PERCEPTIONS AND PERSPECTIVES REGARDING PROCEDURAL FAIRNESS IN LOUISIANA TRIAL COURTS

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by

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ABSTRACT

Procedural fairness is a helpful or effective communication process that can be used to achieve successful outcome effects from trial judges’ courtroom realistic bench adjudication abilities. This dissertation provides the history of procedural fairness, scientific support for its existence, its evidence-informed basis of its effectiveness, and its status in the fields of social sciences and law. It also examines the scope of courtroom implementation in Louisiana since the CCJ/COSCA nationally adopted Resolution 12. Judges completed a survey, which provided insight of their perspectives regarding procedural fairness, as well as their incorporation of the principles of procedural fairness in their courtrooms. Data provided by a trained court observer was collected in order to assess select state and local trial court judges’ behaviors and whether or not they adjudicated in open court through the principles of procedural fairness. Primary data collection for judges and court observations occurred through an expertly developed instrument—Measuring Perceptions of Fairness: An Evaluation Toolkit. Though defendants were given the Defendant Exit Survey, no defendants participated in the study. When used correctly this toolkit gives judges a way to monitor, assess, and improve their bench adjudicating techniques and gives court attendees’ the ability to evaluate their perceptions of the judge. The research concluded that Louisiana state and local trial court judges (a) understand procedural fairness, (b) believe that procedural fairness is important, (c) do not incorporate procedural fairness systematically, and (d) judges have significant differences in how important they believe procedural fairness is, based on their religious attitudes.
DEDICATION

To those elders in my family who lived racially-segregated lives;
To those segregated Black elementary and junior high school classmates and public teachers;
To those desegregated public school senior high classmates and teachers;
To my deceased mother who told me, “only if I had three of you”;
To my deceased father who asked me, “do you read me?”;
To my deceased grandparents who never wavered in their religious belief nor refused their calling to GOD;
To my siblings, carry on to the mark of a higher calling of action;
To my twin brother, contrary to our 1st grade teacher, I am now no longer behind;
To my children, “to whom much is given, more is expected”; and
To our next Johnson-Robertson generation, take heed from those who came before you.
ACKNOWLEDGMENTS

This dissertation would not exist without help from a number of people. I began examining procedural fairness in the courts as a dissertation topic after I completed the National Judicial College’s (NJC) Advanced Bench Skills: Procedural Fairness (2018) course. Before taking this course along with two other NJC courses, I was largely uninformed about procedural fairness as an evidence-informed concept with evidence-based practices, which include instruments and assessments capable of evaluating the civil and criminal justice systems’ public interaction and inner court sense of decency that is also known as procedural justice.

I sincerely thank all faculty and staff members of the University of Nevada, Reno (UNR) for helping me complete this eight-year journey. I also thank the committee members for acceptance of my request to serve on the committee, and for cooperating and assisting with the dissertation.

I am so especially grateful to Dr. Veronica (Roni) Dahir, Director at the Grant Sawyer Center for Justice Studies and Research Support at the University of Nevada, and her graduate research student Tatyana Kaplan, for their survey assistance. I also thank Dr. Steven Maberry, Envisage Research and Analytics, for his assistance in designing the electronic surveys and Dr. Elizabeth Francis at UNR for proofreading a draft of the dissertation and aiding in organization.

Lastly, I am extremely and forever grateful to my primary research assistant Sarah Moore for working with me, gaining research experience in an applied judicial setting.
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CHAPTER I
INTRODUCTION

Background

A decade ago, most Americans viewed their state trial court system as “the single most unbiased, fair, impartial, and just” governmental institution (Kang, 2009, p. 6). Today, some state and local judges, however, are on court martial-like trial, undergoing re-evaluations, and being subjected to judicial competence and progressive development discussions regarding their performance. Judicial performance, in court settings, include behaviors such as unbiased adjudication, basing decisions on facts of the case, allowing court users the ability to voice their side of the story, or making sure that court staff answers questions and help court attendees navigate the courthouse.

Judicial performance can be assessed by use of performance evaluations. The performance evaluation now includes an “alternative normative” bench adjudication perspective—procedural fairness (Mitchell, 2010, p. 225). Procedural fairness describes “the role of fair and respectful procedures and interpersonal treatment in shaping assessments of legal authorities and reactions to specific case outcomes” (Farley, Jensen, & Rempel 2014, p. iii). State and local trial judges are contemporarily graded on their public’s perceptions of lack of bias, fairness, impartiality, and justness in this age of Anthony Giddens’ theory of “late modernity” (Giddens, 2016).

State and local trial judges, along with their courts, are under constant and varied pressure to perform. They undergo (a) greater and more verbose scrutiny than ever before from political, civic and community leaders; (b) unrelenting 24/7 media advocacy and social media scrutiny; (c) social media distortion, misinformation and invective
campaigns; (d) threatening social network commentary; (e) harsh public criticism; (f) popular skepticism; (g) critical social analyses; (h) inner-circle cynicism about court-based therapeutic interventions; (i) inner-court reservations regarding cross-system collaborative programs; (j) insider and outsider performance evaluations; (k) sub-community, racial, and cultural indifference or disrespect; and (l) doubts of behavioral scientists and court experts about their bench abilities to discharge their institutional obligations clearly, consistently and effectively, and more. Facing such scathing perspectives and critical thinking assessments, individual and institutional development discussions, and ongoing perceptual appraisals of courthouse justice, state and local trial judges should neither contort themselves nor distort their words. They should not abstain, defer, or accept the status quo, nor should they ignore the aversive effect of negative popular sentiment on their institution and themselves.

Newer bench adjudication perspectives entail how an *alternative decency* from bench officers (e.g., judges, courtroom staff, bailiffs, court security) influences everyone. Newer courthouse adjudication perspectives ensure an alternative decency that includes, other core players (i.e., officers of the court, judicial administrators, and probation officers). Procedural fairness is an alternative courthouse and courtroom adjudication practice. Procedural fairness, as an alternative *how to behave decently* practice, is necessary to maintain a judge’s moral authority and institutional legitimacy.

Over the last two decades, much attention has been given to the topic of procedural fairness in courts. As a wide-ranging justice-based model, procedural fairness can be utilized to acquire optimal work performance outcomes through trial judges’ bench adjudication abilities to achieve successful perception after-effects from court
attendees. Court attendees can include decision recipients, family members, lawyers, jurors, and other court staff as well as bailiffs, district attorneys, public defenders, witnesses, law enforcement officials, and any other personnel that come into the courthouse. Additionally, procedural fairness appraisal is a method by which state and local trial court organizations and judges’ performances are documented, evaluated, and assessed for performance enhancement. This dissertation takes findings from numerous studies and multidisciplinary research to show the role that procedural fairness has on outcomes on justice among decision recipients and court attendees.

Trial Courts in the Age of Procedural Fairness

Although “judges… strive to treat people fairly” (Fogel, 2016, p. 1), they may not be aware of any inability to adjudicate in open court forums from a procedural fairness perspective. The age of social, psychological research necessitates that state and local trial court judges implement cutting-edge reforms and establish newer norms to “understand how people think, feel, and behave in the presence of others” (Marsh, 2018, p. 17), particularly in the presence of judges, and from a courtroom stakeholder and judicial perspective. It is imperative that twenty-first century judges, unlike their twentieth-century counterparts, accurately understand their bench inter-relational roles, and the importance and use of an advanced court culture to better prepare to carry out their work in more highly effective ways. Nonetheless, personal preferences, consensus-based old habits, and dogmatic in-court bench adjudicatory beliefs in conventional operations are hard to break down.

Judicial psychology in decision-making has been studied for some time (Frank, 2009; Klien & Mitchell, 2010). Just like the behavioral science and study of justice,
justice management has become standard, the field of judicial psychology must advance. The psychology of judicial decision-making must be viewed through the emerging lens of social psychology. At an implementation level, individual and organizational procedural fairness performance evaluations may reveal linchpin answers to more current questions and concerns regarding the popular perceptions of juridical-institutions lacking fairness. Such linkages can help make the courtroom bench adjudication system fairer and more effective. Klein and Mitchell (2010) state:

The intersection of psychology and judicial decision-making helped answer questions that long troubled legal scholars... What does it mean to judge well? Are some circumstances, personalities, or cognitive styles more conducive to good judging than others? Do most judges possess special reasoning skills that other people lack? Do judges care what other people think about them, and, if so, how does this affect their decision-making? When different motivations come into play at the same time, which have the most influence on judges’ behavior, and why? (para. 4)

Critically thinking about and synthesizing the intersections of psychology, judicial decision-making, and procedural fairness can point us toward equally more exciting and lesser-explored questions. To give some examples: What does it mean for a judge to be perceived as fair? Are some methods, processes, or communication styles more conducive to improved perceptions of judging? Do most judges possess good people skills that others lack? Do judges care what other people (i.e. court attendees) think about them, and, if so, how does this affect their in-court adjudicatory decision-making choices? When different motivations come into play at the same time, which have the most influence on judges’ courtroom adjudication behavior, and why?

Taking a multi-faceted approach to answering these questions. Which factors of procedural fairness are more predictive of perceived quality of justice, and at what weight? What indirect models explain optimally the psychology of law-based judicial
decision-making and evidence-based procedural fairness? How do trial judges do bench work to get better results? What should trial court organizations do to create and maintain evidence informed cultures of procedural fairness?

Within the increasingly behavioral science-rich understanding gained from studies of the bench culture of state courts, state and local trial court judges are being called upon to reexamine their intuitive and historical formal and informal bench presentation methods and communication techniques. By re-evaluating their bench adjudication approach, judges are able to comprehend the underlying logic of their in-court process model toward application of reliable procedural fairness principles, while concomitantly applying their state and local laws, policies, practices, and adjudicating cases. Furthermore, when shown that procedural fairness bench adjudication behavior works more effectively, trial judges wisely choose to administer more realistic courthouses and courtrooms.

State and local trial judges possess the ability to overcome any ignorance of continuous traditional benches in the face of a procedural fairness-bench adjudication culture and the inherent difficulties. Selection by state and local trial judges of research-informed procedural fairness principles and actuarial-based process methods, among other important justice system reforms, are necessary to beneficially transform orthodox in-court bench adjudicatory operations. When chosen, these transformations help: (a) facilitate optimal effective communications across the bench; (b) improve judicial performance; (c) achieve more successful outcomes; (d) reduce public criticism; (e) correct and mend adverse public perceptions (e.g., lack of trust and confidence); (f) maintain judicial credibility; (g) promote popular legitimacy; (h) legally educate our
communities by explaining formal court processes and encouraging programs that foster a sense of personal involvement, self-efficacy, and individual and civic responsibility, while reducing overall negative perceptions of the quality of justice when faced with fairness dilemmas, and more.

Unlike Robinson and Abt’s (2016) restrictive criminologist position of the reliance on evidence-informed criminal justice policy, in the domain of procedural fairness science, empirical evidence alone can point the way to enhanced state and local bench communications, performance, outcomes, compliance, and popular perceptions of courts and judges across the spectrum of the varied state and local adult and juvenile court systems.

Judges are poor social psychologists. Most judges have received little or no education about behavioral science and are rarely trained in social perceptions, especially perverse incentives. Moreover,

Trial-court judges and courts have two publics. One public consists of 50 percent of all adults who have had one or more direct experiences with the courts as a litigant… The other public lacks direct experience on which to base opinions about courts, instead their perceptions of the courtroom experience are shaped by popular perceptions that judges are too lenient when sentencing and the antics of fictional representations of judges on television and the movies (Rottman, 2008, p. 33).

Judges face electoral and reputational incentives. However, these are “blunt instruments” in the hands of the public, permitting judges to ignore their constituencies’ desires for fairer bench behaviors. However, objective aids can guide a motivated bench to act in measurable ways that anticipate and contain socio-psychological problems. Procedural fairness is such a tool. Procedural fairness is a more decent and practical way for trial judges to (a) adjudicate while having an open conversation with decision
recipients and other court attendees, and (b) to arrive at a newer, measurable, and more sophisticated convention of trial court-bench adjudication.

History of Procedural Fairness

This dissertation charts the history and contours of procedural fairness, a relatively newer juridical concept—in America’s civil and criminal justice systems. Within the juridical context, Tom R. Tyler defined the framework of procedural fairness to shape the attitudes and behaviors of law and legal officials (e.g., judges). Procedural fairness affects perspectives and conduct as bench communications from judges inside courtrooms. In courthouses, its purpose is to aid judges in intentionally shaping the perceptions of how individuals (i.e., court attendees) are treated in the judge’s presence during the performance of official duties. Procedural fairness exists as a practice to form and guide perceptions—reality—in the minds of courtroom attendees.

Courtroom procedural fairness is practiced by use of communication processes, such as speaking and listening, by the judge and other bench officers, which results in court attendees positively responding to, comprehending, and accepting judicial decisions. If judges are front-end gatekeepers of fairness then inside courtrooms, trial judges are frontline, indispensable agents of procedural fairness. The judge is the focal point of the courtroom from the perspective of all court attendees; the judge sets the tone for fairness to prevail and to be perceived fairly.

Judges’ scope of authority and bird’s eye view of the trial system monopolize them as natural and respected leaders in juridical reform movements. They should find and utilize tested theories and exploit confirmed practices that work to affect the meanings that people assign to words, actions, and events. Because they directly cause,
implement, and direct advancements in substantive and procedural law simply by virtue of their position, no systematic change will take place without their participation, and they can easily inspire actions that will improve their state and local justice systems and ensure fairer processes. The trial judge’s span of influence extends beyond any specific case to the operation, effectiveness, and fairness of the juridical system as a whole.

Given this oversized influence, regular evaluation of and assessment of state and local trial judges’ perspectives regarding their bench competence and bench-adjudication abilities is necessary. Such assessments provide practical measures of their judicial performance. Judicial performance evaluations are needed to maintain a perception of procedural fairness made urgent by societies newly-vocalized concerns. “Procedural fairness principles further judicial accountability associated with litigants’ perceptions of fair treatment, without reference to the merits of individual cases” (Conference of the Chief Justices [CCJ], 2013, p. 1). In other words, a litigant may receive a favorable or unfavorable verdict, and still perceive they were given a fair hearing when procedural fairness principles are exercised.

Conveying the Need for Procedural Fairness Reform to Trial Judges and Judicial Educators

Conceivably, from epiphany-type recognition of the polarizing relationship-effects of the lack of procedural fairness in state and local trial courts, the American Judges Association released a special issue of Court Review in their 2007-2008 edition. This edition focuses on Judges Kevin S. Burke and Steven Leben’s White Paper, and seven other article and essays from some of the nations’ leading scholars explaining
demonstrations of, and assuring positive perceptions of, procedural fairness in a variety of justice system settings.

Burke and Leben (2009) concluded in their book that there is substantial evidence that the major constructs of procedural-fairness, “best match what the public looks for from its justice system”—satisfaction (p. 2). A satisfaction assessment and evaluation within and from Louisiana’s courts of public opinion is an objective of this study. The relational effect of procedural fairness describes most of America’s state and municipal trial judges’ mode of governance and decision-making, regulating interpersonal effects on and beyond court attendees. Procedural fairness involves an unbounded rational choice of reality—how state and local trial judges, selecting a more sophisticated form of bench adjudicatory process, affect the success of the process of performing distributive justice, procedural justice, and interpersonal justice throughout and popular justice beyond the courthouse.

Additionally, procedural fairness portrays how important judicial relationships are to catalyze, reframe, and reform people’s lives—perspectives judging an effective court and forming perceptual and perpetual bases which can lead to accurate and successful ways of viewing American state and local trial courts and living in American society. Trial judges, as leaders, often go beyond what the law and their law school education require. Most judges prefer to work smarter to manage outcomes. Practically, “no judge aspires to be average” (Thumma, 2018, para. 12). A desire to do better and more may be why some Louisiana state and local judges have individually taken up the Conference of Chief Justices and the Conference of State Court Administrator’s (at times hereafter CCJ/COSCA) Resolution 12 court reforms, exhausting self-help to enhance
their courts’ public perception, and themselves. Resolution 12 is illustrated in Appendix A. Their federal court sisters and brothers have systematically decided to do so through bench presence.

Application of bench procedural fairness can deepen judges understanding of different litigant perspectives, cultures, expectations, and perceptions. Judge William G. Young and Professor of Law Jordan M. Singer (2013) noted that productivity evaluation of trial judges is dependent upon particular measures of procedural fairness in the following statements:

“Judges are already acutely aware of the importance of procedural fairness in adjudication, and strive to resolve their cases in a fair, dignified, and unbiased manner… concerns about adjudicative quality and the district court’s traditional role as a trial court have wrestled with concerns about efficient case resolution, and too frequently the latter concerns seem to have clouded the former. Bench presence aims to restore adjudicative quality, courtroom time, and procedural fairness to their proper position in the conversation by providing a workable and measurable proxy for procedural fairness at the district court level.” (p. 97)

Procedural fairness research emphasizes that individuals pay particular attention to and place importance on decision-making procedures. Just like Glendon, Carozza, and Picker’s (1982) counsel:

“The fact is that, [in bench procedural fairness], as elsewhere, theory and practice are like the two blades of scissors, or the bow and arrow, complimentary and indispensable to one another. The best practical work is grounded in theoretical understanding; the soundest theory emerges from constant testing against practical knowledge and experience.” (p. 6)

Researching procedural fairness is quite different from educating or implementing procedural fairness techniques, but research on procedural fairness shows training, implementation, and sustainability must occur. Moreover, procedural fairness theory predicts organizational participants will make fairness judgments about decision-making
procedures, which subsequently affect individuals’ attitudes and behavior (Potter, 2006, p. 33). Decision recipients and court attendees base their attitudes toward the court, or justice system, on more than just the outcome, they consider the entire formal process to form their opinion of whether or not the courts, and the justice system is trustworthy.

Statement of the Problem

The extent of the indoctrination of procedural fairness is unknown among Louisiana state and local trial judges. We are not aware of judges’ perceptions as well as those of neutral court observers and defendants. We wanted to know - do judges know about procedural fairness and if they do are they implementing the core principles in their courtroom. Louisiana Chief Justice Bernette Johnson (at times Chief Justice Johnson) signing of the CCJ/COSCA’s nationally adopted Resolution 12 is unknown throughout the judicial system in Louisiana.

Overall Research Objectives

This study has three major objectives. The first objective is to determine indoctrination of procedural fairness among Louisiana state and local trial court judges. The second objective is to examine Louisiana state and local trial court judges’ courtroom bench practices; assessing the degree which they perceive that they apply the procedural fairness concepts of understanding, voice, respect, neutrality, and helpfulness. The third objective is to conduct a limited assessment of select trial court courtrooms procedural fairness practices from the perspective of decision recipients and a neutral observer.

In short, this study seeks to measure, describe, and compare Louisiana state and local trial court judges’ awareness, courtroom applications, and perceptions of procedural
fairness from three unique perspectives - the judges themselves, decision recipients, and a neutral observer. In seeking to achieve the three objectives above, this study sought to measure the perspectives of three types of Louisiana stakeholders’ perceptions of procedural fairness in trial courts.

The three perspectives sought were that of (a) all state and local trial court judges, (b) select criminal, family, and traffic court defendants, and (c) a trained and disinterested court observer of select state and local trial court judges. Discovering perspectives from judges, participants, and observers of Louisiana’s trial courts today not only creates a snapshot of progress, it also advances the overall practice and understanding of procedural fairness by providing future researchers material to explore and uncover indirect procedural fairness models. It also establishes a baseline for longitudinal studies of Louisiana trial courts and judges to determine the magnitude and direction of change.

Conception of Procedural Fairness for this Study

“Perceived fairness (fair treatment) is perceived as distinct from Distributive fairness (fair outcome)” (Kagan & Kigli-Shemesh, 2005, p. 3); for this study, procedural fairness is an evidence-based best practice reliably associated with higher levels of compliance with and greater amounts of satisfaction with decisions by authority figures (Leben, 2016). Procedural fairness is a prime motivator for people’s willingness to comply with court decisions. Rottman (2017) suggests that even though “distributive justice is important, it is less important than procedural fairness” (p. 117). This same research showed that deterrence effect influences law-abiding citizens, not offenders (Rottman, 2017). This research suggests that distributive justice and harsher punishments would increase the lawful behaviors of law-abiding citizens, but would consequently
have no effect on the behaviors of offenders. Further, procedural fairness is “recognized as evidence-based practice for reducing recidivism” (Rottman, 2017). Increasing bench presence through procedural fairness techniques has shown repeatedly that it reduces recidivism rates. So why more judges don’t institute these changes?

Increasingly, national judicial organizations have recognized the importance of promoting evidenced-based procedural fairness practices. The Center for Court Innovation has explained the importance of promoting perceptions of procedural fairness in its online practical guide, which discusses (below) why perceptions of procedural fairness are of such importance:

• The court experience is more influential than the actual case outcome. In contrast to distributive justice, which refers to the case outcome (i.e., whether a litigant “won” or “lost” the case), procedural justice can actually have a greater influence on litigants’ views of their court experience.
• Procedural justice can increase compliance with court orders, improve public trust, and reduce recidivism. Litigants who believe the court process is fair are more likely to comply with court orders, to perceive the courts as legitimate, and to engage in future law-abiding behavior.
• All courtroom actors can have an impact on perceptions of fairness. The treatment of litigants by all court actors—including security staff, clerks, bench officers, defense attorneys, prosecutors, and the judge—contributes to the overall perception of fairness (Malangone, 2018, p. 2).

Justice and access to justice are administered in courtrooms and hearing rooms. The perceptions among court attendees are “brain-based” (K. Tait, personal communication,
January 25, 2018). Perceptions are delivered through the components of the “black-robe” effect and communication effects that enhances procedural fairness. “Judicial robes have long been thought to bring dignity and solemnity to judicial proceedings” (United States Supreme Court, 2018, “Why do Justices Wear Black Robes,” para. 1). These are some of the major reasons for high citizen respect in, and trust for, courts.

The lack of procedural fairness induces a corresponding perspective of public distrust. Among all, the best predictor of feelings of procedural unfairness is perceived disrespect from interactions with the trial judge and the court. Some judges certainly are aware that our state and local trial court system process “isn’t as good as we would like, and it isn’t nearly as good as it should be” (Burke and Leben, 2009, p. 401). If state and local trial judges have recognized that the justice system is not as good as it should be, why wait to make changes? Shouldn’t these judges demand changes to start taking place, and begin setting the example for other judges to follow suit?

Now that the reform agenda of procedural fairness has come of age (Rottman, 2008), the time is ripe for oversight, particularly regarding self-assessment of Louisiana trial judges’ perceptions of procedural fairness across various individual variables, jurisdictions, and other situational variables. Judicial procedural “self-assessment provides an opportunity for courts… to take inventory of current practices and identify areas that may need improvement” (Malangone, 2018, p. 16). Self-assessment is designed for courts and judges to help measure the elements of procedural fairness. In the late 1990’s, a Commission on Trial Court Performance created 22 standards for trial and appellate courts to adopt in order to increase quality management and increase judicial leadership in a new type of justice reform (Rottman, 2017). These standards are
broken up into five categories: 1) Access to justice, 2) Expedition and timeliness, 3) Equality, fairness, and integrity, 4) Independence and accountability, and 5) Public trust and confidence (p. 119). Though the Bureau of Justice Assistance recognizes that self-change (in judges) will do more good than implementing a reform, they acknowledge that a justice reform was needed, and that the most effective way to fuel change was to do evidence based self-assessments (DiIulio et al., 1993). These self-assessments are contained in the five categories (or 22 standards) mentioned above.

An excerpt from a bench card for trial judges developed by the National Judicial College in Reno, Nevada (at times hereafter NJC), “Principles of Civility: Promoting Public Trust and Confidence” provides trial judges should prioritize courtesy, and timeliness, while preserving and improving the rule of law with clear, concise, and informative communication (NJC, 2013). According to the NJC (2013):

Procedural fairness is attained when the judge conducts proceedings so that the parties have a voice to tell their story, perceive that the court system is neutral, are treated with respect, and believe the judge is trustworthy and sincerely trying to help them. (para. 5)

Theorizing an instrumental indirect effect perspective, the writer posits there is an interaction of the “black robe” effect and the communication (interpersonal treatment) effect. It is theorized that they are interrelated and together they enhance the ability of procedural fairness effect simultaneously joining to achieve Glasser’s (1990) total behavior effect through actual justice and the perceptions of justice. Because brain-based interpersonal communication and all five elements of procedural fairness effects are working simultaneously, the bench presence of the trial judge interlocks the “black robe” effect and utilizes the procedural fairness components to achieve greater, more influential
and intended positive direct effects—perception of procedural fairness effects—upon the behavior of observant court attendees—a holistic sensory approach.

Adapting Preacher and Hayes’ (2004) methodological language regarding indirect effect models, it has become necessary for future researchers to perform a formal significance test of Louisiana judges’ perceptions of procedural fairness because “deeper understanding is gained when we comprehend the process that produces the effect” (p. 717). A significance test beyond bivariate correlations is needed, but is beyond the scope of this dissertation. For now, what are Louisiana’s state and local judges’ self-assessments of their perceptions of procedural fairness? Do they differ? If so, why and where? A procedural fairness study from the vantage point of Louisiana’s state and local trial judges, a neutral observant and litigants presents a “teachable moment” to develop indirect models, to guide, and to promote the direction of future studies.

First, Emily Gold LaGratta and Elise Jensen’s (2015) Measuring Perceptions of Fairness: An Evaluation Toolkit was designed to improve court users’ ability to measure procedural fairness. The toolkit contains three instruments (1) “Self-Assessment of Court Practices”, (2) “Courtroom Observation Instrument”, and (3) “Defendant Exit Interview”. The purpose of “the self-assessment of court practices measures practices throughout the courthouse and other environmental aspects that are connected to the domains of understanding, voice, respect, neutrality, and helpfulness” (p. 5). According to LaGratta, the “Self-Assessment of Court Practices” evaluation measure of fairness has not been tested anywhere.

Second, Louisiana’s judges’ self-assessments of perceptions of their procedural fairness are unknown. Judge Kevin S. Burke recently communicated, “I am frankly not
aware of any research specifically on Louisiana trial level judges” (K. Burke, personal communication, March 20, 2018). Third, it is believed Louisiana trial courts have not systematically heeded the procedural fairness call to action—Resolution 12. Fourth, it is thought that Louisiana judges are uninformed about Resolution 12; nor are they informed about the key procedural fairness elements. Fifth, it is assumed that no Louisiana court has expressly stated a policy through a rule of the court nor published a practice requiring procedural fairness. Sixth, it is also believed that the Louisiana Legislature has likewise not expressly been made aware through any code of procedure the incorporation for court application of the five key procedural fairness elements (e.g., voice, respect, neutrality, understanding, and helpfulness). Lastly, what are the risks of a Louisiana state and local trial judge being guilty of procedurally unfairness? One probability is the consequential filing of a judicial ethic complaint related to the lack of procedural fairness.

