Effective Courtroom Communication:
Improving Credibility, Comprehension, and Compliance In Cases Involving Self-Represented Litigants

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Overview of the Session:

- Potential barriers to successful communication
- Effective verbal communication
- Nonverbal communication: characteristics and choices
- Techniques for effective listening

Communication Skills

What communication skills are most important to being effective in your profession?

The Process of Perception

Perception: *selecting, organizing, and interpreting information*

Potential Barriers to Effective Communication

Physiological and Environmental Factors

- Process of perception
- Rapid thought
- Preoccupation
- Message overload/listener fatigue
- Physical distractions

Individual Differences and Assumptions

- Personal mannerisms
- Differences in communication style
- Fear of appearing ignorant
- Assuming listening is passive and effective communication is only the speaker's responsibility

Socio-Cultural/Diversity Differences

- Power/Status
- Language
- Cultural groups/ethnicity
- Socioeconomics
- Gender and sexual orientation
- Education
- Others:

Effective Verbal Communication

Verbal communication = the words/language (written or spoken)
Nonverbal communication = everything that communicates except the words

GOALS of Effective Verbal Communication: **Accuracy**
Comprehension
Appropriateness

Achieving these goals will improve your credibility and increase the likelihood that litigants will comply with your orders. HOW?

Techniques for increasing accuracy, comprehension, and appropriateness in your verbal communication:

- Provide a **mental map** of the process, and signposts along the way
- Use **simple**, concrete words whenever possible
- Give brief, clear **explanations** of terms that might not be familiar
- Use the practices of **informal** spoken language:
  - shorter sentences
  - contractions ("it's" not "it is")
  - first and second person ("I," "you") more than third ("one")
  - Active over passive tense
  - informal connectors ("And..." Now..." "Then...")
- Ask court participants to **paraphrase** important information back to you
- Frequently ask if they have questions and **pause** – wait for at least:
  _____ seconds for basic questions
  _____ seconds for more complex questions
- Build in redundancy – **repeat** important information
- **Others?**

Effective Nonverbal Communication

Characteristics of Nonverbal Communication

Nonverbal messages:

- Express emotions and relationships
- Can be more significant than verbal messages
- Cannot be avoided
- Vary with background and culture
- Interact with the verbal message
- Are often difficult to interpret
- Influence perceptions of credibility and status

Types of Nonverbal Communication: Choices

Voice

Vocal cues communicate emotion, credibility, perception, and comprehension.

⇨ Includes volume and enunciation, pace and rhythm, pitch and inflections, pauses and fillers

Examples: _____

Eye Contact

Eye contact serves monitoring (e.g., assessing behavior), regulatory (e.g., indicating whose turn it is to talk), and expressive (e.g., showing how you feel about something or someone) functions.

Examples: _____

Facial Expressions

Facial expressions often communicate emotions and can reflect mental processes.

Examples: _____

Gestures and Movement

Gestures can have specific meanings, and movement often reveals comfort level, status, and likes/dislikes.

Examples: _____

Use of Space and Room Arrangement

The use of space and room arrangement influences the communication climate and can convey power and status. Issue: How much control do you have?

Examples: _____

Appearance and "Object Language"

People often make assumptions on intelligence, credibility, and social status based on appearance and objects including your robe, car, etc.

Examples: _____

Time

The way you use time reveals perceptions, priorities, administrative skills, etc.

Examples: _____

Silence

People assign meaning to silence; it's often (incorrectly) viewed as implied consent.

Examples: _____

Nonverbal Communication: "Best Practices"

- Be aware of the power of your voice – tone and inflections are key components in conveying respect.
- Maintain eye contact with the speaker – it shows attentiveness, allows you to see her/his "body language," and helps you regulate the interaction (but don't be offended if others don't keep eye contact with you).
- Orient your body toward the speaker and sit up straight or lean slightly forward – this demonstrates that you're engaged in the process, it reinforces that the speaker should be directing his/her remarks to you, and it encourages more active listening on your part.
- Keep your nonverbal communication congruent with your verbal communication to reduce uncertainty and reinforce your message.
- Others?

Effective Listening

"Speaking is when you sow; listening is when you reap."

What techniques do you use when you are trying to listen carefully?

More Tips for Better Listening -- When you are the listener:

- Begin with the desire to listen. Attitude affects effectiveness.
- Focus on the message. Tune out distractions, including those created by the speakers themselves (e.g., nervous quirks) and your own internal distractions.
- Try to understand the speaker's point of view. Life experiences affect our perspective. Some effort can overcome the potential for misunderstanding that sometimes comes with a diversity of life experiences.
- Withhold judgment as long as possible. Once we label something as right or wrong, good or bad, we lose objectivity. Give it a fair hearing before passing judgment.
- Reinforce the message. You can think four times faster than most people speak. Become a better listener by making good use of this ratio—mentally repeat, paraphrase, and summarize what the speaker is saying.
- Provide feedback. Use both the verbal and nonverbal channels when possible. (See below for tips on giving verbal feedback.)
- Listen with your whole body and maintain eye contact. Being physically ready to listen usually includes sitting erect, leaning slightly forward, and placing both feet flat on the floor. Not only will the speakers feel you actually are listening to them, you will also be more likely to listen better (our behavior both reflects and affects our attitudes).
- Listen critically. Even though you should try to understand a speaker's point of view and withhold early judgment, you obviously need to test the merits of what you hear. This is the real balance -- being open-minded and being able to critically evaluate what you hear and the credibility of the sources.

Tips for Providing Constructive Feedback
When it is particularly important that the listener receive feedback, follow these tips to make it less likely that he or she will become defensive and tune the message out:

- Begin with a positive statement.
- Be specific—make clear both what you mean and what is to be done about it.
- Be honest but tactful (a real skill!).
- Personalize your comments.
  --Use their name occasionally.
  --Use some "I language" instead of only "you" statements—describing your perceptions and reactions can reduce defensiveness and help establish rapport.
- Reinforce the positive. Don't forget to mention what they've done well.
- Tell them what's in it for them (positive consequences of getting this feedback).
- Emphasize a problem-solving approach to the negative.
- End with a positive statement. Sandwiching the negatives between positives makes them more palatable.

Tips for Helping Others Listen Better

Consider these choices in addition to using the techniques discussed earlier:

- Use visual supporting materials when appropriate*:* Getting the information through more than one channel enhances comprehension and retention

- Make the environment conducive to listening. Consider the acoustics, the seating and temperature, the frequency of breaks, the ambient noise, the number of interruptions, etc. Control the elements that you can.

- Decrease "distance:" The courtroom environment and procedure, including the level at which you sit, your robe, and your demeanor, establish your clear position of authority. But "judicial demeanor" does not mean that you have to be intimidating. Speak directly and personally to the litigants.

- Build your self-awareness and skills*:* A speaker's mannerisms can distract even good listeners – try to isolate any distracting habits you might have (videotaping can be very helpful), and work on removing them.

The Goal: Justice Perceived and Achieved