courts to protect all individuals who come to court.

Findings: Diversity and the Needs of a Diverse Population

- California's diverse population creates many challenges for the courts in terms of meeting the needs of court users.
- In our focus groups, Asian Americans express positive views of the courts, bearing out the findings of the phase I survey. However, Latinos express a lower level of confidence in the courts than they did during the phase I survey. African Americans express the lowest levels of confidence of any group.
- Many minorities and recent immigrants try to avoid the legal system altogether.
- Language and translation issues are becoming increasingly prevalent in the courts. Court users and judicial members agree that the courts need more interpreters.
- Court users, community leaders, and judicial branch members alike believe that more diversity on the bench would strengthen confidence in the courts among minorities. Court users also state that they would like to see juries that reflect the diversity of the state.

Findings: Fairness in Procedures and Outcomes: The Core Concern

- On three of the four essential elements of procedural fairness—respect, trust, and neutrality—the majority of Californians say the courts do an outstanding job, according to both the phase I survey and the phase II focus groups.
- On the fourth element of procedural fairness—voice, or the sense that those in authority listen to the people involved in a court case—Californians are less likely to say that the courts are doing a good job. *Pro pers*, Latinos, and African Americans are especially likely to feel this way.
- Many court users perceive a cultural bias in the justice system, with Latinos and especially African Americans less likely than Caucasians and Asian Americans to feel that people receive fair results in court.
- Public confidence in the courts depends more on whether people perceive court procedures to be fair than on the specific legal outcome of individual cases. Many judicial branch members, however, believe outcomes shape court users' perceptions of the courts' fairness.

Recommendations

1. Expand the availability of court interpreter services; evaluate the use of special calendars for cases requiring a court interpreter, weighing the potential gains in efficiency against the possibility that court users and court staff will regard those calendars as being of lower priority than other calendars.
2. Collaborate with ethnic and immigrant organizations to develop and translate concise statements that juxtapose commonly held "myths" about what is involved in going to court with the facts about how the California courts operate.
3. Design judicial education programs to reflect specific cultural differences that commonly lead to miscommunications.
4. Concentrate efforts and work with local bar and other stakeholders regarding a specific action plan for increased diversity on the bench.
5. Increase local and community efforts regarding public education and encouragement of full and meaningful participation in the jury process.

Recommendations

1. In evaluating new programs aimed at improving job performance and customer service, study how the programs will affect the four key components of procedural fairness: courts and judges that are respectful, neutral, and trustworthy, and that take into account the views of court users.
2. Encourage judges to take responsibility for ensuring that litigants leave their courtroom with a clear understanding of what is expected of them as a result of the case outcome.
3. In response to the request of judicial officers and court staff, provide culturally responsive programs and trainings. These professional development components would enhance understanding of the diverse cultural needs of Californians, as well as provide insights into the ways that litigants from various ethnic groups perceive the courts.
4. Create best practices through which judges can appropriately meet public expectations of having a "voice" in court proceedings, the element of procedural fairness on which the courts are seen as weakest.
5. Convey to court staff that they are regarded as important ambassadors for the judicial branch through their day-to-day interaction with the public, and that they affect public approval of the courts.
6. Assume a leadership role in initiating statewide policies and actions that address issues of systemic bias within the entire justice system.

Findings: Expectations and Job Performance

- In both the phase I survey and the phase II focus groups, the unmet expectation identified most often by Californians was the desire for the courts to be accountable to the public.
- Increased contact between the public and the courts would make it easier for the public to assess and provide feedback on the performance of the courts while enabling the courts to better understand and communicate with various communities. Community-focused court planning offers a strategy for this contact to take place.
- Judicial branch members say that improved communication with the public as well as with others on the bench will allow the courts to better serve the public.
- Court users are critical of the backlog in some of the high-volume courts. Judicial members agree that the courts are overburdened and point to the courts' limited resources. The crowded caseloads result in lowered confidence for both court users and judicial members.

Recommendations

1. Make consistent efforts to communicate about the ways in which the judicial branch is accountable to the public and other branches, as well as the limits on court resources that lie beyond the control of the judiciary.
2. Continue to promote and support implementation of community-focused court planning across the state.
3. Initiate a process to review the experience that other governmental and private sector organizations have in processing consumers through high-volume transaction points for applicability to family, traffic, and small claims courts, as well as to jury selection procedures.
4. Recognize that resource allocations affect the courts' ability to perform well and to meet public expectations. Ensure that all court venues—particularly those most commonly accessed by the public—receive adequate resources.

I. Confidence in the California Courts

OVER THE LAST HALF-CENTURY, PUBLIC TRUST AND CONFIDENCE in many governmental and social institutions have declined sharply. However, the users of California's courts still hold generally high levels of confidence in the state's court system, particularly their local courts, and they have an especially high regard for judges. Both the public and members of the judicial branch believe that the state courts strive to provide justice for every citizen, and that the state's judges are honest, impartial, judicious, and expert in their duties.

At the same time, many Californians confuse the roles and responsibilities of the courts with such justice system partners as law enforcement and corrections, and this confusion appears to negatively affect public trust and confidence in the courts.



PHOTO: JASON DOY

"Things could be done better. We could have more judges and commissioners. But by and large, the people I see are doing a very dedicated job, really trying to do the right thing, working hard. I think it's a very functional system."

– Judicial officer

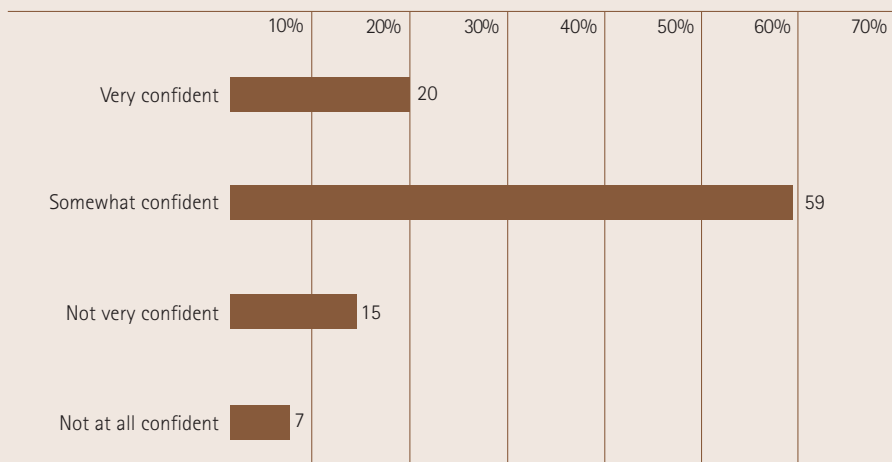
I. Confidence in the California Courts (cont'd)

In the Courts We Trust

Despite reports in the media and polls showing a general feeling among Americans of cynicism toward political and governmental institutions, most Californians express confidence in the state's court system. As reported in the phase I survey, 79 percent of the public was very confident or somewhat confident in the state courts, a rating that is "substantially higher now than when the last comparable statewide survey was conducted in 1992." Further, confidence in their local courts among members of the public was even higher, at 82 percent. Our focus groups confirm this finding. As will be discussed later in this report, perceptions regarding the fairness of court outcomes vary by ethnic group. However, most court users express a substantial level of trust and confidence in the courts of California.

For their part, judicial members express great confidence in the courts' fairness and integrity, and in those on the bench. Judicial members who feel "very confident" about the state court system generally cite the dedication, integrity, and good work of the individuals administering justice as their main inspiration. The participants who are "somewhat confident" are more likely to focus on the system itself, saying no system is perfect and that many parts of the system are experiencing stress and strain due to the high volume of cases they are processing.

Phase I survey: Public trust and confidence in the California state court system (2005)



Judges Get High Marks

California court users overwhelmingly have confidence in the state's judicial officers, saying they are honest, impartial, judicious, and expert in their duties. In administering justice, judicial officers act in the public interest, court users say. Focus group members with experience in a variety of cases and venues describe positive encounters with the judges presiding over their cases.

Although also expressing a high regard for California's judicial officers, many Latinos and, to a greater extent, African Americans report lower levels of confidence than Asian Americans and Caucasians in the workings of the criminal justice system as a whole, including the courts. This finding suggests that people's assessment of judges is not being affected by wavering public confidence in the system. Given the overall high regard Californians have for them, judicial officers have an excellent opportunity to build even more credibility when communicating with citizens in a variety of venues, including community meetings as well as in the courtroom.

Judicial members also express high confidence in the performance of the state's judges. They are also very aware of the constituents served by their courts on the local level, and, as will be discussed later, they express an interest in learning more about specific cultural differences and needs in order to improve court performance.



PHOTO: JASON DOY

"[The judge] knew that I was ignorant to the whole law situation. He explained how the whole court proceeding was going to go. . . . I had a very positive experience."

– Court user

Court Users Often Misperceive the Role of the Judiciary

Court users often confuse the courts with other justice system partners such as law enforcement, corrections, probation, and parole, a misperception that may decrease their confidence. In our focus groups, when those with lower or middling levels of confidence in the courts were asked why they feel as they do, many described experiences with other agencies such as law enforcement or expressed displeasure with the laws themselves. Such negative experiences appear to carry over into their attitudes toward the court system. Even people with court experience often have only a vague understanding of the judicial branch. Many misunderstand the role of the judicial branch in government, failing to grasp that it is co-equal with the executive and legislative branches. They also often misunderstand the courts' purpose and their role as administering, rather than enacting, the laws. This finding may present an opportunity for judicial officers to focus on the role and responsibilities of the courts when they speak at community meetings and events.

Prior studies in Oregon, Oklahoma, North Carolina, and Vermont, among other states, found the same broad-based public confusion about the criminal justice system and its functions. Since such perceptions are so widely held, this confusion about the judicial branch will most likely continue into the foreseeable future.

For their part, judicial branch members voice a great deal of frustration with the public school curriculum, repeatedly calling for more civics education in the schools, with special attention to education about the role and responsibilities of the judicial branch. Additionally, since people's experience with any one part of the criminal justice system affects their views of all the others, any contact with the courts, including everything from official notifications to the condition of the courthouse itself, can affect public trust and confidence.



"My concern is that people won't have confidence in the system if they're not comfortable with it and if they don't know about it."

– Retired judicial officer

Key Findings: Confidence in the California Courts

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|---|--|---|
| <ul style="list-style-type: none"> Confidence in the California courts is substantially higher now than when the last comparable statewide survey was conducted in 1992. | <ul style="list-style-type: none"> Express overall confidence in California courts. See judges as honest, impartial, knowledgeable, and expert in their duties. | <ul style="list-style-type: none"> Have great confidence in the courts' fairness and integrity, and in those on the bench. |
| <ul style="list-style-type: none"> The public and attorneys today are moderately positive about their courts. Attorneys tend to be the most positive. | <ul style="list-style-type: none"> Have little understanding of the role of the judiciary. Confusion exists about the role and responsibilities of the courts, which may negatively affect public confidence. | <ul style="list-style-type: none"> Want schools to teach students more about the role and responsibilities of the judicial branch. Recognize that court users often do not understand what is happening in court. |
| <ul style="list-style-type: none"> Local courts attract greater public confidence than the overall state court system. | <ul style="list-style-type: none"> Confirm that justice is local and have specific court experiences. | <ul style="list-style-type: none"> Focus on local communities served by their courts. |

Recommendations

1. Recognize that judges are the courts' best asset when communicating with the public—they should be featured prominently in any communications about the courts.
2. Review judicial branch programs, policies, and practices to identify opportunities for informing the public about how the courts' functions differ from those of executive branch law enforcement agencies like the police, prosecution, and corrections.
3. Partner with education stakeholders to improve public understanding of the courts and the role of the judiciary as a third branch of government.

II. Receiving and Seeking Information on the Courts

BOTH COURT USERS AND JUDICIAL BRANCH MEMBERS agree that disseminating clear information to the public in accessible, user-friendly language is a priority. They overwhelmingly favor self-help centers inside the courthouse and mobile self-help centers in key locations within the community. These centers would provide clear information, accessible forms, and other resources to better help people prepare for their all-important day in court. Although the vast majority of court users also favor court-published newsletters as a means of getting information to the public, judicial branch members are concerned that such newsletters might not be cost-effective. Court users who have used court Web sites to obtain information are positive about the experience, though both court users and judicial members concur that some individuals do not benefit from these sites, due to language barriers or a lack of access to the Internet.



PHOTO: JASON DOY

“One of the things that I think is real interesting is what happens when you try to create a culture of ‘How can I help this person get through the system?’ That is a real cultural change that I think the courts have to make.”

– Court administrator

II. Receiving and Seeking Information on the Courts (cont'd)

Court Users are Unsure of How to Get Court Information

Court users say that getting the information they need inside the courthouse can be very difficult. They express frustration when the answers they get from courthouse staff are unclear or inconsistent. Others report becoming exasperated with staff members who refused to answer certain questions because it might constitute providing legal advice, which they are not allowed to do.

Similarly, many administrators are all too aware that Californians have trouble navigating both the system and the courthouse, greatly frustrating citizens trying to conduct court business. Our judicial member focus groups report that certain staff get impatient when, in the words of one court administrator, "one question leads to ten more." Moreover, court administrators point out that clerks and staff find it difficult to know what types of information they can legitimately provide, and what types cross the line into legal advice.

Some court administrators acknowledge that court staff who deal with the public could use much more training in explaining exactly how they can help court users, as well as in how to answer common questions. Rather than training staff to focus on finding problems with court users' paperwork, they would like to see them trained to help people navigate the system. Having courthouse staff who effectively exercise their professional responsibilities as ambassadors for their courts would clearly help maintain and strengthen public trust and confidence.

Both court users and judicial branch members feel that more information about the courts—including very basic information about how to navigate the system—should be more readily available to the public. They also agree that such information should be written in plain, clear, nonbureaucratic language. As California's foreign-born population grows, the courts will increasingly be asked to provide clear information in plain English as well as in numerous other languages. Given concerns about literacy issues, consideration should also be given to video in addition to printed materials. The 2005 trust and confidence survey found that people with more education are more likely to seek information about the courts. Providing clear information geared toward those with lower levels of education and toward non-English-dominant speakers may help reduce the barriers to receiving court information reported in both phase I and phase II.