This writer suspects that key elements of procedural fairness in Louisiana courts are indirectly applied ex post facto; that is, after a lack of judicial adherence to such principles, through disciplinary sanctions for violations of judicial canons regulating a judge’s processes, demeanor, and decision-making.

Authority to apply principles of procedural fairness a priori are found inferentially pursuant to Louisiana Code of Civil Procedure Article 191, which provides “a court possesses inherently all of the power necessary for the exercise of its jurisdiction even though not granted expressly by law” Copeland v. Copeland, 07-0177, (La. 10/16/17); 966 So. 2d 1040. Additionally, Louisiana Code of Civil Procedure Article 1631(A) provides general authority that a “court has the power to require that the proceedings shall be conducted with dignity and in an orderly and expeditious manner,
and to control the proceedings at the trial, so that justice is done” *Copeland*, 966 So. 2d at 1040.

Acting upon such authority, unbeknownst, the writer demonstrated a commitment to management practices of procedural fairness and an impartial court, when in 2014, the writer posted adjacent to the entrance to his courtroom this promise — “PLEDGE. To each litigant, defendant, victim, witness, juror, or other person who is involved in a court proceeding: The judge and court staff will listen to you, treat you with respect, and respond to your questions.” The image can be seen in Appendix B. An example of a non-traditional expression of empathy and unique judicial moment, Judge Lou Olivera of Fayetteville, North Carolina established an interpersonal relationship with a probation violator by accompanying the offender as he spent a night in jail for violating a no drinking alcohol probation requirement (Judge spends a night in jail with the man he sentenced, 2017). Judge James D. Garbolino when asked by the NJC to provide what he wished he had known becoming a judge, thought, “judging involves an element of performance art. It’s not enough that the judges are impartial—they must also let the litigants know that they understand their arguments and positions and that the judge has considered them” (judge spends a night in jail with the man he sentenced, 2017).

This study can advance Louisiana justice system reforms through a procedural fairness examination from the perspectives of Louisiana state and local trial court judges, criminal, family, and traffic court defendants. Do Louisiana trial-level judges support procedural fairness? Do court defendants perceive procedural fairness to be a problem? Whether Louisiana trial judges perceive daily procedural fairness dilemmas exist is unknown? If dilemmas exist for the trial judges, is it the result of little or no institutional
help? If, or when judges accept and adopt newer bench behavioral approaches, and adapt
procedural fairness principles, “peoples’ identification with law and legal authorities is
strengthened” (Tyler & Sevier, 2014). After all, judges have the “reasonability for
articulating appropriate solutions to conflict” (p. 1129), particularly procedural fairness
solutions in “reimagining courts.” Their perceptions may determine Louisiana’s
procedural fairness goals and direct the future bench presence of judges serving on state
and local courts.

This study defines procedural fairness as “when people perceive the procedures
used and the interpersonal treatment they received in the system as fair” (Tait & Suntag,
2018, p. 3). The next chapter presents and summarizes the findings of the expanded and
extensive theoretical and procedural fairness research discussed in the introduction,
reexamines the up-to-date review of the rapidly expanding procedural fairness literature,
and analyzes the extent to which a procedural fairness approach and review is ripe for
Louisiana courts and judges. It also introduces an intellectual procedural fairness effect
perspective for theoretical discussion and future testing.
CHAPTER II

REVIEW OF THE LITERATURE

Overview

This researcher has extensively examined the associated literature and attended national conferences which explicate dimensions and applications of procedural fairness, all of which augments the study of procedural fairness as a central subject matter in judicial bench studies.

Procedural Fairness Timeline

Over the last 10 decades, research has focused on determining the causes of the public’s dissatisfaction of the justice system. The administration of surveys gave insight into the causes of the public’s dissatisfaction and what changes the public would like to see the juridical system undertake. These changes would increase the public’s perceptions of procedural fairness.

At the behest of the writer, a specific conference was held in September 2018 in Louisiana, teaching procedural fairness to Louisiana trial judges (see Appendix C). Nationally, there is a growing body of court-related procedural fairness theory, research, and practical implementation. This signals an in-depth assessment and evaluation of the knowledge and application of procedural fairness is justified and long overdue for Louisiana state and trial courts and judges.

It is important to know where Louisiana state and local trial courts and judges stand in comparison to where other court observers say they do regarding procedural fairness. Otherwise, judges will probably continue to delude themselves that traditional bench-adjudication practices are working well. However, because the public’s
perceptions of the juridical system are declining, judges’ behaviors are not deluding others. Without assessment and evaluation, there is little chance of clear success and improvement.

Judges Burke and Leben (2009) suggest adverse consequences flow from the lack of court measurement of procedural fairness in the following statement:

Courts that do not measure fairness fail themselves and their public. They contribute to the unfortunate rhetoric of some court critics: by failing to focus on the right issues, we leave our critics free to define the courts’ image to the public in ways less flattering and less relevant (pp. 411-412).

A discussion addressing the rapidly expanding diverse and robust literature throughout the criminal and civil justice systems, an up-to-date review, and practice of procedural fairness principles, as well as an extensive theoretical and research introduction regarding procedural fairness, and the perceptions of procedural fairness, is necessary to lay the backstory of this dissertation. In this lengthy literature review, the writer has highlighted some of the more impactful insights, actions, events, and conversations that mark a shift in the status quo of social control, particularly normative bench adjudication for decision recipients.

First, it is necessary to explain adequately the background of procedural fairness. Secondly, a more comprehensive discussion is necessary to address perceived high levels of intellectual dissonance with those justice system stakeholders, especially state and local trial judges, who may be unfamiliar with the subject and refinements of the constructs known as procedural fairness and perceptions of procedural fairness. Thirdly, although judicial, legal, political, social, and psychological science scholars have investigated and discussed judicial performance assessments and evaluations, a review of
the procedural fairness research literature reveals not a single study examining perspectives of Louisiana’s stakeholders’ (insiders and outsiders) performance perspectives regarding procedural fairness among Louisiana trial judges and courts. A reform governor adopted statewide criminal justice system changes in 2016. The extensive criminal justice reforms presently underway in Louisiana are limited if judges and courts are not adequately taken into consideration.

Additionally, only a few researchers (Tom R. Tyler, Jason Sunshine, Susan A. Schroeder, David C. Fulton, and others) in the procedural fairness literature have suggested or expressed a procedural fairness causal modeling (mechanism) viewpoint. None have tested a causal model to maintain social control inside and outside of courthouses. Judges prefer self-control, but seek to maintain social control through containing the problem. “Mechanisms for social control are a universal feature of all human societies, and it is difficult to imagine a culture that lacks the means of insuring its people follow its norms, rules, or laws” (Sunshine & Tyler, 2003, p. 513). A causal model conveys causal assumptions, not validated causal conclusions (Pearl, 2003).

Besides, Louisiana’s state and local trial judges may have varying motivations for, and interest in, knowing about public perceptions of their bench competence and abilities. Individual trial judges may not only be unaware of the procedural fairness concept but they may also be unfamiliar with their jurisdiction’s public perspectives of their procedural fairness, whereas other trial judges can hold a firm understanding of both concepts, or have ideas or misconceptions about their jurisdiction’s perspectives, but have never actually been assessed and evaluated.
For these reasons, this dissertation has undertaken to measure quantitatively the following:

(a) state and local trial judges in Louisiana, whether they are aware of, and if so, whether they support procedural fairness
(b) a trained disinterested observer, whether select state and local trial judges apply procedural fairness principles
(c) defendants, their opinions when leaving criminal, family, and traffic court, regarding select trial judges’ application of procedural fairness principles in Louisiana’s non-unified, varied (state, parish, and city) trial-level adversarial court systems (i.e. general, limited, and special jurisdictions)

This study will help discover the extent of the impact of procedural fairness in Louisiana trial courts and its significance.

Significance of a Procedural Fairness Trial Judge and Court Study

“A court system that neglects procedural fairness is vulnerable to becoming an institution with no clear public argument about its value to the communities it is there to serve” (Gold & Bowen, 2015, Conclusion section, para. 4). Procedural fairness encompasses judicial day-to-day bench decision-making. Procedural fairness perspectives mostly concern public perceptions regarding the impact of judicial action and formal process through which trial judges judiciously and administratively operate. Perceptions are just that, a way to understand or interpret a situation. However, perceptions also influence future attitudes and behaviors and thus have effect beyond the immediate time of formation.
A theory in social psychology states, “human perceptions can create their own reality even if those perceptions are not fully objective” (Felson & Eckert, 2018, p. 252). If an individual’s perception of the situation is that, the judge treated them unfairly, then the judge treated the person unfairly, whether or not they did. “A person’s perception makes the thought or idea real, and any following action or consequences from the actions are real” (Merton, 1995, p. 380), as an alternative form of objective reality.

No person is above forming a perception of a situation. These perceptions can be formed before a person even ‘walks into’ the situation. For example, a police officer responding to a call of a suspect who had heard “the person is up to no good or is high” shot and killed the man, in self-defense, even when the man was not armed (Garfield & Kiersz, 2017, para. 13). Individuals coming into the courtroom may have a preconceived thought that the judge they are coming before is ‘a jerk’ and will automatically form the perception that the judge is unfair or biased. Judges, and other court staff, must therefore strive to maintain a procedurally fair process for every person who comes before them. By doing so, the potential for fewer negative perceptions formed by individuals prior to their court date is higher. As for public perspectives, they are a valuable resource for finding out all sorts of information or misinformation about trial judges and courts—particularly their unbiasedness, fairness, impartiality, and justness. Such information is essential for courts to maintain their integrity, independence, and continued viability in America’s highly adversarial, lawyer-dominated, and codal-based process systems.

A procedural fairness study about Louisiana state and local trial court judges and their courts offers its court community a way to measure court-related performance advantages or disadvantages from the application of procedural fairness, or the lack
thereof. Measurements… define what we mean by performance”, ("Drucker’s Performance, In Conclusion" 2017, para. 2).

In 2009, a national study conducted on behalf of the National Center for State Courts found that an individual’s own court experiences have a negligible effect on their opinions of state courts and judges. For the most part, adults who have been involved with the courts and those who have not share similar views about all aspects of the judiciary. However, the study reported, “very few people reported experiencing the courtroom as a defendant” (Princeton Survey Research Associates International for the National Center for State Courts [Princeton Survey Research], 2006, p. 12). The findings are inconsistent with the procedural fairness literature reflecting the consensus of positive influences from applications of procedural fairness principles. LaGratta and Bowen (2014) noted:

> When defendants perceive the court process to be fair, they are more likely to view the system to be legitimate and to comply with court orders. Nevertheless, the unfortunate truth is that a trip to the court is rarely a positive experience. (p. 3)

There are other advantages also from understanding judicial and civic perspectives among Louisiana’s justice system stakeholders. In this era of “information, knowledge, and communications” (Patton, 2008, p. 5), evidenced-informed decision-making, trial judges and justice stakeholders’ perspectives is needed to uncover the various determinants which define and form evidence-informed procedural fairness and stakeholders’ perceptions of procedural fairness. Otherwise, the pivot of the justice system, namely the verdict, risks being perceived as arbitrary, and losing its legitimacy.
Eight years ago, Judges Burke and Leben (2009) noted, “the focus on procedural fairness is a rapidly growing trend over the last decade. This evolution of procedural fairness recognizes that judges need to be independent, procedurally fair, and accountable for achieving procedural fairness for every litigant before them” (p. 397). Gibson (2007) for the same reason noted “when people assess the procedural fairness of institutions, they are especially influenced by evidence of even-handedness, factuality, and the lack of bias or favoritism (neutrality)—in short, by impartiality” (pp. 3-4). Moreover, van Prooijen, van den Bos, and Wilke (2004) counsel particular psychological consequences follow one’s position (i.e., standing) in court, and from such vantage point, perspectives of procedural fairness are derived and formed in our oppositional, sometimes combative legalistic state and local trial court systems:

Social justice is essential to understand human behavior. That is, people are affected by the extent to which social situations are perceived as fair, usually react positively when they are treated fairly, and show appreciation when they think that justice is done (for a review see, e.g., Lind & Tyler, 1988). Furthermore, unfair treatment may lead to aversive reactions such as feelings of anger, fear, and disgust. (p. 33)

We will now discuss the effects and outcomes of our adversarial legalistic trial court system and its connection with procedural fairness.

America’s Adversarial Trial Court Adjudicative System

Polarizing positive and negative effects are some of the natural effects from the daily lawyer-dominated-practice of such an adversarial legalistic system. These effects are important social and psychological consequences and should not be ignored by judges and courts or pretended as nonexistent. Kagan’s (2001) perspective enlightens us about the very pervasiveness of American adversarial legalism, moreover, and suggests that it is
best viewed not merely as a method of solving legal disputes but as a mode of governance, embedded in the political culture and political structure of the United States (p. 5). Bench adjudication and procedural fairness are “crafts of place; they work by the light of local knowledge” (Gray, 2015, p. 55).

Understanding state and local judges’ trial-level bench-adjudication behaviors and communication activities about such a dualistic adversarial legal system’s outcomes are crucial to help foster American citizens’ sense of legitimacy in regards to their courts, as well as maintaining confidence among its citizenry. In political science, “legitimacy is a quality possessed by an authority, a law, or an institution that leads others to feel obligated to accept its directives” (Tyler & Mentovich, 2017, p. 2). In psychology, Tyler’s (2006) “legitimacy is a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just” (p. 375). Legitimacy is the ability to influence others.

Considering trial judges, courtroom adjudication provides an often-overlooked encounter for judges to communicate clearly and effectively from the bench, qualitatively to everyone, individually and independently, while addressing their policy and decision-making views—to help reduce an adverse reaction by observers of the incidence of adversarial legalism—toward improved outcomes and perceptions of the same. Improved outcomes are derived from use of the most rigorous scientific methodology to identify and lessen potential biases. Explicit bias is a conscious preference (positive or negative) for a social category. “Implicit bias is a preference (positive or negative) for a social category that operates outside of awareness” (Marsh, 2018, p. 17). Implementing procedural fairness techniques are likely to address biases, while making best use of the
courtroom adjudication experience to arrive at evidence-informed justice and quantifiable perceptions of the same.

Kang’s (2009) *Implicit Bias Primer* for state courts provides the judicial context within which state and local trial judges adjudicate (i.e., implicitly and explicitly) inside courtrooms in the following statement:

A typical trial courtroom setting mixes together many people, often strangers, from different social backgrounds, in intense, stressful, emotional, and sometimes hostile contexts. In such environments, a complex jumble of implicit and explicit biases will inevitably be at play. It is the primary responsibility of the judge and other court staff to manage this complex and bias-rich social situation to the end that fairness and justice be done—and be seen to be done. (p. 6)

One can see a lack of bias through the lens of procedural fairness. Procedural fairness has become a juridical-based, social-psychological communication term of art in America's adversarial legalistic system, capable of overwhelming most forms of explicit bias.

With this in mind, one valid and reliable way to understand and ascertain public perception of the American justice system’s trial-court decision-making and mode of good governance is through the lens of the perception of procedural fairness (Burke and Leben, 2009).

Public perception as to whether or not trial judges are procedurally fair is not necessarily unreality in the court of public opinion. It is the public’s knowledge—which is their informed or uninformed, right or wrong, perception about the observable workings of their courts that counts the most. In social contract theory, it is their perceptions that determine what reality is, and is then accepted as the people’s silent circle of consent which is understood, and felt in the streets. Judges Burke and Leben
(2009) noted the importance of embracing procedural fairness-knowledge nine years ago when they commented as follows:

If enough judges fully embrace the concept with action, public support for the courts will rise, and there is every reason to expect greater compliance with court orders. So this subject is not merely of importance to judges—it is of great importance to the public as well. (p. 404)

State and local trial judges’ knowledge, ability to perform, bench skills, and courtroom experiences regarding procedural fairness can be marked by self-examination behavior—assessment toward procedural fairness success change—motivated to cause deployment mechanisms that affect the public’s perception of courts. All too frequently, evaluations of the performance of American trial courts’ judges are formed by outsiders instead of courts and judges.

Self-examination regarding procedural fairness is necessary to overcome legal practitioners’, participants’, observers’, and trial judges’ self-reliance and complacency and complement “self-evident” beliefs that their traditional ways of thinking, mimetic conventions, intuitive and ad hoc approaches may not be the best in the world. The question arises: why, if the benefits of procedural fairness are so substantial and evidence based, does procedural fairness seem to remain a relative backwater construct in twenty-first century judicial application and education in Louisiana? Have Louisiana state and local trial judges considered procedural fairness a myth buster to their classical and intuitive approaches to know what kind of bench adjudication works best? Research indicates the promotion of and need for a newer bench adjudicatory culture. The lack of state and local courts and judges’ use of procedural fairness principles is a serious problem.
Consistent with evidence-based decision-making, Louisiana judicial educators should immediately institutionalize the study, application, implementation, training, and on-going education of procedural fairness among trial judges and courts, in order to sustain the change towards behavior indicative of procedural fairness. Procedural fairness is necessary to reform state and local trial judges’ bench behaviors. Nonetheless, Louisiana trial judges are probably divided, on both the positive effects of procedural fairness and their perceptions of procedural fairness.

Core Procedural Fairness Relationship Effects

According to LaGratta and Bowen (2014) “renewed interest in this theory [procedural fairness] has its origins in organizational management” (p. 2); collectively procedural fairness literature points to five core procedural fairness effects. The procedural fairness literature includes references, mostly which point to five key justice-people-relationship effects, which may not be obvious — *voice*, *respect*, *understanding*, *neutrality*, and *helpfulness*. All of which reveal how trial judges’ “bench presence” and interpersonal relationships with observers affects an individual’s positive or negative perspective of them and their courts, particularly, perspectives of unbiasedness, fairness, impartiality, and a just court. What can a knowledgeable, skilled, experienced, and fair state and local trial judge learn about his/her ability in the face of a procedural fairness examination. They can learn enlightenment, which can lead to critical thinking orientation in judging. Seifert & Sutton (2009) state

Critical thinking requires skill at analyzing the reliability and validity of information, as well as the attitude or disposition to do so. The skill and attitude may be displayed with regard to a particular subject matter or topic, but in principle it can occur in any realm of knowledge. (“Module 9”, para. 1)
Judges are critical thinkers. As such, procedural fairness is within their realm of courthouse communication and bench adjudication abilities. Procedural-fairness evaluation criteria include—voice (e.g., whether the trial judge gave parties an adequate opportunity to be heard), respect (e.g., whether the trial judge demonstrated courtesy toward all who appeared before him or her), understanding (e.g., whether litigants comprehended the language trial judges used in court and the decisions that are made) (Young & Singer, 2013), neutrality (e.g., whether the trial judge displayed fairness and provided transparency in rulings) (Leben, 2011), and helpfulness (e.g., whether litigants perceive court actors as interested in their personal situation to the extent that the law allows) (American Judges Association, the Center for Court Innovation, the National Center for State Courts, the National Judicial College [AJA, CCI, NCSC, NJC], 2018).

Judge Steve Leben, Professor Alan Tomkins, and others (2008), summarize their publication in the Editor’s Note to the Special Issue on Procedural Fairness, by saying that procedural fairness is understood and is dependent upon one’s position in the relationship. For example, each person has a position, the judge and the lawyer or the judge and the litigant. Each of these positions will form a unique perspective of procedural fairness for each person involved. Sivasubramaniam and Heuer (2008) point out that procedural fairness has different meanings for novice decision recipients (i.e., litigants) than for professional decision makers (i.e., judges), and how these differences might present different challenges and cause reform problems in the justice system (p. 63) to secure procedural fairness throughout the courthouse and beyond.

Given the critical importance of exercising unbiasedness, fairness, impartiality, and a just court-system governance, state and local trial judges, bench officers, court
administrators, staff, bailiffs, security, and other justice system stakeholders should be particularly concerned about identifying opportunities throughout the courthouse to improve upon each basic characteristic upon which the public perceives and subsequently evaluates its courts. The Center for Court Innovation (2018) state:

From the moment that court users access a website or enter a courthouse building to the moment they depart at the conclusion of a case, there are many opportunities to signal that the justice system is capable of delivering fair and impartial justice. (p. ii)

Civic Perceptions of Procedural Fairness

A newer, self-directed, data-driven, evidence-based, actuarial process-model, and reliable adversarial legalistic governance and decision-making system takes into account civic (popular) perceptions of procedural fairness. In contrast, a lawyer-dominated litigation and process model conceivably focuses too much of the trial judges’ communicative attention on the lawyers (Kagan, 1994) rather than upon and from the perspectives of court attendees as the central individuals for state and local trial judges to clearly and effectively communicate governance and decision-making, explain its processes, and to direct and apply procedural fairness principles in courtroom practices to all court attendees. Trial judges too often collaborate with lawyers to insure dignity of the legal profession, but judges, in most cases and situations are procedurally mandated or ethically constrained from interacting with other court attendees (Domitrovich, 2018). Procedural fairness, however, focuses on strategies and techniques for bench adjudication, trial judges putting their best foot forward in the process and insuring they do so in an ethical manner.
Nonetheless, court attendees should discern that perception of procedural fairness is distinct from fairness in the legal process (the law of procedure). Fairness in the legal system is also a distinct concept, which is dispersed from fairness in the legal process. A newer thought is there are three ways in which the legal system ensures fairness in law. The first, there are the general presumptions and procedures to ensure a fair trial or court hearing. This concept relates to the fairness of the procedure by which a decision is made, and not the fairness in a substantive sense of that decision. The second, there is the system of law that is intended to ensure fairness in society; this is known as the law of equity—justness. Minimal fairness in America’s legal trial systems and fairness of procedures are required by specific and general constitutional amendments, particularly substantive and procedural constitutional due process of law. State and local trial judges must accord everyone minimal fairness. The third, there is the perception that judges adjudicated according to the principles of procedural fairness, which as stated earlier is, a more recent model of decision-making and method of governance influenced by applying and assessing fairness in the processes to qualitatively communicate decision-making and the outcomes of those decisions.

Research has shown that “the manners and emotional overtones of justice officials affect future offending rates as much or more than the formal decisions and severity of punishments” (Rottman, 2017, p. 112). How state and municipal trial court staff speaks to, treat, and engage with court attendees influence their future actions and thoughts. Court staff need to work together in order to increase the public’s perceptions of procedural fairness. In order to form such a shared vision and collaborative work ethic, state and local trial judges have a duty to provide procedural fairness leadership.
Trial Judges’ Duty to Provide Procedural Fairness

Trial court judges control the “conduct of the trial and ensures fairness to all parties” (GeorgiaLegalAid.org, n.d. para. 1). A trial-level judicial duty to provide procedural fairness may arguably be implicitly required and imposed by the Federal Constitution, particularly where it would be inconsistent with the proper operation of law (Metteauer, 2017). Some believe perception of procedural fairness adjudication is not constitutionally required. Perhaps it could be understood as penumbral and therefore a constitutionally-derived right; if not, then certainly it can be implied and accepted as a basic part of the social contract, and therefore essential for trial judges to acquire greater common sense to more clearly and effectively communicate decisions, fairly, consistently, predictably, and individually.

Some state and local trial courts through national, state, or local initiatives have engaged the responsibility of procedural fairness in a variety of initiatives. These are implemented to help ensure the bench adjudication process is fairer, as well as court attendees are treated with the same level of respect and quality as anyone that comes into the court (Center for Court Innovation [CCI], 2011).

Although, the judicial duty to enhance perceptions of procedural fairness may not be implicitly required by their state constitutions, there should be little doubt that state and local trial judges have a right to provide most, if not all aspects of procedural fairness. State supreme courts impose procedural fairness directly and individually upon trial judges. It is required of them through the posterior application of equivalent or similar principals required in judicial canons—ethical and professional codes of judicial
conduct requirements enforced upon trial judges through sanctions. Imposition of professional standards helps to assure quality courtroom adjudication.

Nonetheless, the greater opportunity for trial judges to communicate positive perceptions of procedural fairness to the public are probably lost because adverse civic perceptions regarding procedural fairness, once formed are hard to overcome; and the benefit of retribution to insiders is received lukewarm, because the admonitions or sanctions for lack of procedural fairness usually are not swift and are often uncertain. In summary, the principles of procedural fairness and perceptions of procedural fairness are believed mostly unknown by Louisiana trial judges, minimally practiced in Louisiana state-level and local courts and are probably widely unmeasured. If such is the case, perhaps this may explain why high levels of distrust among litigants and observers of the processes in Louisiana trial courts exists and why those participants, may believe that state and local trial judges are biased and unfair, and their court’s illegitimate. If this is the case, Louisiana state and local trial courts can improve upon their state of affairs of their legitimacy by replication of other actions of other state courts.

State of Procedural Fairness Affairs in State and Local Trial Courts

Political science professors Lief H. Carter and Thomas F. Burke (2007) explain the legitimacy of courts this way:

Judicial authority… requires both the litigants and the observers of the process to understand and accept the role and function of judges in the game. When people, for whatever reason, come to see judges as no longer legitimate deciders of the fortunes of others, the system breaks down. (p. 138)
In 2007, the Judicial Council of California published a brochure called “Procedural Fairness in the California Courts”. In the background section of the brochure the following statement is reported:

> A growing body of national research indicates that public approval and confidence in the courts is linked to the public’s sense that court decisions are made through fair processes. These findings build on other research that demonstrates that litigant satisfaction with the overall process and the quality of treatment received leads to the perception that the court’s authority is legitimate, which in turn leads to increased compliance with court orders. (p. 1)

Procedural fairness and the perception of procedural fairness are the primary focus of this researcher’s interest into the Louisiana judicial branch’s vision of procedural fairness. It is to assure fair processes for and quality treatment of Louisiana court users. Burke and Leben (2009) believe that any and every person who interacts with the court system deserves respectful treatment, and to have their story heard. Unfortunately, this does not always happen. While writing this paper, on April 21, 2018, a Broward County, South Florida Circuit judge was forced to resign for engaging in the lack of procedural fairness in open court proceedings (i.e., verbal abuse, berating) with misdemeanor defendants (Miller & Madan, 2018).

