

RESOURCES: Victims, Trauma, and Procedural Fairness

Compiled by Kelly Tait

1. **“California Crime Victims' Voices.”** Californians for Safety and Justice (2016). 500 Californians who identified as being victims of crime in the last 5 years were polled regarding their experiences and perspectives including views on access to services, psychological recovery time, effectiveness of incarceration of perpetrators, etc. <http://www.safeandjust.org/resources/2013-06-california-crime-victims-report>
2. ***Court Review - The Journal of the American Judges Assoc.*** Vol. 44 (2008) - Issue devoted to procedural justice—lots of interesting articles, including: **“Procedural Justice and the Courts”** by Tom R. Tyler; **“Children and Procedural Justice”** by Victoria Weisz, et al.; **“Decision Makers and Decision Recipients: Understanding Disparities in the Meaning of Fairness”** by D. Sivasubramaniam and L. Heuer; **“Procedural Fairness: A Key Ingredient in Public Satisfaction”** by Kevin Burke and Steve Leben. <http://aja.ncsc.dni.us/courtrv/cr44-1/CR44-1-2.pdf>
3. **“Creating a Trauma-Responsive Court System.”** Shawn Marsh and Alicia Summers. National Council of Juvenile and Family Court Judges Trauma Series: Part III; 30 minute webcast (2016) applying information about trauma to courts. <https://www.ncjfcj.org/trauma-series-part-iii-creating-trauma-responsive-court-system>
4. **“Degrees of Emotion: Judicial Responses to Victim Impact Statements.”** Mary Lay Schuster and Amy Proppen. *Law, Culture, and the Humanities* (2010) Vol. 6; Is. 1, 75-104. Based on courtroom observations and judicial conversations (MN), looked at judicial responses to emotional expressions from victims. <https://doi.org/10.1177/1743872109349104>
5. **“The Emotional Dimension of Judging: Issues, Evidence, and Insights.”** Sharyn Roach Anleu, David Rottman, and Kathy Mack. *Court Review* Vol. 52, Is. 2, 60-71 (2016). Examines the issue of judicial emotions and their regulation. <http://aja.ncsc.dni.us/publications/courtrv/cr52-2/Anleu.pdf>
6. **“Essential Components of Trauma-Informed Judicial Practice.”** Substance Abuse and Mental Health Services Administration, SAMHSA’s National Center on Trauma-Informed Care & National GAINS Center for Behavioral Health and Justice (2013; final draft). Provides overview re: trauma including information, specific strategies, and resources that many treatment court judges have found beneficial; applicable to other courts as well. https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf
7. **“The Impact of Criminal Justice Involvement on Victims’ Mental Health.”** Jim Parsons and Tiffany Bergin. *Journal of Traumatic Stress* Vol. 23, No. 2, 182-188 (2010). Review of research on positive and negative impacts of criminal justice involvement, including recommendations for meeting the needs of victims. <http://onlinelibrary.wiley.com/doi/10.1002/jts.20505/abstract>
8. **“Juvenile Delinquency Court Assessment: Court Users and Community Members Report.”** Research Update, California AOC (2008). Focus groups included probation youth, parents of youth on probation, victims of juvenile crime, and community members. Some of key findings related to need for better communication between professionals and court users, and use of practices that encourage more participation by court users in court processes. <http://www.courts.ca.gov/documents/JDCA2008V2Ch5.pdf> [See full report at: <http://www.courts.ca.gov/documents/JDCA2008CombinedV1V2.pdf>] (Continued)

RESOURCES: Victims, Trauma, and Procedural Fairness (Continued)