Self-Help Centers Help Court Users Help Themselves

To assist litigants, including *pro per* or self-represented litigants, a number of California courts provide self-help centers where people can find forms and information about basic procedures. Very few of the court users in our focus groups were familiar with

these self-help centers, suggesting that the existing centers could be more visible. But those who have used them are enthusiastic, and when others learn about self-help centers, they too express enthusiasm. They say such centers would inform and help prepare litigants, who then would feel more confident and perhaps achieve better results in court. Some court users even suggest that self-help services might make it more likely that people without an attorney would turn to the courts for help.

In the focus groups, court users also liked the idea of mobile self-help centers, modeled after local library "bookmobiles." An attractive feature of this service, they say, is that mobile centers "bring the courts into the community" by providing court-related information to those who find the courthouse intimidating or difficult to get to. Court users also say that, like the in-court self-help centers, mobile units would increase public awareness of and confidence in the courts.



"[Self-help centers] would take a lot of intimidation out of the legal system."

– Court user

II. Receiving and Seeking Information on the Courts (cont'd)

Some court users express reservations about self-help centers. These individuals stress the need to have capable bilingual or even multilingual staff for the centers. This was a particular concern in the Latino, African-American, and Chinese groups. Others want to ensure that someone is available to help those who use the self-help centers—they say they should not just be unstaffed kiosks.

Community leaders across the state also strongly endorse the idea of more self-help centers, calling them a major step in the right direction. However, a number of community leaders point out that existing centers are now geared mainly toward English-speaking court users. Forms and other material in languages other than English, as well as bilingual and multilingual staff, would better serve some of those in greatest need of assistance—Californians who are not English-dominant.

Judicial officers and court administrators are just as interested in creating more self-help centers and expanding existing ones. They note the importance of helping people prepare for court and point out that those who are more informed use less of the courts' time and resources. A few administrators with self-help centers in their court report that staff not only endorse these centers but often volunteer to staff them.

The implication is clear: Self-help centers are a win-win idea. In addition to building public trust and confidence in the courts, they make better use of court resources while building staff efficiency, effectiveness, and morale.

Court Users Endorse a Court-Published Newsletter, but Judicial Members Express Concerns

In the focus groups, court users reviewed a newsletter published and distributed by the Superior Court of Ventura County in 2002. They overwhelmingly endorse the concept of the newsletter, saying anything that provides easy access to information about court hours, venues, locations, services, and phone numbers would be an invaluable resource to the people of California.

After reviewing a Spanish-language version of the newsletter, Latino Californians also strongly endorse the idea, praising its content, while Chinese-speaking court users add that it is essential to publish a newsletter in Mandarin and Cantonese as well as in other Asian languages and make it widely available in immigrant communities. Additionally, some court users, especially ethnic minorities, are concerned that those in greatest need of a newsletter might not be likely to receive it and suggest that it be distributed widely, including in the offices of public defenders, community groups, and even in prisons.

The Ventura newsletter also provides information about how the public's fines, fees, and tax dollars are spent, information that court users note would interest Californians and help address misconceptions about court resources. Indeed, a fair number of people mistakenly believe that far from being strapped for resources, the courts are flush with them. Importantly, however, court users emphasize that the most important function of such a newsletter is providing people with the basic information they need to navigate the court system.

The views of judicial branch members on the subject of a newsletter are somewhat at odds with the public's sense. While they endorse the concept of a newsletter, some question the idea's cost-effectiveness, saying a newsletter would be expensive to produce and difficult to distribute. Some also question whether the public would really benefit from a newsletter or make much use of it.

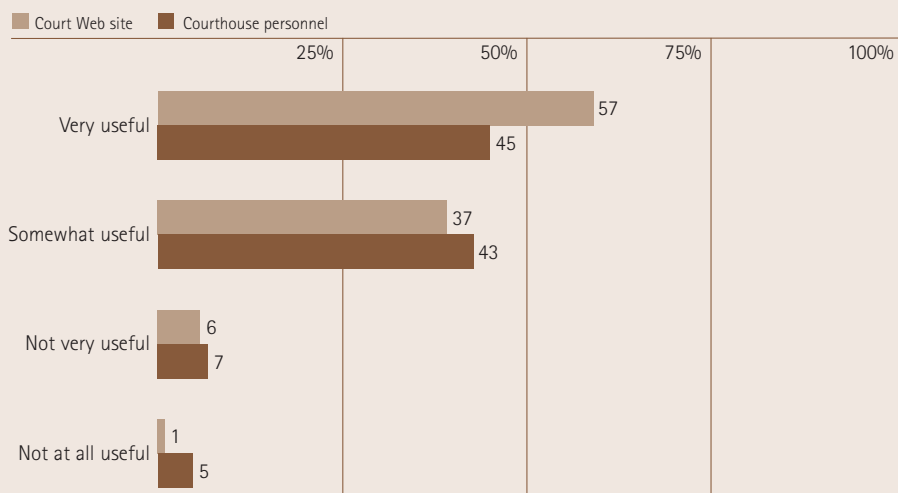


"This [newsletter] prepares you in case you ever have to go [to court]."

– Court user

II. Receiving and Seeking Information on the Courts (cont'd)

Phase I survey: How useful was the information provided by the court Web sites and courthouse personnel?



Those Who Use Them Find Court Web Sites to Be a Great Resource

Few court users are aware that court Web sites exist. But those who have used one find it to be helpful, informative, and easy to navigate. When asked about the idea of a Web site that provides court information, forms, services, and phone numbers, court users strongly endorse the concept, with many seeing Web sites as a convenient way to get information. This result is consistent with the 2005 trust and confidence survey, which found that Californians who accessed information on the courts via the Internet were "very satisfied" with the service.

While recognizing the benefits of court Web sites, court users and community leaders point out that they are least likely to be used by lower-income groups, adding that Web sites in different languages are still an inadequate means to accommodate the millions of Californians who are not proficient in English. Chinese-American court users interviewed in two focus groups in San Francisco and Los Angeles strongly urged that Web site information be made available in both Mandarin and Cantonese.

Judicial officers and court administrators also strongly endorse the idea of court Web sites, seeing them as an efficient means of providing much-needed information to the general public. Judicial officers note that taking steps to inform people about their rights

as well as courtroom procedures—while also helping them accurately fill out court paperwork—would be a major step forward. Court administrators indicate that self-help Web sites might also be cost-effective, since they allow court users to print their own forms. Still, most judicial branch members acknowledge that Web sites are of little utility to those who lack access to computers or the Internet. Consequently, branch members also endorse making computers available to the public right in the courthouse. These findings strongly suggest that helping Californians learn about and use court Web sites would help those court users who are seeking information and would also help to improve and enhance public trust and confidence in the courts.

ONLINE SELF-HELP CENTER

www.legalselfhelp.ca.gov

www.sucorte.ca.gov

The bilingual California Courts Online Self-Help Center provides quick access to hundreds of tools, resources, and links to help Californians find legal assistance, learn about state law, work more knowledgeably with an attorney, and represent themselves in some legal matters. The site provides easy-to-understand descriptions of court procedures, step-by-step guides for selecting and completing court forms, and links to local legal service organizations and lawyer referral programs.

II. Receiving and Seeking Information on the Courts (cont'd)

Key Findings: Receiving and Seeking Information on the Courts

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|--|--|
| <ul style="list-style-type: none"> ■ Self-rated familiarity with the California courts is low for the public, unchanged since 1992. | <ul style="list-style-type: none"> ■ Those who are non-English-dominant are even less familiar with the court system. ■ Are often frustrated when staff do not give legal advice. | <ul style="list-style-type: none"> ■ See the need to provide simple, written documents to explain court procedures. ■ Say that staff have trouble balancing permissible information with legal advice. |
| <ul style="list-style-type: none"> ■ Knowledge of the courts increases with exposure to court information in newspapers, the Internet, televised trials, and, most importantly, the court itself. | <ul style="list-style-type: none"> ■ Strongly support courthouse and mobile self-help centers. ■ Strongly favor a court-published newsletter. | <ul style="list-style-type: none"> ■ Favor more self-help centers. ■ Favor a newsletter but question its efficacy. |
| <ul style="list-style-type: none"> ■ Members of the public and attorneys accessing information via the Internet are very satisfied with the service. | <ul style="list-style-type: none"> ■ Most are unaware of court Web sites. ■ Those who used one found it helpful. ■ Low-income and non-English-dominant court users are least likely to use court Web sites. | <ul style="list-style-type: none"> ■ Feel that Web sites are effective and cost-efficient. ■ Believe it is difficult to reach low-income groups via court Web sites. ■ Favor computers in the courthouse. |

Recommendations

1. Provide court staff with training in the appropriate language and explanations to use when answering general questions from the public about the role of the courts and judges.
2. Continue to develop and provide information in plain English as well as in the languages most commonly spoken by court users.
3. Establish a branchwide working group to identify the lessons learned from the existing self-help centers and to recommend a strategy for making self-help centers available in all counties.
4. Create a coordinated branchwide plan for disseminating information on how to use the courts that builds on the respective strengths of on-site information kiosks, self-help centers, mobile self-help centers, periodic newsletters, and the branch's Web site.

III. Experience in a Court Case: Incidence and Consequences

THE ENDURING IMPRESSION of a court experience can hardly be overstated. From the moment Californians walk in the courthouse door, they find themselves in an unfamiliar, intimidating setting that may dramatically change their lives. Even those who enter for mundane reasons may be tense, beginning with security clearance and counter service and lasting until their case is resolved and they walk out of the courtroom. The way they are treated during this stressful time—which Californians often recall in great detail—can dramatically affect people’s opinion of the courts.

In alignment with the 2005 trust and confidence survey, our focus groups found that those who have served on a jury often describe their experience as both gratifying and educational, saying they find the courts filled with knowledgeable, serious-minded, competent judges and attorneys. Former jurors appreciate recent changes in the jury system that make jury duty more convenient. However, Californians who use some of the state’s highest-volume courts—family, juvenile, civil, small claims, and traffic—are among those most likely to give the courts a less favorable rating. In the focus groups, users of these courts often report feeling stress and confusion.



PHOTO: JASON DOY

"People who are going through a divorce or fighting over custody of their kids may come to court on some of the worst days of their lives."

– *Judicial officer*

III. Experience in a Court Case: Incidence and Consequences (cont'd)

Court Experiences Make a Strong Impression

The imprint of a court experience can be indelible. Californians are able to recount in minute detail what happened to them when they went to court decades ago. In addition to being influenced by the outcome of their case, Californians' trust and confidence in the courts are shaped by long lines, delays and postponements, confusion about procedures, and treatment by courthouse staff. People report difficulties finding the courthouse or learning where to go once they get there, describing signage that was missing or hard to understand. Californians with disabilities also find it difficult to get around a courthouse, especially in older buildings. Court users also talk about impersonal treatment, especially in traffic court.

These complaints do not surprise judicial branch members. Many judicial officers and court administrators are all too aware that Californians have trouble navigating both the system and the courthouse, greatly frustrating citizens trying to conduct court business.

Litigants Can Feel Drained by Long Lines and Drawn-Out Cases

In the 2005 trust and confidence survey, litigants in traffic, small claims, family, and juvenile court cases were found to be less approving of the courts than other litigants, a result corroborated by the phase II focus groups. Defendants in traffic court and small claims litigants complained about long lines and delays in court, overcrowding with other court users, parking cost, and inconvenient court hours.

Those court users with experience in family or juvenile court say that cases can take months or years to resolve. Many describe a "long, drawn-out" process before their case was resolved. Beyond any delays and the resulting financial burden of accumulating attorney fees, these litigants must also deal with emotional stress and even trauma associated with their highly personal and often urgently important cases. Any measures to speed up the process in the court venues most frequented by the public will likely be met with much approval from court users.

Judicial branch members, including court administrators, recognize the emotionally trying nature of family and juvenile court cases. This reality, they offer, may significantly contribute to the comparatively low satisfaction with the courts found among these litigants. They also say that presiding over family and juvenile court is challenging or even undesirable. As a result, family court judges are sometimes among the least experienced in the system. As will be discussed later, in the section "Expectations and Job Performance," the resources the courts devote to the venues most frequented by the public may have an impact on the trust and confidence of all participants, from litigants to judicial officers.



PHOTO: JASON DOY

"In our county we have a lot of people who are not literate in any language. They're totally intimidated coming into the court. . . . [And] the very first person they see is the person who is searching their pocketbook or whatever."

– Court administrator

Family Court Poses Unique Challenges for Court Users

The public nature of court proceedings adds another complication to the court experience. After listening to the "dirty laundry" of other people's domestic battles, some people report leaving court feeling very troubled and upset. Others favor private proceedings when it comes to dealing with family or juvenile proceedings, saying they are embarrassed or uncomfortable discussing their personal business in open court. The implication here is that judicial officers and members of the bar should advise litigants well in advance that a family or juvenile proceeding, including a contested divorce case, will be heard in open court.

Some judicial officers and alternative dispute resolution (ADR) practitioners suggest that Californians can avoid resolving a divorce case in public by using mediation and arbitration. As discussed in the next section, these procedures are more private and tend to be less stressful than open court. Furthermore, some ADR practitioners suggest that sliding-scale ADR services should be made available for the resolution of other case types.