Several other states have started addressing procedural fairness principles in their courts. Beginning in 2004, Minnesota started utilizing three evaluation tools to determine if people leaving the courtrooms felt they were treated fairly (Podkopacz, Eckberg, Zehm, Kubits, & Vrieze, 2005). A study conducted in Vermont, evaluated recidivism rates over a three-year period once the courts implemented the principles of procedural fairness. The study concluded there was a reduction in recidivism rates (Suntag, 2013). In 2012, the state of Washington joined with Judge Kevin Burke to initiate a program to
educate judges and evaluate courts on procedural fairness (Burke, 2012), to mitigate any adverse impact from the lack of procedural fairness. In 2011, with funding from the Bureau of Justice Assistance, the Center for Court Innovation and the National Judicial College launched a pilot demonstration project at the Milwaukee County Criminal Court with the goal of enhancing defendant perceptions of procedural fairness by improving the oral, written, and nonverbal communication used by judges in the courtroom. In 2014, Milwaukee conducted an experiment on procedural fairness. This study is the foundation for the survey used in this study, the *Measuring Perceptions of Fairness: An Evaluation Toolkit* (Farley et al., 2014).

Minnesota has given defendants and litigants leaving their courts a survey to evaluate what their perceptions of the judge were, and whether or not they felt the judge was procedurally fair (Burke, Leben, Rottman, & Tyler, “Evaluating Procedural Fairness”, para. 4). Similarly, in 2009, New Jersey implemented a group to educate judges on how to work with self-represented litigants (Burke, Leben, Rottman, & Tyler, n.d., para. 6). In 2009, Delaware put forth a task force to study the perceptions of procedural fairness and the need to help self-represented litigants (Delaware Supreme Court, 2009, para. 1). The Louisiana District Judges Association issued a self-represented litigant bench card in 2017. These states have all taken steps in implementing the principles of procedural fairness into their courts, recommended civic education on procedural fairness in order to strengthen their courts and peoples’ perceptions of the courts, or they have researched the principles of procedural fairness.
Promotion of Methods Providing Perceptions of Procedural Fairness by Trial Judges

“For the courts, the times demand the creation of a new paradigm to assess performance more accurately” (Burke & Leben, 2009, p. 398). One way to communicate and improve upon the positive perspectives of procedural fairness is for state and local trial judges to focus on people’s sensibility. Trial judges should consider eliminating as much as possible the use of court language and bench speech—legalese and lawyerisms to convey, convince, lead, inspire and to control all court attendees. Trial judges could also avoid “reductant legal phrases” (Wydick, 2000), as well as use colloquial and plain language to effectively communicate to people (Kimble, 2005). If, as a mode of governance and decision-making, adversarial legalism enhances responsiveness to the justice claims of groups and individuals (Kagan, 1994, p. 1), then, consequently, adversarial legalism combined with procedural fairness should exponentially communicate quality justice outcomes and the fairest processes to achieve those just outcomes. Quality of justice outcomes however should be distributed equally among different populations and educational levels. Trial judges could also embrace precepts to guide them by embracing procedural fairness lessons as to how and when to refocus traditional reforms (Rottman, 2008). Trial judges should also use the following “practical tips for courtroom proceedings” (NCSC, “Bench Card”, n.d.)

- introduce yourself
- greet all parties neutrally
- address any timing concerns
- explain extraneous factors
- explain the court process and how decisions are made
• use plain language
• make eye contact
• ask open-ended questions
• explain sidebars
• stay on task
• personalize scripted language

Promotion of Procedural Fairness among Limited English Proficiency Population

A particular emphasis and focus on using procedural fairness communication to address potential Louisiana inmates is suggested. Louisiana ranks number two of America’s most populated correctional institutions per capita. Nonetheless, the current average educational level of inmates in Louisiana State Prisons is tenth grade (A. Buttross, personal communication); their reading comprehension level is even lower at an average of eighth grade (A. Buttross, personal communication). These numbers show there may be a communication discrepancy between courtroom personnel and those that come before Louisiana criminal courts. They may also indicate a diminished cognitive capacity. “The court experience can seem confusing and daunting for anyone, and language barriers only exacerbate confusion and feelings of mistrust” (Malangone, 2018, p. 22). Effective lawyer-client communication is helpful and is needed to extend into the role of the trial judge and courts. To explain simply, the process of decision-making, particularly lawyer-client communication, is inadequate to convey courtroom formal, judge-people-centered, procedurally fair communication. Vella (2002) suggests that
a vital principle is recognition of the impact of clear roles in the communication between learner [litigant] and teacher [lawyer]… if the learner [litigant] sees the teacher [lawyer] with who there is no possibility of disagreement, no questioning, no challenge, the dialogue is dead in the water. (p. 12)

Judges and lawyers have an obligation, to litigants and clients, to ensure they have an opportunity to speak and ask questions. Without the ability for the litigant or client to disagree with their lawyer, request a different course of action, or be given the opportunity to ask questions the litigant or client will never feel they had an opinion (or voice) in determining their ‘fate’ during trial. Vella (2002) also states that having an open discussion with an individual to determine what their expectations are gives insight into what “our perceptions of their needs are and how to amend” that perception if needed (p. 11). Keeping an open dialogue between litigant and lawyer, lawyer and judge, and judge and litigant, enables each person to determine what each party is expecting and allows these expectations to shift while still maintaining a neutral and transparent mode of communication. Responsible Louisiana lawyers, as members of the Louisiana State Bar Association, “assist in the practice of law”; “aid in the administration of justice”; “assist the Supreme Court in the regulation of practice of law”; “uphold the honor of the courts”; and “increase public understanding of and respect for the law” (Louisiana Supreme Court, n.d.).

Nonetheless, principal and principled responsibility for courthouse, courtroom, and bench-trained procedural fairness communication starts and stops with competent, professional, and culturally competent justices and trial judges. Not only should trial judges ensure they are speaking in a way to enhance perceptions of procedural fairness, they need to address the nonverbal ques that have been shown to affect people’s
perceptions (Burke and Leben, 2007). Some of the nonverbal cues are making eye contact, not fidgeting in their seats, or simply by sitting up straight.

Other research has shown that nonverbal behavior has a large impact on perceptions of procedural fairness (Rottman, 2017). Audible sighs, head and body positions, and tone of voice—“legal interpretive acts”—can all influence if a judge is seen as procedurally fair or not (Feldman, 1994, p. 40). Judges should make sure they are paying full attention to the defendant in front of them, they should not be working on other cases, scrolling on their phone, or conducting any other business (Leben, 2011). Leben also mentions that judges should find ways to enhance their listening skills; even though listening skills are not officially taught in school it is an imperative part of the job.

Are Louisiana’s justice leaders and educators promoting the professional and cultural competence of its newly elected and more experienced trial-level judges regarding procedural fairness and perceptions of procedural fairness? Are those leaders and educators also measuring procedural-fairness performance? The discussion below provides evidence of perspectives and actions of state and local court trial judges regarding procedural fairness.

Promotion of Procedural Fairness Competence of Trial Judges

A review of America’s procedural fairness literature reveals actions of a limited number of state and local court trial judges’ perspectives regarding procedural fairness. Seldom are their views actually measured and reported. Eighteen states have implemented a Judicial Performance Evaluation (JPE) system (Institute for the Advancement of the American Legal System [IAALS], n.d.). Most of these states provide the information to voters for a variety of reasons (retention, promote
trust/confidence); only five of the states provide the results back to the judges for self-

improvement (IAALS, n.d.) The crime rates in these states were compared to five states

that had not implemented any kind of a JPE program. When population (increases or
decreases) was controlled for, nine of the 18 states had a decrease in crime rates and all
five comparison states had increased crime rates. The most significant change was in
Florida; between 2010 and 2014 the population increased by one million, but the crime

rates still went down.

Though we cannot say that the JPE’s were the proximate cause of the differences

in crime rates, future research should consider looking at these programs in more detail.
It is also interesting to note that Florida’s educational statistics, in particular reading

rates, increased during this same period of time (National Center for Educational

Statistics, 2016). In Colorado and Utah, judges are evaluated, unbeknownst to the judge,
by a third party. These performance evaluations are then used to provide voters with
information when it is time to re-elect the judge; the information is also used to help
judges self-educate.

As stated earlier, perceptions of Louisiana state and local trial judges’ views

regarding procedural fairness are unknown. Is there supporting evidence of incorporation
of procedural fairness principles in Louisiana court policies? Is there indoctrination of
procedural fairness among Louisiana trial judges? The next section examines the
philosophy of procedural fairness, particularly as understood and applied by legal and
justice organizations and academia scholars.
The Philosophy of Procedural Fairness

Many definitions, characterizations, and explanations of procedural fairness exist. As a group, the descriptions express an emerging consensus among justice organizations, civil and criminal justice systems, scholars, experts, and practitioners. Eight such expressions are provided here:

- Retired Judge Jeffery Kremers has defined procedural fairness as “the perception that you are treated with respect and your concerns are taken seriously” and “it is the perceived fairness of court procedures and interpersonal treatment while a case is processed” (J. Kremers, personal communication July 10, 2018).

- Felson & Eckert (2018): “Procedural justice is part of a larger idea, what political scientists call the ‘civic culture’” (p. 181).

- Malangone (2018) for The Center for Court Innovation advanced: “Procedural justice refers to the perceived fairness of justice procedures and interpersonal treatment of victims/petitioners and defendants/respondents” (p. 2).

- Communications Professor Kelly Tait and Retired Judge David Suntag, presented a definition in the: Advanced Bench Skills: Procedural Fairness course, offered by the National Judicial College, Procedural Fairness: Research & Principles defined procedural fairness as “when people perceive the procedures used and the interpersonal treatment they received in the system as fair” (Tait & Suntag, 2018, p. 3).

- Mark Goodner (2017), Deputy Counsel and Director of Judicial Education, The Texas Municipal Courts Education Center (TMCEC) explained: “Procedural
fairness can be explained as whether or not people experiencing the justice system *perceive* the procedure (and their treatment) as fair” (p. 3).

- Burke and Leben (2009) offer the following perspective to understand procedural fairness in the courtroom: “Procedural fairness is a critical part of understanding how the public interprets their experience with the court system and translates that experience into a subjective valuation of the court system as a whole” (p. 409).

- The Judicial Branch of California Courts (2007) reports the following: Procedural fairness refers to court users’ perceptions regarding the fairness and the transparency of the processes by which their disputes are considered and resolved, is distinguished from the outcome of their cases (p. 2).


These expressions reflect that procedural fairness is both a philosophy of quality communication with a clearly defined and optimally effective method; and is an important factor to consider when speaking to everyone inside and outside of the courtroom. “If I can show how accessible I am through an early dialogue, and respond to their questions with respect and affirmation in a safe environment, a world of equity already exists” (Vella, 2002, p. 11). Ensuring that litigants can hear and see that the judge wants to help the litigants understand what is going on, and show an interest (or a willingness) in affording each person the opportunity to ask questions, can increase the perceptions that the judge is fair and treats every litigant equally. In the next section, the importance of procedural fairness to the judicial branch of government is discussed.
Importance of Procedural Fairness to the Judicial Branch

Farley, Jensen, and Rempel’s (2014) research underscores the importance of procedural fairness in the judicial branch of government. These researchers’ executive summary provides the context within the concept of procedural fairness is applied by writing “in court settings procedural justice concerns the role of fair and respectful procedures and interpersonal treatment in shaping assessments of legal authorities and reactions to specific case outcomes”. This concept is the basis for this study, and as mentioned earlier, the term procedural justice is synonymous with procedural fairness.

In 2013, Emily Gold LaGratta in collaboration with Melissa Bradley, COPS Office posted on the Web the following statement regarding procedural fairness:

Procedural justice (sometimes called procedural fairness) describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated rather than to the perceived fairness of the outcome. In other words, even someone who receives a traffic ticket or “loses” his case in court will rate the system favorably if he feels that the outcome is arrived at fairly (p. 2).

A year later, Emily Gold LaGratta and Phil Bowen (2014) published a more emotive-type explanation of procedural fairness:

[Procedural] fairness has a wider meaning than ensuring just outcomes and upholding due legal process. The concept of ‘procedural fairness’—that the process by which decisions are made needs to feel fair to people coming to court—takes the conversation a step further. It promotes the idea that how a defendant (or witness or victim) is treated has a profound effect on their perception of the process and their ongoing likelihood of complying with court orders and the law generally (p. 1).

More recently, in January 2018, retired Vermont Superior Court Judge David Suntag and Communications Professor Kelly Tait lectured at a NJC judicial educational seminar: “America’s justice system goals are to deliver effectively (interpersonal) fair
and impartial justice that establishes, maintains, and promotes confidence of the American people—to be trusted and viewed as legitimate”. If a judge is not seen as impartial or fair, the people who come before the judge will not respect, trust, or value their decision.

“Underlying procedural justice is the idea that the criminal justice system must constantly be demonstrating its legitimacy to the public it serves. If the public ceases to view its justice system as legitimate, dire consequences ensue” (Gold & Bradley, 2013, p. 1). Without the respect or views of legitimacy of the justice system, litigants are more likely not to follow the orders/punishments the judge issued because they do not view them as appropriate. Besides, “a majority of U.S. adults (56%) reports having some form of direct experience, contact or involvement with a state court case” (Princeton Survey Research Associates International [Princeton Research], 2009, p. 12). In 2009, the National Center for State Courts (at times hereafter NCSC) asked people:

How much confidence they have in the different state and local government institutions to do their job. The state courts come out on top, in terms of total confidence with roughly three-fourths (74%) saying they have a lot or some confidence in them (Princeton Survey Research Associates International [Princeton Research], 2009, p. 17).

Inversely, LaGratta (2017) says:

[R]ecent years have revealed a sobering reality: many Americans do not have a high level of trust and confidence in justice. Our justice system faces many challenges but none are more urgent than this. The whole system runs on trust. Without it, it is impossible to solve crimes, convene juries, or promote compliance with court order (p. 1).

“Public trust in the courts has dropped to an all-time low. Unfortunately, some judges are contributing to this loss of trust. And as the saying goes, the self-inflicted wounds hurt the most” (Burke, 2015, “Judges Must Work to Reinvigorate Public Trust”, para. 1).
State and local trial judges cannot sit back and remain passive in the procedural fairness movement; they need to take charge and lead others, they need to make examples of themselves, and if they are, stop ignoring alternative realities. Appendix H provides a list of national and state surveys assessing public trust.

A study conducted at the Red Hook Criminal Justice Center found that the public’s views of the court system had increased, positively, over 20% in a two-year period (Rottman, 2017). During this period, the court implemented a reform that simply adopted the principles of procedural fairness. There is ample research to suggest that the public opinion of the courts, primarily the public’s trust, and support can be increased by the courts adopting the principles of procedural fairness (Rottman, 2017).

“Legitimacy can be built through procedural fairness” (Tyler & Mentovich, p. 2). Procedural fairness has the potential to diffuse Feldman’s (2016) perceived disconnected definition of law as “speech and space” (p. 62) in the courtroom. It can reduce his general curatorial disposition so litigants can [fairly] see the “hidden seat of the supreme judicial wisdom” (p. 66) and eliminate his adversarial perspective expressed about criminal court settings, as “the segmentation of judges in the courthouse is a spatial manifestation of their absence from the judicial processes an entity with a biography. One of the sharpest contradictions between judge’s knowledge and defendants’ perceptions is expressed here” (p. 66). Contrary to Feldman’s deconstructive position, trial judges are [not] “totally transparent to the judicial process” (p. 66). Not only should judges educate themselves on the five principles of procedural fairness, they should educate their staff, other court employees, and urge the court system (as a whole) to
implement procedural fairness changes in a systematic approach to achieve organizational legitimacy.

Additionally, procedural fairness and judicial ethics are interconnected. Procedural fairness is an ethical treatment and realistic treatment process. Procedural fairness methods are consistent with good court governance and judicial ethical standards. Moreover, for those judges lacking the culture of procedural fairness, it has ethical implications and ramifications.

Procedural Fairness Relation to Judicial Ethics

According to Mark Goodner (2016), Deputy Counsel and Director of Judicial Education, TMCEC the procedural fairness and judicial ethics kinship is as follows:

Procedural fairness can be explained as whether or not people experiencing the justice system perceive the procedure (and their treatment) as fair. This aspect of perception is akin to judicial ethics, as we must avoid impropriety as well as the perception of impropriety in our courts, under Canons of Judicial Conduct. (p. 1)

Therefore, a five-year review of Louisiana Supreme Court decisions pursuant to Louisiana Code of Judicial Conduct, Canons 1, 2, 3(A-(1-3) regarding perceptions of procedural fairness (akin to judicial ethics as explained in the literature review) has been studied to determine whether Louisiana trial judges have been publicly disciplined for engaging in procedural unfairness. Some Louisiana trial judges’ behavior appears dangerously and frequently outside of one or more procedural fairness key components.

Studies have found that citizens feel judges are too persuaded by politics and do not necessarily base their decisions on the facts of the case (Flatten, 2017); which is directly related to Canon 2 that a judge must remain impartial at all times. Included in the list of the top ten ethical complaints reported to the Louisiana Judiciary Commission
about Louisiana judges are (a) bias and prejudice, and (b) temperament and demeanor.
Moreover, Louisiana trial judges are charged financially more for professional liability
insurance than any other state judiciary.

Logical Relation between Canonical Rules and Procedural Fairness

A review of court decisions has been made of Louisiana’s trial court judges who
were publicly admonished during the past five years since Chief Justice Johnson adoption
of the CCJ/COSCA Resolution 12. This review reveals seven state and one local trial
judge had undergone an investigation by the Louisiana Supreme Court regarding matters
having a nexus with procedural fairness. One state judge appears twice. These trial
judges were under review for a breach in various judiciary canons, mostly Canons 1-3;
though not all were found in violation, all of their behaviors broke principles of
procedural fairness (as seen in Figure 1 and Figure 2). The canons were tied to the
principles of procedural fairness by looking for common words between the judicial
canons and the definitions of the principles of procedural fairness. For example, Canon
2a was inextricably linked to the principle of neutrality; both the canon and the principle
discuss unbiased decisions.

![Figure 1. Number of Canon Violations Recorded.](image-url)
Canon 2, remaining impartial, was violated the most. This canon tells judges they should enforce high standards of conduct, and practice those standards themselves. Canon 3 was violated several times as well. Canon 3 pertains to a judge consistently practicing being impartial, both in their personal and professional life. If the judges we elect to decide what happens to those who break laws are not seen as impartial or unbiased how can they be taken seriously?

![Figure 2. Which Procedural Fairness Principles Judges Violated in Relation to the Judicial Canons.](image)

As seen in Figure 2, the eight judges that came before the Supreme Court for inappropriate behaviors violated three of the five principles of procedural fairness. The most frequently violated principle was trustworthiness. Without trust in the justice system, there is no accountability for one’s actions when it comes to breaking the law. Upon reviewing the judges sanctioned by the Louisiana Supreme Court in this five-year span, it appears as though district level trial court judges presiding over criminal jurisdictions, as seen in Table 1, are most in need of education and training regarding procedural fairness.
Table 1

Judges Who Were Sanctioned by the Louisiana Supreme Court in the Past Five Years

<table>
<thead>
<tr>
<th>Parish(es) of Jurisdiction</th>
<th>State or Local</th>
<th>Type of Jurisdiction</th>
<th>Type of Docket</th>
<th>Year of Sanction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catahoula &amp; Concordia</td>
<td>District</td>
<td>General</td>
<td>Criminal</td>
<td>2013</td>
</tr>
<tr>
<td>Orleans</td>
<td>District</td>
<td>Juvenile</td>
<td>Juvenile</td>
<td>2014</td>
</tr>
<tr>
<td>West Baton Rouge, Iberville, &amp; Point Coupee</td>
<td>District</td>
<td>General</td>
<td>Civil</td>
<td>2014</td>
</tr>
<tr>
<td>East Baton Rouge</td>
<td>District</td>
<td>Criminal</td>
<td>Civil</td>
<td>2014</td>
</tr>
<tr>
<td>Orleans</td>
<td>City</td>
<td>Limited</td>
<td>Criminal</td>
<td>2015</td>
</tr>
<tr>
<td>Caddo</td>
<td>District</td>
<td>General</td>
<td>Criminal</td>
<td>2015</td>
</tr>
<tr>
<td>West Baton Rouge, Iberville, &amp; Point Coupee</td>
<td>District</td>
<td>General</td>
<td>Criminal</td>
<td>2016</td>
</tr>
<tr>
<td>Orleans</td>
<td>District</td>
<td>Criminal</td>
<td>Criminal</td>
<td>2016</td>
</tr>
</tbody>
</table>

Note. A breakdown of what parish judges are from, whether the judge is a state or local judge, type of docket, and type of jurisdiction was compared.

A recent Louisiana survey again points to distrust of its leaders. “Two-thirds of Louisiana residents believe government is almost always wasteful and ineffective… The survey is designed to serve as barometers of public sentiment and has been conducted each year since 2003” (Henderson & Davis, 2018, Overview section, para. 2). Moreover, The National Judicial College (2013) found:

People’s perceptions that courts are too costly, too slow, unfair in the treatment of racial and ethnic minorities, out of touch with the public, and negatively influenced by political considerations are widely held. Overall, more Americans believe that the courts handle cases in a poor manner than believe courts handle cases in an excellent manner. (p. 6)

Particularly, minorities perceive an acute lack of procedural fairness; those perspectives are not likely to go away on their own; their perceptions seem to reoccur (e.g., Black Lives Matter Movement); they probably do not grow out of it, nor are those perceptions likely to burn out. In the words of Westman (2007) “the solution is not to wait until it (lack of procedural fairness) goes away” (p. 7). The solution is for state and local trial judges to overcome perceptions of lack of procedural fairness. Part of the solution is for
judges to act, speak, and judge in ways that each person (regardless of race and ethnicity) is treated with respect and dignity. Unplanned observation by this writer while attending judicial conferences and meetings suggest Louisiana state and local trial judges are largely uniformed regarding procedural fairness.

Writer’s Views Regarding Louisiana Trial Judges’ Familiarization with Procedural Fairness

The writer suspects that most Louisiana state and local trial judges are uninformed about procedural fairness. At a summit on April 11, 2018, put on by the Louisiana Bar Association’s Justice to Access Commission, some of the judicial educators knew the concept of procedural fairness. None of the speakers or trial judges was aware of a procedural fairness movement. The literature does not reveal whether Louisiana trial judges are aware of their procedural fairness or unfairness. It is also assumed, of those who have personally observed such phenomenon are vicariously informed regarding such beliefs, or they are feeling the impact of an adverse public perception about them and their courts. Many of the individuals at the summit were unaware of the average educational and reading level of the inmates within the state of Louisiana. As mentioned earlier, the average educational level of inmates is tenth grade; however, 20% of Louisiana students are only proficient at reading at an eighth grade level (National Center for Education Statistics [NCES], 2016). Where has this discrepancy come from? How can judges better communicate with those that come before them? Judges should make sure they speak in terms that the litigants understand. Judges also need to ask if the litigant understands what they are saying, and if they do not understand the judges need to find a way to explain it so that they can.
Some state and local trial judges, outside of Louisiana, are aware of such adverse public beliefs about their performance and they are responding positively. They are asking, pushing, or forcing America’s state-court justice systems to respond adequately to put to rest such perceptions, and to dispel mistruths about themselves and particularly about the process of the applications of law to people (Burke, 2015). Procedural fairness principles were applied in court reform movements to help improve the defendants’ experiences while they are at court (LaGratta & Bowen, 2014). Finally, Burke and Leben (2009) provide the following information:

There have always been judges who were intuitively very effective in achieving procedural fairness in their courtrooms, but few judges (and even fewer judicial educators and administrators) until recently gave it much thought. Most judicial educational programs teach judges how to get outcomes right, not how to handle procedural matters in a way that enhances perceptions of fair treatment. (p. 404)

Even though procedural fairness has been researched and this research has been published for several decades, policies, for some state and local courts, regarding judicial education have not appropriately followed the research to reflect these principles. A wholesale change in advocacy is needed if we are to improve the public perception of the justice system.

Procedural Fairness Advocacy

Procedural fairness, as a court reform agenda, is afoot in some state and local courts (Rottman, 2008). Court reform revolutions invest in process to achieve justice. Procedural fairness responses for a limited number of trial judges in their civil and criminal justice state and local court systems have occurred rapidly. For other courts and trial judges, it is believed their response has been too slow, or they are actually uniformed regarding procedural fairness principles and practices.
If judges are not educated and trained in the area of procedural fairness, does their ignorance and inability make it any better than those who have chosen not to change even though they knew it was better? At what point should state and local trial judges become accountable for not voicing the changes that need to take place? Some university legal educators and academic observers assert at all levels of government, within legislative and judicial arenas and actions, newer ways of doing legal and court business are underway—“innovative legal theories and procedural maneuvers are occurring” (George Mason University, Antonin Scalia Law School, n.d.).

Shifting America’s state judicial systems, particularly Louisiana civil law system, to focus and to rely upon evidence-based models, data-driven initiatives, and practices, and formative and summative evaluations to remain perceived institutionally as the most unbiased, impartial, just, and fair-minded governmental branch is challenging, but such is the beginning to understand the scope of this dissertation and research purpose.

Scope and Purpose of the Research

In this dissertation, contemporary research, theory, and practice concerning procedural fairness is reviewed as comprehensively, accurately, and as currently as possible, with, however, particular research and focus upon Louisiana state and local trial judges’ perspectives regarding procedural fairness to:

1. Discover the extent to which a newer form or method of doing court business—procedural fairness—from the judicial perspective of Louisiana state and local trial court judges is underway.

2. Discuss the procedural fairness impact, knowing where Louisiana’s trial judges think they are to where they really need to be.
3. Accurately measure at the trial court level, how Louisiana judges perceive the procedural fairness of their open-court decision-making processes.

4. Provide courtroom observer’s perceptions of procedural fairness of select courts.

5. Compare Louisiana trial judges’ perceptions of their procedural fairness utilizing individual, group, and situational variables.

6. Provide perceptions of procedural fairness of select courts from the defendants’ viewpoint.

7. Provide a judicial and neutral-court observers data set for future study.

An examination of Louisiana trial courts rules will also be explored to ascertain what, if any, specific provisions of Resolution 12 are included, and whether trial courts have any of or similar procedural fairness practices; and to decide what, if any, patterns exist to achieve procedural fairness. Lastly, judges will be asked whether their courts have conducted any court-user and defendant exit interviews since adoption of Resolution 12 to discern the extent to which these two other parts of the Toolkit may have assessed other dimensions of procedural fairness.

This dissertation situates state and trial judges in the milieu in which they labor and judge—courthouses, courtrooms, and from raised benches. Trial judges are not neutral observers standing outside the juridical conditions and environment within which they are trying to adjudicate. Some of their views are based upon personal observation and courthouse supervision, and come from real-life experiences. Other views are derived from open systems communication and advanced education to ascertain judicial competence. Judicial officials’ perspectives regarding procedural fairness are principled
responses to courthouse and courtroom circumstances unique to them, their jurisdiction, and most likely to the views of their state supreme court. Do the views of Louisiana trial judges’ in the justice system differ from other courthouse users’ views on perception of procedural fairness?