9. **“Lessons Learned from Developing a Trauma Consultation Protocol for Juvenile and Family Courts.”** Shawn C. Marsh, Alicia Summers, Alicia DeVault, and J. Guillermo Villalobos. *Juvenile and Family Court Journal* Vol. 67, Is. 3, 5–22 (2016). Results of a field-based project involving multiple courts re: key features of a trauma-informed court. Includes practical suggestions for courts to become more trauma-informed.
<http://onlinelibrary.wiley.com/wol1/doi/10.1111/jfcj.12059/full>
10. **“Marsy’s Law CA: Victims’ Bill of Rights.”** Passed in 2008, California Constitution article I, § 28, section (b) - Expanded rights of victims in California.
https://oag.ca.gov/victimservices/content/bill_of_rights
11. **“Performing Impartiality: Judicial Demeanor and Legitimacy.”** Kathy Mack and Sharyn Roach Anleu. *Law & Social Inquiry*, Vol. 35, No. 1 (2010), 137-173. Using an extensive Australian court observation study, examines varied demeanors displayed of magistrates in Australia's lower (criminal) courts. Considers the meaning of the demeanors and their impact on perceptions of impartiality and legitimacy. <http://www.jstor.org/stable/pdf/40539409.pdf>
12. **“Procedural Fairness: A Treat for the Brain.”** Kelly Tait, *Case In Point: The Brain Issue*, The National Judicial College (9/2016). Connects brain research to key components of procedural fairness. Discusses why procedural fairness is critical and gives examples of what judges can do. <http://www.judges.org/news/case-in-point/>
13. **“Procedural Fairness in California: Initiatives, Challenges, and Recommendations.”** CCI for CA Administrative Office of the Courts (2011). Needs assessment and analysis of best practices in promoting procedural fairness among CA’s civil and traffic cases.
http://www.courts.ca.gov/documents/Procedural_Fairness_In_California_May_2011.pdf
14. **“The Procedural-Fairness Movement Comes of Age.”** Steve Leben, in *2014 Trends in State Courts* pp. 59-62, NCSC. Addresses how courts can improve public confidence in the justice system by focusing on procedural fairness, as shown in AK, UT, & NY.
http://www.ncsc.org/~media/microsites/files/future%20trends%202014/procedural%20fairness%20movement%20comes%20of%20age_leben.ashx
15. **“Procedural Fairness, Swift and Certain Sanctions: Integrating the Domestic Violence Docket.”** David Suntag, *Future Trends in State Courts*, NCSC (6/2015). Innovative VT court combined procedural fairness elements and swift and certain sanctions in an integrated DV docket. Significant success incl. reduction in recidivism.
<http://www.ncsc.org/~media/microsites/files/future%20trends%202013/06202013-procedural-fairness-swift-and-certain-sanctions-integrating-the-domestic-violence-docket.ashx>
16. **“Procedural Justice and Psychological Effects of Criminal Proceedings: The Moderating Effect of Offense Type.”** Malini Laxminarayan. *Social Justice Research*, Vol 25, Issue 4, 390-405 (2012). Research in Australia and the Netherlands, investigates differences re: procedural justice for sexual assault and non-sexual assault victims and whether type of offense impacts procedural fairness and psychological effects.
<https://link.springer.com/article/10.1007/s11211-012-0167-6>

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RESOURCES: Victims, Trauma, and Procedural Fairness (Continued)

