

PROCEDURAL JUSTICE IN ACTION



Background

Procedural justice research has shown that when defendants and court users perceive the court process to be fair, they are more likely to comply with court orders and to follow the law in the future, regardless of whether they “win” or “lose” their case¹. As outlined on the next page, there are four key dimensions of procedural justice: respect, voice, understanding, and neutrality of decision-making.

Since 2010, the Center for Court Innovation has worked with the U.S. Department of Justice’s Bureau of Justice Assistance to explore applications of procedural justice principles in criminal court. So far, efforts have included: convening a national working group of practitioners and academics, developing and piloting a one-day training for judges and court staff in four jurisdictions around the country, conducting a quasi-experimental pilot evaluation of one such training, creating online learning materials, compiling and pilot-testing an evaluation toolkit, and developing a menu of promising communication practices.

Brainstorming

Promising Practices

In September 2016, a group of court leaders and experts in criminal justice from across the United States came together to examine strategies for increasing public trust in the court system. The roundtable discussion, hosted by the Center for Court Innovation in partnership with the Bureau of Justice Assistance, aimed to generate a concrete set of evidence-informed, recommended practices that criminal court professionals can implement to promote perceptions of fairness.

The roundtable discussion focused on overcoming common obstacles and identifying strategies to create change at three levels: individual practices (that any professional could implement); environmental changes (changes to the built environment, including signage); and agency-level or system-level policies that could be implemented by leaders. For more background on the roundtable and participants, see Appendix I: Designing Best Practices in Procedural Justice: Briefing Materials.

Criminal Court Practice Guide

The “B Side” of this resource outlines a number of promising practices that have been identified over the course of this work—via on-site assessments, feedback from training participants, and discussion during the national roundtable. Many of these practices require nothing more than an individual change of behavior; others require changes to signage or the environment; lastly, some require policy changes at the agency level. These recommendations are geared towards a range of justice system professionals, whether they be judges, prosecutors, defenders, administrators, or other court players. Evidence suggests that the implementation of these practices will build public trust and improve compliance with the law.



PROCEDURAL JUSTICE IN ACTION: CRIMINAL COURT PRACTICE GUIDE



I can:

- Introduce myself by name and role and address court users by name
- Make eye contact and use appropriate non-verbal cues with all parties, especially at key moments in the appearance
- Personalize interactions with court users; make case file notes to help recall details later
- Clearly the most important and/or frequently violated court rules
- Use open ended questions instead of yes/no questions
- Ask users to repeat back their understanding of key decisions (e.g. responsibilities for conditions of release)
- Explain how I make decisions
- Avoid the appearance of inappropriate favoritism to certain parties or court players
- Acknowledge unfairness when I see it
- Educate myself about implicit bias

Environmental design can:

- Create a welcoming and respectful atmosphere in the lobby and security area
- Show respect through a clean and well-maintained facility, including restrooms
- Situate the judge's bench at eye level to enable meaningful eye contact with all parties
- Provide an estimate of wait times; provide information or resources that would be valuable while court users are waiting
- Use clear and respectful signs to communicate court rules and security procedures; include signage and other resources for individuals with Limited English Proficiency
- Use microphones and amplification in the courtroom to ensure that family members and other court users can hear the proceedings
- Offer a help desk or resource center manned by knowledgeable staff or volunteers
- Display artwork and other décor that reflects the values and demographics of the community
- Have accessible comment card boxes

Agency policies can:

- Include procedural justice practices in job postings and interviews; prioritize candidates who value and demonstrate key elements
- Consider how agency objectives and the mission statement align with procedural justice
- Establish a facility review committee that regularly assesses building conditions
- Use video-taping, peer review, and structured court observation to provide feedback to court professionals
- Train staff in advanced communication techniques
- Create scripts that model best practices
- Schedule/stagger court appearance times to reduce security lines and waiting times
- Consider trainings on related practices, such as motivational interviewing
- Encourage regular discussions with community members, including shared brainstorming about how to build public trust
- Implement ways to solicit user feedback about their experiences via comment cards, surveys, or other formats
- Appoint an ombudsman to address court user comments and questions

Key ● Understanding ● Respect ● Voice ● Neutrality ● All