One way to find out about perceptions of procedural fairness is simply to ask trial judges, litigants, defendants, and court attendees. Another way is to observe them. While surveying Louisiana’s state and local trial court judges, the author's primary focus is judges who hold popular elective office on varied state and local (city and parish) trial courts and who treat a particular kind of procedural fairness. That kind adopted by Chief Justice Johnson in order to encourage and foster procedural fairness. Was Resolution 12 Chief Justice Johnson’s inspirational plea for Louisiana’s lower trial-level court organizations to understand, demonstrate, and measure their performance (efficiency and effectiveness) perceptually? Or was it Louisiana’s highest court effort to garner and exercise procedural fairness control over Louisiana’s trial court system?

Louisiana’s Supreme Court Control over Trial Court Judges

Kagan (2001) expresses adversarial legalism’s organizational structure “typically is associated with and is embedded in decision-making institutions in which authority is fragmented and in which hierarchical control is relatively weak” (p. 9). Is the Louisiana court system fragmented? Is hierarchical Louisiana Supreme Court control over state and local trial judge’s bench performance weak? Is the influence of Chief Justice Johnson on the procedural fairness process strong enough to achieve social change; or should there be reliance on Louisiana chief state and local trial judges as tools for persistent and precision changes in court culture? Such changes in judges’ roles are minimal and
achievable, unlike that of the debate caused by Rosenberg’s (1991)’s book, *The Hollow Hope: Can Courts Bring About Social Change*, judges can and should produce social reform in their courthouse and courtroom processes regarding procedural fairness.

Welsh and Harris (2004) provides the following statement about improving government services:

> At a minimum public institutions must do four things: (1) work smarter, particularly with better information; (2) constantly monitor the shifting demands of constituents and clients; (3) link themselves with other agencies, and support functions; and (4) evaluate their work processes and the results of their programmatic efforts. (p. 9)

As the efforts of Chief Justice Johnson were examined, the writer increasingly realized the importance of the views of those judges whose duty it is to implement CCJ/COSCA Resolution 12. To make procedural fairness views more systematic, trial judges need to cooperate with and combine forces with the Louisiana Supreme Court, and make sure their somewhat unlimited bench adjudication discretion to adopt procedural fairness reform is accomplished strategically.

What are Louisiana Trial Judges’ Views of CCJ/COSCA Resolution 12?

What are Louisiana state and local trial-judges’ views of CCJ/COSCA Resolution 12? Was the adoption of Resolution 12 aspirational only, or intended to establish new systemic judicial norms, which indoctrinate policy changes; or was it directed toward participant-level change, intended to impart perception, aspirations, knowledge, skills, abilities, or behaviors—which require intense and long-term commitments—of individual trial judges.

The Louisiana Supreme Court consists of seven justices, one chief justice, and six associates. In the past five years, no Louisiana Supreme Court Justice has been
sanctioned because of a lack of procedural fairness; unlike some of Louisiana’s admonished state and local trial court judges. Maybe Louisiana state and local trial court judges and others who care about procedural fairness professionalism, using words expressed by Judge Kevin S. Burke, should not “just get over it”.

Then, are most state and local Louisiana trial judges’ practices built upon procedural fairness principles or upon those of other related or unrelated factors, such as institutionalism, personal observation, or individualism? Do Louisiana trial judges have variations of Resolution 12’s procedural fairness strategies? Has organizational change happened? If not, why? State and local trial courts are ground level places for change. Are Louisiana trial-level judges familiar with Tom R. Tyler’s perspectives of procedural fairness’ factors? Of those trial judges who are aware, have they all or only a few of them changed the way they operate—do court business? What are Louisiana’s trial judges’ perceptions of procedural fairness? Has any evaluation of the chief justice’s acquisition and assessment of Resolution 12’s provisions been performed to provide useful feedback about any resolved objective? Are most Louisiana trial judges’ practices built upon procedural fairness principles or upon those of convention or individualism? Do Louisiana trial judges have variations of Resolution 12’s procedural fairness strategies? If so, how were they informed? Were they directed to conduct an abundant self-examination undertaking? Of those trial judges who are aware, have they all or only a few of them changed the way they operate—do court bench adjudication business? These are some of the questions deduced from previous research and need to be addressed. However, some of these questions are beyond the scope of this study.
While surveying select Louisiana’s trial-court criminal, family, and traffic court defendants, the writer's primary focus is alleged offenders who pass through state and local trial courts governance. What are Louisiana trial-defendants’ views of the impact of Resolution 12? What are Louisiana trial-defendants’ views of the judicial practice of procedural fairness? Do their views differ from that of the trial judges before whom they appear? Louisiana criminal and traffic court defendants’ perspectives about their court experiences regarding procedural fairness have never been assessed, unlike that of a few state courts, so maybe the many trial-level criminal court defendants and others who value procedural fairness, may want to know whether their views are general among themselves. Answers to these questions are sought through this study.

Perception of the Louisiana Criminal Justice System

Currently Louisiana houses the most inmates per capita than any other state in the United States of America (Bureau of Justice Statistics, [BJS], 2018); in June 2018, Louisiana was ranked as second in number of inmates per capita. Louisiana’s population is approximately 4.68 million people (United States Census Bureau, 2017) and houses 35,568 inmates (BJS, 2018). In comparison, Alabama’s population is the closest to Louisiana. Alabama’s population is approximately 4.86 million people (United States Census Bureau 2017), 181,000 more people than Louisiana, but only houses 27,750 inmates (BJS, 2018). Even though Louisiana State has fewer residents than Alabama, the state houses 8,000 more inmates than Alabama. On average, the United States houses 375 inmates per 100,000 people; while Louisiana houses 760 inmates per 100,000 people (BJS). What impact does this have on people’s perceptions of procedural fairness within Louisiana state and local courts? How do the perceptions in Louisiana differ from
perceptions in other states with fewer people incarcerated? What impact did these alarming statistics have on Louisiana’s judicial leadership’s perceptions of procedural fairness within Louisiana state and local courts? The answers to these questions are beyond the scope of this study. In lieu of Resolution 12 being signed we will now discuss Chief Justice Johnson’s role in leadership regarding procedural fairness.

Louisiana Chief Justice Bernette J. Johnson’s Procedural Fairness Leadership

Individually, John Thibaut, Laurens Walker, Tom R. Tyler, Emily Gold LaGratta, Judge Kevin S. Burke, Judge Steven Leben, and organizationally the American Judges Association, The National Center for State Courts, The Center for Court Innovation, and others appear to have preceded and helped shaped Chief Justice Johnson’s interest, obligation, and commitment to resolve the importance of procedural fairness for Louisiana. By adopting Resolution 12, did Chief Justice Johnson decide, in the “connectedness” words of the drum major, to let freedom ring, reframed—let procedural fairness ring!

If Chief Justice Johnson has decided to shift Louisiana justice’s process scales toward procedural fairness practices, has she strategically set into motion an approach to revolutionize and shape Louisiana’s state and local trial court judges’ elevated understandings of their notions of the procedural fairness future? She envisions forging greater respect, trust, confidence, and legitimacy for Louisiana’s courts among Louisianans and thereby improved parties’ compliance with court orders and adherence to the law in the future.
Procedural Fairness Approaches

In 2009, Honorable Kevin Burke and Honorable Steve Leben observed that some of America’s trial judges “are evolving from the ones who simply dispose of cases to those who are committed to enhancing procedural fairness in our courts” (p. 397). Neil Vidmar (1990) explained that John Thibaut’s and Laurens Walker’s seminal monograph, *Procedural Justice: A Psychological Analysis:*

was concerned with a number of aspects of procedures, including fact-finding efficacy, but some of the most interesting findings involved subjective reactions to procedures: disputants (and uninvolved parties) were often as concerned with the fairness of the processes as with the outcome itself (p. 877).

Trust, both in the process and in the outcome, in the Louisiana’s judicial system is probably absent when procedural fairness is nonexistent or is ineffectively communicated to court participants and observers. Again, if court participants do not understand or comprehend what is going on around them, or understand what is being said, they will not view the process as fair and just.

There are many ways isolated state and local courts and bench insulated judges can respond to critical perspectives about our adversarial justice system, its procedural fairness and differences in public opinion about perceptual degrees of America’s procedural fairness. In recent years for some courts and judges that insular posture has become untenable. The research suggests a form of problem-oriented fairness approach in procedure works best. The National Center for State Courts has recommended the use of a problem-solving approach—combining “the process focus with an outcome focus” (NJC, 2006, p. 7).
Without question, state and local judiciaries ought to respond forthrightly, affirmatively, with deliberate speed, and with appropriate differential degrees, to offset negative perspectives, concerns, and disparaging comments from all court attendees about judicial performance. Another approach to procedural fairness—an aspect of this dissertation—is to address disputants and uninvolved parties’ perspectives by focusing upon the procedural fairness response—from the trial judges’ viewpoint.

Leading researchers on this topic, including Professor Tom R. Tyler (2008), have identified several critical dimensions of procedural fairness: (1) voice (the perception that your side of the story has been heard); (2) respect (perception that system players treat you with dignity and respect); (3) neutrality (perception that the decision-making process is unbiased and trustworthy); (4) understanding (comprehension of the process and how decisions are made); and (5) helpfulness (perception that system players are interested in your personal situation to the extent that the law allows). According to Tyler (2008), the first four factors account for approximately 70% of people’s perception of fairness. The next segment of this dissertation examines trial judges, judicial communications, and procedural fairness effects.

Trial Judges, Judicial Communications, Procedural Fairness Effects

State and local trial court judges’ judicial behaviors and procedural fairness are interconnected. “Clear, concise and informative communication from the judge is imperative to procedural fairness” (NJC, 2013, p. 6). The “fair process effect” shapesviews about legitimacy regarding the justice system. Judges should be seen and heard as exercising their judicial duties as procedurally fair and just (Tait & Suntag, 2018). As
judges increase their actions to show they are procedurally fair and just, the public’s perceptions of the legitimacy of the justice system will increase.

“Judges naturally command respect as symbols of authority in our civic culture” (Stetton, 2018, p. 4). Negative reactions and adverse perspectives toward the effectiveness of judicial case administration by members of the public are disquieting to state and local trial judges who are expected to uphold and apply the law fairly and equally. Trial judges are not superficial to ineffective methods and practices, which inadequately and unartfully communicate trust and notions of justice to the public they serve. If judges recognize they have implicit biases’ and may not always recognize when they are being unjust they can take the first step in trying to minimize these biases’ so they can work towards being more procedurally fair.

Implicit bias by judges, whether recognized or not, influences how people behave towards others, or how court situations and adjudications are perceived by attendees. Judges are not above being influenced by implicit biases that predispose them to treat others in a specific way. Training in how to recognize implicit bias is available. The United States Department of Justice implemented a “department wide implicit bias training for their employees within the DEA, FBI, ATF, US Marshalls, and US Attorneys” (Office of Public Affairs, 2016, para. 5). The Department of Justice (DOJ) has recognized that implicit bias affects how well an individual performs their job, or how well an individual is able to treat every person equally, and with dignity and respect. People’s perception of procedural fairness begins with their interaction with law enforcement. If police officers do not recognize when bias is clouding their judgment, the interaction with the alleged criminal will not be viewed as fair. The DOJ’s office of
Community Oriented Policing Services has been working with local and state police departments, since 2010, to train officers in implicit bias through the program known as Fair and Impartial Policing (Office of Public Affairs, 2016). This program is designed as an internal training, which has developed:

Curricula have been created to address the work of prosecutors and federal law enforcement and the different missions of the law enforcement components. Each law enforcement component’s curriculum includes three levels of training based on how implicit bias may affect the duties for line personnel, supervisors, managers, and executive personnel. (para. 6)

It is important for people in positions of power to recognize they have preconceived thoughts that influence how they see other people. Unfortunately, some of these thoughts are negative and will have a negative impact on the individual it is directed towards. State and local judges need to be aware of their own implicit bias and take the necessary steps to ensure they minimize implicit bias in their courtroom. Other organizations have recognized the need for implicit bias training for people in positions of power (such as judges, lawyers, and police officers). The NCSC, the Open Society Institute, and the State Justice Institute worked together on a project to educate judges on implicit bias.

It is important for state and local trial court judges to understand their biases in order to more clearly and effectively make decisions that are fair and viewed as procedurally fair by members of all racial groups (majorities and minorities), genders, and sexual orientations. Trial judges can self-educate about implicit bias, and find ways that work for them to overcome some (if not most) of their biases. If judges cannot find time to do formal training or education, they can help educate themselves about their own biases and then find ways to decrease those thoughts. For example, a judge can assess their implicit bias using a simple psychological assessment such as the Implicit
Association Test; which can be used to assess a variety of biases including gender, age, or race (Lezak, Howieson, Bigler, Tranel, 2012); (Marsh, 2009). Implicit bias assessment can also be as simple as having a person show the judge a variety of photos, one at a time, and have the judge say the first word that comes to mind. This will show where any implicit biases may be, and then would give the judge insight as to how or when to ensure they are not letting their personal thoughts or biases influence how they are making a decision about someone. Judges, and other court staff, should also be aware of cultural responsivity. Cultural responsivity is different than implicit bias training; cultural responsivity occurs when an individual is able to learn from and treat people of different cultures with respect (Dias, n.d.). One way judges can be culturally responsive is to make sure they are not imposing their values on others. The next segment of this dissertation examines trial judges, judicial roles, judicial and situational effects regarding procedural fairness.

Trial Judges, Roles, Judicial and Situational Effects

Judges are people too; they are not exempt from making errors, especially when emotions are heightened and others around them are behaving less than desirable. “Human behavior is partially a function of the physical and social environment in which that behavior takes place” (Maxfield & Babbie, 2005, p. 46). “Perhaps the best-known symbol of justice is the judge in a black robe” (Pollack, 2017, p. 284). Trial judges’ black robes and the court environment symbolically communicate legitimacy of judicial authority to establish validity in justice, justice administration, and in perceptions of fairness in both justice and administration. The Treatment Advocacy Center’s White Paper (2016) notes, “studies of the black robe effect have resoundingly found that it
improves treatment outcomes for its targeted population”, (Burns et al., 2015, p. 887) however, “the existence of a black-robe effect in AOT has yet to be the subject of empirical study” (p. 886).

Inside of the courtroom, trial judges should consider utilizing (a) their symbolic roles—the powerful “black robe” effect, (b) other contextual effects (e.g., segmentation in the courtroom, elevated platform) and (c) evidence-based behavioral communication effect to establish and deliver the scientific practice of procedural fairness. Other judicial effects include, but are not limited to the place of courts in society, power differential between the judge and court attendees, the ritual of being summoned to court, open court proceedings, oyez, court etiquette, the gavel, bench presence, body language, or non-verbal cues. There are a multitude of factors that influence whether or not an individual views the court as fair; these factors then determine whether a person will comply with court orders.

Research has shown that the black robe effect improves the well-being of individuals coming before a judge in a mental health court (Burns et al., 2015). The black robe effect improves procedural fairness indirectly. The courtroom environment is made up of many things, court etiquette, non-verbal ques, and bench presence. The black robe effect is a sub category of the courtroom environment (Burns et al., 2015). The black robe effect indirectly influences perceptions of procedural fairness by way of the courtroom environment. Several studies have looked at the different factors involved in perceptions of procedural fairness. Nonetheless, there have been no studies to determine the relationships between all of the indirect and direct effects involved in shaping perceptions of procedural fairness.
Courthouses and courtrooms also have an effect on court attendees. Courts and courtrooms abide by a set of strict rules and require certain etiquette to be followed. Courtrooms can have a happy effect and a solemnity effect (Dickson, 2017). Effects of the courtroom and courthouse also affect perceptions of fairness. The courthouse context has many different aspects such as power differential, court hierarchy, and specialized language. Even something as simple as the physical arrangement of items can affect people’s perceptions. Courthouse context is relevant because personal issues are involved, and emotions are heightened (Tait & Suntag, 2018). Making the courtroom as comfortable and as appealing as possible, may aide in the perceptions of procedural fairness.

Procedural fairness should become a component part of the court’s adjudicative, control, and communicative competence. “Communicative competence is the ability to comprehend and translate terminology that is discipline-specific” (Repko, 2012, p. 61). Procedural fairness should not be viewed as a separate or as an acceptable alternative for judicial processes—whenever there is inadequate communication from the juridical perspective, procedural fairness is reduced to a less effective or non-problem solving approach to establish legitimacy, trust, confidence, fairness, nor compliance with justice.

Court procedures are based mostly on minimal constitutional standards and written rules of practice. Court procedures are mostly adversarial-based and evenly distributed between the parties through burdens of proof. They are intended to be fair-process methods between parties—to guide and to resolve disputes fairly. The fact that elements of procedural fairness appear in past practices demonstrates that procedural fairness is not a very new idea; although the terms procedural fairness and procedural
justice are relatively new ones. Procedural fairness is a newer process method that American trial judges can use to ascertain and personally deliver their procedural fairness effectiveness—to establish and rebuild trust, instill confidence, garner respect, and obtain cooperation from parties and court users to resolve disputes.

State and local trial court judges desire trust, confidence, respect, and cooperation in their administration of civil, criminal, probate, family, juvenile, and traffic cases. Most of their business is open to and for the benefit of its court community. Court business is directly and indirectly heard, seen, and felt by court insiders and the public. One indirect method that influences perceptions of procedural fairness is non-verbal communication.

Trial judges rule on legal matters, hold hearings and conduct trials and adjudications which may involve lawyers, litigants, witnesses, jurors, visitors, spectators, and other courtroom actors applying mostly rigid rules of codified court procedure. The trial court judge is involved in every case. The writer posits to maintain their independence, personal integrity, and hold public trust, Louisiana trial judges should innovate, adopt, adapt, and adjust to acquire new practices, and when needed to rebrand, repair, rebuild, or shape a newer conventional culture of institutional credibility use of procedural fairness’s key factors as connected toward a newer-type of court landscape convention.

“Court administrators and judges have long acknowledged that culture plays an important role in the function of trial courts” (Ostrom, Hanson, Ostrom, & Kleiman, 2007, fourth cover, para 1). Procedural fairness is going to require a change in the representation of how judges and other court staff act in court. Mentally, judges will need to adopt a new way of thinking that is consistent with this new mental
representation of procedural fairness. As mentioned earlier “a court system that neglects procedural fairness is vulnerable to becoming an institution with no clear public argument about its value to the communities it is there to serve” (LaGratta, 2017). If the public does not view something as valuable or beneficial to their community, they will not respect that institution. How do state and local trial judges change their long-standing decision-making behaviors? Is stability and change in traditional adjudication process—by way of procedural fairness—doable? How do state and local trial judges redress a procedurally unfair, modeling, or abstract-based bench adjudication culture? State and local trial “judges tend to be fairly traditional, bound by precedent: They hear cases and deliver decisions much as their predecessors did” (Weinberger, 2017, “How the New Day Court Uses the ‘Black Robe Effect’”, para. 6). Conversations about and conversion from a procedurally unfair culture to a judicial interactive and interpersonal one can be difficult. Procedural fairness requires trial judges to renew themselves and learn new mechanisms to maintain or to return to a more effective judicial system—all the while trying to remain a conventional trial judge, constantly improving as a judicial change-agent convert from recurrent personal assessments and program evaluations. Apart from trial judges’ concerns and perspectives for a newer approach, what perceptions of fairness impression do Louisiana state and local trial court judges leave upon court attendees? What road maps exist for judges and court attendees to evaluate their trial court culture?

Road Maps to Evaluate Procedural Fairness Culture

In 2013, the NJC’s “Fiftieth Year Anniversary” published recommendations to promote trust and confidence in courts in the following statement:
To build upon the work of the past and continue the conversation on civility within the courts, the National Judicial College hosted a symposium in 2013 entitled *Civility in the American Justice System: Promoting Public Trust and Confidence*. The event, held at the National Constitution Center in Philadelphia, Pennsylvania, brought together distinguished members of the bench and bar, experts, and scholars. Based on their wise counsel and invaluable input, the NJC was able to develop these *Principles of Civility* (principles) and outline the ways that the principles apply to all persons within our nation’s courts. (p. 2)

Mechanisms exist for evaluating court cultures and changing court cultures (Ostrom et al., 2007). Studies of trial judges to improve a change in communication exists (Farley et al., 2014). Change requires corresponding transformational and obliging organization leadership (Pasquir & Villenueve, 2007). Seeding justice by a procedural fairness change in culture requires effective judicial leadership. In Louisiana, behavior in judicial leadership can come from many entities—the Louisiana Supreme Court, Louisiana Judicial Council, Louisiana Judicial College, Louisiana District Judges Association, Louisiana Association of Juvenile and Family Court Judges, Louisiana City Judges Association or from individual judges interested in procedural fairness.

Chief Justice Johnson of the Louisiana Supreme Court is the chief administrative officer of the judicial system of Louisiana. “The court has supervision and control over all lower courts, administrative and procedural rule-making powers; they have exclusive original jurisdiction over disbarment proceedings, petitions for discipline and removal of judges” (Louisiana Supreme Court, 2018, “The Supreme Court Under Judicial Article 1974,” para. 2). If the Louisiana Supreme Court directly wanted to implement change in the state courts, they could find ways to implement and enforce those principles of procedural fairness; several entities within Louisiana could help govern these changes.
By signing Resolution 12, Chief Justice Johnson has already shown that she supports the change towards being more procedurally fair.

The Louisiana District Judges Association (at times hereafter LDJA) is a professional nonprofit corporation established in 1981. All Louisiana District Judges with general jurisdiction and Judges of Juvenile and Family Courts are eligible for membership (approximately 235 judges). The mission of the LDJA includes the administration of justice, representation of the interest of judges, and the professional development of its membership to provide the greatest access to fair, just and responsive trial courts (Louisiana Supreme Court, 2017).

In the 2018 General Membership Meeting held by the LDJA, it provided a strategic plan for the district courts. Part of the strategic plan was a “Justice at Work Survey,” which was provided to give individual courts a way to determine how many areas of the Campaign III they are currently implementing or which areas of Campaign III they could implement further (Louisiana District Judges Association [LDJA], 2018). The general programs suggested to the district court judges were making sure they use best practice manuals, to get involved in mentor programs, promoting awareness of problem-solving in courts, and other topics (LDJA, 2018). The suggested resources from this strategic plan came from one of two sources, the Elements of Judicial Excellence (Framework, 2013) and the CourTools website (CourTools: Giving the courts the tools to measure success, n.d.).

Has Resolution 12 been communicated by judicial leadership to Louisiana state and local trial court judges? To that end, what if any services was offered? What follow through and repeat, if any, happened? What demonstration enforcement action occurred?
“The key to running a successful organization is to have a culture based on a strongly held and widely shared set of beliefs that are appropriately supported by strategy and structure” (Lunenburg, 2011).

Effective judicial leadership on court policies and practices requires intentional organizational implementation and assessment of procedural fairness to improve access to justice and to achieve justice. Any commitment to procedural fairness at the very least requires leadership, application of advance-proven countermeasures, and value-added education. In words adapted from Pollack (2017), trial judges are akin to athletic referees, “they apply the rules and interpret them” (p. 286). And although rules of legal process are established in Louisiana Rules of Civil and Criminal Procedures and case law, there is still a great deal of procedural fairness in the process toward application of a rule of process. Louisiana trial judges have a responsibility to apply the law equally—that is, to decide questions of evidence and procedure; and fairly, yet newly elected Louisiana trial judges receive no formal training specifically regarding procedural fairness as dimensionally described by Tom R. Tyler and others and as subscribed to by Chief Justice Johnson.

Professional Training for Newly Elected Louisiana Trial Judges

The Louisiana Judicial College, and informal mentoring by experienced judges afford newly-elected Louisiana judges training in two ways. The Louisiana Judicial College’s New Judge Training Manual contains ten sections (Transition to the Bench, Judicial Administrator’s Office, Judiciary Commission, Contempt Authority, Docket Management, Public Spending, Recusal, Directories: Judges and Staff, Additional Resources, and New Judge Handbook) (Louisiana Judicial College, 2018). There are two
sections in the New Judge Handbook that indirectly discusses principles related to procedural fairness. Chapter II—Judicial Ethics and Chapter VIII—Techniques of Judging. Procedural Fairness is not directly discussed in the training material. The material is focused on judges remembering the “four important characteristic of the justice system: to do justice, to instill and maintain confidence in the public that justice is being done, predictability, and finality” (p. 32). The focus of the training appears geared toward knowledge and adherence to the procedural and evidentiary laws, and to inform oneself of the substantive law and how to apply it fairly and predictably.

To an extent, procedural fairness may be inferred. However, this does not inform, educate, or train recently elected judges who may think that it is their duty to simply apply rules of procedure because they may choose not to apply rules of procedure from the perspective of procedural fairness. Being faithful, discharging impartially, and bench performance techniques are up to the judge.

Mentoring judges in Louisiana is voluntary. If procedural fairness training is occurring through mentoring, new judges could be acquiring its principles through the theory of behavioral contagion. “A behavior is ‘contagious’ if one person is more likely to exhibit it when a relevant other person has already done so” (Jones & Jones, 1992, p. 149). Considering the day-to-day tasks of many judges—making fact-determinations at trial, hearings and adjudications, reading, writing, critical thinking, analyzing information, researching, sanctioning, and problem-solving—being a procedural fairness judge is not exactly a prerequisite for numerous, critically important judging activities. Nonetheless, formal judicial education and training is key, in obtaining a more procedurally fair way of doing the task of bench adjudication.
Establishing a Procedural Fairness Focus in Louisiana

Louisiana courts’ inability to deliver justice system goals—to deliver fair and impartial justice that establishes, maintains, and promotes confidence of Louisianans—clearly and effectively (interpersonal) and to be trusted and viewed as legitimate may be partly due to state and local trial judges’ problems understanding procedural fairness, not a complex phenomenon.

In 2013, Chief Justice Johnson, to promote procedural fairness, joined fellow state chief justices from 49 states and resolved to identify opportunities for trial judges to obtain feedback and mentoring to build self-awareness. With such declarative and demonstrative action, Justice Johnson clearly demonstrated the importance of a procedural fairness perspective and perception in Louisiana courts. Adopting Resolution 12 likely identified a problem within Louisiana trial-level courts. Such evidence indicates that a trial judge’s actions and decisions should be grounded upon procedural fairness’ five dimensions: voice, neutrality, respect, understanding, and helpfulness. Trial judges are well aware that there is an ethical halo effect governing and regulating their judicial behavior—called Judicial Canons.