17. **“Procedural Justice Is for Victims Too.”** Blog post from the Procedural Fairness Website 11/21/16. Includes interviews with three researchers who have studied how victims and offenders perceive fairness and view the purpose of punishment.
<https://proceduralfairnessblog.org/2016/11/21/procedural-justice-is-for-victims-too/>
18. **“‘Reading’ Victims & Judging Credibility - Best Practices in Promoting Victim Centered Investigations & Prosecutions Webinar.”** Wendy Patrick. End Violence Against Women International, archived webinar from 9/15/2017. Understanding victims & judging credibility to build relationships & enhance investigations and prosecutions from crime scene to courtroom. Incorporating a victim-centered approach throughout the life of a case.
<http://www.evawintl.org/WebinarDetail.aspx?webinarid=1046>
19. **“Secondary Traumatic Stress: A Fact Sheet for Child-Serving Professionals.”** National Child Traumatic Stress Network, SAMHSA (2011). Concise overview of secondary traumatic stress and its potential impact on child-serving professionals. Includes options for assessment, prevention, and interventions.
http://www.nctsn.org/sites/default/files/assets/pdfs/secondary_traumatic_tress.pdf
20. **“Secondary or Vicarious Trauma Among Judges and Court Personnel.”** Deborah Wood Smith, *Trends in State Courts 2017*, National Center for State Courts (2017).
<http://www.ncsc.org/sitecore/content/microsites/trends/home/Monthly-Trends-Articles/2017/Secondary-or-Vicarious-Trauma-Among-Judges-and-Court-Personnel.aspx>
21. **“Ten Things Every Juvenile Court Judge Should Know About Trauma and Delinquency.”** K. Buffington, C.B. Dierkhising, & S.C. Marsh. *Juvenile and Family Court Journal*, 61(3), 13-23 (2010). Overview of juvenile delinquency and trauma for judges.
<http://www.ncjfcj.org/resource-library/publications/ten-things-every-juvenile-court-judge-should-know-about-trauma-and>
22. **“Threats to Perceptions of Fairness in the Termination of Parental Rights.”** Raymie H. Wayne and Brenda D. Smith (12/1/16). *Juvenile and Family Court Journal*, 67: 4, 27-41. Discusses how some practices employed in TPR proceedings can hinder perceptions of fairness. <http://onlinelibrary.wiley.com/doi/10.1111/jfcj.12079/abstract>
23. **“Trauma-Informed Approach and Trauma-Specific Interventions.”** National Center for Trauma-Informed Care and Alternatives to Seclusion and Restraint, SAMHSA. Overview and links for a trauma-informed approach. <https://www.samhsa.gov/nctic/trauma-interventions>
24. **“Trauma-Informed Courts and the Role of the Judge.”** Shawn Marsh, Mari Kay Bickett. National Council of Juvenile and Family Court Judges and CASA (2015).
<https://www.ncjfcj.org/trauma-informed-courts-and-role-judge>
“Understanding the Neurobiology of Trauma and Its Implications for Interviewing Victims.” Christopher Wilson, Kimberly A. Lonsway, Joanne Archambault, and James Hopper. End Violence Against Women International, OVAW grant-funded (2016). Discusses advances in neuroscience re: common victim responses resulting from fear and trauma and how this can impact perceptions of the way victims recount their experiences.
<https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=842>

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RESOURCES: Victims, Trauma, and Procedural Fairness (Continued)

25. **“Vicarious Trauma Primer for the Juvenile Court Practitioner.”** Kyra M. Hazilla. *Juvenile Law Reader* Vol. 13, Is. 3 (2016). General overview with specific suggestions for juvenile court attorneys.
http://youthrightsjustice.org/media/3885/2016_3_yrj_law_reader_autumn_2016.pdf
26. **“Victim Impact Statement Reforms in Victoria: Interim Implementation Report.”** Victoria Department of Justice, Australia (2014). Report on reforms started 2011 to improve the process of making a Victim Impact Statement for victims of crime and to give them more choice and flexibility in how they were presented. [See esp. pp. 56-61.]
https://www.victimsofcrime.vic.gov.au/sites/default/files/embridge_cache/emshare/original/public/2017/07/1d/69d2d809f/victim-impact-statement-reforms-in-victoria-interim-implementation-report.pdf
27. **“Victim Participation in the Criminal Process.”** Erin Ann O'Hara. *Journal of Law & Policy*, 13/1 (2005). Provides foundations for a shift away from the marginalization of victims of crime. <http://brooklynworks.brooklaw.edu/jlp/vol13/iss1/12>
28. **“Victim Satisfaction with Criminal Justice: A Systematic Review.”** Malini Laxminarayan, Mark Bosmans, Robert Porter, and Lorena Sosa. *Victims & Offenders*, Vol. 8, No. 2, 2013, p. 119-147. Discusses four studies that found a significant relationship between victim satisfaction and victim voice, as well as a fifth study that found a mixed relationship between the two factors.
<http://www.tandfonline.com/doi/abs/10.1080/15564886.2012.763198>
29. **“Victim/Survivor-Focused Justice Responses and Reforms to Criminal Court Practice.”** Nicole Bluett-Boyd and Bianca Fileborn. Australian Institute of Family Studies (2014). Discusses current practices and possible changes in the Australian system (which has significant overlap w/U.S), drawing on insights from counselors, advocates, police officers, prosecutors, defense counsels, and judicial officers.
<https://aifs.gov.au/sites/default/files/publication-documents/rr27.pdf>
30. **“Victims' and Offenders' Views About Crime and Justice.”** Stacy H. Haynes & Alison C. Cares, 48 *Sociological Focus* 228 (6/2015). Surveyed both victims and offenders about their perceptions of what constitutes fair procedures and outcomes.
<http://www.tandfonline.com/doi/abs/10.1080/00380237.2015.1039420#.Ve9PjhG6fIW>
31. **“Victims' Experiences in the Criminal Justice System and Their Recovery from Crime.”** Jo-Anne Wemmers. *International Review of Victimology* Vol. 19, Is. 3 (2013). Examined victims' psychological recovery from the crime using the Modified Post-traumatic Stress Symptom Scale. Used victims' procedural justice judgements to measure how authorities treated victims. Found that unfair procedures impacted victims' recovery.
<https://doi.org/10.1177/0269758013492755>
32. **“Voice, Control, and Belonging: The Doubled-Edged Sword of Procedural Fairness.”** Robert J. MacCoun, *Annual Review of Law and Social Science* (2005). Considers positives and potential drawbacks; considers diversity-related differences in ratings of procedural fairness. <http://escholarship.org/uc/item/011185w5#page-1>