III. Experience in a Court Case: Incidence and Consequences (cont'd)

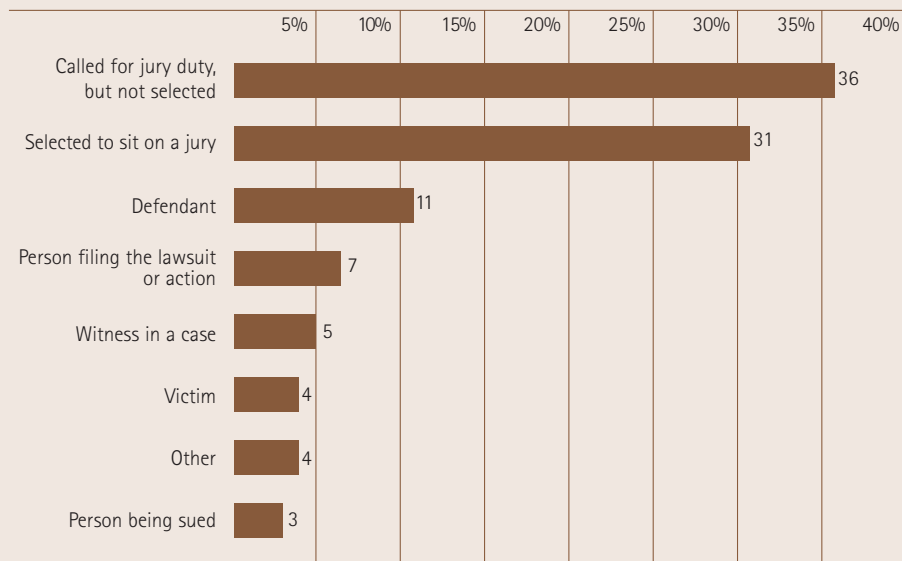
Most Jurors Give the Courts High Ratings, but Some Want More Information

The courts' highest ratings come from Californians with jury experience. Those who have served on juries say they found the judge and attorneys to be capable and serious about their responsibilities. Their fellow jurors, they add, were earnest and diligent about jury duty service. Jurors also frequently report that judges and court staff treated them with respect and courtesy, adding that they came away from their service with a deeper understanding of the law and a sense of satisfaction in fulfilling a civic duty. The results suggest that Californians' trust and confidence may be directly related to the depth of their knowledge of the courts acquired during jury service.

However, many jurors who were summoned but not selected for a jury have a different take, complaining that they received little information about the selection process. They asked (1) why so many people were summoned when so few were needed, (2) why they were dismissed if they had gone through *voir dire* (the process by which prospective jurors are questioned about their backgrounds and potential biases before being invited to sit on a jury), and (3) why the process took so long.

Phase I survey: What was your role in a court case?

(among 56% of Californians with experience in a court case)



JURY SERVICE

"Jury Service lies at the heart of our American judicial system. It is the duty and responsibility of all qualified citizens, but it is also an opportunity to contribute to our system of justice and to our communities. For many, serving as a juror is a memorable and even a profound experience. Although voting is a privilege of citizenship, jury service is a civic obligation and is often the most direct participation that individuals have in their government."

– Ronald M. George, Chief Justice of California

Some judicial branch members recognize that prospective jurors feel they are not being kept informed, while others seem less aware of the adverse effects of the jury selection procedures. The judicial branch may not fully realize just how confused people are and what the impact of such confusion may be on the trust and confidence of those who are summoned but not selected as jurors.

Jurors Appreciate Recent Improvements in the System

Each of our 15 focus groups with court users had at least several people who had served as jurors in California's courts. Many of these court users praise recent improvements in the jury system, saying the information they receive during their jury service is much clearer than it used to be.

Others praise the phone system, which allows jurors to call in to learn whether they must report for duty that day. The courts have clearly made a major visible change that Californians recognize and appreciate, which may well be contributing to the improvement seen in public trust and confidence in the courts.

Judicial members also favor these innovations and note that technical and service improvements in the jury duty system (such as "one day or one trial," in which prospective jurors need appear for only one day unless they are selected for a trial), help make court proceedings more efficient, allow more focused time for juror education, and have led to increased public approval of the courts.

III. Experience in a Court Case: Incidence and Consequences (cont'd)

Key Findings: Experience in a Court Case: Incidence and Consequences

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|---|--|
| <ul style="list-style-type: none"> The majority of Californians (56 percent) have been involved in a case that brought them to a courthouse, mainly through responding to a jury summons or serving as a juror. | <ul style="list-style-type: none"> All courthouse experiences affect trust and confidence. Courthouses are difficult to navigate, and older buildings are especially difficult for those with disabilities. | <ul style="list-style-type: none"> May be unaware that all court contacts, including security screening, can cause uneasiness. |
| <ul style="list-style-type: none"> Defendants in traffic cases and litigants and attorneys in family or juvenile cases are less approving of the California courts. | <ul style="list-style-type: none"> Litigants feel drained by family court cases that can take months or years to resolve. They are frustrated by delays and find the loss of privacy unsettling. | <ul style="list-style-type: none"> Say that presiding over family and juvenile court is challenging or even undesirable. Say that ADR may offer more privacy for sensitive family cases. |
| <ul style="list-style-type: none"> Only service as a jury member increases average approval of the courts. Otherwise, court experience tends to be associated with a slightly lower level of approval. | <ul style="list-style-type: none"> Jurors have a positive view of the courts. They complain about waits and lack of information regarding the selection process. They commend recent changes such as "one day-one trial" and the juror phone system. | <ul style="list-style-type: none"> Favor recent jury changes. |

Recommendations

- Evaluate and improve court operations to improve the court user experience, particularly to reduce delays; be more sensitive to court users' discomfort in the public forum of the courtroom.
- Support efforts to improve the quality of service to users in family court, as well as the desirability and value of family court assignments for bench officers.
- Leverage the positive views most former jurors have of the courts by providing them with information they can use in explaining their experiences and the role of the courts to friends, colleagues, and family.

IV. Barriers to Taking a Case to Court

IN THE STATEWIDE SURVEY CONDUCTED IN 2005, Californians named the cost of hiring an attorney and spending time away from work or home as the two main barriers preventing them from taking a case to court. In our 2006 focus groups, court users echo these concerns, citing the difficulty of finding affordable legal representation as the number one barrier to access. They also point to inconvenient court hours, a lack of childcare, and safety concerns, as well as a particular fear among undocumented immigrants of being deported, as reasons for not taking a case to court. Judicial branch members are aware of these concerns and support solutions such as expanding court hours, finding ways to help Californians locate low-cost legal services, encouraging attorneys to unbundle legal services to provide specialized assistance in more complex legal matters, and making other types of legal advisers and alternative means of resolving disputes available.



PHOTO: JASON DOY

"The cost of paying for an attorney is a barrier for low-income and middle-income people. Fees are huge and out of control."

– *Community leader*

IV. Barriers to Taking a Case to Court (cont'd)

Finding a Good, Affordable Attorney Is a Challenge for Court Users

The challenge of finding legal representation is seen as the greatest barrier preventing Californians from taking a case to court, according to both the 2005 statewide survey and the 2006 focus groups. Court users repeatedly describe the difficulties they encountered in trying to choose an attorney, with many saying they had no idea how to look for one. A number of court users note that they resorted to the Yellow Pages.

Beyond the problem of knowing where to look for quality legal representation, Californians face the added difficulty of finding affordable representation. Many court users and community leaders question the fees charged by attorneys and paralegals and point to a shortage of low-cost legal assistance for those who can't afford to pay the

prevailing rate. Judicial members note that some people doing legal work claim to be paralegals when they are not. Court users seeking affordable legal help can be taken advantage of by these unqualified individuals.

Although many court users are not familiar with any low-cost alternative, others have tried agencies such as Legal Aid, often without much success. Court users in the focus groups describe long waits for an appointment and a general sense that Legal Aid cannot help them. People in the middle income brackets may not qualify for Legal Aid, and thus find themselves with few options. Noting that Legal Aid is seriously overburdened, a prominent community leader confesses, "I don't know where to tell people to go to get quality, low-cost legal assistance."

Californians who are not English-dominant may face additional problems due to language barriers. Although bilingual attorneys are available, relatively few offer low-cost legal services.

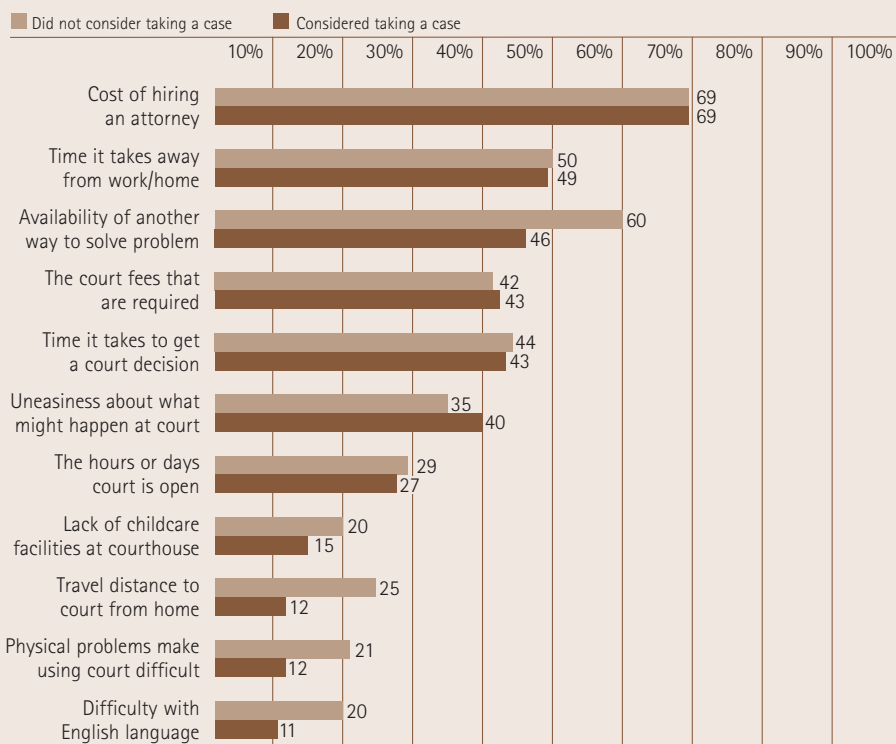
These findings have a number of implications. First, Californians would welcome information from the courts (or any other reputable source) telling them where to find quality legal representation, especially on a *pro bono* or reduced-fee basis. Second, many Californians who cannot find affordable representation decide to represent themselves in court. Therefore, helping people find affordable, quality representation or alternative dispute resolution (ADR) services might reduce the overall percentage of self-represented, or *pro per*, litigants. It also might increase the percentage of those willing to take their case to court among two groups—foreign-born Californians and those with less education. The phase I survey identified these two groups as having comparatively less direct contact with the courts.

The Increase in *Pro Pers* Presents Challenges for the Courts

One consequence of the difficulty in finding affordable legal representation is the rise in the number of *pro per* court users—people who represent themselves in court. Many of these litigants feel that representing themselves in court put them at a disadvantage. For example, they believe they would have been treated differently and their cases would have had a different outcome if they had retained legal representation. As a result, *pro per* litigants are less likely to feel confident that justice was served in their cases.

The increase in the number of *pro per* litigants over the last several decades has led to court delays and a drain on the court system's resources, according to some judicial branch members. They also concur that *pro per* litigants are outmatched when arguing against attorneys and say that an inherent imbalance exists when skilled and fully trained lawyers represent one party against individuals who lack the most rudimentary knowledge of legal procedures or even their rights.

Phase I survey: Reasons Californians chose not to take cases to court



The question posed was "Did (or might) the following factors keep you from taking a case to court?"

IV. Barriers to Taking a Case to Court (cont'd)

An Expansion of Affordable Legal Services May Help

Many of the judicial officers in our focus groups are all too familiar with Californians' struggle to find affordable legal representation, and with the challenges presented by the increase in *pro per* litigants. They call for a number of measures to help Californians find either less expensive legal representation or alternatives to taking a case to court. They suggest that increasing cooperation between the courts and the bar will help improve the ability of people who need legal services to find a lawyer who will work *pro bono* or for a reduced fee.

Another suggestion is for lawyers to offer "unbundled" legal services. Unbundling allows lawyers to limit their involvement in litigation in the same way that they often contractually limit their involvement in business transactions. Under such an arrangement, a lawyer might, for example, advise clients of their rights in a divorce, help them fill out forms, confine court appearances to child custody issues, and review the judgment. Other than that, the clients would be on their own, if they wanted to proceed in that way.

Judicial proponents of efforts to formalize the unbundling of legal services point out that it would help in a number of ways: (1) having at least partial representation would help ensure that litigants are informed of their legal rights; (2) lawyers would be willing to accept partial cases if they knew they would not be liable to face malpractice suits for parts of the case they were not involved with; and (3) judicial officers could more easily assess the merits of the case because documents and arguments would be presented in accordance with legal protocols.

Another strategy to help court users who don't have lawyers is to make other types of legal advisers available. For example, family law facilitators—neutral attorneys with experience as mediators in family law cases—can provide basic information, help people fill out forms, and guide them through various standard procedures such as spousal support, custody and visitation rights, and maintenance of health insurance. Those who have used court-based family law facilitators describe them as helpful and, if offered for no fee or a reduced fee, much more affordable than engaging a private attorney. Initially, most court users were not familiar with this idea, but once they understand it, they overwhelmingly praise this approach, saying that the facilitator's neutrality is an especially attractive aspect of this practice.

Many of the judicial branch members in our focus groups also support this strategy, saying family law facilitators help expedite the processing of the large volume of cases heard by family courts. At the same time, a few judicial branch members point out that increasing the availability of family law facilitators may have the unintended consequence of increasing the number of *pro per* litigants, as Californians may feel more confident about taking a case to court or going to court without legal representation.



PHOTO: JASON DOY

"[Mediation is not] as intimidating as going to court. I would feel more comfortable in that environment and sitting down and talking if somebody can be civil and not get carried away."

– Court user

The Business Community Faces Barriers

The business leaders we interviewed cite several barriers facing the business community in navigating the California court system. Like other court users, they point to the cost of litigation and the time required to pursue a court case as the two primary barriers they face. They also say that the difficulty of finding juries that understand the technical complexities of a business dispute makes it virtually impossible to resolve a dispute fairly. In such situations they would like to be able to use predispute jury waivers, in which business litigants mutually agree to sign pretrial agreements or waivers allowing them to take a dispute to court without a jury. However, members of the judiciary express concern about the increasing use of predispute jury waivers, especially when the bargaining power of the parties is unequal.

More Strategic Use of Alternative Dispute Resolution May Help to Remove Barriers

One proposed way to overcome the various barriers just discussed is to make greater use of alternative dispute resolution (ADR) methods such as mediation and arbitration. These methods can offer less expensive and less adversarial alternatives to going to court. Many of the court users in our focus groups, upon learning about these methods,

IV. Barriers to Taking a Case to Court (cont'd)

express overwhelming support for them. Further, they say that ADR would enable people to tell their side of the story in some detail and could also free up the court docket.

