Examining defendant perceptions of fairness in the courtroom
by M. Somjen Frazer

Public confidence in the criminal justice system is remarkably low when compared with other institutions. Scholars attribute this to a variety of factors, some of which are largely outside the control of the system itself. These include rising public expectations, declining trust in government in general, and inaccurate information about the workings of the criminal justice system.¹

How can public confidence in justice be improved? One approach is to ensure that criminal defendants feel they are being treated fairly. If those most affected by the workings of the criminal justice system come out believing that the system treated them fairly, that may help to convey a broader public message.

Citizens generally hold favorable views toward institutions that are perceived as unbiased, while holding negative views of those that are believed to be partisan or discriminatory.² Not only can a focus on fairness improve public confidence, but research has shown that, as confidence in the criminal justice system grows, law-abiding behavior increases.³ This means that a fair process has the potential both to create generalized benefits via improved public confidence and specific benefits through the improved compliance of the defendants who experience the process.

Recognizing this, the Center for Court Innovation sought to examine defendant perceptions of fairness in two types of criminal courts: a traditional “downtown” court located in a large urban metropolis, and an experimental “community court” located in a smaller and geographically distinctive urban neighborhood. The rationale for implementing the study in two sites was to test the potential of the community court model to improve upon existing defendant perceptions.

Community courts are explicitly interested in improving public confidence in the criminal justice system.⁴ They seek to accomplish this by responding to community concerns, while simultaneously addressing the service and treatment needs of individual defendants.⁵ Community courts include a far greater range of sentencing options than are commonly available in traditional courts. These may include community service, substance abuse treatment, job readiness or GED classes, and on-site social services. The underlying assumption is that by emphasizing alternatives to incarceration and providing access to needed services, the community court will elicit more of a sense among defendants that the court is responsive to their individual situations.

Since most community courts deal with misdemeanor defendants who would otherwise receive relatively short jail sentences, fines, or sentences involving no real conditions at all, threats of long-term punishment are not a realistic option for securing compliance with court mandates or inducing future law-abiding behavior. As a result, community courts have a strong incentive to promote voluntary compliance with court mandates, secured by enhancing defendant trust in the court’s legitimacy. Whether community courts succeed in their efforts remains an empirical question, never before examined. The results of such an evaluation are important not just for community courts, but for conventional criminal courts as well, which might look to adopt successful strategies from experimental community courts.

The survey
Defendants who were seen at either the Red Hook Community Justice Center, a community court in Brook-
The judge in Red Hook often praised defendants in long-term substance abuse treatment if they had repeatedly tested negative; and upon graduation from treatment generally shook the defendant’s hand.

The results suggested that the community court was significantly better at ensuring that defendants perceived their experiences in court as fair. Defendants also had a more consistent view of the fairness of the court; their racial, ethnic, and socioeconomic backgrounds mattered less, as did the outcome of their case. Eighty-six percent of those surveyed at the community court said that their case was handled fairly. This suggests that the community court model provides an opportunity for courts to overcome any concern defendants may have that they are being treated unfairly as a result of their race, gender, or socioeconomic status.

For further reading

Documenting Results: Research on Problem-Solving Justice, a collection from the Center for Court Innovation. This book captures a decade’s worth of research by the Center for Court Innovation into the effectiveness of problem-solving courts, looking at drug treatment, domestic violence, mental health, and community courts. It also includes overviews of the national research literature on drug and community courts, and an investigation of how problem-solving courts might be integrated more broadly throughout state court systems. For more information, and to order, visit www.courtinnovation.org. or call (212) 397-3050.

M. Somjen Frazer
is a former senior research associate at the Center for Court Innovation.

www.ajs.org JUDICATURE 37