Chief Justice Johnson (2013) resolved to encourage Louisiana trial judges “to take a leadership role in promoting the use of procedural fairness principles in” our court systems (Conference of the Chief Justices: Conference of State Court Administrators [CCJ/COSCA], 2013, “Now Therefore, be it Resolved,” para. 1). Selecting effective procedural fairness principles is not a complex task. Judges are accustomed to asking questions, which do not validate their conclusions. Selection of such an evidence-based policy however requires a method for implementation to become actionable, certainly
ahead of any judicial conversion regarding procedural fairness. This change in bench adjudication norm is critical because it demonstrates that a partnership exists among or within the Louisiana judiciary, or presumes successful communication from judicial leadership, to individual judges. Did this partnership or communication occur with Louisiana’s state and local trial court judges?

Changing Social Norms: Mobilizing Trial Courts

Some of Louisiana’s state and local trial judges’ behavior may be dangerously outside of procedural fairness core principles. If so, a positive change in their behavior is sorely needed. It is worth noting again that eight different trial judges came before the Louisiana Supreme Court in between 2013-2018, to assess if they had violated the judicial canons; thus not acting according to the principles of procedural fairness. Changing trial judges’ social norms regarding the use of procedural fairness can be accomplished by educating, empowering, and mobilizing justice system stakeholders; thereby encouraging them to speak out in favor of positive change and a more effective way of adjudicating. These efforts target key stakeholders in the court system, including trial judges, judicial administrators, educators, bar associations, and legislative leaders.

Louisiana is one of twenty-four state court systems that are non-unified (NCSC, n.d.). A non-unified court system’s ability to implement procedural fairness and maintain consistency is probably more difficult under fragmented administration, but not impossible. Cross-pollination of procedural fairness ideas in such a non-unified court organized business appears challenging. Implementing procedural fairness policies for the non-unified Louisiana trial court system appears un-actionable, uncoordinated, challenging, or complicated. Procedural fairness is not judicially inherited, nor can it be;
it is a learned behavior, and its tangibility is not self-evident. Intuitively, it is probably practiced, but what concrete strategies and methods of leadership to achieve a change agent culture of procedural fairness, has Louisiana’s highest court applied in order to effectuate judicial system change?

Moreover, what goals were established? What action or strategic plan was adopted to overcome potential challenges? What, if any, target dates were set? What collaborations occurred? What partners and potential partners were cultivated to effect the procedural fairness movement? What changes have been made to ethical judicial codes? What, if any, education, training, tools, technical and strategic planning support of Justice Johnson’s task leadership have transpired since her adoption of procedural fairness Resolution 12? What, if any, accompanying mass media communications to trial judges in procedural fairness flowed from such resolve? What transfusion operated or affinity occurred? What campaigns resulted? What assessments, if any, and how many were conducted? What, if any, kind of evaluations? When, if at all? What sustainability occurred?

Applying deductive reasoning, has the Louisiana Supreme Court fostered accountability—proving one has done the right thing—in directing the attendant responsibility—doing the right thing—through Resolution 12—comprehension and utilization of procedural fairness by trial judges in Louisiana? Fostering accountability can occur using the Center for Court Innovation procedural fairness Toolkit to guide and improve judges’ bench performance.

Additionally, has the Louisiana Supreme Court provided for the fair administration of justice through educational achievement in directing the Louisiana
Judicial College to teach and train Louisiana trial judges about sophisticated procedural fairness tools? Has the Court published an implementation process evaluation? A bench book? Bench card? Idiomatically, connecting the dots, were the i’s crossed? Are the i’s dotted?

Trial judges possess higher levels of legal knowledge, skills, and abilities, but must utilize procedural fairness to make better choices when they face challenging processes and substantive dilemmas. In their desire to adjudicate qualitatively, trial judges should strive to form a special chemistry to identify what makes court insiders tick. Choice theory offers a far more effective management relationship to get along with stakeholders and the public, particularly in courthouses.

In summary, a procedurally fair trial judge must embrace the role of primary motivator. Finding a way to convince people they need to change how they have been doing things is the challenging part (LaGratta & Bowen, 2014). Once judges recognize there is a better way, most (if not all) will adopt these new concepts. However, getting a judge to acknowledge they are wrong may prove to be more difficult. Procedural fairness is essential to create and maintain cultures of justice (LaGratta & Bowman, 2017). Affording procedural fairness experts the benefit of a reasonable doubt, it is their approach to start a newer way of doing court behavior control and compliance with satisfaction for, and confidence in, court business. It is intended for people’s behaviors to be altered by the law (Kagan & Kigli-Shemesh, 2005).

Procedural Fairness is Reshaping Courtroom Bench Behavior

Procedural fairness is reshaping the future of state and local courtroom bench-adjudication. The following literature review draws upon many references regarding
court performance, evaluations and procedural fairness assessments. It distinguishes legal evaluations from modern social science evaluations, provides the history and teachings of procedural fairness, and presents explanations of procedural fairness. It also offers a discussion of procedural fairness communication, leadership, measures, and delineation about, studies of procedural fairness (in and outside) regarding civil and criminal justice systems.

Rights to a procedurally fair trial, and how a judge proceeds to make the trial procedurally fair, may be different for each litigant (Brynard, 2010). For example, a judge may need to speak in a manner that is more plain (no legalese) to one court attendee but allow another court attendee to ask more questions for clarification. Brynard (2010) suggests:

that a fair administrative procedure depends on the circumstances of each case. This implies that the content of procedural fairness depends on the context of the administrative action or decisions (i.e. the particular circumstances of each case in terms of complexity and seriousness) and varies from case to case (with regard to the position of the affected individual). (p. 126)

When making decisions judges must weigh the different facts of the case (how many times has this person broken the law, were there extenuating circumstances surrounding the event) to determine the appropriate course of action. Why then should judges not evaluate each court attendee’s situation and the circumstances of each case to tailor an approach unique to each person in order to be procedurally fair?

History and Origin of Social Science Procedural Fairness Evaluation of Courts

“Thibaut and Walker became interested in the empirical study of the impact of procedures as distinct from outcomes—that is, “procedural” as opposed to “distributive justice” (Lind & Tyler, 1988, p. 878). The intellectual origins of the collaboration were,
of course, the lawyer’s concern with the procedure and the social psychologist’s concern with social processes” (Vidmar, 1990, p. 878). Vidmar (1990) also provides:

Two leading researchers in the field have collaborated to review and integrate the substantial body of literature that has accumulated in the decade and a half since Thibaut and Walker’s monograph. Their effort advances our theoretical understanding of subjective reactions to procedure, and it documents the importance of procedural fairness in conflict resolution, in assessments of political legitimacy, and in organization behavior. (pp. 877-878)

Thibaut and Walker (1978) had recognized the need to combine two prominent factors of the justice system, truth, and justice. Prior to in depth social science research the authors were able to determine that change within the justice system was needed; they were then able to figure out how to accomplish the needed change. It was not until Tyler (2006) picked up the proverbial mantel and realized there were behaviors that once taught, would increase the perceptions of procedural fairness. Tyler defined these behaviors as voice, respect, neutrality, and understanding. Burke and Leben (2007) then saw that the time was now to start implementing ideas to promote a systematic change.

LaGratta and Jensen’s (2015) Measuring Perceptions of Fairness: An Evaluation Toolkit publication added another element procedural fairness, helpfulness (whether litigants perceive court actors as interested in their personal situation to the extent that the law allows), while Frazer (2006) defined this element. The study that used this fifth element took place in the Red Hook Community Court in the state of New York. This study set the frame for the Evaluation Toolkit, which is the operational basis for this study.
History and Origin of Procedural Fairness Education at the National Judicial College

The national history and origin of procedural fairness education of judges can be traced to John Thibaut and Lauren Walker’s seminal monograph (1978), *Procedural Justice: A Psychological Analysis*. In this paper, the authors recognize the need for change in how judges adjudicate and solve problems. They recognized that court procedures should be based, not only on facts, but on fair, equal, and unbiased treatment.

In 2007, the American Judges Association published a document entitled “Procedural Fairness: A Key Ingredient in Public Satisfaction”. This paper has been a large part of the procedural fairness movement since its publication. Leben and Burke (2007) fueled the conversation to begin again. In the paper, they cover a multitude of topics such as how nonverbal cues affect the public’s perception of procedural fairness, and ways judges and other court staff can mitigate some of these factors to increase the public’s perception and trust of the court.

National Campaigns to Indoctrinate and Evaluate Procedural Fairness

The 5-year anniversary of a national project to assist state courts to indoctrinate procedural fairness brings on an opportunity to reflect upon knowledge of the implementation of, and judicial perceptions regarding procedural fairness. The CCJ/COSCA adopted Resolution 12 on July 31, 2013.

In August 2013, the American Bar Association (ABA) adopted *Principles for Judicial Administration* and recommended it “as appropriate guidance for those states desiring to establish principles for judicial administration in their efforts to restructure court services and secure adequate court funding” (p. 1). Even though research in the field indicates that all states (and courts) should implement guidelines for judicial
administration, the ABA only acknowledges the implementation of these principles to the states who want to adopt the principles of procedural fairness in order to initiate change. As a nationally-recognized organization that is regarded in high esteem, should they have not recommended that all states adopt the principles listed in the Judicial Administration?

Of the principles listed in this document two of them are crucial to procedural fairness. Principle 14 if “decisions of the court should demonstrate procedural fairness” and principle 15 added, “the court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization” (American Bar Association, 2013, p. 3). The ABA recognized how courts, judges, and court staff could change the way they make decisions, a way that would increase the public’s faith and belief of legitimacy of the justice system.

Procedural Fairness Leadership in Louisiana

Current efforts to shift the state and local court culture away from the traditional courtroom behavioral practices to one that is more procedurally fair are believed marginally underway in Louisiana. Such efforts, however, are not strategic. They are minimal, and appear unsystematic and fragmented in training. “Courts are the most understudied major public institution in terms of organizational culture and performance… courts are seen as lacking measurable performance goals due to their pursuit of justice” (Ostrom, Ostrom, Hanson, & Kleiman, 2005, p. 7). Now that there is a way to measure performance, it should be implemented across the justice system, particularly throughout courts and among judges. Improving procedural fairness leadership is an essential element of improving the procedural fairness climate of state and local trial courts. Who took up Chief Justice Johnson’s leadership mantle regarding
procedural fairness among Louisiana courts? Even if procedural fairness leaders and judges are not directly involved in educating other judges, encouraging or participating in the promotion directed at those who are in need of discovering procedural fairness knowledge supports a court culture that helps implement the principles of procedural fairness.

Though Chief Justice Johnson signed Resolution 12, and several judges have worked on increasing procedural fairness, the writer is unaware of any systematic change among Louisiana trial courts. Until this occurs, only minute changes will happen.

Procedural Fairness Communication

Professor Kelly E. Tait, of the University of Nevada, Reno National Judicial College, is a communication expert who specializes in justice system education. One of Professor Tait’s recent publications is “Procedural Fairness: A Treat for the Brain” in Case in Point (2016). Professor Tait (2018) recently taught American judges that procedural fairness is “all about communication.” She explains that effective communication (verbal and nonverbal) enhances procedural fairness because the quality of interpersonal treatment is meaningful communication. In the same NJC 2018 course publication, Professor Tait provided a list of resources regarding procedural fairness research and principles (see Appendix E), and an extensive list of 22 communication resources (see Appendix F), while adamantly explaining that communication is behavior and behavior is brain-based; while noting the close connection between communication and procedural fairness. The principles of procedural fairness can be described as behaviors, even though there may not be a direct physical behavior associated with it, each principle requires the thought to act in a certain way. Thus, these behaviors are
brain-based actions that require practice and monitoring to ensure the behaviors are continually used. The principles of procedural fairness do not assure that justice ‘will be served’; however, if a judge and other court staff utilize the principles of procedural fairness their judgements, decisions, and behaviors will at least be recognized as fair and just. Communication is a key component of the perceptions of procedural fairness.

Resources for Courts to Measure or Evaluate Procedural Fairness

Justice organizations have also published extensively regarding procedural fairness. Policy papers have been developed “to help courts in addressing procedural fairness and incorporating such concepts into better decision-making, including…” ‘Procedural Fairness: A Key Ingredient in Public Satisfaction’ and ‘Minding The Court: Enhancing the Decision-Making Process’” (Conference of Chief Justices [CCJ], 2018, para. 5). There are many efforts being made to increase procedural fairness in the justice system, however none of these changes in Louisiana appear to be systematic.

The National Institute of Corrections (n.d.) promotes the National Center for State Courts (at times hereafter NCSC) as a good organization for knowledge and information because they work closely with multiple associations for judicial leaders including the CCJ and COSCA. The NCSC also has an international section: —The International Framework for Court Excellence. This Framework (2013) assists courts to identify areas of court performance capable of improvement and to develop innovative ways to address issues, improve transparency and clarity, enhance access, and reduce backlogs and overly complex procedures, which detract from court quality and efficiency. (p. 2)

The International Framework for Court Excellence helps courts to assess their performance in several areas. This assessment can lead to a multifaceted approach of
changing how the court handles cases, how they speak to court attendees, and how they interact with other branches of the justice system (such as law enforcement). The framework provides the necessary tools for the courts to determine where they can better themselves so they can better serve the public, thus increasing perceptions of procedural fairness.

This framework (2013) informs “there are many measurement and improvement instruments or tools that can be used by the courts in forging the path of Court Excellence” and that the specific “tool a court might select depends on the situation and the needs of the court” (p. 1). Depending on what area a court finds they need to focus on, they can mold the framework to tailor it to their specific needs. References and links to these tools can be found on the Framework website: courtexcellence.com. The site also contains considerable reference material, case studies, and links to relevant court and organizational websites. With these types of resources readily available judges, court staff, and judicial educators need to promote the use and implementation of them.

In addition to these resources, the NCSC has several national forms of performance measures, these measures can be used in goal setting, improving court processes, improving communication, and provide a way to increase staff training. All of these are ways that courts can ensure the fair administration of justice. The surveys, on the NCSC website, include:

a. Access and Fairness

b. Ensuring Fairness in Legal Financial Obligations

c. Management of Legal Financial Obligations

d. Fair Practices for Legal Financial Obligations
Even though these are valuable tools, none of the NCSC rating measures from these sets of tools are appropriate to measure the judges’ perception of their treatment of court attendees in terms of fairness, equality, or public respect aspects. However, the NCSC has prepared four videos depicting different scenarios for judges and other court staff to view. These videos contain a discussion to help talk about supplemental training. They explore how procedural-fairness principles may best be deployed in situations judges and court staff face as court attendees encounter the court system (NCSC, 2013). In the fourth video *Procedural Fairness as a Model for Modern Authority*, the American Judges Association [AJA], (2014) state that “procedural fairness is the modern model for the proper exercise of authority, leading those involved to view the judge as worthy of their trust” (“Podcasts”, 2014, para. 4). Though these videos can aide judges in recognizing how their behaviors may be perceived, they do not measure their own behaviors, or provide ways on how to change their adjudicating techniques.

Emily Gold LaGratta has recommended another tool for judges to use, known as the “Self-Assessment of Court Practices” and was designed for court officials to gauge the presence (or absence) of key procedural fairness factors and to start a dialogue with their colleagues about what those results mean. To the extent there are deficiencies or changes over time, these court officials might consider whether further training is needed, or some other specific improvements. This tool is limited because it relies on how judges being honest in their opinions on how they view themselves and being a reliable self-critic is hard. Judges could self-educate or have their staff evaluate them and provide feedback.
Evaluation of Judicial Perceptions of Procedural Fairness

The researchers will utilize The Measuring Procedural Fairness Toolkit (MPF): *Self-Assessment of Court Practices*; the third part of their three-part instrument. The evaluation toolkit is designed to help judges and other criminal court practitioners measure procedural fairness from a judicial perspective. The writer believes it meets the standards required of *Global Measures of Court Performance, Second Edition* and that the MPF Toolkit “is clear, focused, and actionable, because it can be used to indicate underlying social problems”, which is the lack of procedural fairness. It “is a potential rallying point for reform and improvement efforts that can bring” (Hall & Keilitz, 2012, p. 58) criminal and civil justice system stakeholders together in what can be referred to as the participants in the “change agent” movement toward the era of procedural fairness.

Procedural Fairness Factors

Leading researchers on procedural fairness, Tom R. Tyler, Emily Gold LaGratta, and others have identified five dimensions of procedural fairness:

1. voice (litigants’ perception that their side of the story has been heard);
2. respect (litigants’ perception that the judge, attorneys, and court staff treat them with dignity and respect);
3. neutrality (litigants’ perception that the decision-making process is unbiased and trustworthy); and
4. understanding (whether litigants comprehend the language used in court and the decisions that are made) (Tyler, 2006; Tyler, Jackson, & Bradford, 2014).
5. helpfulness (whether litigants perceive court actors as interested in their personal situation to the extent that the law allows). (LaGratta & Jensen, 2015).

Goodner (2017) stated media headlines proclaim fear among the public (especially the poor) about the fairness and the process in Texas municipal courts. However, research finds that among the factors that influence a person’s willingness to accept a decision procedural fairness is the most predictive (Rottman, 2017), while socioeconomic and demographic variables were among the worst predictors. Even though there are differences in perceptions of procedural fairness across racial and ethnic groups, and contextual differences, how a person is treated is weighed more heavily in whether a person accepts their ‘punishment’. Though many factors influence procedural fairness, bias and biased communication can significantly affect perceptions of procedural fairness.

Louisiana Comes Late to the Procedural Fairness Movement

Louisiana may not be setting the standard for procedural fairness; but Louisiana can still help continue advancing the reform movement by pushing state and local trial judges to educate themselves about procedural fairness. A preliminary review of Louisiana’s formal court procedures and rules of court, revealed Louisiana courts have not systematically undertaken any recent evaluation, or implementation of any new policies affecting its’ state courts self- assessment practices regarding procedural fairness. A cursory review of the Louisiana Supreme Court’s website and Rules of Court shows it has not specifically regulated by rule, any systemic action among trial courts concerning procedural fairness, since Resolution 12 was signed in 2013.
Judicial Requirements, Procedural Fairness, and Judicial Education in Louisiana

The requirements to become a judge, in Louisiana, are as follows: a) three years in law school, b) pass the bar exam, and c) five years’ experience as a lawyer to become a municipal judge, and 8 years of experience as a lawyer to become a district court judge. Even though it is a requirement for judges to be lawyers in Louisiana, the law schools have nothing to do with judicial education; that is left solely up to the Louisiana Judicial College, self-help, and self-education of the individual judge. The dogma—that qualitative adjudicative skills can be acquired by this set of qualifications—“lives loudly within us”.

According to the Louisiana Rules of Judicial Education, all judges must complete a minimum of 12.5 hours of Continuous Legal Education to stay a member of the bar. Additionally, judges must also take five hours of training through the Louisiana Judicial College, or other national judicial organizations. Newly-elected judges are required to attend two full days of training. The first day is just over five hours of learning and the second day is 3.5 hours of classes (M. Anders, personal communication, June 14, 2018). Judges can do more training, such as a summer school, if they want to; but it is not mandatory. In January 2018, the NJC taught more than 25 judges (including the co-researcher) from across the Americas and Puerto Rico on a course titled Advanced Bench Skills: Procedural Fairness. Additionally, the NJC taught 23 other judges in October 2016, (including the co-researcher), a state chief justice, and magistrate judges from Guam “Ethics, Fairness & Security”. Divider 14 of the course manual focused on communication: Perceptions of Bias and Fairness. Marie Anders (2018), the Judicial
Education Program Attorney at the Louisiana Judicial College recently commented as follows:

Procedural fairness is one of the subjects about which I am most passionate, so I continue to stay on top of research and focus presenters to the issue. It is an issue that is generally most effectively integrated within other topics, especially but not limited to professionalism.

Marie Anders and newly appointed Executive Director Tracy Thompson are one of a few at the Louisiana Judicial College that are working to change how state and local trial judges, courts, court staff, and lawyers treat and communicate with court attendees. The Louisiana Judicial College has started bringing up the topic of procedural fairness, and in some instances started educating judges.

Improving and understanding judges’ administration of justice through personal openness and increased transparency through self-assessment of procedural fairness is arguably one of the major missionary goals of the Center for Court Innovation (CCI). The CCI (2017) “works to promote procedural justice in the U.S. and internationally and tests promising practices, operating programs, offer training, and expert assistance to jurisdictions interested in assessing or enhancing their procedural justice practices” (‘About’, para. 3).

Research points toward a growing number of courts tackling perceptions of fairness. Malangone (2018) has published a practical guide integrating procedural fairness in domestic violence cases; this guide is designed to help courts and domestic violence stakeholders assess their current practices and integrate new strategies to enhance procedural fairness. The materials in this guide are based upon “promising practices identified through both the Center for Court Innovation’s operating programs
and national training and technical assistance” (Malangone, 2018, “Integrating Procedural Justice in Domestic Violence Cases” para. 1). There are many resources available for courts that wish to change how they operate and for those who want to increase the public’s perception of procedural fairness in the courts.

Louisiana judges can be stronger advocates of procedural fairness when they become aware of (a) its success potential, (b) potential gaps in their procedural fairness bench-communication abilities, and (c) receive feedback success. Examples for these points are as follows:

a) Research has shown that implementation of the principles of procedural fairness can reduce recidivism rates (Rottman, 2017), increase compliance with sentencing (Kagan, 2005), and promote trust and confidence in the court system (NJC, 2013).

b) Judges can determine where they can improve their communication abilities in order to promote the perception of procedural fairness. They can do this through self-education, classes, reading the literature, or by getting involved with programs that promote procedural fairness that are already in existence; and

c) Judges can also increase their communication skills and other bench skills by conducting self-assessments through video recordings or judicial performance evaluations and then allowing someone to go over what they saw or experienced while they were conducting the performance evaluation.

A current study of Louisiana’s state and local trial court judge’s perceptions of their potentially varied courts’ procedural fairness understandings offers an opportunity to assess the researcher’s observations from two perspectives. One perspective, from a judicial education perspective—opportunity to identify what judges need to focus on—
and the other from a judicial experience perspective. Such an opportunity may also provide support for a hypothesis. That the degree or scope of a trial judge’s application of procedural fairness is related and co-dependent upon the type of judicial service; and that procedural fairness applications should be triaged; dependent upon the circumstances of the case, and the nature or role of the individuals appearing in the tribunal.

This also helps to assess the level of judicial procedural fairness needed, and the requisite accountability of judges and court staff. Applications of judicial behaviors of procedural fairness are group and individually based, likewise dependent upon the nature of the case, setting and circumstances. For these reasons, this dissertation undertakes measuring, from the perspective of judges, whether Louisiana adopted the principals of Resolution 12. Do state and local trial judges view procedural fairness positively? Do they support the premises of Resolution 12?

Now is a particularly relevant time to pursue an appraisal of state and local trial judges’ perceptions regarding procedural fairness. Judges continuously resolve cases and must communicate more clearly and effectively, both orally and in writing. Moreover, judges are well-educated and complicated subjects, so variation in their perceptions of fairness should reflect such education, situations, and complications when they publicly adjudicate. Additionally, some judges probably think procedural fairness content is not relevant to court participants and observers; while others may think the content of procedural fairness is either too basic or too advanced. Trial judges’ perspectives on procedural fairness probably vary. Some judges believe that no matter what they do (unless the court users gets the outcome they want every time) they will never be viewed as fair; while other judges, who are more aware of the research on procedural fairness,
recognize that the perceptions of fairness predict court users satisfaction better than the outcomes themselves. The consequence of a judge’s non-engagement of procedural fairness principles of outcome-based implementation may communicate injustice, or at a minimum perceptions of injustice. Unknowledgeable, untrained, unskilled, and unassessed as trained and skilled judges, court administrators, court staff, and managers lead to an ineffective court and “black robe” effect and misperceptions of unfairness in the normative and within the applications of rules of perception vernacular in the administration of justice and understanding of justice.

Given the existing gap in the literature in social and behavioral scientists’ evaluation regarding perceptions of judicial procedural fairness, research is needed to better understand those perceptions, as well as the variables, which affect those perceptions from the perspective of those who administer procedural fairness and adjudicate citizen perspectives of justice. Normative bench adjudication and evaluation standards are derived from legal benchmarks or frameworks and “enjoy authoritative status, either by general acceptance because” the benchmark or “framework seems to work well or because it has been justified or promulgated by a source to whom deference is widely given” (Mitchell, 2010, p. 225). Procedural fairness is another benchmark for newer “alternative normative perspectives on judging” (p. 225).

Additionally, the importance of CCJ/COSCA Resolution 12 indoctrination among Louisiana judges and courts can to some extent be discerned from professional responsibility decisions reached on judges by the Louisiana Supreme Court—an accountability method to achieve procedural fairness. Does the application of sanctions administered to state and local trial court judges make an effective way to achieve much-
needed procedural fairness reforms? In this age of procedural fairness, the movement
toward procedural fairness does not start at the courtroom door, nor does it stop at the
courthouse door. What commitment did Louisiana state and local trial court judges make
to realize Chief Justice Johnson’s desire without the influence of sanctions—that is, in the
words of Judge Rachel L. Bell to “control the controllable” delivery of procedural
fairness? Such is a major purpose of this study.

Research Purpose

One major goal of this study is to examine Louisiana state and local trial court
judges’ courtroom bench practices; assessing the degree to which they perceive that they
apply the procedural fairness concepts of understanding, voice, respect, neutrality, and
helpfulness. Consequently, this study will measure, describe, and compare Louisiana
state and local trial court judges’ awareness, applications, and perceptions of procedural
fairness.

In addition to testing judges with the “Self-Assessment of Court Practices”, the
writer will utilize the “Courtroom Observation Instrument” and the “Defendant Exit
Interview” instruments, on the ground in Louisiana. This study will enhance judges’
knowledge regarding procedural fairness practices and will offer insights about the
CCJ/COSCA national efforts to promote procedural fairness.

Defendant exit surveys can be a valuable tool for judges to get a better
understanding of how court attendees view the judge and their processes; while
simultaneously trying to bridge the gap between worldviews (Rottman, 2017). Judges
often contemplate the fairness of the outcome whereas the court attendee thinks of the
process in which the judge got to the outcome. In order to help these two views merge
into a more consistent or uniform view judges and other court staff need to implement the principles of procedural fairness. The judge and court can then utilize litigant surveys to determine if the changes are making a positive difference in the public’s perception and the publics’ trust and confidence in the justice system.

Procedural fairness for this study will be defined and assessed using LaGratta and Jensen’s (2015) Measuring Perceptions of Fairness: Evaluation Toolkit. Some of a judges’ procedural fairness ability is believed unique to the judge, whereas other judges are perhaps products of the environment (e.g., community, organizational, or learned).