A number of the judicial branch members in our focus groups strongly endorse ADR, for the same reasons that court users favor it. They also point out that ADR can offer a measure of privacy that is absent in open court. Such privacy is likely to be especially welcome in family cases. Some judicial branch members, however, express reservations about the widespread use of ADR. They point out that citizens have a right to have their disputes decided in fair and open proceedings, adding that without them, there would be no evolution in case law. In addition, since ADR services are privately provided, fee-based arrangements, some also worry that the rate at which cases are moving out of the courts and into private ADR is indicative of Californians' inability to afford the courts.

Despite the advantages of ADR, some providers remark that private ADR services, while generally less expensive than hiring an attorney and going to court, may still be too costly for most Californians seeking to resolve disputes. Thus, attorneys and private ADR providers recommend a partnership between local bar associations and the courts to provide affordable ADR services.

ALTERNATIVE DISPUTE RESOLUTION

ADR programs may have several different goals, including offering litigants dispute resolution options that fit their needs, saving time and money for both the parties in the dispute and the courts, and reducing court congestion and the number of cases going to trial. Two popular forms of ADR are

- Arbitration—In arbitration, the neutral party conducts a hearing, receives evidence, and decides the outcome of the dispute.
- Mediation—In mediation, the neutral party does not decide the dispute but helps the parties communicate so that they can settle the dispute themselves. The parties have a greater chance to participate in resolving their own dispute than they would in trial or arbitration.

Court Users Identify Additional Logistical Barriers

A number of court users report feeling inconvenienced by court hours, saying that they must take time off from work because the courts are open only during weekday hours. Judicial officers are well aware of the difficulty many people face in getting to court. A number of them believe that traffic court hours should be extended. They favor Saturday and evening hours along with other measures to reduce people's waiting time, such as directly scheduling specific traffic court cases.

Court users and a number of community leaders also note that a lack of courthouse-based childcare is a barrier for some Californians, especially those in lower income groups. Community leaders note that courthouse-based childcare would reduce people's reluctance to go to court, as it would reduce their financial burden while also making them more comfortable.

Community leaders also report other, equally challenging barriers. Victims of domestic violence who are undocumented immigrants may be very reluctant to take a case to court, out of fear of being deported themselves or seeing their partner, perhaps the family breadwinner, deported. One community leader also observes that the victims of domestic violence often fear for their own safety, including worrying that the perpetrator might retaliate in the courthouse immediately after the case. Judicial members state that their own safety has become an issue as well. This points to the importance of adequate security in court buildings that balances the public's need to feel comfortable when arriving at court with the need to maintain judicial members' security.

"[The courts] really don't want children in there. They feel they're too disruptive. But everybody can't afford a babysitter."

– Court user

IV. Barriers to Taking a Case to Court (cont'd)

Key Findings: Barriers to Taking a Case to Court

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|---|--|
| <ul style="list-style-type: none"> The cost of hiring an attorney, regardless of the respondent's income level, is the most commonly stated barrier to taking a case to court. | <ul style="list-style-type: none"> Say the cost of affordable legal representation is the number one barrier. Are unaware of how to find an attorney or reduced-fee legal help. | <ul style="list-style-type: none"> See the difficulty people have getting affordable legal help. Say Legal Aid is not as available as in the past. Favor improving the ability of reduced-fee/<i>pro bono</i> lawyers to reach those in need. Favor unbundling legal services. |
| | <ul style="list-style-type: none"> <i>Pro per</i> litigants tend to have less confidence in the fairness of court outcomes. They say their case would have been won with an attorney. | <ul style="list-style-type: none"> Confirm the increase in <i>pro pers</i> and say that <i>pro pers</i> may be mismatched in court if facing a party represented by an attorney. |
| <ul style="list-style-type: none"> Recent immigrants appear to be poorly informed about formal alternatives to court as a way of resolving disputes. | <ul style="list-style-type: none"> Californians express broad support for ADR, upon learning about it. They say ADR might reduce costs and give people a chance to talk. | <ul style="list-style-type: none"> Most have great hope for ADR. Say ADR could lower costs, increase access, and relieve the burden on the courts. Some wonder whether ADR's growth indicates that the courts are too expensive or rigid. |
| <ul style="list-style-type: none"> Barriers include lack of childcare, distance to be traveled, time away from work, and unease about what might happen if one became involved in a court case. | <ul style="list-style-type: none"> Confirm that time, distance, and the need for childcare are barriers. Victims of violence may avoid court due to fear for their safety. | <ul style="list-style-type: none"> Are aware of the difficulty court hours may cause. Express some support for night and weekend hours and for allowing defendants to schedule traffic appearances. Say that safety is a concern for judges as well. |

Recommendations

- Partner and work with the bar and other legal service providers to increase *pro bono* services, reduced-fee assistance, and lawyers who will unbundle their services.
- Develop and expand innovative court programs, such as family law facilitators, that will meet the current and increasing number of *pro per* court users.
- Increase, to the extent feasible and appropriate, court-provided and court-affiliated ADR opportunities in family, small claims, and other court venues.
- Partner with ADR providers to identify ways to expand the availability of ADR to meet the needs of business and a broader constituency of court users.
- Establish guidelines for individual courts to use in deciding when night and weekend calendars might be needed for some of the highest-volume court venues. These guidelines should involve surveying local court users to determine the desirability of expanding court hours.
- Ensure adequate safety in the courts to protect all individuals who come to court.

V. Diversity and the Needs of a Diverse Population

CALIFORNIA'S DIVERSE POPULATION CREATES MANY CHALLENGES for the courts in meeting the needs of court users. Trust and confidence in the courts vary widely among the state's ethnic groups. For example, Asian Americans and recent immigrants express high confidence in the state courts, but Latinos and especially African Americans have lower levels of confidence. These low levels of trust can cause some groups to avoid any contact with the legal system. Undocumented immigrants also tend to avoid the legal system because they fear being deported.

Language and translation issues are increasingly prevalent in the courts. Some court users and judicial branch members express concern about the availability of and quality of court-provided translation. Although it is beyond the courts' capacity to provide interpreters in every court for all of the major languages spoken in the state, their inability to do so affects public trust and confidence.

The need for greater diversity within the judicial branch itself is an issue that resonates strongly with court users, community leaders, and judicial branch members alike. According to many court users and community leaders, more diversity on the bench would strengthen confidence in the courts among minorities. Court users also state that they would like to see juries that reflect the diversity of the state.



"Our big issue right now is we don't have enough interpreters. You're dealing with fewer resources than you like to have, and [with] the fact that [interpreters are] mandated for criminal cases and not for civil, not for family."

– Court administrator

California's Diversity Is Staggering

The sheer size and diversity of California makes for a unique situation requiring particular attention from the state courts. Among the survey respondents to the phase I trust and confidence report, 31 percent were born outside the United States. In addition, more than half of the state's population belongs to an ethnic minority group, as of the 2000 census, with the three largest groups being Latinos, African Americans, and Chinese Americans. For the California court system, the largest in the nation, earning and keeping the trust and confidence of this diverse population poses a challenge.

To gauge the levels of confidence among California's largest minorities, we conducted separate focus groups involving Latinos, African Americans, and Chinese Americans. We also interviewed community leaders from the Filipino, Vietnamese, Korean-American, and other ethnic communities. These discussions point to the need for better communication with minority and non-English-dominant court users and a greater degree of cultural sensitivity.

Asian Americans Tend to Have a Positive View of the Courts, but Other Minority Groups Are Wary

In our focus groups, Asian Americans express positive views of the courts, bearing out the results of the phase I survey. Chinese court users in particular say they believe the court system is designed to provide a fair trial to all people. Our research found several possible reasons why certain ethnic groups, and in particular recent immigrants, might rate the courts highly: (1) they may come from a less confrontational culture and may therefore be more willing to accept rules by courts and other authorities; (2) those who have language difficulties also have minimal legal knowledge and may therefore rely more on their attorney; (3) recent immigrants may view the California courts more favorably than the courts in their native country.

Latinos and African Americans report markedly lower levels of confidence in the entire criminal justice system, including the courts. Latinos in particular showed a lower level of confidence in the focus groups than they did during the phase I survey. In this section, we discuss the reasons immigrants and minorities have for avoiding contact with the system, language issues in the courts, and the need for diversity and cultural sensitivity on the bench and among court staff. We explore the cultural and systemic issues behind this lower level of trust in Section VI, on the perceived fairness of the system.

Many Recent Immigrants and Minorities Avoid Any Contact with the Legal System

Court users in our focus groups say that many minorities and recent immigrants try to avoid the legal system altogether. Some fear that having a record of any sort will make them more likely to encounter legal problems with the system in the future. In addition, undocumented Californians, especially Latinos and Asians, fear that any contact with the legal system will reveal their immigration status, and they are very fearful of being deported. One community leader comments that if immigrants knew that "nothing bad" would happen to them, they might be less reluctant to go to court.

This lack of trust and the fear of becoming caught up in the system appears to be one powerful reason why minorities and recent immigrants are less likely to take a case to court. Civic and community leaders therefore support close collaboration between trusted community organizations and the courts to disseminate information designed specifically to address the most serious fears of these groups, especially worries about immigration matters. This information could include what one community leader calls a "myths versus facts" document to increase people's understanding of what exactly happens in court. Lacking this kind of information about the role of the courts, however, many minorities and recent immigrants will continue to be reluctant to use the courts for any purpose.



PHOTO: JASON DOY

Language Difficulties Are Formidable in the Courts

The ever-increasing number of foreign-born Californians means that language and translation issues are becoming more and more prevalent in the courts. Many Californians, but especially minorities, express concern about the treatment of those who do not speak English. Some report seeing court staff, particularly counter personnel, lose their patience with these non-English speakers.

Court users who rely on a translator cannot always be sure that they will be given a clear, accurate picture of the proceedings. For example, bilingual court users report problems related to court translations, saying that court interpreters do not always accurately translate what is said. In addition, some community leaders point out problems involving the literal translation of what is happening in court, which often includes legal terms in Latin without an explanation of what the terms mean. Another issue relates to the difference between formal Spanish taught in universities and the vernacular language and dialects people use in their daily lives.

Many court users also report seeing a significant shortage of court interpreters. Chinese court users confirm this view, reporting that there are not enough court interpreters in either Mandarin or Cantonese. Leaders from the state's Latino and Asian communities note that the shortage of translators is a major problem that prevents many Californians from receiving or even seeking justice from the courts. A community leader notes that some immigrants simply give up rather than "go through a lot of middlemen to tell their story to the court." A number of civic and community leaders also call for the courts to provide interpreters in venues where they are not currently mandated, especially civil court (including small claims) and traffic court.



"[The gap between the courts' ability to meet the translation needs of the public] raises the question of whether public trust and confidence are shaken somewhat . . . right or wrong, no matter how hard you try."

– *Judicial officer*

Another issue involves court users who bring untrained translators with them. Judicial officers serving in family court point out that litigants sometimes have to use their own children as translators. One community leader says that women in family court cases, perhaps involving domestic violence or divorce, sometimes have no recourse but to use their children as translators in court, forcing a child to relive what may have been a terrifying experience. The implication here is that the courts, which otherwise take such care to look out for the interests of children, may need to do more in these instances to protect children from further harm.

A number of judicial branch members agree that the courts need more interpreters, a shortage that some feel directly affects access to the courts and the fairness of the proceedings. Others note that while it is the court user's responsibility to provide his or her own interpreter in civil cases and small claims matters, this is simply not happening in many cases.

"California's courts are challenged with serving a growing population that is one of the most culturally and linguistically diverse in the nation. Individuals of diverse racial and ethnic backgrounds will soon compose the majority of the state's population. California residents speak 224 different languages and innumerable dialects."

– *Leading Justice into the Future (March 2000)*

V. Diversity and the Needs of a Diverse Population (cont'd)

Some judicial officers report using makeshift solutions, such as pulling bilingual court staff from other areas to interpret in court. Many call for more interpreters in some of the highest-volume venues, especially family court, but others say that it is well beyond the courts' capacity to provide interpreters in every court for all the major languages spoken in the state.

In sum, a gap exists between what court users and community leaders need in terms of court-provided translation services and what the courts provide or may be able to provide. But regardless of how unrealistic the public's expectations may be, the fact that a gap exists negatively affects public trust and confidence.

More Diversity on the Bench Would Increase Trust and Confidence Among Minorities

Court users and community leaders alike call for greater diversity on the bench, saying this change is key to increasing trust and confidence among minorities. They note that greater diversity would increase what one leader calls the "cultural competency" of the bench, suggesting that judicial branch members with relevant cultural backgrounds are more likely to understand the history, norms, and behavior of various ethnic groups.

PHOTO: JASON DOTY



Judicial officers generally agree that the state needs to increase diversity on the bench and throughout the court system. Some talk about their own past efforts in this direction—such as doing outreach to encourage minority judicial applicants—while others point to the need for more minority lawyers, to create a larger pool of commissioners and potential judges. Judicial officers affirm the need for greater representation on the bench as an issue of fundamental fairness and justice. Moreover, members of the judicial branch, especially judges, express interest in learning more about specific cultural differences, understanding that not knowing specific cultural cues may lead to miscommunications. Many report that they need to rely on experience on the bench, education programs, or self-directed investigation to understand the varied needs and behavior of the diverse court users they encounter.

The Diversity of Jurors Can Affect Trust and Confidence in the Courts

In the phase I survey, certain ethnic groups, including Latinos and Asian Americans, reported that they served on juries less often than other groups surveyed. In the phase II focus groups, a number of court users, including a number of Latinos and African Americans, state that juries do not reflect California's population in terms of ethnicity and income. Some court users see inadequate juror compensation as the root cause and express concerns that the resulting juries are less likely to empathize with low-income and minority defendants. Judicial members feel that juries are representative of local communities, and that what is needed is more public education and encouragement of full and meaningful participation in the jury process. Regardless of the underlying issues, the fact that court users perceive juries as being nondiverse may have an effect on public trust and confidence in the California courts. Court users in the focus groups, especially ethnic minorities, believe strongly that minority and low-income defendants in criminal cases would be better understood by a jury that was more reflective of their ethnic and income status.