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RESOURCES: Victims, Trauma, and Procedural Fairness (Continued)

33. **“Voice, Control, and Procedural Justice: Instrumental and Noninstrumental Concerns in Fairness Judgments.”** E. Allan Lind, Ruth Kanfer, & P. Christopher Earley, *Journal of Personality and Social Psychology* 59, 952 (1990). Study re: impact of pre- and post-decision voice. Showed that both are involved in the effect of voice on perceptions of fairness. http://web.mit.edu/curhan/www/docs/Articles/15341_Readings/Justice/Lind_et_al_1990_Voice_control.pdf
34. **Voice, Neutrality and Respect: Use of Victim Support Services, Procedural Fairness and Confidence in the Criminal Justice System.** Ben Bradford 11.4 *Criminology & Criminal Justice*, 345, 362 (2011). Considers public confidence in the criminal justice system in the U.K. re: contact with Victim Support as a way to provide victims with voice. <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.896.3498&rep=rep1&type=pdf>
35. **“Victims’ Voices and Victims’ Choices in Three IPV Courts.”** Kristin L. Anderson. *Violence Against Women* Vol. 21, Is. 1, (2014) 105-124. Proposes that voice and choice are distinct aspects of victim empowerment and that providing voice could have benefits to IPV victims that are distinct from the benefits of choice. <https://doi.org/10.1177/1077801214564166>
36. **“We Need to Understand How to Provide Trauma-Informed Care.”** Beverly Tobiason. *Youth Today* July 18, 2016. For professionals in child-serving agencies, the necessity to provide trauma-informed care. <https://youthtoday.org/2016/07/we-need-to-understand-how-to-provide-trauma-informed-care/>
37. **“What Matters: An Analysis of Victim Satisfaction in a Procedural Justice Framework.”** Courtney Fisher, PhD dissertation-University of Maryland (2014). Explores policies and practices of criminal justice system professionals and satisfaction of victims of violent crimes in relation to elements of procedural and distributive justice. <https://drum.lib.umd.edu/handle/1903/16403>
38. **“Where Do I Stand?: An Exploration of the Rules That Regulate Victim Participation in the Criminal Justice System.”** *Victims & Offenders*. 7. 161-184. Discusses implementation of victim participation in the courtroom by criminal justice workers. Examines the rules that regulate victim participation using trial transcripts, courtroom observations, and interviews with criminal justice officials and victims. DOI: 10.1080/15564886.2012.657290

Some Noteworthy Procedural Fairness Websites:

- *Center for Court Innovation:* A leader in research on and application of procedural fairness principles <http://www.courtinnovation.org/>
- *National Center for State Courts:* Numerous resources including research, links to other sources, and court assessment tools at <http://www.ncsc.org/>
- *National Initiative for Building Community Trust and Justice:* Highlights procedural justice, implicit bias, and reconciliation (emphasizes policing aspects but includes resources for judges) <http://trustandjustice.org/resources/research>
- *Procedural Fairness for Judges and Courts:* Website dedicated to procedural fairness with numerous links to research <http://www.proceduralfairness.org/>
- *Procedural Fairness Guide:* Website co-sponsored by American Judges Association, National Center for State Courts, and the website proceduralfairness.org with training videos, interviews, and podcasts. <http://proceduralfairnessguide.org/>