The study is of considerable value to Louisiana judges, and in court systems nationwide. The ability to recognize that one is not a procedurally fair judge is something most judges probably have a hard time accepting. “A review of procedural justice theory and research suggests that the meaning of procedural fairness and its importance for procedural evaluations can vary depending on the motives engaged in varying allocation contexts” (Heuer, 2005, p. 2). Kang (2009) states “an individual’s motivation to be fair does matter. But we must first believe that there’s a potential problem before we try to fix it” (p. 6). Getting judges to recognize and accept there is a better way of adjudicating is probably the largest hurdle to overcome. Once this recognition occurs, judges are likely to be more receptive to training and education on the principles of procedural fairness. Having a judge with procedurally fair qualities is an evidence-based best practice, shown to obtain better outcomes. Once this is recognized, it will be easier to gain traction in adding these principles to the educational programs, tools, and resources judges use.
Moreover, despite the CCJ/COSCA challenge for future state action, reassessments and intervention by other state courts, and news banner interest, the researchers suspect:

1. Louisiana judges lack insight into their own procedurally unfair measures;
2. the Louisiana Supreme Court has not systematically engaged its trial courts regarding its adoption of Resolution 12;
3. nor has the Louisiana Supreme Court directed its Judicial College to engage its trial courts regarding the adoption of Resolution 12;
4. the Louisiana Supreme Court utilizes the Judicial Canons 1, 2 and 3(A (1)-(2) and 3(A (2)-(3), (see Appendix G) to enforce key principles of procedural fairness and to hold judges accountable for violations (Supreme Court of Louisiana, 1988).

Consequently, the researchers believe that Louisiana has not fully answered CCJ/COSCA call to focus on readdressing procedural fairness policies.

The researchers believe it is also uncertain whether other Louisiana’s trial courts have adopted similar rules of court practices, or taken any systematic procedural fairness action embracing modern procedural fairness principles, which assures judicial accountability, associated with court attendees’ perceptions of fair treatment, without reference to the merits of individual cases. It is up to all judges across the state to be active in helping justice reform initiatives take root; any judge, at any level, can help make changes happen (Louisiana Supreme Court, 2016). As such, not only must trial judges reinvent themselves to remain relevant and effective, judges must also reprise their roles of procedural fairness at every courtroom user-opportunity. “Trial judges wear
many different hats, variously serving as finders of fact, trial supervisors, and overall case managers” (Robbennolt, MacCoun, Darley, 2010, p. 31). Under bench adjudication methods, judges have considerable discretion to avoid lost opportunities to deploy procedural fairness. A lost opportunity is in essence lost productivity. Has Louisiana Chief Justice Johnson’s ideas about procedural fairness affected the attitudes and subsequent behaviors of lower state and local trial-level judges?
CHAPTER III

METHODS

Research Design

Participants

There were three sample populations for this study. The first sample group came from a probability-based sample of Louisiana state and local trial court judges. A total of 304 state and local trial court judges were emailed the self-assessment survey. The judges information came from the Directory of Louisiana Judges, published on February 9, 2018 (“2018 Judges Directory”). The participant list was cross-referenced with both the files on record at the office of the Louisiana Supreme Court (S. Pennington, personal communication, March 27, 2018) and the office of the Secretary of State (R. Wood, personal communication, August 1, 2018). The 2017 Annual Report by the Judicial Council of the Supreme Court was also cross-referenced to determine the number of judges that was included in the survey (“2017 Annual Report”, Louisiana Supreme Court). The survey was emailed to 17 juvenile and family court judges, five parish court judges, 67 city court judges, and 215 district court judges. Mayor and Justice of the Peace courts and judges were not included in the study. Two weeks after the online survey was sent out, a follow up email was sent out to 250 state and local trial court judges. A paper copy of the survey was then mailed out to the judges. Five weeks after the initial online survey was emailed, the paper version of the self-assessment was sent out to 260 judges, who had not taken the online self-assessment. Judges were instructed to respond to only one form of the self-assessment, if they received both the online survey and the paper survey. Two to three weeks after the paper self-assessment had been sent out a thank you card, or thank you email, was sent to the judges, who
participated. The survey was not sent to one district court trial judge, due to their role as one of the researchers on the project.

Researcher-led courtroom observations were made using a convenience sample of judges within one parish in, Louisiana. A research assistant conducted the courtroom observations covertly, in order to ensure the judge and courtroom staff being evaluated did not alter their behavior. The neutral observer waited outside of the courtroom with the court attendees, once the courtroom doors were opened the neutral observer walked in with the court attendees. This allowed the neutral observer to blend in with the court attendees. The neutral observer kept one or two surveys in a folder. The surveys were void of any headings or instructions, so if a court attendee looked at the survey they could not tell what it was.

The defendant exit survey was administrated to defendants leaving the courtrooms of the observed judges, as well as traffic court defendants. The research assistant gave the interviewees the chance to complete the online survey while they were at the courthouse, at home through an online link, and they were given a paper survey to take home and send back at a later time. The interviewees were all over the age of 18 and were given the option to participate in the survey or not. The interviewees were informed that their answers were confidential, their names would not be disclosed, and that their answers would not have any effect (positive or negative) on their case. If the defendant could not read or write, the research assistant offered to read the survey questions to the interviewee.
Perceptions of Procedural Fairness: An Evaluation Toolkit

**Self-Assessment of Court Practices.** Judges self-perception was measured using part one of the Measuring Perceptions of Fairness: An Evaluation Toolkit (MPF Toolkit). The self-assessment of court practices contains 19 questions, which are divided into five categories. These categories relate to the principles of procedural fairness and are rated on a Likert scale between 1 (*not at all*) and 4 (*almost always*) (LaGratta & Jensen, 2015). The Cronbach’s alpha was found to be .918; which was derived from the larger study of procedural fairness that took place in Milwaukee (Farley et al., 2014).

**Courtroom Observation Instrument.** The interactions between courtroom staff and the defendants were analyzed and measured using part two of the MPF Toolkit. The first nine questions of the Courtroom Observation Instrument asked yes or no questions such as had the judge started on time and had the judge introduced himself or herself. These questions are used to assess whether any of the principles of procedural fairness are being utilized at the start of court. The following 10 questions rate the principles of procedural fairness on a Likert scale ranging from 1 (*never*) to 5 (*always*). Question 20 is subdivided into nine behaviors (*knowledgeable, consistent*) for which the judge can be rated from one (*strongly disagree*) to five (*strongly agree*). The final question is left for the observer to mention any additional comments they had about the judge and other courtroom staff (LaGratta & Jensen, 2015). The second part of the MPF Toolkit has not undergone factorial analysis to determine the Cronbach’s alpha; but has been found to adequately correlate to the five principles of procedural fairness (E. Jensen, personal communication, March 27, 2018).
**Defendant Exit Survey.** Defendant’s perceptions of courtroom practices were assessed with part three of the MPF Toolkit. The first six questions of the Defendant Exit Survey assess whether or not the defendant has a lawyer, if the judge provided information on how long they would be in court today, or whether or not their experience was pleasant or unpleasant. The following 14 questions use a Likert scale between 1 (strongly disagree) and 5 (strongly agree) to measure if the defendant noticed behaviors attributed to procedural fairness (your attorney listened to you, your case was handled fairly). Five more questions ask the defendant to rate from 1 (very unfair) to 4 (very fair) whether or not specific courtroom staff (judges, security staff) treated them fairly today. The final question allows space for the defendant to leave any other comments they believe are important (LaGratta & Jensen, 2015). The larger study conducted in Milwaukee administered the defendant exit survey to a larger population and found that the questions pertaining to the five principles of procedural fairness were highly correlated to their questions:

- **Voice:** The original study contains five questions in regards to this principle. The Cronbach’s alpha of these questions was found to be .686 (Farley et al., 2014).

- **Neutrality/trust:** The assessment contains four questions, which depict qualities that determine if the judge is able to make decisions based on the facts of a case alone, and ensure their implicit or explicit biases are not influencing their decisions; the Cronbach’s alpha of these questions was found to be .678 (Farley et al., 2014).
• **Respect:** This category was comprised of five questions, which included items such as *the judge was polite*; the study in Milwaukee found these questions to found the Cronbach’s alpha to be .844 (Farley et al., 2014).

• **Understanding:** The original survey contained 11 items assessing the defendants’ perception of how the defendants felt the judge communicated with them during their case. Previous research found the Cronbach’s alpha of these questions was .757 (Farley et al., 2014).

• **Helpfulness:** Three questions pertained to this category, which had questions relating to whether or not the judge tried to understand the defendant’s needs, or that the judge was willing to help the defendant. Other research found the Cronbach’s alpha to be .849 (Farley et al., 2014).

**Demographics.** Finally, all participants (judges and defendants) were asked demographic questions such as age, gender, ethnicity, and education level/degree type. Further, judges were asked which type of court they preside over (civil, criminal, family, and juvenile), whether they are a district/city/parish court judge, and how long they have been on the bench. Judges were also asked questions regarding their income, religion, which law school they attended, and whether they live in a rural or urban area.

All surveys are detailed in Appendix H.

**Procedure**

The judges were emailed a packet that contained the following papers: an explanation of the study, a consent form, part one of the MPF Toolkit (self-assessment), a thank you, and a disclosure statement. The judges who had not completed the online
survey were then mailed a paper packet containing the same materials, as well as a self- addressed stamped envelope for them to send the survey back in. This allowed for judges to remain anonymous.

In July and August, 2018, defendant visitors at one court in Louisiana were asked to complete the survey. The research assistant waited in the courtroom, until the hearings were complete, and then followed the defendants out of the courtroom. The defendants were approached and asked if they would like to complete a brief interview and provide feedback about their experiences in traffic and criminal court. Defendants were told the interview would take approximately 10-15 minutes. Finally, defendants were given an option to take the survey home. These participants were given a self-addressed envelope to send the survey back when they are complete; for these defendants a phone number to contact them was requested, so the research assistant could reach out to them to ask if they had an opportunity to take the survey. The defendants also received an explanation of the study, a consent form, a thank you, and disclosure statement.

The research assistant who evaluated the courtrooms was given a packet containing information about the study, the courtroom observation evaluation, a large envelope to put their assessments in, a thank you letter, and a disclosure statement.

Researchers, Research Assistant, and Training

The researchers, along with a graduate research assistant on this study involving human participants were all required to complete the National Institute of Health (at times hereafter NIH) training consistent with the university’s institutional review board (at times hereafter IRB) standards. Research relationships consists of one-on-one relationships where the research assistant will help conduct the researchers’ projects
(observe and report on court proceedings and interview defendants attending traffic and criminal courts) under the direct supervision of the co-investigator.

All persons involved in the design, implementation, review, and oversight of this research completed and maintained the required training to fulfill their obligations to conduct ethical and scientifically sound research, as well as to adequately protect the human subjects of this study. IRB approved the study (see Appendix I).

During the initial 15 to 30-minute interview, the supervisor/mentor provided an overview of the research project, the structure of the research, and expectations of the University of Nevada, Reno, Institutional Review Board, including statements and obligations regarding training and ethical requirements. The co-investigator also ensured that the research assistants’ work met the standards of the university and the academic discipline. The co-investigator discerned and adhered to all university supervisory expectations and the responsibilities policy.

Data Collection Process

As surveys came in, the research assistant input the data into a software program to code the names in a way that will allow participants to remain anonymous to the investigators, but allowed the researchers to assess data across the various evaluations. For example, the researchers were able to compare the courtroom observation data with the defendant exit survey; both of which were taken on the same day, in the same courtroom, and in regards to the same judge. Coding the names allowed the researchers to compare the data from the self-evaluation and defendant exit survey to determine if there were discrepancies between the perceptions of judges, defendants, and court observers.
Resources for courts to improve court operations include surveys measuring the perceptions by court attendees, the public, and judges. What are Louisiana judges’ perceptions regarding procedural fairness? To measure judges’ perceptions, this study utilized the Self-Assessment of Court Practices Tool to explore state and local level trial court judges’ perceptions of fairness.

Individual and group level differences among judges were derived based on various outlooks. Individual and group level variables surveyed included:

1. type of jurisdiction (municipal or limited and district-level courts/general courts)
2. type of court (Family, Juvenile, District, Civil, Criminal, Traffic)
3. gender
4. race/ethnicity
5. age
6. number of years on the bench
7. law school attended
8. religious affiliation
9. political affiliation

Organizational cooperation and sampling assistance from the NCSC, with coordinated assistance from the University of Nevada, Center for Research Design and Analysis (CRDA), and Dr. Steven Maberry with Envisage Research and Analytics, were sought and obtained during the study through the researcher’s personal affiliation with them.
The survey was developed by the co-investigator, Dr. Veronica Dahir at the Center for Research Design and Analysis (at the University of Nevada, Reno), the research assistant, and Dr. Steven Maberry at the Envisage Research and Analytics company. The Center for Research Design and Analysis printed and sent out the paper surveys, while the Envisage Research and Analytics assisted with the online survey of the self-policies. The defendant exit survey was also put online, using Qualtrics, by the co-investigator and research assistant.

From this literature review and other personal observations, the following research questions and hypotheses were discerned for Louisiana state and local trial courts.

Research Questions and Hypotheses

Research Question 1: Whether Louisiana’s state and local-level trial judges are aware of CCJ/COSCA nationally-adopted Resolution 12 regarding procedural fairness?

Research Hypothesis 1: It is hypothesized that Louisiana’s state and local-level trial judges are unaware of CCJ/COSCA nationally adopted Resolution 12.

Research Question 2: Whether Louisiana state and local-level trial judges support CCJ/COSCA nationally adopted Resolution 12’s procedural fairness five (voice, respect, neutrality, understanding, and helpfulness) principles?

Research Hypothesis 2: It is hypothesized that Louisiana’s state and local-level trial judges support four (e.g., voice, respect, neutrality, understanding) of CCJ/COSCA nationally adopted Resolution 12’s five principles of procedural fairness.
Research Question 3: To what extent do the perspectives of Louisiana’s state and local-level trial judges differ from those of criminal and traffic court defendants regarding CCJ/COSCA nationally adopted Resolution 12’s procedural fairness principles?

Research Hypothesis 3: It is hypothesized that the perspectives of Louisiana’s state and local-level trial judges differ from those of criminal and traffic court defendants regarding CCJ/COSCA nationally adopted Resolution 12’s procedural fairness principles.

Research Question 4: What are courtroom observers’ perspectives of Louisiana’s state and local-level trial judges’ regarding CCJ/COSCA nationally adopted Resolution 12’s procedural fairness five principles?

Research Question 5: Has any Louisiana state and local trial court expressly stated a policy, via a rule of court, or published a practice regarding procedural fairness, since Resolution 12 was adopted.

Research Question 6: Has the Louisiana legislature expressly adopted a code of procedure, article, or amendment, incorporating procedural fairness, since Resolution 12 was adopted?
CHAPTER IV
RESULTS

Data were collected from Louisiana state and local trial court judges, \(N = 71\) (23.6%). Sixty judges responded to the online and eleven to the paper survey. The data were collected to assess whether or not the judges were familiar with procedural fairness to determine whether the judges viewed themselves as procedurally fair, to determine if court observers viewed judges as fair, and to determine if defendants viewed judges as fair.

State and local judges were evaluated using the five core principles of procedural fairness. Procedural fairness principles were supported: voice (90%), respect (82%), neutrality (100%), helpfulness (80%), and understanding (100%). Analyses focus on judges’ self-assessment responses and neutral observer ratings.

Judges Self-Assessment Statistics

Demographic Statistics

Descriptive statistics on participants’ demographic characteristics—personal, background, and socioeconomic status—are presented in Table 2 below. Generally, the sample size represents Louisiana’s state and local trial-level judges. About one-third (35%) of the judges hold general jurisdiction (civil, criminal, family, and juvenile). Approximately, eighty percent (79%) of the judges were male. Almost fifty percent (47%) of the judges were 61 years or older. The vast majority (81.8%) of respondents were Caucasian. Less than five percent (3.4%) were African American. Louisiana’s judiciary is racially 77% Caucasian and 23% racial minorities. However, the sample size is not a fair representation of trial judges racially. Forty (40.2%) of trial judges
considered themselves to be very religious. Almost all (92%) judges had a juris doctorate
degree. Judicial tenure averaged 14 years (13.6). Political ideology categories were
Conservative (34%), Democrat (40%), and Independent (2%). Fifty-five percent of the
judges preside in jurisdictions with populations between 100,000 and 500,000. Table 3
shows the mean statistics of judicial support regarding procedural fairness five core
principles.
Table 2  
Descriptive Statistics for Judicial Participants

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>M or %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender (Q53)</td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>79.0%</td>
</tr>
<tr>
<td>Female</td>
<td>21.0%</td>
</tr>
<tr>
<td>Age (Q49)</td>
<td></td>
</tr>
<tr>
<td>30&lt;</td>
<td>0.0%</td>
</tr>
<tr>
<td>31-40</td>
<td>9.1%</td>
</tr>
<tr>
<td>41-50</td>
<td>27.3%</td>
</tr>
<tr>
<td>51-60</td>
<td>45.5%</td>
</tr>
<tr>
<td>61-70</td>
<td>18.2%</td>
</tr>
<tr>
<td>&gt;70</td>
<td>0.0%</td>
</tr>
<tr>
<td>Household Income (Q54)</td>
<td></td>
</tr>
<tr>
<td>$50,000&lt;</td>
<td>0.0%</td>
</tr>
<tr>
<td>$50,001 to $99,999</td>
<td>0.0%</td>
</tr>
<tr>
<td>$100,000</td>
<td>9.1%</td>
</tr>
<tr>
<td>$100,001 to $249,000</td>
<td>72.3%</td>
</tr>
<tr>
<td>$250,000 to $499,999</td>
<td>9.1%</td>
</tr>
<tr>
<td>$500,000 to $999,999</td>
<td>9.1%</td>
</tr>
<tr>
<td>&gt;$1,000,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>I'd rather not say</td>
<td>0.0%</td>
</tr>
<tr>
<td>Race (Q51)</td>
<td></td>
</tr>
<tr>
<td>Caucasian/White</td>
<td>79.6%</td>
</tr>
<tr>
<td>African-American/Black</td>
<td>18.4%</td>
</tr>
<tr>
<td>Asian/Pacific Islander</td>
<td>0.0%</td>
</tr>
<tr>
<td>American Indian/Alaskan Native</td>
<td>0.0%</td>
</tr>
<tr>
<td>Hispanic/Latino or Spanish Decent</td>
<td>2.0%</td>
</tr>
<tr>
<td>Other</td>
<td>0.0%</td>
</tr>
<tr>
<td>Place of Residence (Q56)</td>
<td></td>
</tr>
<tr>
<td>Large City</td>
<td>18.2%</td>
</tr>
<tr>
<td>Suburb near a large City</td>
<td>18.2%</td>
</tr>
<tr>
<td>Small City or Town</td>
<td>45.6%</td>
</tr>
<tr>
<td>Rural Area</td>
<td>9.1%</td>
</tr>
<tr>
<td>Other</td>
<td>9.1%</td>
</tr>
</tbody>
</table>
Table 2 (continued).
Descriptive Statistics for Participants’ Personal/Socioeconomic Variables

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>M or %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Jurisdiction (Q45)</td>
<td></td>
</tr>
<tr>
<td>General (Civil, Criminal)</td>
<td>18.2%</td>
</tr>
<tr>
<td>General (Civil, Criminal, Family)</td>
<td>18.2%</td>
</tr>
<tr>
<td>General (Civil, Criminal, Family, Juvenile)</td>
<td>45.6%</td>
</tr>
<tr>
<td>Limited (Civil)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Limited (Criminal)</td>
<td>9.1%</td>
</tr>
<tr>
<td>Limited (Family)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Limited (Juvenile)</td>
<td>9.1%</td>
</tr>
<tr>
<td>Limited (Traffic)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Type of Specialty Court (Q46)</td>
<td></td>
</tr>
<tr>
<td>Adult Drug</td>
<td>36.4%</td>
</tr>
<tr>
<td>Juvenile Drug</td>
<td>18.2%</td>
</tr>
<tr>
<td>Mental Health</td>
<td>18.2%</td>
</tr>
<tr>
<td>Co-Occurring</td>
<td>0.0%</td>
</tr>
<tr>
<td>Reentry</td>
<td>0.0%</td>
</tr>
<tr>
<td>Family Preservation</td>
<td>0.0%</td>
</tr>
<tr>
<td>Domestic Violence</td>
<td>0.0%</td>
</tr>
<tr>
<td>DWI/Sobriety</td>
<td>0.0%</td>
</tr>
<tr>
<td>Veterans</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other</td>
<td>0.0%</td>
</tr>
<tr>
<td>Type of Degree (Q52)</td>
<td></td>
</tr>
<tr>
<td>Master (non M.B.A)</td>
<td>2.0%</td>
</tr>
<tr>
<td>M.B.A.</td>
<td>0.0%</td>
</tr>
<tr>
<td>Juris Doctor (J.D.)</td>
<td>98%</td>
</tr>
<tr>
<td>Joint Degree (J.D.-Master)</td>
<td>0.0%</td>
</tr>
<tr>
<td>Ph.D.</td>
<td>0.0%</td>
</tr>
<tr>
<td>LL.M.</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other</td>
<td>0.0%</td>
</tr>
<tr>
<td>Population of Jurisdiction (Q55)</td>
<td></td>
</tr>
<tr>
<td>Less than 10,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>Between 10,000 and under 25,000</td>
<td>27.3%</td>
</tr>
<tr>
<td>Between 25,000 and under 100,000</td>
<td>9.1%</td>
</tr>
<tr>
<td>Between 100,000 and under 500,000</td>
<td>54.6%</td>
</tr>
<tr>
<td>More than 500,000</td>
<td>9.1%</td>
</tr>
<tr>
<td>Years Served on Bench (Q47)</td>
<td>13.59</td>
</tr>
</tbody>
</table>
Table 3  
*Mean Statistics of Judicial Support Regarding Procedural Fairness Five Core Principles*

<table>
<thead>
<tr>
<th>Principle</th>
<th>N</th>
<th>M</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Voice</strong></td>
<td>71</td>
<td>2.9</td>
<td>1.3</td>
</tr>
<tr>
<td>1: It is important to give litigants a voice (Q5-7)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Respect</strong></td>
<td>71</td>
<td>3.0</td>
<td>.94</td>
</tr>
<tr>
<td>2: It is important to build trust with litigants (Q8-11)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Neutrality</strong></td>
<td>71</td>
<td>3.1</td>
<td>.79</td>
</tr>
<tr>
<td>3: It is important to be neutral to all parties at all times (Q12-15)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Understanding</strong></td>
<td>71</td>
<td>3.4</td>
<td>.88</td>
</tr>
<tr>
<td>4: Litigants should understand … the court process (Q1-4)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Helpfulness</strong></td>
<td>71</td>
<td>3.1</td>
<td>.96</td>
</tr>
<tr>
<td>5: It is important to help litigants (Q16-19)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note.* The higher the mean score, the greater judges support the premise. The theoretical range of scores was between 1 and 4.
Self-Assessment Correlation Coefficients

Demographic information on the judges was collected and then used to determine if any demographic variables were significantly correlated to increased or decreased perceptions of procedural fairness. Years on the bench was statistically significant, at the 95% confidence interval (CI), to a judges’ age $t(48) = 2.01, p = .623$. Age was negatively correlated with the factor that a court’s website is maintained to provide accurate information ($M = 3.65, SD = .80$); though the correlation was not statistically significant. Age was also negatively correlated to whether or not court staff helped court attendees navigate the courthouse and where to locate forms as defendants needed ($M = 3.42, SD = .87$). Court staff helping court attendees navigate the courthouse was positively correlated with the courts website being maintained and being easy to use. This correlation was statistically significant at the 90% CI, $t(59) = 2.66, p = .311$.

Age was negatively correlated with court staff being familiar with local social service providers for court attendees ($M = 3.13, SD = .97$). Court staff being familiar with local social service providers was positively correlated with court staff making appropriate referrals ($M = 3.25, SD = .89$). This correlation is statistically significant at the 95% CI, $t(61) = 1.99, p = .628$. Court staff making voluntary referrals is statistically significant at the 90% CI, with level of religion ($M = 5.76, SD = .1.3$), $t(45) = 2.69, p = .333$. Religion was negatively correlated with approximate population of the jurisdiction in which the judge presides in; though this correlation was not statistically significant.

Staff making sure court users understand the court’s decision ($M = 2.7, SD = 1.2$) was positively correlated with court staff making sure court attendees know what is expected of them moving forward with the defendants next steps or actions are ($M =
2.77, SD = 1.2). It is statistically significant at the 99% CI, \( t(59) = 2.66, p = .587 \). Staff making sure court users understand the court’s decision is also positively correlated with staff considering the needs of defendants with limited English proficiency and literacy when creating court signs/forms \( (M = 3.322, SD = .833) \); it is also a statistically significant result at the 95% CI, \( t(59) = 2.00, p = .271 \). Religious attitudes \( (M = 5.76, SD = 1.3) \) was positively correlated with making sure court users understood the court’s decision at the 95% CI, \( t(45) = 2.01, p = .347 \).

Providing written and oral reminders of court dates \( (M = 3.82, SD = .62) \) was significantly correlated at the 95% CI with court staff making sure court attendees know what is expected of them moving forward \( t(59) = 2.00, p = .272 \). Providing written and oral reminders of future court dates was significantly correlated at the 99% CI, with staff considering the needs of limited English proficiency and literacy when creating court signs/forms, \( t(59) = 2.66, p = .407 \). Providing court users with written and oral reminders was also positively correlated with the number of years judges had served on the bench at the 95 CI, \( t(48) = 2.01, p = .296 \).

A judges’ age was significantly correlated (95% CI) with whether or not court staff attend training to enhance their cultural sensitivity and awareness of bias \( (M = 2.7, SD = 1.03) \), \( t(59) = 2.00, p = .288 \). Court staff explaining the process by which decisions will be made \( (M = 3.08, SD = .926) \) was positively correlated with religious attitudes \( t(45) = p = 332 \), at the 95% CI. Explaining the process by which decisions will be made was also positively correlated with court staff attending training to enhance their cultural sensitivity and awareness of bias at the 95% CI, \( t(45) = 2.01, p = .334 \).
Court staff avoids showing preference towards prosecutors over defense attorneys or vice versa was not correlated with any of the factors of neutrality. Years served on bench was not significantly correlated with anything other than judges’ age. Though not statistically significant, court staff avoids showing preferences ($M = 3.95$, $SD = .29$) was negatively correlated to a judges’ age, approximate population of jurisdiction, and religious attitudes. Court staff avoid making jokes or other commentary that could be perceived as derogatory or insensitive to certain classes of court users was negatively correlated with (though not statistically significant) number of years on the bench and approximate population of jurisdiction in which the judge presides.