"Even though I know I'm supposed to communicate in English, I sometimes do both [English and Spanish], and I think that helps. It's just being sensitive to that cultural heritage, whatever it is, whether it's Korean or Arab."

– Judicial officer

Key Findings: Diversity and the Needs of a Diverse Population

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|--|--|
| <ul style="list-style-type: none"> The diversity of the public served by California's courts is striking: 31% of all respondents were born outside of the United States. | <ul style="list-style-type: none"> Court users and community leaders say that more diversity on the bench will increase understanding. Court users would like to see more diversity in the jury process. | <ul style="list-style-type: none"> Support greater diversity so the bench more closely reflects California's population. Believe that more education and outreach is needed to encourage jury participation. |
| <ul style="list-style-type: none"> Immigrants, especially recent immigrants, tend to hold highly positive views of the California courts but have low levels of contact with the courts. The positive opinions of immigrants do not appear to fade away, remaining overall strong after ten, twenty, or more years in the United States. | <ul style="list-style-type: none"> Asian Americans have positive views of the courts. Other minorities have less confidence. | <ul style="list-style-type: none"> Members of the judicial branch, especially judges, express interest in learning more about specific cultural differences, understanding that not knowing specific cultural cues may lead to miscommunications. |
| <ul style="list-style-type: none"> Language difficulties appear to be more formidable in court than in other settings: immigrants resident in the United States for more than ten years typically chose to be interviewed in English, but many expressed concern that language would be a barrier to their taking a case to court. | <ul style="list-style-type: none"> Express concern about treatment of non-English speakers. Say that staff are sometimes impatient with those who speak English haltingly or not at all. Are concerned about the accuracy of translations. See a shortage of court interpreters, especially for Asian languages. Minorities and immigrants are wary of getting caught up in the system. | <ul style="list-style-type: none"> See a shortage of qualified court interpreters. Say that differences in dialect and interpreters' more formal language can lead to miscommunication. |

Recommendations

- Expand the availability of court interpreter services; evaluate the use of special calendars for cases requiring a court interpreter, weighing the potential gains in efficiency against the possibility that court users and court staff will regard those calendars as being of lower priority than other calendars.
- Collaborate with ethnic and immigrant organizations to develop and translate concise statements that juxtapose commonly held "myths" about what is involved in going to court with the facts about how the California courts operate.
- Design judicial education programs to reflect specific cultural differences that commonly lead to miscommunications.
- Concentrate efforts and work with local bar and other stakeholders regarding a specific action plan for increased diversity on the bench.
- Increase local and community efforts regarding public education and encouragement of full and meaningful participation in the jury process.

VI. Fairness in Procedures and Outcomes: The Core Concern

"PROCEDURAL FAIRNESS"—HAVING A SENSE THAT COURT DECISIONS are made through processes that are fair and understandable—is a crucial factor in determining public trust and confidence in the court system. California state courts are perceived to be doing well on three key elements of procedural fairness: (1) the courts are seen as neutral and unbiased, (2) the courts are viewed as treating people with dignity and respect, and (3) the courts have earned the public's trust by taking people's needs into consideration. But on a fourth element, giving voice or participation, many California court users, especially ethnic minorities and those without legal representation, say the courts could do better. Latinos and especially African Americans are much less likely than Caucasian and Asian-American Californians to say that court outcomes are fair. Significantly, however, public confidence in the courts, even among minorities, actually depends more on whether people perceive court procedures to be fair than on the specific legal outcome of individual cases.



"I just want to be treated the same, like you treat anybody else that has money. . . . You got a tie, I don't. I'm still a man, a human being."

– Court user

VI. Fairness in Procedures and Outcomes: The Core Concern (cont'd)

Most Court Users Say the Courts Are Respectful, Trustworthy, and Neutral

On three of the four essential elements of procedural fairness—respect, trust, and neutrality—Californians say the courts do an outstanding job. In the phase I survey, 79 percent said that the courts treat people with dignity and respect. A large majority of focus group participants agree that the courts take people's needs into account, and many add that judges pay special attention to the needs of children. Most court users find the courts to be neutral and impartial, with many people asserting that a California judge would never take a bribe.

PROCEDURAL FAIRNESS

The procedures within the courts that lawyers, judicial officers, and court staff utilize can have a profound effect on how the public—particularly those litigants who are self-represented—view the courts. Four elements of procedural fairness are key:

- **Respect**—People react positively when they feel they are treated with politeness, dignity, and respect and believe that their rights are respected.
- **Voice**—People want the opportunity to tell their side of the story or have their stories told to an authority who listens carefully.
- **Trust**—People observe behavior to look for actions indicating that they can trust the character and sincerity of those in authority, and that those in authority are sincerely concerned with their needs.
- **Neutrality**—People are more likely to accept court decisions when they feel the court is neutral, they have been treated like everyone else, the importance of the facts is clearly emphasized, and the reasons for a decision have been clearly explained.

As we state earlier in this report, there is a general unfamiliarity with the courtroom process on the part of the public. The court user focus groups confirm the finding in the phase I survey that a great many Californians are so unfamiliar with the courts that they do not understand their rights and have difficulty understanding even the simplest court terms or procedures. *Pro per* litigants in particular frequently report having trouble understanding legal terminology and court procedures. There are times when, to quote one community leader, "People don't understand the decisions that are made." This confusion among court users may have the unintended consequence of contributing to a lower sense of procedural fairness.

Many judicial branch members are aware that court users feel confused when in court. For example, they are not surprised to hear that people do not know the difference between the district attorney and the prosecutor. Other factors discussed earlier in this report, such as the invasive nature of security screening, court staff who appear unhelpful because they cannot provide legal advice, and delays in traffic or family court, may also have the unintended consequence of making the courts seem less neutral or respectful.

Court Users, Especially Minorities, Feel They Are Not Given a Chance to Tell Their Side of the Story

When it comes to the fourth element of procedural fairness—voice, or the sense that those in authority listen carefully to the people involved in a court case—the results of both the phase I survey and the phase II focus groups show that Californians are far less likely to feel that the courts are doing a good job. Many court users, especially *pro pers*, Latinos, and African Americans, express frustration that they did not have a chance to fully explain their side of the story to the judge. Additionally, some say that when they are permitted to speak, a judge expects them to communicate in legal language. Even some court users who had legal representation report that their attorney misconstrued or misrepresented their views.

Some judicial officers recognize the importance of letting people tell their story, even when it is both time-consuming and difficult. One judge gives an example of spending up to two hours with a *pro per*, and then having the litigant tell him, "You know, I'd really like a judge like you to try my case, because you listen to me; you understand my position." The judge adds that the courts cannot "let these people become numbers."

PHOTO: JASON DOY



"A lot of language is lost between you, your attorney, and then to the judge. And then when you want to clarify something between the attorney and judge, you're automatically out of order. . . . That's why a lot of people lose cases."

– Court user

Many judicial officers, however, see difficulties with letting litigants speak up in court. Such communication may be time-consuming because litigants rarely ask just one question—one usually leads to another. Judicial officers also note that litigants who are unfamiliar with legal procedures may talk or argue with each other instead of speaking only to the judge. Finally, some judicial officers cite the danger of embroilment—that is, inappropriate involvement in a case—especially when *pro pers* do not understand basic legal procedures or recognize their rights.

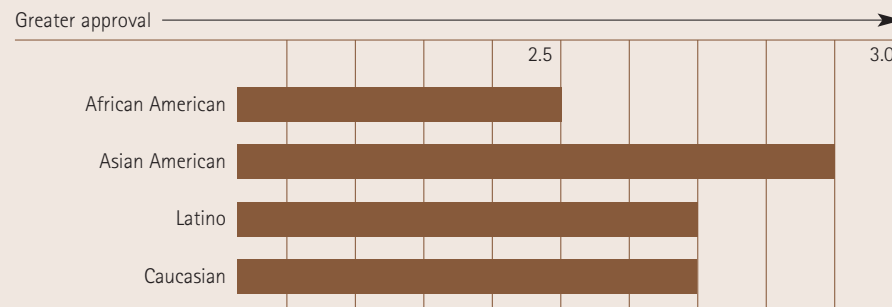
One clear implication of these findings is that there may be a nearly inescapable tension between litigants' desire to tell their story in court and judicial officers' sense that adjusting courtroom procedures to accommodate this desire will dramatically slow the wheels of justice and overburden the courts. However, public trust and confidence in the courts—and especially the confidence of *pro pers*, Latinos, and African Americans—will continue to be negatively affected to the extent that procedures do not permit them to tell their story at some length and in their own words.

Many Court Users Perceive a Cultural Bias in the Justice System

The phase I trust and confidence survey found significant differences in the views of the state's largest ethnic groups. Caucasian and Asian-American Californians were much more likely than other groups to believe that people received fair results in court. By comparison, Latinos and especially African Americans were far less inclined to voice this view. In the focus groups, a number of males said that the family courts—as well as social service agencies—tend to favor the needs of women over men. But on balance, most court users, including Latinos and African Americans, continue to say that the judges themselves are honest, impartial, and well qualified, and that the courts generally strive hard to be fair.

The focus groups discussed their perceptions of racial and ethnic bias in the courts at great length. During these discussions, it became apparent that their views were quite complex and involved beliefs about cultural differences as well as a larger systemic view of California's justice system. Many feel that appearance and cultural factors influence how a member of a minority group is treated in court. Court users, especially minorities, feel that income plays a major role in determining how people are treated in the California courts. Many also say that African-American and Latino court users who are well educated or have light skin receive better treatment. Finally, some believe that the

Phase I survey: Overall approval of the courts, by race



The African-American and Asian-American averages are lower or higher than other groups, respectively, to a statistically significant degree. Scales from 2.0 to 3.0 are used to draw attention to variation in the data. The actual scales used were from 1 to 4.

VI. Fairness in Procedures and Outcomes: The Core Concern (cont'd)

treatment of minorities can depend on whether they express themselves well in the courtroom. They suggest that certain minority court users feel that they have to put on the proper clothes and behave differently in court than they would in the settings they are accustomed to.

Judges repeatedly state their appreciation for the cultural sensitivity training they have received and request training that covers even more cultures. They recognize that the more they understand litigants from their own cultural perspective, the more they can administer cases fairly. At the same time, both court administrators and judges point out that there are significant differences in the training bench officers receive and the training received by bailiffs, and they strongly recommend better cultural sensitivity training for all employees who interact with the public in courthouses.

YOUR RIGHTS IN COURT

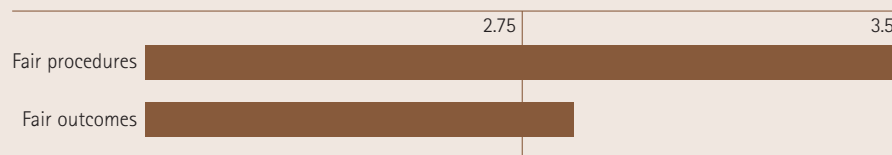
Every Californian has rights that are guaranteed by the constitutions and statutes of the United States and California. These rights include:

- The right to sue for money owed and for other relief;
- The right to defend yourself against a lawsuit;
- The right to be presumed innocent if charged with a crime;
- The right to defend yourself against all criminal charges;
- The right to a public and speedy trial by jury if you are charged with a felony or misdemeanor; and
- The right to an attorney at public expense if you are charged with a felony or misdemeanor and cannot afford an attorney.

Court Users Base Their Confidence on the Fairness of Court Procedures, Not the Outcome

It is important to note that there is a gap—and perhaps a significant gap—between the assumptions of judicial branch members about how the public perceives the fairness of the courts and the actual opinions of the public. Many participants in the judicial member focus groups assume that court users' confidence in or approval of the courts depends on whether their case outcome was favorable. However, both the phase I and phase II research shows that Californians' trust and confidence in the courts depend less on the outcome of individual cases than on their treatment and the fairness of the procedures they see at work in court. Court users who did not win their case may well express satisfaction with their experience if they feel that most of the court procedures were fairly administered and that they had their day in court. Thus, many judicial branch members may underestimate the critical importance of the perception of procedural fairness to the public.

Phase I survey: Relative importance of significant factors on overall court approval



Relative influence is determined after differences due to race/ethnicity, age, gender, and education have been taken into consideration. A scale from 2 to 3.5 is used to draw attention to variation in the data. The actual scale was from 1 to 4.

"In most counties, [with small claims] you get a piece of paper with a box checked "You lose," no explanation, no understanding. Yes, somebody's got to win, somebody's got to lose, but I think, at least when I did [orders] with explanations, we had far fewer appeals."

– Judicial officer

The Branch Believes It Is Fair

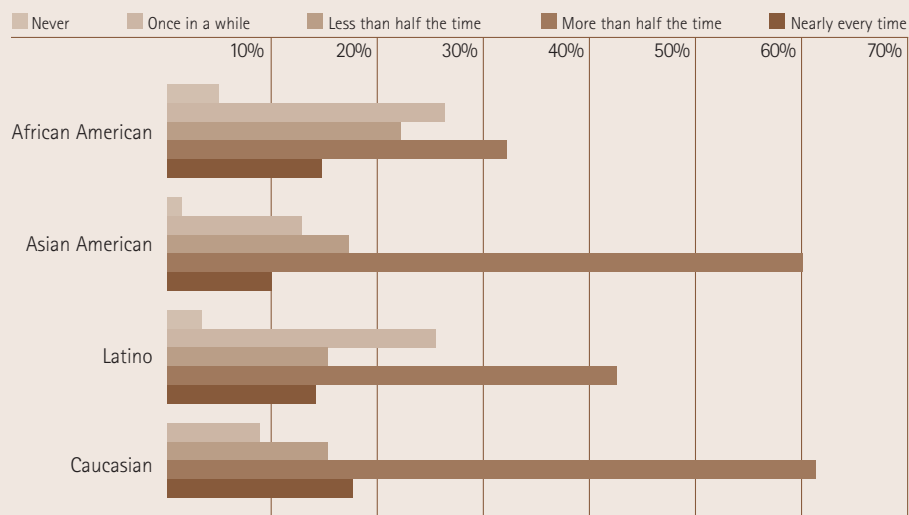
In general, the California courts get high marks for procedural fairness from judicial branch members, with many recognizing that those without legal representation may find it more difficult to make their voice heard in court. However, many judicial branch members also acknowledge that the court experiences of Latinos and African Americans may indeed be quite different from those of Caucasian and Asian-American Californians.

In responding to some of the perceptions and incidents described by the focus group members, some judicial officers point out that court users' perceptions are largely shaped by the stress of going through a legal procedure. Family court users are particularly likely to be under enormous stress during court proceedings. Judicial branch members also recognize that being on the front line with the public may sometimes try the patience of courthouse staff. However, the stress involved in taking a case to court makes the fair and patient treatment of court users even more crucial in gaining the public's trust and confidence. In the words of one court user, "The court system is there to protect you." Cultivating that belief among court users, including *pro pers* and ethnic minorities, would help more people feel that justice is being served.



PHOTO: JASON DOY

Phase I survey: How often do you think people receive fair results from courts in your county?



"[Court users need to know that] everyone is on a level playing field. That is the crux of communicating fairness and access to everybody equally. It's achieved just by the way that you conduct yourself in the court, and your staff is an extension of you, as the bench officer."

– Judicial officer

VI. Fairness in Procedures and Outcomes: The Core Concern (cont'd)

Key Findings: Fairness in Procedures and Outcomes: The Core Concern

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|---|---|
| <ul style="list-style-type: none"> ■ Having a sense that court decisions are made through processes that are fair is the strongest predictor by far of whether members of the public approve of or have confidence in California courts. ■ Californians rate their courts highest on the "respect and dignity" element of procedural fairness and lowest on the "participation" ("listen carefully") element. | <ul style="list-style-type: none"> ■ Give judges high marks for treating people with dignity and respect. ■ Many do not understand terms or procedures. ■ Many, especially <i>pro pers</i> and ethnic minorities, are frustrated by an inability to tell their story. ■ Say that judges respond only to legal language. | <ul style="list-style-type: none"> ■ Are aware that court users often feel confused in court. ■ Find that letting <i>pro pers</i> speak is time-consuming and difficult. |
| <ul style="list-style-type: none"> ■ Californians consider that outcome fairness is least for people with low incomes and non-English speakers. ■ African Americans tend to perceive the highest level of outcome unfairness for Latino/Hispanic Americans, African Americans, and low-income people. They are only slightly less likely than Latinos and more likely than Asian Americans to perceive unfair outcomes for non-English speakers. ■ The incidence of court experiences varies among racial and ethnic groups and increases markedly with level of education. | <ul style="list-style-type: none"> ■ Say that those with fewer resources are less likely to prevail. ■ Latinos and African Americans have less confidence in fair court outcomes. | <ul style="list-style-type: none"> ■ Say that court decisions are not biased. ■ Universally hold that bias is unacceptable. ■ Many say that minorities often have negative experiences. ■ See a need to learn more about cultural differences but are unsure about what to do. ■ See negative experiences as systemic, cultural, and complex. ■ Are aware that cultural differences might prevent full court usage. |
| <ul style="list-style-type: none"> ■ Litigants in family and juvenile cases and defendants in traffic cases perceive less procedural fairness than do litigants in other kinds of cases. | <ul style="list-style-type: none"> ■ Believe that fairness stems from treatment, not outcome. ■ Believe that judges take the needs of children into consideration. ■ Some male court users believe that women get better treatment in family court. | <ul style="list-style-type: none"> ■ Feel that outcome, not procedural fairness, determines public confidence. ■ May not be aware of the importance to the public of a sense of procedural fairness in all contact with the courts. |

Recommendations

1. In evaluating new programs aimed at improving job performance and customer service, study how the programs will affect the four key components of procedural fairness: courts and judges that are respectful, neutral, and trustworthy, and that take into account the views of court users.
2. Encourage judges to take responsibility for ensuring that litigants leave their courtroom with a clear understanding of what is expected of them as a result of the case outcome.
3. In response to the request of judicial officers and court staff, provide culturally responsive programs and trainings. These professional development components would enhance understanding of the diverse cultural needs of Californians, as well as provide insights into the ways that litigants from various ethnic groups perceive the courts.
4. Create best practices through which judges can appropriately meet public expectations of having a "voice" in court proceedings, the element of procedural justice on which the courts are seen as weakest.
5. Convey to court staff that they are regarded as important ambassadors for the judicial branch through their day-to-day interaction with the public, and that they affect public approval of the courts.
6. Assume a leadership role in initiating statewide policies and actions that address issues of systemic bias within the entire justice system.

VII. Expectations and Job Performance

CALIFORNIA'S COURT USERS ARE GENERALLY QUITE SATISFIED with the courts' performance. However, the focus groups reconfirm the phase I finding that the courts fall short of meeting Californians' expectations in certain areas. At the top of the list of unmet expectations is the need to report to the public on job performance.

Many court users state that it is especially important to hold the courts accountable for the way they treat those they serve. They also urge the courts to step up their public communications efforts by reporting on their overall job performance and their efforts to improve the public's experience with the court system. Judicial branch members say that improved communication with the public as well as with others on the bench will allow the courts to better serve the public.

Court users are critical of the backlog of cases in the high-volume courts. Judicial officers say the courts are overburdened and lack the resources to handle the high volume of cases they must process each year. The crowded caseloads result in lowered confidence for both court users and judicial members.



"I think the future is going to be a greater emphasis on the collaborative approach to the work of the judiciary and less on what some years ago was the traditional approach [to civil and family litigation]. I think that is something that the judicial branch is doing well. Are we there yet? No, but we're headed there."

– *Judicial officer*

VII. Expectations and Job Performance (cont'd)

Court Users Want the Courts to Be Accountable to the Public

Although California court users are generally quite satisfied with the courts' performance, they also have certain expectations of the court system that they say aren't being met. In both the phase I survey and the focus groups, Californians identify the most significant unmet expectations. Earlier sections of this report have covered many of these, including the need to have local courts open at convenient times and the feeling that the courts should give more help to *pro per* litigants who are representing themselves in court. The one expectation that remains to be discussed—and the one that tops the list of unmet expectations—involves how the courts report on their performance to the public.

When asked directly what they want to hear about the job performance of the courts, many court users are initially perplexed. After more discussion, however, many say that they definitely want to know that judicial branch employees are being held accountable to the public. A number of court users call for exit surveys as people complete their jury service or when their cases are resolved, to gauge how people feel about the courts and their treatment in the courthouse.

Judicial branch members agree that the courts should be accountable to the public, but they do not agree on how best to achieve this. Some suggest monitoring courtroom activity by rotating judicial officers through courtrooms to observe the behavior of those on the bench. Others call this monitoring approach invasive and suggest that judicial officers already receive more than adequate education and training in order to

MEASURING COURT PERFORMANCE

To help measure court performance, a national commission of judges and court managers developed trial court performance standards to identify the fundamental goals and responsibilities of the courts within five performance areas.

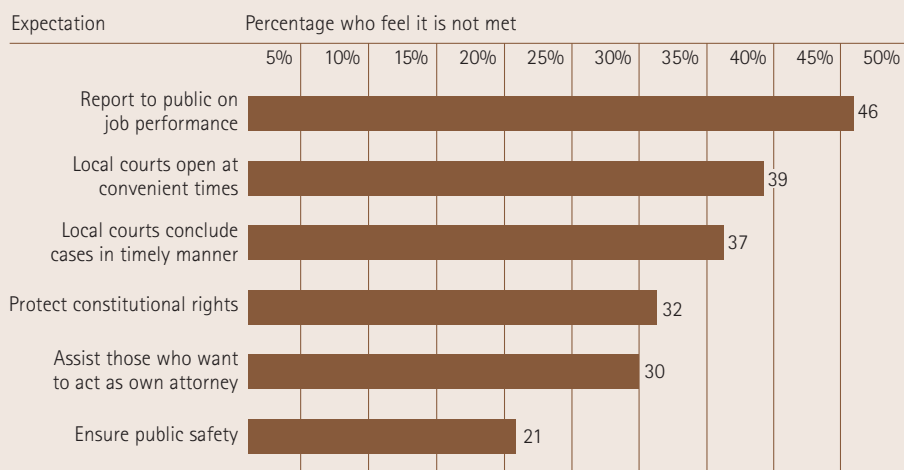
- Access to justice—Trial courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of personnel affect accessibility.
- Expedition and timeliness—Unnecessary delays cause injustice and hardship and are a primary cause of diminished public trust and confidence in the courts.
- Equality, fairness, and integrity—Integrity refers not only to the lawfulness of court actions but also the results or consequences of its orders.
- Independence and accountability—Independence and accountability permit government by law, access to justice, and the timely resolution of disputes with equality, fairness, and integrity.
- Public trust and confidence—Justice should not only be done, but should be seen as it is being done.

perform their duties as officers of the court, and are further held accountable by an independent state agency—the Commission on Judicial Performance—that oversees judicial performance.

Stronger Connections with Local Communities May Help the Courts Understand Public Expectations

Increased contact between the public and the courts would make it easier for the public to assess and provide feedback on the job performance of the California courts. In focus groups, court users strongly support the idea of community-focused court planning, a strategy employed by a number of courts around the state that involves seeking direct input from the public on how the courts might better meet community needs. Court users say it would improve communication between the courts and the public while enabling the courts to better understand and communicate with various communities.

Phase I survey: Unmet expectations





"Our highest volume courts . . . feel like cattle calls for the people who go through them."

– Court administrator

Community and civic leaders also endorse community-focused court planning, saying it would help people understand legal procedures while informing the courts about local issues. One community leader notes, however, that this approach could unduly raise community expectations that might not be met. Although judicial branch members generally favor connecting with their constituencies in this way, some express concerns about a possible low rate of participation by the public.

Limited Resources Have an Impact on Expectations and Performance

Some judicial branch members say a major barrier to higher performance is that the courts are overburdened and lack the resources to handle the high volume of cases they must process each year. Several suggest that more judicial officers are needed, especially for family and juvenile courts and in areas where population growth has been greatest. It should be noted that when judicial members in the focus groups express less confidence in the courts, it is often because of the crowded caseloads the courts face and the limited resources devoted to the courts.

Court users, particularly ones from large cities, say their expectations often go unmet because of the backlog of cases in high-volume courts. Traffic court users' comparatively low levels of trust and confidence in the courts may be directly related to the crowded, impersonal treatment that results from the high-volume environment.

In addition, some judicial branch members are somewhat discouraged by the growing number of *pro per* litigants without a corresponding increase in the system's resources. Inadequate resources, they reiterate, adversely affect court performance. They add that *pro pers* increase court delays; specifically, their cases involve far more time and resources because of these litigants' lack of information, their confusion, and their many questions.

Better Communication Across the Branch Can Improve Performance

A number of judicial officers feel that court performance could be improved by more effectively disseminating professional and administrative information across the branch. The current situation, they believe, can impair the courts' ability to serve the people of California as effectively as possible. Some express frustration, for example, that their decisions can affect one another's caseloads, or members of the same family, but because of the structure of their work they do not readily share this information. One clear implication of this research is that more communication across the branch could both enhance efficiency and, as a result, increase public trust and confidence in the courts. In addition, increased communication among members of the bench can encourage creative problem-solving in finding ways to help court users enter and navigate the "multidoor courthouse." As one court administrator notes in the focus groups, "The courts are not very good promoters. I don't think we promote what we have and what the courts offer."

"One thing that needs to get back to the court system . . . is that there are all of these opportunities. The multidoor courthouse—which I think California exemplifies with all its different court-based programs, referral programs, and bar association-related programs. . . . If somebody is aware of the opportunities for dispute resolution and is able to apply appropriate design criteria to appropriate kinds of cases or problems, the quality and quantity of resolution can be increased. Access to the courts can be engendered in that way."

– ADR provider

VII. Expectations and Job Performance (cont'd)

Key Findings: Expectations and Job Performance

| PHASE I SURVEY FINDINGS | PHASE II FOCUS GROUP FINDINGS: Court Users | PHASE II FOCUS GROUP FINDINGS: Judicial Members |
|--|---|--|
| <ul style="list-style-type: none"> Generally the public perceives a high level of job performance by the California courts. Protecting constitutional rights, ensuring public safety, and concluding cases in a timely manner are among the responsibilities regarded as most important on which to spend resources. | <ul style="list-style-type: none"> Most are satisfied with their day in court and believe the courts do a good job. Confirm a desire for courts to report on job performance, be open at convenient hours, and complete cases in a timely manner. | <ul style="list-style-type: none"> Are confident about the dedication and integrity of court employees. Favor more communication within courts and across the branch. |
| <ul style="list-style-type: none"> Reporting regularly to the public on court job performance is viewed as important by a majority of the survey respondents. That responsibility also emerged as the greatest unmet expectation of the courts. | <ul style="list-style-type: none"> Urge the courts to report on job performance and efforts to improve the public's experience with the court system. Favor more court contact and the ability to provide feedback. Strongly favor community-focused court planning. | <ul style="list-style-type: none"> See a need to report to the public. Favor community-focused planning but express concern about low public participation. |
| <ul style="list-style-type: none"> The greatest concerns were expressed about politics influencing court decisions, proceedings that cannot be understood, and uneasiness about becoming involved with the courts. | <ul style="list-style-type: none"> Feel it is especially important to hold the courts accountable for the way they treat those they serve. | <ul style="list-style-type: none"> Agree that courts should be accountable but disagree as to the means for demonstrating good performance. Say their greatest concern for the branch is a lack of time and resources. |

Recommendations

1. Make consistent efforts to communicate about the ways in which the judicial branch is accountable to the public and other branches, as well as limits on court resources that lie beyond the control of the judiciary.
2. Continue to promote and support implementation of community-focused court planning across the state.
3. Initiate a process to review the experience that other governmental and private sector organizations have in processing consumers through high-volume transaction points for applicability to family, traffic, and small claims courts, as well as to jury selection procedures.
4. Recognize that resource allocations affect the courts' ability to perform well and to meet public expectations. Ensure that all court venues—particularly those most commonly accessed by the public—receive adequate resources.