Religious attitudes were positively correlated to court staff explaining the order in which court cases would be called ($M = 2.55$, $SD = 1.16$); it was statistically significant at the 95% CI, $t(45) = 2.01$, $p = .355$. Staff explaining the order in which court cases will be called was significantly correlated to the guard/bailiffs being trained on how to treat court users with respect in verbal and non-verbal communication ($M = 3.28$, $SD = .865$); it is significant at the 95% CI, $t(59) = 2.00$, $p = .316$. Court staff introduces themselves by name ($M = 2.55$, $SD = 1.16$) was significantly correlated to staff explaining the order in which court cases will be called at the 99% CI, $t(59) = 2.66$, $p = .459$.

Years served on the bench, a judges’ age, and gender, were not significantly correlated to any of the variables of respect. However, approximate population of jurisdiction where a judge presides, was negatively correlated with religious attitudes, court staff makes eye contact with litigants before them ($M = 3.68$, $SD = .813$), and whether or not security guards/bailiffs are trained on how to treat court users with respect in verbal and non-verbal situations ($M = 3.28$, $SD = .865$). How many years served on
the bench ($M = 3.14$, $SD = 1.67$) was negatively correlated with court staff explaining the order in which cases will be called, though it was not a significant correlation.

Religious attitudes ($M = 5.76$, $SD = 1.30$) were positively correlated to the variable court ensures litigants with limited English proficiency have access to a court interpreter ($M = 3.95$, $SD = .220$); it was significant at the 99% CI, $t(45) = 2.68$, $p = .435$. Court provides user-friendly mechanisms for court users to give feedback about their experiences in court ($M = 1.82$, $SD = 2.75$), was negatively correlated to how many years a judge had served on the bench ($M = 3.14$, $SD = 1.67$), a judges’ age, and that the court ensures litigants with limited English proficiency have access to a court interpreter ($M = 3.95$, $SD = .220$). None of these correlations were statistically significant. Courts ensuring litigants with limited English proficiency have access to a court interpreter was negatively correlated to court staff asked open-ended questions to solicit questions from court users ($M = 2.95$, $SD = .999$).

Gender and approximate population of the jurisdiction in which the judge presides was not significantly correlated with any of the variables related to the principles of procedural fairness. Although none of the differences were significant, no female judges disagreed that it was important to build trust with litigants, while a few male judges were inclined to say that they did not agree. This can be seen in Figure 3 below.
Figure 3. Boxplot of gender compared to judges’ view of importance towards the principles of procedural fairness.

Judges who attended Tulane University were less inclined to say that it was important to help litigants as much as possible, while judges who attended Loyola University were less inclined to say it was important to build trust with litigants. This can be seen in Figure 4 below.

Figure 4. Boxplot showing if law school attended affected a judge’s perception on how important the principles of procedural fairness are.

Age was positively correlated with courtroom staff obtain training in cultural sensitivity and training for implicit bias ($M = 2.70, SD = 01$). It is statistically significant
at the 90% CI $t(48) = 2.68, p = .288$. Descriptive statistics for responses to judges’ self-assessment questions are illustrated in Tables 4 through 6. Correlation coefficients for judges’ self-assessment responses are shown in Tables 7 through 10. Descriptive statistics of neutral observant observations of Judges are illustrated in Table 11. Correlation coefficients of neutral observant observations are shown in Tables 12 through 16.
<table>
<thead>
<tr>
<th>Question</th>
<th>N</th>
<th>M</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>At the beginning of court sessions, the court’s bench officers provide a summary of what will happen during the appearance (Q1)</td>
<td>60</td>
<td>2.22</td>
<td>1.23</td>
</tr>
<tr>
<td>At the end of court appearances court makes sure court users understand the court’s decision and what is expected of them going forward (Q2)</td>
<td>60</td>
<td>2.77</td>
<td>1.24</td>
</tr>
<tr>
<td>Court provides written and oral reminders about future court dates and other court requirements (Q3)</td>
<td>60</td>
<td>3.82</td>
<td>.624</td>
</tr>
<tr>
<td>Court considers needs of limited English proficiency and illiteracy when creating court forms (Q4)</td>
<td>60</td>
<td>3.32</td>
<td>.833</td>
</tr>
<tr>
<td>Court provides user-friendly mechanisms for court users to give feedback about their experiences in court (i.e. comment cards) (Q5)</td>
<td>60</td>
<td>1.82</td>
<td>2.75</td>
</tr>
<tr>
<td>The court ensures litigants with limited English proficiency have access to a court interpreter (Q6)</td>
<td>60</td>
<td>3.95</td>
<td>.220</td>
</tr>
<tr>
<td>The court’s bench officers ask open-ended questions to solicit questions from court users (Q7)</td>
<td>60</td>
<td>2.95</td>
<td>.999</td>
</tr>
<tr>
<td>Security guard… is trained on how to treat court users with respect in verbal and non-verbal interactions (Q8)</td>
<td>60</td>
<td>3.28</td>
<td>.865</td>
</tr>
<tr>
<td>Court bench officers … explains the order in which cases will be called (Q9)</td>
<td>60</td>
<td>2.55</td>
<td>1.16</td>
</tr>
<tr>
<td>Court bench officers… introduce themselves… (Q10)</td>
<td>60</td>
<td>2.55</td>
<td>1.05</td>
</tr>
<tr>
<td>Court bench officers make eye contact … (Q11)</td>
<td>60</td>
<td>3.68</td>
<td>.813</td>
</tr>
<tr>
<td>Court bench officers explain the process by which decisions will be made (Q12)</td>
<td>60</td>
<td>3.08</td>
<td>.926</td>
</tr>
<tr>
<td>Court staff avoid showing preferences towards prosecutors over defense attorneys or vice versa (Q13)</td>
<td>60</td>
<td>3.95</td>
<td>.287</td>
</tr>
<tr>
<td>Courtroom staff attend training to enhance their cultural sensitivity and awareness of implicit bias (Q14)</td>
<td>60</td>
<td>2.70</td>
<td>1.03</td>
</tr>
<tr>
<td>Court staff avoid making jokes or other commentary that could be perceived as derogatory or insensitive to certain classes of court users (i.e. gender or race) (Q15)</td>
<td>60</td>
<td>2.65</td>
<td>.988</td>
</tr>
<tr>
<td>The court’s website is maintained to provide accurate and user-friendly information to court users (Q16)</td>
<td>60</td>
<td>3.65</td>
<td>.799</td>
</tr>
<tr>
<td>Court staff provides information to court users about how to navigate the building and where to find necessary forms (Q17)</td>
<td>60</td>
<td>3.42</td>
<td>.869</td>
</tr>
<tr>
<td>Bench officers are familiar with resources available at local social service providers (Q18)</td>
<td>60</td>
<td>3.13</td>
<td>.965</td>
</tr>
<tr>
<td>The court bench officer’s make voluntary referrals … (Q19)</td>
<td>60</td>
<td>3.25</td>
<td>.895</td>
</tr>
</tbody>
</table>

*Note.* Self-Assessment questions 1-19 were rated from 1 = (not at all) to 4 = (almost always).
| A fundamental role of courts is to ensure a fair process and just outcomes for litigants (Q20) | 60 | 4.90 | .303 |
| It is important to measure litigant satisfaction (Q21) | 57 | 3.89 | .88 |
| It is important to encourage the integration of research on procedural fairness and effective decision-making processes into judicial education programs (Q22) | 60 | 3.93 | 1.10 |
| It is important to meet the public’s expectations regarding the justice process in order to increase positive public perceptions of the court systems (Q23) | 60 | 3.92 | 1.11 |
| It is important to meet the public’s expectations regarding the justice process in order to increase compliance with court orders (Q24) | 60 | 3.43 | 1.06 |
| It is important to meet the public’s expectations regarding the justice process in order to decrease recidivism (Q25) | 60 | 4.25 | .773 |
| Judges who embrace the principles of procedural fairness are viewed as more accountable, judicially, from the litigants perspectives (Q26) | 60 | 4.18 | .983 |
| It is important to identify opportunities for judges to obtain honest feedback and mentoring to build self-awareness and continue to develop as leaders in their courtroom (Q27) | 60 | 4.32 | .892 |
| It is important to practice giving participants a voice (letting them explain their side of the story) (Q28) | 60 | 4.48 | .725 |
| It is important to ensure participants understand what is being said about the court process (Q29) | 60 | 4.48 | .671 |
| It is important to build trust with the litigant (Q30) | 60 | 4.03 | .920 |
| It is important to treat every litigant with the same level of respect, regardless of race or gender (Q31) | 60 | 4.78 | .585 |
| It is important to help the litigants as much as possible without interacting with judicial ethics (Q32) | 60 | 4.30 | .979 |

*Note. Self-Assessment questions 20-32 were rated from 1 = (strongly disagree) to 5 = (strongly agree).*
Table 6
Judges Self-Assessment Descriptive Statistics for Yes or No Questions

<table>
<thead>
<tr>
<th>Question</th>
<th>N</th>
<th>M</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has your court integrated the components of fair procedures into any of its judicial education programs, court performance measures, or public materials (Q33)</td>
<td>51</td>
<td>.37</td>
<td>.488</td>
</tr>
<tr>
<td>If you are aware of Tom R. Tyler’s principles of procedural fairness, have you changed the way you preside over your courts (Q35)</td>
<td>32</td>
<td>1.09</td>
<td>.296</td>
</tr>
<tr>
<td>If you were familiar with… Resolution 12 (prior to this questionnaire), has its suggestions been incorporated into your court (Q39)</td>
<td>27</td>
<td>1.15</td>
<td>.362</td>
</tr>
<tr>
<td>Have you received any judicial training (from curriculum) based on procedural fairness (Q41)</td>
<td>50</td>
<td>1.60</td>
<td>.495</td>
</tr>
<tr>
<td>Have you incorporated procedural fairness principles into your courtroom practices (Q42)</td>
<td>26</td>
<td>1.92</td>
<td>.272</td>
</tr>
<tr>
<td>Have you read any recent literature, including articles that aim to adopt procedural fairness research into practice (y/n/unsure) (Q43)</td>
<td>49</td>
<td>1.37</td>
<td>.487</td>
</tr>
</tbody>
</table>

Note. Questions 33, 35, 39, 41, and 42 were answered by yes or no, while question 43 was answered by yes, no, or unsure.
**Table 7**

*Self-Assessment Correlations for Questions 1-6*

<table>
<thead>
<tr>
<th>Question</th>
<th>Pearson Correlation</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Staff make sure court users understand the court’s decision</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.587**</td>
<td>.145</td>
<td>.271*</td>
<td>.195</td>
<td>-.055</td>
<td></td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>2. At the end of court appearances court makes sure court users understand the court’s decision and what is expected of them moving forward</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pearson Correlation</td>
<td>.587**</td>
<td>1</td>
<td>.272*</td>
<td>.253</td>
<td>.181</td>
<td>-.044</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.000</td>
<td>-</td>
<td>.035</td>
<td>.051</td>
<td>.167</td>
<td>.741</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>3. The court provides written and oral reminders about future court dates and other court requirements</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pearson Correlation</td>
<td>.145</td>
<td>.272*</td>
<td>1</td>
<td>.407**</td>
<td>.020</td>
<td>.303*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.268</td>
<td>.035</td>
<td>-</td>
<td>.001</td>
<td>.882</td>
<td>.019</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>4. Considers needs of limited English proficiency and illiteracy when creating court forms and signs</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pearson Correlation</td>
<td>.271*</td>
<td>.253</td>
<td>.407**</td>
<td>1</td>
<td>.107</td>
<td>.273*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.036</td>
<td>.051</td>
<td>.001</td>
<td>-</td>
<td>.416</td>
<td>.035</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>5. Court provides user-friendly mechanisms for court users to give feedback about their experience in court</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pearson Correlation</td>
<td>.195</td>
<td>.181</td>
<td>.020</td>
<td>.107</td>
<td>1</td>
<td>-.043</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.135</td>
<td>.167</td>
<td>.882</td>
<td>.416</td>
<td>-</td>
<td>.742</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>6. Court ensures litigants with limited English proficiency have access to a court interpreter</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pearson Correlation</td>
<td>-.055</td>
<td>-.044</td>
<td>.303*</td>
<td>.273*</td>
<td>-.043</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.674</td>
<td>.741</td>
<td>.019</td>
<td>.035</td>
<td>.742</td>
<td>-</td>
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<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
</tbody>
</table>

*Note.* A correlation matrix for questions 1-6 of the self-assessment is presented.

**. Correlation is significant at the .01 level (2-tailed).

*. Correlation is significant at the .05 level (2-tailed).
Table 8
Self-Assessment Correlations for Questions 7-12

<table>
<thead>
<tr>
<th></th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>11</th>
<th>12</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Bench officers ask open-ended questions to solicit questions from court users</td>
<td>Pearson Correlation</td>
<td>1</td>
<td>.174</td>
<td>.347**</td>
<td>.189</td>
<td>.293*</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>-</td>
<td>.185</td>
<td>.007</td>
<td>.149</td>
<td>.023</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>8. Security guard or bailiff are trained how to treat court users with respect in verbal and non-verbal instructions</td>
<td>Pearson Correlation</td>
<td>.174</td>
<td>1</td>
<td>.316*</td>
<td>.106</td>
<td>-.063</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.185</td>
<td>-</td>
<td>.014</td>
<td>.422</td>
<td>.632</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>9. Court staff explain the order in which court cases will be called</td>
<td>Pearson Correlation</td>
<td>.347**</td>
<td>.316*</td>
<td>1</td>
<td>.459**</td>
<td>.062</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.007</td>
<td>.014</td>
<td>-</td>
<td>.000</td>
<td>.637</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>10. Court staff introduce themselves by name</td>
<td>Pearson Correlation</td>
<td>.189</td>
<td>.106</td>
<td>.459**</td>
<td>1</td>
<td>.029</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.149</td>
<td>.422</td>
<td>.000</td>
<td>-</td>
<td>.827</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>11. Court staff make eye contact with litigants before them</td>
<td>Pearson Correlation</td>
<td>.293*</td>
<td>-.063</td>
<td>.062</td>
<td>.029</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.023</td>
<td>.632</td>
<td>.637</td>
<td>.827</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>12. Court staff explain the process by which decisions will be made</td>
<td>Pearson Correlation</td>
<td>.316*</td>
<td>-.115</td>
<td>.273*</td>
<td>.022</td>
<td>.216</td>
</tr>
<tr>
<td></td>
<td>Sig. (2-tailed)</td>
<td>.014</td>
<td>.383</td>
<td>.035</td>
<td>.869</td>
<td>.098</td>
</tr>
<tr>
<td></td>
<td>N</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
<td>60</td>
</tr>
</tbody>
</table>

Note. A correlation matrix for questions 7-12 of the self-assessment is presented.
**. Correlation is significant at the .01 level (2-tailed).
*.  Correlation is significant at the .05 level (2-tailed).
Table 9

*Self-Assessment Correlations for Questions 13-15*

<table>
<thead>
<tr>
<th>Question</th>
<th>Pearson’s Correlation</th>
<th>Sig. (2-tailed)</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>13. Court staff avoid showing preference towards prosecutors over defense attorneys or vice versa</td>
<td>1</td>
<td>.178</td>
<td>60</td>
</tr>
<tr>
<td>14. Courtroom staff attend training to enhance their cultural sensitivity and awareness of implicit bias</td>
<td>.178</td>
<td>.174</td>
<td>60</td>
</tr>
<tr>
<td>15. Court staff avoid making jokes or other commentary that could be perceived as derogatory or insensitive to certain classes of court users (gender or race)</td>
<td>.117</td>
<td>.375</td>
<td>60</td>
</tr>
</tbody>
</table>

Note. A correlation matrix for questions 13-15 of the self-assessment is presented.

** Correlation is significant at the .01 level (2-tailed).

* Correlation is significant at the .05 level (2-tailed).
Table 10
Self-Assessment Correlations for Questions 16-20

<table>
<thead>
<tr>
<th>Question</th>
<th>Pearson’s Correlation</th>
<th>16</th>
<th>17</th>
<th>18</th>
<th>19</th>
<th>20</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Courts website is maintained to provide accurate and user-friendly information to court users</td>
<td>-</td>
<td>1</td>
<td>.311*</td>
<td>.172</td>
<td>-.113</td>
<td>.133</td>
</tr>
<tr>
<td>17. Court staff provides information to court users about how to navigate the building and where to find necessary forms</td>
<td>-</td>
<td>.311*</td>
<td>1</td>
<td>-.088</td>
<td>-.027</td>
<td>.90*</td>
</tr>
<tr>
<td>18. Bench officers are familiar with resources available at local social service providers</td>
<td>-</td>
<td>.172</td>
<td>-.088</td>
<td>1</td>
<td>.628**</td>
<td>-.070</td>
</tr>
<tr>
<td>19. Court staff make voluntary referrals when appropriate</td>
<td>-</td>
<td>-.113</td>
<td>-.027</td>
<td>.628**</td>
<td>1</td>
<td>-.031</td>
</tr>
<tr>
<td>20. A fundamental role of courts is to ensure a fair process and just outcomes for litigants</td>
<td>-</td>
<td>.133</td>
<td>.290*</td>
<td>-.070</td>
<td>-.031</td>
<td>1</td>
</tr>
</tbody>
</table>

Note. A correlation matrix for questions 16-20 of the self-assessment is presented.

**. Correlation is significant at the .01 level (2-tailed).
*. Correlation is significant at the .05 level (2-tailed).

Courtroom Observation Correlations

Courtroom observations revealed that judges who explained proper court etiquette ($M = 1.4, SD = .507$) was positively correlated, at the 99% CI, with judges thanking court users for on time appearances ($M = 1.6, SD = .507$), $t(14) = 2.98$, $p = .667$. Judges explaining proper etiquette was also positively correlated with the judge being viewed as respectful ($M = 4.1, SD = .593$). Judges who provided an overview of how decisions would be made ($M = 1.5, SD = .516$) were observed as being more audible ($M = 3.3, SD = .817$) and made more eye contact with litigants ($M = 3.1, SD = .834$). Being audible
was also positively correlated with making eye contact with litigants, \( t(14) = 2.15, p = .560 \).

Courtroom observations found that judges who were helpful at answering questions (\( M = 3.27, SD = .458 \)), was positively correlated with judges using plain language when explaining legal terms (\( M = 3.0, SD = 1.0 \)). This correlation is statistically significant at the 95% CI, \( t(14) = 2.14, p = .624 \). Using plain language to explain legal matters was also positively correlated with providing an adequate description of how litigants can comply with court orders (\( M = 3.2, SD = .774 \)); \( t(14) = 2.14, p = .553 \).

Providing an adequate description of how litigants can comply with court orders was also found to be statistically significant with judges expressing an interest in litigants’ success/compliance with court orders (\( M = 2.5, SD = .834 \)). Expressing an interest in the success or compliance of court orders was also positively correlated with judges being interested if the litigant knew what rights they were giving up (\( M = 3.2, SD = .593 \)), as well as whether or not the judge asked the litigants to repeat things back, and made sure they understood what the next steps to take were (\( M = 1.73, SD = .799 \)).

When court started on time (\( M = 1.3, SD = .488 \)) judges were seen as more respectful (\( M = 4.1, SD = .593 \)), fair (\( M = 4.0, SD = .655 \)), attentive (\( M = 3.5, SD = 1.25 \)), and interested in the case (\( M = 3.5, SD = 1.13 \)). Court observations also revealed that judges who were rated as more respectful were observed as being more fair, interested in cases, and attentive. Judges who apologized for court starting late (\( M = 1.5, SD = .516 \)) was positively correlated with judges telling litigants that all evidence would be
considered when making a decision ($M = 1.4, SD = .507$); it was significant at the 95% CI, $t(14) = 2.15, p = .600$.

Judges who introduced themselves by name ($M = 1.6, SD = .507$) were evaluated as being more interested in court cases ($M = 3.5, SD = 1.12$); this correlation was statistically significant at the 95% CI, $t(14) = 2.15, p = .526$. Judges who acknowledged the court users experience while waiting for the case to be called ($M = 1.6, SD = .507$) were more likely to thank court users for being on time for their court appearance ($M = 1.6, SD = .507$). This correlation is statistically significant at the 99% CI, $t(14) = 2.98, p = .667$.

Judges were considered to be more helpful ($M = 3.5, SD = .834$) and appeared interested in each case ($M = 3.5, SD = 1.13$), when the judge provided an overview of how decisions would be made ($M = 1.5, SD = .516$). When judges were audible they were perceived as being more attentive and more interested in individual court cases, both are positively correlated. Judges who were perceived as being helpful were also perceived as more attentive, this correlation is statistically significant at the 99% CI, $t(14) = 2.97, p = .738$.

Using plain language to explain the outcome of the procedure ($M = 3.1, SD = .961$) was positively correlated to the use of plain language to explain legal terms ($M = 3.0, SD = 1.0$); it is significant at the 99% CI, $t(14) = 2.97, p = .817$. Explaining outcome of the procedure in plain language was also positively correlated with how helpful the staff was at answering litigant questions ($M = 3.3, SD = .458$), and with adequately explaining what court users needed to do in order to be compliant with court orders. Judges who used plain language to explain outcome procedures were perceived to be
more fair \((M = 4.0, SD = .655)\) and spoke with more clarity \((M = 4.0, SD = .845)\), than judges who did not explain outcomes or spoke unclearly.

Judges who expressed an interest in the success/compliance of court users were perceived as being more respectful \((M = 4.1, SD = .593)\), than judges who did not show interest in court users success; this correlation was statistically significant at the 99% CI, \(t(14) = p = 2.98\). Expressing interest in success/compliance was also positively correlated to the perception that judges were helpful. When judges asked court users to repeat their next steps they were perceived as being more helpful, more interested in individuals \((M = 3.5, SD = 1.13)\), and that judges were interested in the success/compliance rate of the court user.

Judges who were evaluated as being more respectful towards court users \((M = 4.1, SD = .593)\) was positively correlated with judges being perceived as more procedurally fair \((M = 4.0, SD = .654)\), attentive, interested in individual cases, helpful \((M = 3.5, SD = .834)\), and communicated clearly \((M = 4.0, SD = .845)\). Respect towards court users was also positively correlated with judges expressing interest in the court users’ success/compliance, providing an adequate description of how to comply with court orders, showing interest in ensuring the defendants knew what rights they were giving up, and were considered to be more helpful at answering court users questions \((M = 3.3, SD = .458)\). Judges who made more eye contact with court users was perceived to be more respectful; this correlation is statistically significant at the 95% CI, \(t(14) = 2.15, p = .558\).

Higher levels of perceptions of judges being fair were correlated with judges explaining the outcome, as well as the procedure, in plain language. It is statistically
significant at the 95% CI, $t(14) = 2.15, p = .568$. Perceptions of judges being fair was also positively correlated with how helpful staff was at answering questions; this correlation is statistically significant at the 99% CI, $t(14) = 2.98, p = .715$. Perceptions of judges being fair was also positively correlated with judges providing adequate descriptions of what court users must do in order to comply with court orders; it is statistically significant at the 99% CI, $t(14) = 2.98, p = .704$. Judges who were seen as more procedurally fair were also evaluated as being more respectful, this correlation is statistically significant at the 99% CI, $t(14) = 2.98, p = .735$. Descriptive statistics for all courtroom observations of judges can be seen in Table 11. Courtroom observation correlation coefficients are shown in Tables 12 through 16.
Table 11

Descriptive Statistics for Courtroom Observations of Judges

<table>
<thead>
<tr>
<th></th>
<th>N</th>
<th>M</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledged experience while waiting</td>
<td>15</td>
<td>1.60</td>
<td>.507</td>
</tr>
<tr>
<td>Adequate description of how to comply</td>
<td>15</td>
<td>3.20</td>
<td>.775</td>
</tr>
<tr>
<td>Judge apologized for delay</td>
<td>15</td>
<td>1.47</td>
<td>.516</td>
</tr>
<tr>
<td>Attentive</td>
<td>15</td>
<td>3.47</td>
<td>1.245</td>
</tr>
<tr>
<td>Audible</td>
<td>15</td>
<td>3.33</td>
<td>.815</td>
</tr>
<tr>
<td>Clear</td>
<td>15</td>
<td>4.00</td>
<td>.845</td>
</tr>
<tr>
<td>Consistent or predictable</td>
<td>15</td>
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<td>Judge explained proper etiquette</td>
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Note. Courtroom observation questions 1-9 were rated on yes or no responses. Courtroom observation questions 10-19 were rated from 1 (never) to 4 (always). Courtroom observation questions 20-28 were rated from 1 (strongly disagree) to 5 (strongly agree), with question 28 being reversed scored.
Table 12
*Correlations on Questions 1-5 of the Courtroom Observations*

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<td>.847</td>
<td>.553</td>
<td>-</td>
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*Note.* A correlation matrix for questions 1-5 of the courtroom observations is presented.

**. Correlation is significant at the .01 level (2-tailed).

*. Correlation is significant at the .05 level (2-tailed).
### Table 13

**Correlations on Questions 6-11 of the Courtroom Observations**

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**Note.** A correlation matrix for questions 6-12 of the courtroom observations is presented.

**.** Correlation is significant at the .05 level (2-tailed).

**.** Correlation is significant at the .01 level (2-tailed).
Table 14

Correlations on Questions 12-17 of the Courtroom Observations

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<td>.400</td>
<td>.617</td>
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<td>13. Plain language for outcome procedure</td>
<td>Pearson’s Correlation</td>
<td>-.234</td>
<td>1</td>
<td>.817**</td>
<td>.606*</td>
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<td>.400</td>
<td>-</td>
<td>.000</td>
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<td>-.141</td>
<td>.817**</td>
<td>1</td>
<td>.624*</td>
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<td>-</td>
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<td>.606*</td>
<td>.624*</td>
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N 15

Note. A correlation matrix for questions 12-17 of the courtroom observations is presented.

**. Correlation is significant at the .01 level (2-tailed).

*. Correlation is significant at the .05 level (2-tailed).
Table 15
Correlations on Questions 18-22 of the Courtroom Observations

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<td>.393</td>
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*Note.* A correlation matrix for questions 18-22 of the courtroom observations is presented.