Appendix A: Tactical Recommendations

The tactical recommendations presented here for consideration by judicial branch leaders and partners are intended to suggest more limited, targeted actions and/or possibilities for addressing the specific broad, thematic issues presented in sections I through VII of this report. For ease of reference, the tactical recommendations are organized under the same thematic headings as the seven sections within the report (such as "Confidence in the California Courts"). These recommendations are based upon the key findings from the phase II research.

SECTION I

Confidence in the California Courts

1. Assign priority to judicial outreach programs for audiences in minority communities, developing special materials for judges to use that speak to the concerns minority groups have about the courts, as identified by the current research.
2. Prepare public education programs and press statements in ways that distinguish the role of the courts in criminal and civil cases from the roles played by other justice system actors.
3. Continue, at annual intervals, to conduct focus groups with court executives and judicial officers to help interpret information collected on public and court users' opinions and experiences; consider extending the use of focus groups to midlevel court managers and line court staff.

SECTION II

Receiving and Seeking Information on the Courts

1. Write material for the public on how to use the courts at a very basic level, assuming no prior information about the role and operations of trial courts.
2. Include in all "notices to appear" a short description of what needs to be done before reaching the courthouse and upon arrival there. Generic text for statewide use will be helpful, but wherever possible reference should be made to the layout of the specific court facility involved.

3. Place cards on clerks' counters and information desks that specify what court staff can and cannot do for court users. Include contact information for organizations and programs that assist people in finding comprehensive legal advice to answer their questions.
4. Provide courts engaged in public outreach efforts with graphic design assistance from the AOC to make newsletters and similar documents visually striking and easy to follow.
5. Distribute in the courthouse and on court Web sites a glossary that defines legal terminology in plain English.
6. Enhance access to the Internet for people of low income and non-English speakers by entering into partnerships with public libraries, social services centers, and other places that provide free resources for accessing the Internet.
7. Locate self-help legal centers, both Web-based and staffed, in public places to serve individuals reluctant to enter government buildings.
8. Encourage court users to take responsibility for doing as much as they can to pursue their business with the courts through self-help centers.
9. Create pilot programs that develop alternative approaches to the idea of a court newsletter, evaluating the public's response to each approach in terms of distribution, usage, and consumer satisfaction.

SECTION III

Experience in a Court Case: Incidence and Consequences

1. Inform people summoned but not selected for jury duty on the ways in which their presence in the courthouse contributed to the court's ability to resolve cases that day.
2. Use appropriate channels at both the state and local levels to communicate to law enforcement agencies that provide courthouse security a clear set of expectations for interaction with court users.
3. Set statewide standards for courthouse signage, and establish programs for local courts to test the adequacy of their existing signage.

SECTION IV

Barriers to Taking a Case to Court

1. Use the expertise of adult education specialists to create “So You Are Going to Court” materials that address the questions people commonly have about what to expect upon arrival in court, including practical information such as how to dress.
2. Work with the bar and state agencies to assist low-income and non-English speakers in finding affordable attorneys; this extends to referrals to bilingual attorneys and interpreter services that can make possible attorney and client communications outside of the courtroom.
3. In programs designed to assist *pro per* court users, assign priority to the specific court access problems of non-English speakers.
4. Study the advantages and disadvantages of establishing specific dockets for *pro per* litigants.
5. Develop, in partnership with legal, community, and minority group organizations, material that explains alternative dispute resolution methods and their advantages and disadvantages. Non-English speakers are a primary audience for such material.
6. Work with the bar to compile a set of questions members of the public should ask before hiring a paralegal to help in an actual or potential court case.
7. Experiment with methods of more precisely scheduling traffic court appearances.

SECTION V

Diversity and the Needs of a Diverse Population

1. Offer financial incentives to court staff who reach a basic level of competency in a second language that is used by a significant percentage of their county's residents.
2. Continue to improve and standardize the quality of court interpretation across the state.
3. Collaborate with the bar and other organizations to develop lists of lawyers fluent in the most commonly used second languages in the state and in individual courts.
4. Provide non-English-speaking court users with a list of terms commonly used in courts and their precise translation into other languages.
5. Train bilingual court staff in the appropriate translation of legal terms from one language to the other. The emphasis should be on the main dialects of Spanish and other languages frequently used in court.

SECTION VI

Fairness in Procedures and Outcomes

1. Integrate the basic principles of procedural fairness into judicial and staff educational programs, offering advanced courses for judges.
2. Encourage judges to take the lead in promoting a respectful and unbiased image of the courts by monitoring how the conduct of courtroom staff influences the way court users view their court experience.
3. Involve minority judicial officers and court administrators in exploring ways to address the different and often negative experience racial and ethnic minorities have in the court system.

SECTION VII

Expectations and Job Performance

1. Include brief written explanations of the basis for a decision whenever litigants are notified of case outcomes through the mail. The explanation should use scripts with language that gives the specific reasons for a decision (e.g., lack of standing, failure to appear, etc.).
2. Conduct focus groups to obtain a clear sense of the kinds of information the public wants and needs about the courts, and then engage judicial branch members in developing an outreach capacity to get that information to the general public and to students, taking advantage of video and new technologies as well as print material.

Appendix B: Methodology Used in Phase II

Phase II of the public trust and confidence study employed a series of qualitative research techniques, including interviews and focus groups. The research focused on members of the judicial branch, as well as on court users who have had direct experience in one or more of the following court venues: family, juvenile, traffic, civil, or small claims courts and jury service. Prior to starting the focus groups, the researchers conducted nine one-on-one interviews with court experts and leaders identified by the Administrative Office of the Courts (AOC). Focus groups were conducted in different areas of the state (Sacramento, San Francisco, Oakland, Fresno, Los Angeles, Riverside, and San Diego) with randomly selected court users. Focus groups with judicial officers, commissioners, and court administrators also drew randomly selected participants from across the state and were held in San Francisco, Fresno, Riverside, and Los Angeles. The researchers also conducted 27 additional in-depth leadership interviews with community and business leaders, appellate and retired justices, and experts in private alternative dispute resolution (ADR) services.

Between December 2005 and June 2006, the research team conducted the following:

15 focus groups with court users across the state, including

- 8 groups with cross sections of Californians;
- 3 groups, including one in Spanish, with Latinos;
- 2 groups with African-Americans; and
- 2 groups with Chinese Americans (conducted in both Cantonese and Mandarin).

7 focus groups with members of the judicial branch across the state, including

- 5 with judges and commissioners; and
- 2 with court administrators.

36 leadership interviews by telephone, including

- 2 with former Supreme Court justices;
- 4 with appellate court judges;
- 11 with leaders from the Latino, African-American, Filipino, Korean, Vietnamese, other Asian-American, and American Indian communities; and
- 6 with business leaders, representing both large and small businesses.

The research team also conducted a separate one-hour discussion group on private alternative dispute resolution (ADR) and the courts, with participation by both providers and consumers of private ADR services.

Working closely with the AOC, researchers developed questions that focused mainly on four of the six broad themes—procedural fairness, barriers to justice, immigrants and diversity, and receiving and seeking court information. These questions, which were posed to participants in the court user focus groups, were based on key findings and questions identified in phase I, along with issues raised in the preliminary interviews.

Participants completed a brief preliminary questionnaire asking them to describe their experiences in court. During the groups, a one-page list of terms and definitions was also distributed (including definitions of mediation, arbitration, family court facilitator, self-help centers, and community-focused court planning). These two documents are included in Appendixes B.1 and B.2. In addition, a newsletter published by Ventura County in 2002 was distributed; the newsletter contained information about court services including mobile self-help centers, specialty courts, and night traffic court, along with an annual report detailing the court's accomplishments in 2001. Court users were then asked what they liked and did not like about the definitions and newsletter.

In the focus groups with judicial branch members, judicial officers and court administrators were asked a series of questions, including what they saw as the greatest challenges facing the courts. They were also asked to comment on videotaped excerpts from the court user focus groups and the Ventura County newsletter.

The focus group guides used in conducting both the public and judicial branch groups are included in Appendixes B.3 and B.4.

The focus groups, usually with 10 to 12 people, lasted an average of three hours, and the leadership and other stakeholder interviews lasted an average of about 45 minutes. All interviews were conducted by the project leaders, Ana Maria Arumi, research director at Public Agenda, and John Doble, president of Doble Research Associates. Dr. David Rottman, principal researcher for the phase I research, was in attendance for several of these groups and reviewed tapes and transcripts of the others.

Appendix B.1: Preliminary Questionnaire for Public Focus Groups

Prior to commencing the focus groups involving court users, each participant was asked to complete the following questionnaire. The questionnaire helped to orient the participants—each of whom had direct experience of the courts—to the topic of the focus group (the California courts). In addition, the questionnaire was designed to keep participants focused on court experiences (as opposed to non-court experiences such as interaction with law enforcement or corrections personnel). The form also gave the focus group moderator, as well as observers (sitting behind a one-way mirror), information about each participant's specific court experience so that they could formulate probing questions intended to move beyond the participant's initial stated opinions about the courts. Interestingly, during the focus group sessions many participants recalled other significant court experiences not disclosed in their questionnaire responses.

Today we will be discussing your views on and experiences in the California courts. Everyone in the focus group today has had some kind of direct experience with the courts in California. We want to hear about your court experience. We also want to hear your opinions about the courts; everyone is free to express positive or negative opinions.

1. Today's Date: _____
2. Your First Name: _____
3. Indicate which of the following is your most memorable court case and then take a moment to describe what happened.
 - Family or juvenile** (divorce, legal separation, annulment; child custody or visitation; spousal or partner support; juvenile dependency, delinquency, emancipation, or guardianship)
 - Traffic** (driving too fast or running a red light; other traffic or moving violations; driving without a license; driving under the influence of alcohol or drugs—do not include parking tickets)
 - Civil** (small claims; landlord-tenant dispute; injury or property lawsuit where you were a party or witness in the case)
 - Jury duty** (either serving on a jury during a court case or going through questioning to be on a jury but not selected for service)

4. Please briefly describe your court experience (what brought you to court and what the result was):
5. Overall, how do you feel you were treated by the court? (describe anything in particular that was memorable about the experience)
6. Here are some statements about how you were treated in court by the court staff, **including the judge and the clerk at the counter**. For each one, please indicate if you agree or disagree.

The court staff treated me with respect.

Agree Disagree Not sure

The court staff treated me with dignity.

Agree Disagree Not sure

I felt rushed or pressured.

Agree Disagree Not sure

The court staff was polite.

Agree Disagree Not sure

The court staff listened carefully.

Agree Disagree Not sure

The judge listened carefully.

Agree Disagree Not sure

My rights were respected.

Agree Disagree Not sure

7. In an overall sense, how satisfied were you with your experience in court—would you say very satisfied, somewhat satisfied, somewhat dissatisfied, or very dissatisfied?
 - a. Very satisfied
 - b. Somewhat satisfied
 - c. Somewhat dissatisfied
 - d. Very dissatisfied
 - e. Not sure or don't know

Appendix B.2: Court Terms and Definitions

During the public court user focus groups, the following list of court terms and definitions was distributed. This document enabled the focus group moderator to (1) focus and engage all participants on the topics presented, (2) ascertain each court user's awareness of and familiarity with the concepts, (3) solicit opinions as to whether each court user thought the various concepts presented were a good or bad idea, and (4) ascertain the basis for each participant's opinion.

Family Court Facilitator

A California attorney with experience as a mediator or in family law cases, who provides free education, information, and assistance with child support issues. Facilitators help people fill out forms and guide them through procedures including maintenance of health insurance and spousal support. They also assist in cases involving divorce, custody, and visitation rights. The family law facilitator does not represent either side.

Self-Help Center

A booth or public computer terminal, usually in the courthouse itself, where people who don't have a computer, or an attorney to represent them in court, can receive forms, information, and assistance regarding court procedures and specific types of cases. Some counties have mobile self-help centers.

Community-Focused Court Planning

A county court seeks feedback and input by talking with the public about community needs and how to improve the court system. Community-focused court planning works directly with the leadership of the courts to better serve the needs of the people and build a stronger relationship between courts and the community.

Mediation

Usually an alternative to family and small-claims court. Both sides sit down with an impartial mediator to discuss the dispute and to attempt to reach an agreeable settlement without going to court. In small-claims court, mediation takes about 30 minutes to two hours on the average.

Arbitration

An alternative to going to trial or mediation, in which a neutral person, the arbitrator, hears arguments and evidence from each side and then decides the outcome. Arbitration is less formal than a trial and may be either "binding" or "nonbinding." Binding arbitration means that both sides waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision. Nonbinding arbitration means that both sides are allowed to request a trial if they do not accept the arbitrator's decision.

Appendix B.3: Focus Group Guide for Public Focus Groups (with Cross Sections)

The following focus group guide for the public court user focus groups was designed to help the focus group moderator cover the broad themes identified in the 2005 phase I trust and confidence survey (such as receiving and seeking court information), and to keep focused on the specific areas of interest for phase II (overall public confidence in the courts, public awareness of the role of the courts, public expectations of the courts, barriers to bringing a case to court, public understanding of legal rights, and the importance of procedural fairness). The goal of phase II was to solicit and to hear a variety of public voices and opinions on these topics, and to empower the participants to communicate their experiences and needs.

Focus Group Guide for Public Focus Groups (with Cross Sections)

I. Introduction, including time to get started (15 minutes)

- Background about the project, get informed consent to be interviewed.
- Tell us your name and a little about yourself. What you do: work, homemaker, between jobs, retired, student, etc.
- (From preliminary questionnaire, we'll know about their experience in court.)

II. Initial Reactions (15 minutes)

- 1) Our topic is the courts in California. In general, how would you rate your confidence in the California State court system? Do you feel very, somewhat, not very, or not at all confident? (Get show of hands.)
- 2) Review fact that respondents filled out a preliminary questionnaire and that we'll refer to them throughout the group.
- 3) Talk about experiences.

III. Procedural Fairness (60 minutes)

Let's talk first about what happened in court in terms of the procedures.

- 4) In your opinion, was justice served? Was the decision made by the judge was fair?
- 5) During your experience with the court, were you aware of your legal rights? (Follow-ups: Right to attorney, legal assistance, etc.)
 - If not, were you able to get information to teach you about your legal rights?
 - What source(s) of information did you use? Was it helpful?

- 6) Did you clearly understand what was going on?
 - Did you understand the judge?
 - Did the judge explain the decision and what you had to do next?
- 7) "Legalese" vs. plain language:
 - Were there terms used in court that you did not understand?
 - Should a page of court terms and definitions (e.g. Plaintiff, Defendant, Tort, etc.) be available at the courthouse? Is this a good idea? Would it be helpful?
- 8) Was your case taken care of promptly?
- 9) Did you try getting any questions answered before coming to court? (Follow-ups: How? Telephone, Web site, self-help center, clerk at the counter or in the courtroom, an attorney or other staff who were there to help?)
 - How long did it take to get the information or help you needed?
 - How did the help/lack of help you received affect what happened in court? Did it affect your satisfaction with the court?
 - Some people said their main problem was in the courtroom while others said their main problem was at the counter. What about you?
- 10) Did the court do anything that you found particularly helpful or useful? (Follow-up: What? self-help assistance, hearing called on time, mediation)
- 11) How did you feel about the judge's behavior, including his words and physical actions? (Follow-up: Body language)
- 12) How were other people treated?
 - Was any group treated especially unfairly? (Follow-up: minorities)
 - For example, are Hispanic Americans treated less fairly than others?
- 13) Did you have an attorney or represent yourself?
 - If did not have an attorney: Did you need one? Why didn't you get one? (Follow-up: What was the biggest barrier to getting an attorney?)
 - Do you know where to go to get low-cost legal assistance? Do you know where to get information about low-cost legal assistance?
 - What was it like going to court without an attorney?
 - Do you think the judge would have ruled differently if you had a lawyer?

Appendix B.3: Focus Group Guide for Public Focus Groups (with Cross Sections) (cont'd)

- 14) If you had an attorney, how did that work out? (Follow-up: Was it easy to find an attorney? Was your attorney helpful?)
 - Did you get any other help? (Paralegal, legal services, family law or family court facilitator, self-help center, etc.? How did that work out?)
- 15) Have you ever practiced family law as an attorney? If so, how was your experience with the court?
 - Did your clients receive a fair hearing?
- 16) (If family/juvenile court experience) If you went to family or juvenile court again, what would you do differently?
- 17) Family Court Facilitator: REFER TO TERMS AND DEFINITIONS HANDOUT
 - Did you use a family court facilitator? Was that helpful?
- 18) If children were involved in your case, did the court staff, including the judge, give special attention to the needs of the children?
- 19) What about family or juvenile court should be improved?
- 20) (If traffic court) If you had to go back to traffic court, what would you do differently?
- 21) How did you pay for your traffic ticket? (Follow-up: court Web site, phone, at the courthouse)
 - How easily were you able to pay for it? (Follow-up: 24-hour payment box, Web site, length of lines, number of trips to the courthouse)
- 22) If your traffic case went to trial, did the court fully explain the traffic trial procedures? Were you able to understand them?
- 23) What about traffic court should be improved?
- 24) (For family, juvenile, and traffic courts) Was there a sentence handed down that you did not understand? (Sentencing guidelines)
- 25) (For small claims) If you went to small claims court again, what would you do differently?
- 26) How long were the lines for small-claims court processing?
 - Did the court staff, including the judge and clerk at the counter, treat you with respect?
- 27) What about small claims court should be improved?
- 28) Mediation: REFER TO TERMS AND DEFINITIONS HANDOUT
 - Have any of you ever gone through mediation?
 - If so, did it help to resolve your dispute?
 - Was the mediator fair and unbiased?
 - If you have never gone through mediation, does it sound like a good idea? Why do you say that?
 - Should *pro per* litigants be required to go through mediation before going to trial?
- 29) Arbitration: REFER TO TERMS AND DEFINITIONS HANDOUT
 - Have any of you ever gone through arbitration?
 - If so, was the outcome fair?
 - Was the arbitrator fair and unbiased?
 - If you have never gone through arbitration, does it sound like a good idea? Why do you say that?
- 30) (For jurors) As a juror, or someone who went through the preliminary questioning but was not selected for a jury, what's called the *voir dire*, how did the court staff – the clerk and the other court staff – treat you?
 - How did the judge treat you?
 - (Follow-up: Were they helpful, courteous, and respectful to you and the other members of your jury group?)
- 31) What about the jury duty process should be improved?

Break (10 minutes)

IV. Immigrants and Diversity (30 Minutes)

As you may know, 30% of Californians were born in another country. Let's talk about diversity and the needs of California's diverse population.

- 32) Did you have, or did you see anyone else who had trouble speaking English in the courthouse?
- 33) Did you need an interpreter? Was one provided?
- 34) Was any information, either for family/juvenile, traffic, or small claims court, provided in languages other than English? What type of information in your language would be helpful?

- 35) Have you ever had an experience with the court system from another country or state? How did it differ from your experience in the California court system?
- 36) Community-Focused Court Planning: REFER TO TERMS AND DEFINITIONS HANDOUT
 - Do you think this is a good idea? Why or why not?
- 37) For many people there is a general aversion to outsiders involved in family matters. What can the courts do to address the concerns people may have about taking a case to court?
- 38) If you served as a juror, or went through the preliminary questioning but weren't selected, what's called the *voir dire*, did you see people like you in your jury group? How did that make you feel? Did you see people from other communities in your jury group?
 - Ask everyone: If you saw or served on a jury, was it made up of other people like you?

V. Barriers (30 minutes)

Let's talk about the barriers to taking a case to court that some people have told us about.

- 39) Did you have any trouble finding the courthouse? (Follow-ups: Location, couldn't find/get directions, etc.)
 - Did you have any trouble getting to the courthouse?
- 40) Did you feel safe at the courthouse?
 - (Especially for family court cases/domestic violence, etc.) Did the court staff help to make you feel safe?
- 41) Did you ever want to take a case to court but didn't? Why or why not?
 - Were you ever uneasy about going to court? Tell me about that.
- 42) How do you feel about a special court designed just for people who don't have lawyers?
 - Do you feel that this is a good idea? Why or why not?
 - Would the availability of such a court influence your decision on whether or not you might to take a case to court?

- 43) Self-Help Centers: REFER TO TERMS AND DEFINITIONS HANDOUT
 - What do you think of the idea of self-help centers? A good idea or not?
 - Have you ever used a self-help center? Tell me about your experience.
 - Under the law, self-help centers cannot provide legal advice beyond helping people fill out the correct forms. Would providing limited legal advice be helpful if you ever considered taking a case to court without a lawyer? What kind of information and advice would you want to receive?
- 44) What cultural barriers or customs beyond language block people from taking a case to court?
- 45) Has the lack of interpreters for your language ever kept you from taking a case to court?
 - Has a prior experience with an interpreter ever kept you from taking a case to court or conducting court business?
- 46) Were court hours and days of operation convenient?
 - Did you have to take time off from work to pay your traffic ticket or conduct court business?
 - Do you have any other problems that make it hard for you to go to court? (Follow-up: Language, distance to court, wait time, job)
 - What can the courts realistically do to address these issues?
- 47) Does your court provide childcare?
 - If so, have you ever needed it and used it?
 - How was your experience? Would you use it again?
 - If not, would you use it if it were available to you?
- 48) Are you aware of any formal alternatives to traffic court as a way of solving disputes? (Probe: traffic school)

VI. Receiving and Seeking Court Information (15 minutes)

- 49) Hand out Ventura County Newsletter and explain what it is.
 - Would you like to receive a newsletter regularly from your local and state courts? Why?
 - What type of information should it contain?
 - Would people read it, or is it important just to know that it's there?

- 50) Did you use the court Web site to conduct court business or to get information about the courts?
- How easy was it to use the Web site?
 - Were you able to get information easily?
 - Were you able to conduct business and get information quickly?
- 51) Some people say that the courts should regularly report to the public about the job they are doing. Is this a good idea?
- What would you like to know? What should the courts report?
 - How should they report?
- 52) Some people say that the courts should reach out to young people by having judges visit high schools. Is this a good idea?

VII. Wrap-up (5 minutes)

- 53) Before we adjourn, is there anything else you'd like to say about how the California courts might be improved?

Appendix B.4: Focus Group Guide for Judicial Officers and Court Administrators

The following focus group guide for the judicial officer and court administrator focus groups was designed to help the focus group moderator cover the broad themes identified in the 2005 phase I trust and confidence survey. In these groups, however, the focus was to share information obtained during the court user focus groups with judicial member participants and to ascertain their reactions to the public's experiences of the courts. Participants in the judicial member focus groups viewed video clips from the public focus groups (public participants remained anonymous) and were invited to share their opinions about the public's perceptions of the courts, as well as suggestions for addressing public concerns. Handouts were also distributed that summarized some of the key findings contained in this report.

I. Introduction, including time to get started (15 minutes)

- Overview of the project
- Description of how the group will proceed
- Get informed consent to be interviewed.
- Tell us your name and a little about yourself, current position, years of experience in the courts and geographic areas served, etc.

II. Initial Reactions (15 minutes)

- We asked the public how they would rate their confidence in the California State court system, and we'd like to ask you the same question. In general, how would you rate your confidence in the California State court system? Do you feel very, somewhat, not very, or not at all confident? (Get show of hands.)
- From your personal perspective, what are the most important challenges facing the California State court system?

III. Californians' Views About the Courts' Fairness (20 minutes)

- Here are about five minutes of video from the Sacramento focus group, conducted on March 2, in which a diverse cross section of Californians talked about their experiences in the courts. After you watch this video, we'd like to hear your reactions.
- Show video clip #1 and then solicit reactions.
- Overview of their own experiences in their venues.

IV. Barriers to Justice (20 minutes)

- The project includes two phases: phase I, a telephone survey of Californians and California attorneys, and phase II, 15 focus groups with court users. Here are some findings from both phases I and II. We'd like you to review them and then hear your reactions.
- White Card/Handout #1 (see White Card/Handout #1, below)
 - Are local courts open at convenient times?
 - Is the cost of an attorney a significant barrier?
 - Do the California courts do enough to assist those who want to act as their own attorney in court?
 - Do you favor the idea of self-help centers or desks in the courtroom?

Break (15 minutes)

V. Immigration and Diversity (20 minutes)

- Here is some more video, this time from Los Angeles. Please look at it and tell us your reaction.
- Show video clip #2 and then solicit reactions.
- Here are some more findings from Phases I and II. We'd like you to review them and then hear your reactions. (White card/Handout #2)
 - How common are language barriers?
 - Are local juries representative of the community?

VI. Procedural Fairness (30 minutes)

- White Card/Handout #3
 - Confidence in the courts—do these results seem consistent with your experience? (Other questions to come shortly)
 - Procedural fairness—are these results in line with what you'd expect?
 - Dignity—are these results in line with what you'd expect?
 - Listen carefully—are these results in line with what you'd expect?
Do Californians have their say in court? Do they have enough "face-to-face" time with the judge?

VII. Information About the Courts (15 minutes)

- Here are some more findings from phases I and II. We'd like you to review them and then hear your reactions. White Card/Handout #4 along with Ventura County Newsletter.
- Do you like the idea of a newsletter along the lines of the one used by Ventura County?

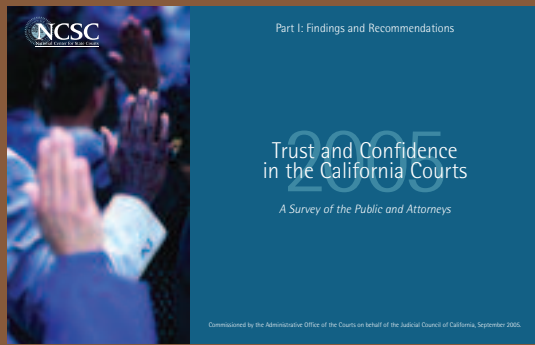
VIII. Wrap-up (20 minutes)

- Here's a third video showing people offering their suggestions for the courts. After you watch it, we'd welcome your reactions.
- Show video clip #3 and then solicit reactions.
- Brainstorm: We'd welcome hearing any ideas you have about how to improve public trust and confidence in the California courts.
- Here are some more findings from the focus groups. We'd like you to review them and then hear your reactions. (White card/Handout #5)
- Any additional thoughts, comments or suggestions?

About the Authors

ANA MARIA ARUMI supervises all of Public Agenda's opinion research, which includes ongoing projects on education, foreign policy, attitudes toward the philanthropic and nonprofit sectors, and other topics. Prior to joining Public Agenda in 2005, Ms. Arumi served as Elections Manager for NBC News, coordinating all editorial and technical aspects of the network's election polling. She has also been Deputy Director of News Surveys for CBS News, where in addition to designing and analyzing surveys for the CBS News/New York Times Poll, she was a producer and on-air commentator for the Spanish language broadcast of CBS TeleNoticias election coverage. She has also served as Research Manager of the Office of Survey Research at the University of Texas and as Managing Partner for Vision Research in Austin and Los Angeles. Ms. Arumi is a University of Texas graduate, with a degree in linguistics and economics.

JOHN DOBLE is founder of Doble Research Associates, which specializes in analyzing, from a nonpartisan perspective, public and leadership opinion about complex policy issues. Formerly Research Director at Public Agenda, Mr. Doble graduated *cum laude* and with a master's degree from the University of Delaware and completed additional postgraduate work at NYU and The New School. His articles about public opinion have appeared in *Judicature*, *Technology Review*, *Public Understanding of Science*, *Public Opinion Quarterly*, and *Foreign Affairs* (coauthored with Daniel Yankelovich), among many other publications. He has presented results to professional audiences at the White House, on Capitol Hill, at the National Press Club and to numerous national and international associations, including the American Association of Public Opinion Research, the American Association for the Advancement of Science, and the Institute of American Studies in Beijing.



The phase I and phase II trust and confidence documents
can be downloaded at: http://www.courtinfo.ca.gov/reference/4_37pubtrust.htm