**. Correlation is significant at the .01 level (2-tailed).

*. Correlation is significant at the .05 level (2-tailed).
Table 16

Correlations on Questions 23-29 of the Courtroom Observations

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<td>Pearson’s Correlation</td>
<td>.654**</td>
<td>.131</td>
<td>.738*</td>
<td>.817**</td>
<td>1</td>
<td>.509</td>
<td>.507</td>
</tr>
<tr>
<td>Sig. (2-tailed)</td>
<td>.008</td>
<td>.482</td>
<td>.002</td>
<td>.000</td>
<td>-</td>
<td>.053</td>
<td>.054</td>
</tr>
<tr>
<td>N</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>28. Knowledgeable</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pearson’s Correlation</td>
<td>.435</td>
<td>.282</td>
<td>.340</td>
<td>.377</td>
<td>.509</td>
<td>1</td>
<td>.327</td>
</tr>
<tr>
<td>Sig. (2-tailed)</td>
<td>.105</td>
<td>.309</td>
<td>.214</td>
<td>.166</td>
<td>.053</td>
<td>-</td>
<td>.234</td>
</tr>
<tr>
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<td>15</td>
<td>15</td>
<td>15</td>
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<tr>
<td>29. Clear</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Pearson’s Correlation</td>
<td>.569*</td>
<td>.387</td>
<td>.475</td>
<td>.601*</td>
<td>.507</td>
<td>.327</td>
<td>1</td>
</tr>
<tr>
<td>Sig. (2-tailed)</td>
<td>.027</td>
<td>.154</td>
<td>.074</td>
<td>.018</td>
<td>.054</td>
<td>.234</td>
<td>-</td>
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<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
</tbody>
</table>

Note. A correlation matrix for questions 23-29 of the courtroom observations is presented.

**. Correlation is significant at the .01 level (2-tailed).

*. Correlation is significant at the .05 level (2-tailed).
Reliability Statistics for Survey

Self-Assessment Cronbach’s Alpha Statistics

All items appeared to be worthy of retention. All 19 items on the self-assessment of procedural fairness section of the MPF Toolkit appeared to have good internal consistency, $\alpha = .78$. Each subsection of the MPF Toolkit was broken down into each of the five principles, and separately evaluated for internal consistency. Ensuring understanding appeared to have moderate levels of internal consistency, $\alpha = .66$. Providing voice appeared to have low internal consistency, $\alpha = .15$. Demonstrating respect also had moderate levels of internal consistency, $\alpha = .55$. Ensuring neutrality had a low internal consistency of .25. Helpfulness also had a low internal consistency, $\alpha = .41$. The Self-Assessment reliability statistics can be seen in Table 17.

Table 17
Self-Assessment Reliability Statistics

<table>
<thead>
<tr>
<th></th>
<th>Cronbach’s Alpha</th>
<th>N of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entire Self-Assessment</td>
<td>.78</td>
<td>19</td>
</tr>
<tr>
<td>Ensuring Understanding</td>
<td>.66</td>
<td>4</td>
</tr>
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<td>Providing Voice</td>
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<td>3</td>
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<tr>
<td>Demonstrating Respect</td>
<td>.55</td>
<td>4</td>
</tr>
<tr>
<td>Ensuring Neutrality</td>
<td>.25</td>
<td>4</td>
</tr>
<tr>
<td>Helpfulness</td>
<td>.41</td>
<td>4</td>
</tr>
</tbody>
</table>

Note. The Cronbach’s Alpha correlation coefficient for the self-assessment survey.

The overall internal consistency reliability would slightly increase if the question (Q5) *court provides a user-friendly mechanism for court users to give feedback about their experiences in court*, was taken off. However, this would only increase alpha by only .02. If the question (Q2) *at the end of court appearances court’s bench officers makes sure court verify that court users understand the court’s decision and what is expected of them moving forward*, is taken out of the ensuring understanding section it would lower alpha to .47. Alpha level for demonstrating respect drops to .27 if the
question (Q9) *court staff explains the order in which cases will be called*; this lowers alpha by more than half. Ensuring neutrality appears to be least related to the question (Q14) *courtroom staff attend training to enhance their cultural sensitivity and awareness of implicit bias*; while most related to the question (Q12) *the court’s bench officers explain the process by which decisions will be made*. Taking the later question out of the reliability correlation drops alpha to .13, roughly half of the overall alpha. Alpha levels for helpfulness would drop to .142 if the item (Q18), *bench officers are familiar with resources available at local social service providers*, is taken out.

Courtroom Observation Cronbach’s Alpha Statistics

All items in the Courtroom Observations Survey appear worthy of retention. All 15 items on the MPF Toolkit section for courtroom observations appeared to have good internal consistency reliability, $\alpha = .85$. The item, *the judge appeared interested in each case*, is correlated the most; however, removing the item would only decrease the internal consistency by .04. This correlation can be seen in Table 18 below.

<table>
<thead>
<tr>
<th>Table 18: Courtroom Observation Reliability Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Cronbach’s Alpha</td>
</tr>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td><strong>Courtroom Observations Reliability Statistics</strong></td>
</tr>
</tbody>
</table>

*Note.* The Cronbach’s Alpha correlation coefficient for the courtroom observation survey.

Of the three components of the toolkit, the courtroom observations conducted by a neutral observer appear to be the most reliable. Thus, these results provided some evidence that the toolkit is a valid and reliable instrument to measure and discern the perspectives of judges and that of neutral observers regarding procedural fairness.
CHAPTER V

DISCUSSION

This chapter discusses the limitations conjointly with the findings that support or refute the research hypotheses, and offers directions for future dialogue and future research implications. The findings provide theoretical, methodological, and empirical contributions. Together, the results present contribution to the procedural fairness literature from judicial and neutral court observer perspectives.

Study Limitations

There were several limitations to this study. Some researchers believe judges are unresponsive to surveys. The response rate, although low, was consistent with other judicial research. The sample size of the self-assessment population was approximately 71 judges, which limits how accurate the results are in representing the population of judges in Louisiana. In order to increase sample size, instead of only reaching out to active judges, future research may consider reaching out to retired judges as well as ad hoc judges. Several judges did not want to participate in the survey because of the terminology “bench officers”. Judges stated that they were unfamiliar with the term or felt that it was unclear terminology.

Future research should look at changing this terminology to more familiar, or recognize wording, or add a definition of the term “bench officer” so judges would know what is meant by the terminology. Future research should also determine in which types of court the phrase “bench officers” is used and when it is not used in order to help increase survey participation and decrease confusion.
One limitation of the study for the courtroom observations was due to being constrained to one state court jurisdiction in Louisiana. The limitation was due to time constraints and expenses. Future research should look into conducting a statewide courtroom observation in order to determine differences between rural and urban courts, and differences among perspectives of judges, neutral observers, and defendants.

Another limitation of this survey was not being able to get defendants to participate. Future research may want to find a way to reach out to a wider range of defendants, even past defendants within a specific time (such as in the last year). One possible explanation for defendants not answering the survey may be due to the paper survey only being available for two weeks. Due to printing issues, the paper survey was only administered for a period of two weeks, though the researchers had an online survey defendants were not willing to participate in the study while they were at the courthouse. Another limitation would have been the defendants not willing to give their phone numbers to the research assistant so the research assistant could follow up with the defendants who had taken the survey link home. This made it impossible to follow up with the defendants to see if they had any questions or needed any help with the survey. Another reason for the lack of responses from defendants may be because the defendants felt their responses would not be kept confidential and were hesitant to relinquish any information.

Future research should look into how to send surveys to defendants after they have come to court, without having access to defendants emails, addresses, or phone numbers there was no way to follow up with any defendants. The Center for Court Innovation should study how to increase the response rate to the Defendant Exit
Interview instrument. Collaborating with their defense attorney may improve participation.

General Research Results Supporting or Refuting Research Questions and Hypotheses

Research Question 1: Whether Louisiana’s state and local-level trial court judges are aware of CCJ/COSCA nationally-adopted Resolution 12 regarding procedural fairness?

Research Hypothesis 1: It is hypothesized that Louisiana’s state and local-level trial judges are unaware of CCJ/COSCA nationally adopted Resolution 12.

Twenty-three judges (85.2%) responded to the question of whether or not their courts had incorporated any of the suggestions from the CCJ/COSCA nationally adopted Resolution 12 into practice. Only four judges (14.8%) said their courts had implemented these suggestions. Fifty (83%) of the judges responded to whether or not they had received any form of training in regards to procedural fairness. Sixty percent of these 50 judges stated they had received some form of judicial training based on procedural fairness. The results are slightly ambiguous and suggest that judges were either aware of Resolution 12 and had not implemented the suggestions, or that judges were unaware of Resolution 12 entirely. More data is needed to confirm or reject this hypothesis. A specific question as to whether trial judges are unaware of CCJ/COSCA nationally adopted Resolution 12 is needed.

Research Question 2: Whether Louisiana state and local-level trial judges support CCJ/COSCA nationally adopted Resolution 12’s procedural fairness’ five (voice, respect, neutrality, understanding, and helpfulness) principles?
Research Hypothesis 2: It is hypothesized that Louisiana’s state and local-level trial court judges support four (e.g., voice, respect, neutrality, understanding) of CCJ/COSCA nationally adopted Resolution 12’s five principles of procedural fairness. Seventeen out of 60 judges agreed that it is important to build trust with litigants regardless of the type of court they preside over. No judge disagreed with the statement that it is important to ensure participants understand what is being said about the court process. Ninety percent of judges also agreed that it is important to give litigants a voice. However, none of the judges told the defendants explicitly they may ask questions. While ten (20%) of judges did not agree that it is important to help litigants as much as possible without interacting with judicial ethics, which accounts for roughly 10% of the sample population that answered this question. There were only two judges that strongly disagree with this statement, while 33 of the judges strongly agreed. The results suggest that the data does not support the hypothesis, and that state and local-level judges in Louisiana support the procedural fairness principle of helpfulness.

Research Question 3: To what extent do the perspectives of Louisiana’s state and local-level trial judges differ from those of criminal and traffic court defendants regarding CCJ/COSCA nationally adopted Resolution 12’s procedural fairness’ principles?

Research Hypothesis 3: It is hypothesized that the perspectives of Louisiana’s state and local-level trial court judges differ from those of criminal and traffic court defendants regarding CCJ/COSCA nationally adopted Resolution 12’s procedural fairness’ principles. Defendants that came before select state and local trial court judges did not participate in the on-line survey so no data analysis could be conducted to determine if
there were differences in perceptions of procedural fairness. The researchers conducted a
Flesch–Kincaid Grade Level readability score on the defendant exit survey; the results
came back as reading at a seventh grade level. Earlier in the paper, the researchers noted
that the average reading level of defendants in Louisiana prisons/jails is eighth grade;
because the Flesch-Kincaid score came back below this level, the researchers do not think
the defendants did not respond to the survey because of the readability of it.

Research Question 4: What are courtroom observers’ perspectives of Louisiana’s
state and local trial court judges regarding CCJ/COSCA nationally adopted Resolution
12’s procedural fairness’ five principles?

Evaluations of judges inside of their courtrooms suggest that judges generally act
in such a way that the principles of procedural fairness are recognized in their behaviors.
For example, the judges who were evaluated frequently talked in plain language, and
gave the court user an opportunity to tell their side of the story. However, judges
frequently did not allow them to ask questions about why or how decisions would be
made. At this time, the researchers are unable to determine whether it was due to court
users not wanting to ask questions, not knowing whether they were allowed to ask
questions, thought their attorneys would ask questions for them, or had no questions.
Courtroom observations also revealed that judges appear to be disinterested in cases
(multitasking) but then are able to discuss the case, and ask questions. If judges are
writing notes about the case being presented they would appear to be doing something
else, which could come across as being disinterested or not caring about the case to court
users who are unfamiliar with how ‘behind the scenes’ work at the courthouse. Judges
may consider telling court users that they may be taking notes throughout their case, but assure them they are listening.

Research Question 5: Has any Louisiana trial court expressly stated a policy via a rule of court or published a practice regarding procedural fairness, since Resolution 12 was adopted?

At this time, it does not appear as though any Louisiana trial court stated a policy via a rule of court regarding procedural fairness. However, the judicial code of ethics is closely related to the principles of procedural fairness.

Research Question 6: Has the Louisiana legislature expressly adopted a code of procedure, article, or amendment, incorporating procedural fairness, since Resolution 12 was adopted?

At this time no code of procedure, article, or amendment, incorporating procedural fairness has been established in Louisiana Legislature. Issues of procedural fairness are dynamic, and should be studied with methods that allow for analysis beyond simple correlations.

Future Direction

General Implications for Future Research

Future research may look more closely into crime rates and educational levels, which can be traced directly back to how a judge speaks to the litigant. If the litigant does not understand what a judge is saying the process will not be viewed as fair; thus judges need to communicate in ways the litigant will understand. Knowing the educational level of the litigants coming before a judge would help the judge determine how to optimally communicate. Future research may also want to compare whether or
not judges trained in social sciences (psychology or social work) are more procedurally fair than judges who do not have dual degrees in this field.

Increased communication by the courts to the public, in ways that the public understands has implications for increasing the public’s level of trust and competence of the courts, as well as the rest of the justice system. Future research should look into how the Louisiana Supreme Court has increased their levels of communication with the public and determine how to apply that at local and state courts. What can local and state courts do to improve how their communities view them?

The findings of this study hold several policy implications for the field of criminal justice system research and practice. The definition of criminal justice system for this discussion pertains to law enforcement, courts, institutional correctional facilities, and community corrections. First, future research studies need to focus on experimental studies showing how effective procedural fairness training is for criminal justice system parties. Second, future research should focus on increasing methodological quality regarding manipulation of variables in order to determine which factors of procedural fairness or extraneous variables indirectly or directly influence perceptions of procedural fairness.

Using a medical triage perspective procedural fairness can be further evaluated and utilized within the criminal justice system. Some research (Harbridge, 2011) suggests that judges and other criminal justice system stakeholders can determine which actions they take next depends
upon the precise nature of the issue, the applicable regulatory framework and the
degree of potential legal exposure that needs to be managed. Indeed, given the
infinite number of potential variables involved, there is rarely a “one size fits all”. (p. 2)

By adopting a method that allows a judge to determine what sanctions to use, how they
address the court users, or even how the judge speaks to the court attendees, can all be
determined based on specific and unique factors associated with each court attendee.

As a whole, the National Center for State Courts should offer additional programs
and the NJC should intensify teaching courses regarding procedural fairness. State
supreme courts should make these classes mandatory for trial judges. All individuals in
the justice system should be required to undergo procedural fairness training. For law
enforcement, procedural fairness training may address implicit and explicit biases, and
provide ways each law enforcement officer can reduce these biases in their daily routines.

Because research has shown that something as simple as a routine traffic stop can
influence a court attendees perception of the entire criminal justice system, and the court
attendees willingness to comply, law enforcement officials need to engage in all
components of procedural fairness. This can be seen in the study conducted by Voigt,
of police treatment can be reliably gleaned from officer speech… differences in the
respect officers communicated toward drivers rather than the formality with which
officers addressed them” (p. 6522) determined the perceptual differences. Law
enforcement training could also include communication skills or techniques shown to
improve both verbal and nonverbal communication (active listening, being friendly).
The American Bar Association (ABA) should draft and adopt procedural fairness protocols, or bench cards, specifically for specialty courts, traffic courts, and small claims courts. As previous research has shown even something as simple as the judge thanking a veteran for their service can increase compliance with court orders. If the ABA put out a bench card with a few specific reminders similar to this for each type of specialty court, judges presiding over these courts may be able to increase compliance rates, decrease recidivism rates, and enhance public perceptions of the courts in general.

Specialty courts should not be the only topic of instituting reform. Even courts focusing on specialty programs, such as self-represented litigants, pretrial-bond release projects, and arrestee diversion programs have also been researched. Findings from other research suggest that court user’s interactions with law enforcement while being detained or arrested, during the booking process at jail, at initial appearance hearings at court, or when they are placed at an institutional correctional facility, all influence how fair they perceive the judge. Individuals who have a negative experience at any intersection with the criminal justice system, between when they are arrested and when they come before the judge influences how they perceive the judge and how the judge makes their decision. Negative experiences during any of the early interactions with the criminal justice system make it less likely that an individual would be willing to engage in specialty programs, and once in the program they are less likely to comply with program requirements. These initial negative experiences also make litigants less likely to comply with court orders, and are also more likely to increase rates of recidivism.

Due to the findings from this study and previous research, it is imperative to implement procedural fairness principles at every component of the justice system and
train every person who works within these justice system components. It is also recommended that specific interview and discussion protocol ensuring procedural fairness techniques should be implemented at or during each of the aforementioned situations.

It is also suggested that future research using the MPF Toolkit, should improve the surveys. One way to do this would be to define the phrase “bench officers”. Alternatively, future researchers may want to give the judges a list that would allow them to indicate their *bench officers*. Some items that could be included in this list could be (a) justice of the peace, (b) bailiff, (c) security, (d) judge, (e) clerk, (f) administrator, (g) law clerk, (h) court reporter, (i) docket clerk, (j) stenographers, (k) magistrates or commissioners, or (l) hearing officers. It is also recommended that an instrument to assess lawyers’ perceptions should be added to the MPF Toolkit. A starting point for this instrument could be using the Court Observers Survey. The questions on this section of the MPF Toolkit were nonspecific to each case, or perceptions per case, it focused more on the overall time spent within a courtroom. The lawyer instrument could be utilized for each judge the lawyer appears before; this would allow the lawyer to generalize whether or not the judge is fair to their clients, all clients, or no clients. Lawyers also have a duty to promote procedural fairness to their clients, and ensure basic principles of civility are upheld. In their own interactions with the court, lawyers can influence the perceptions of procedural fairness that court attendees have. In order to further assess the perceptions of procedural fairness within the courtroom all perspectives need to be considered. Assessing what lawyers think of judges and how lawyers believe judges could improve may give more insight in the advancement of procedural fairness research. One
downside to this instrument would be the extra time it might add for public defenders, who may already be overburdened.

Findings from this study, suggest that future research should look at what aspects of religion influenced the significant differences between judges who said they were religious when compared to judges who said they were not religious. Future research studies evaluating differences between religious denominations may prove to be interesting.

Court staff are required to take ethics training and sexual harassment training when they start working as a state employee. Requiring a training section pertaining to procedural fairness and how each person can help ensure each court attendee is treated fairly, would be a cost-effective way for states to implement a court wide or statewide training program for current and future state employees.

Specific Implications for Louisiana

Future research in Louisiana should focus on ways to get more participation from judges and defendants. One way to increase the sample size of judges is to seek the assistance and cooperation of the Louisiana Supreme Court. Another way is to expand the sample size by sending the survey out to mayor’s courts, justices of the peace, commissioners, ad hoc judges, retired judges, and appellate court judges. Another way of increasing participation from judges may be accomplished by having the Louisiana Judicial College send the judges the self-assessment when they send out emails for upcoming conferences; or send out the self-assessment and give judges a one-hour CLE credit. The Louisiana Supreme Court also may consider sending out the self-assessment as part of the Judges Directory. The directory is published every year, which would
provide the option for future researchers to conduct a longitudinal study to determine
differences in levels of procedural fairness overtime. It is recommended that Louisiana
continue to evaluate their judges on the principles of procedural fairness. This could
easily be done through the Supreme Court sending out the assessments with the judges’
directory or having the Louisiana Judicial College administer the survey when they hold
conferences. All new judges should also be required to undergo a mentoring period.
However, this would only be effective if judges have appropriate and specific training
regarding procedural fairness. As mentioned above, implementing staff training videos
or pamphlets for how to interact with court attendees in a procedurally fair manner would
be an easy way for the State of Louisiana, or individual courthouses to train all personnel
on the principles of procedural fairness.

Leadership to identify a procedural fairness change is not needed. However,
effective leadership to institute a systematic and sustainable change in Louisiana is
needed. Findings from this study indicate that Chief Justice Johnson signing the
CCJ/COSCA’s Resolution 12 did not trickle down throughout the judicial system in
Louisiana, within the last five years. It is recommended that Chief Justice Johnson
appoint or designate a procedural fairness manager, or inaugurate a procedural fairness
council, in an attempt to promote the continuation of procedurally fair processes. Once
judges are taught the principles of procedural fairness, the procedural fairness manager or
council would assess, evaluate, correct, and continue to educate judges on how to
implement the techniques they have learned. The manager or council would help judges
understand how to modify their behaviors to adjudicate in a more procedurally fair way.
The manager or council would then be able to record and document changes in behaviors
over time to determine where and how procedural fairness training, education, and implementation could be increased or altered, in order to make the entire process more effective.

Moreover, there are not enough Louisiana state and local trial court judges self-educating to promote the advancement of procedural fairness from the bottom up. The findings from this study suggest that judges should undergo procedural fairness training. Even with training and self-education, without a way to evaluate judges over time there would be no way to determine if the education is making a difference. To keep the procedural fairness movement going forward the Louisiana Supreme Court needs to conduct evaluations of their judges and then provide an opportunity for the results to be provided to all judges. For judges with further questions the Louisiana Supreme Court should provide the opportunity for an individual to go over the evaluation in more detail with that judge.

Further, judges need to be aware of how their nonverbal communication, such as body language, or eye contact, can influence how the court attendees perceive them. Some ways a judge can ensure nonverbal communication signals are not being misinterpreted would be making sure they are sitting with their arms uncrossed, making eye contact with each litigant, and trying not to multitask throughout the entire presentation of the case. Judges can also monitor their verbal communication in order to increase perceptions of procedural fairness. Judges should ensure that their tone of voice is neutral, the words or phrases they use are consistent across race, gender, religious preference, or sexual orientation. There is no shame in admitting that Louisiana judges are lacking in procedural fairness-bench administration to some degree. By taking these
few steps, court attendees may begin to perceive the justice system as more procedurally fair and begin to reverse the downward trend of the public’s trust and confidence in the judicial system.

This study enhanced procedural fairness research by showing there is a need to gain perspectives from more parties involved in the justice system process than just using the defendants, judges, and neutral observers. Perspectives from jury members, law enforcement, and family members of defendants are pertinent in determining where resources should be allocated in the future. This study found that no comprehensive indirect and direct effects model has been researched in regards to all factors involved in procedural fairness and how perceptions are formed. Even though research has found that perceptions of procedural fairness are positively correlated with compliance rates, is it positively or negatively correlated with court appearances throughout the case processing period?
APPENDIX A: Resolution 12

In Support of State Supreme Court Leadership to Promote Procedural Fairness

WHEREAS, a fundamental role of courts is to ensure fair processes and just outcomes for litigants; and

WHEREAS, the constitutional guarantee of due process is designed to ensure that court decisions are made through legally fair procedures; and

WHEREAS, extensive research demonstrates that in addition to providing legal due process, it is important also to meet the public's expectations regarding the process in order to increase positive public perceptions of the court system, reduce recidivism, and increase compliance with court orders; and

WHEREAS, a number of state courts have incorporated the key components of procedural fairness—voice (allowing litigants to be heard), neutrality (making decisions based on neutral, transparent principles), respectful treatment, and trust (the perception that the judge is sincere and caring)—into their judicial education programs, court performance measures, and public outreach information to focus attention on the importance of fair procedures as defined by the public; and

WHEREAS, resources have been developed to help the courts in addressing procedural fairness and incorporating such concepts into better decision-making, including two Policy Papers, “Procedural Fairness: A Key Ingredient in Public Satisfaction” and “Minding The Court: Enhancing the Decision-Making Process,” produced by the American Judges Association (AJA), and the website “Proceduralfairness.org”, created by AJA, the National Center for State Courts, and procedural fairness scholars; and

WHEREAS, embracing procedural fairness principles furthers judicial accountability associated with litigants’ perceptions of fair treatment, without reference to the merits of individual cases;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage their members to take a leadership role in promoting the use of procedural fairness principles in their court systems; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators encourage their members to consider implementing the following strategies in their courts to promote procedural fairness:

(1) Measure litigant satisfaction based on, among other factors, procedural fairness, using a measurement instrument such as the National Center for State Courts’ CourTools Access and Fairness measure;

(2) Encourage the integration of research on procedural fairness and effective decision-making processes into judicial education programs;

(3) Identify opportunities for judges to obtain honest feedback and mentoring to build self-awareness and continue to develop as leaders in their courtrooms;

(4) Practice procedural fairness in the treatment of court personnel;

(5) Champion procedural fairness principles in messages to and interactions with the public, the media, and other branches of government; and

(6) Hold judges and court staff accountable for operating courts in which everyone is treated with respect, has the opportunity to be heard, and receives an adequate explanation of court orders.
To each litigant, defendant, victim, witness, juror, or other person who is involved in a court proceeding:
The judge and court staff will listen to you, treat you with respect, and respond to your questions.
APPENDIX C: Louisiana Judicial College Fall Conference

Good morning Judges,

In preparation for his upcoming program on procedural fairness and bench presence at the Fall Conference, Judge Donald R. Johnson has requested that those of you who plan to attend (or even if you do not plan to attend but would like to respond) complete this short, anonymous survey. This survey is modified from Judge Johnson’s Ph.D. research and will help to guide the program and discussion. These survey results WILL NOT be part of Judge Johnson’s formal Ph.D. research. However, if you would like to volunteer to participate in that research, or if you have any questions, please contact Judge Johnson directly at drjohns1@mygrad.loyno.edu, or talk with him at the Fall Conference. I look forward to seeing many of you there!

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Website: lajudicialcollege.org

UPCOMING SEMINARS

2018

Fall Conference 30 September-2 October New Orleans

Rural Courts Seminar November 5 Natchitoches

Torts Seminar (Joint with LADC) December 7 New Orleans

2019

City, Family, and Juvenile Judges Seminar January 17-18 New Orleans

Additional information and session materials can be found on our website, https://lajudicialcollege.org/.

Reminder: Five hours of Louisiana Judicial College CLE are required each year by Louisiana Supreme Court Rules Part H, Rule XXX, Rule 3(f).
APPENDIX D: National and State Survey’s to assess the Public’s Trust and Confidence Levels

Mid 1970’s
- Public Image of the Courts Survey Conducted by the NCSC
- In Person Commercial Public Image of the Courts
- Utah 600 Telephone Commercial

Early 1980’s
- National 1004 Telephone Commercial
- New Jersey 800 Telephone University
- Michigan 789 Telephone University

Mid 1980’s
- Washington 800 Telephone Commercial
- Alabama 422 Questionnaire University
- Rhode Island 404 Telephone Commercial

Early 1990’s
- Utah 600 Telephone Commercial
- Massachusetts 400 Telephone Commercial
- Utah* 600 Telephone Commercial
- California* 1488 Telephone Commercial
- New Jersey 800 Telephone University
- Virginia* 1600 Telephone Commercial

Mid 1990’s
- National Survey Begins: How the Public Views the State Courts
- Iowa 803 Telephone University
- Mississippi 670 Telephone University
- North Carolina 800 Telephone Commercial
- Wisconsin 522 Telephone University
- National 1085 Telephone University: National Opinion Survey on Crime and Justice
- Florida 1042 Telephone Commercial
- Arizona 511 Telephone Commercial
- New Mexico 403 Telephone Commercial
- National Survey 1000 Telephone Commercial: Perceptions of the US Justice System
- Connecticut 1200 Telephone University
- Kansas 1226 Telephone University
- Louisiana* 1200 Telephone University
- Maryland 600 Telephone Commercial
- Texas* 1215 Telephone University
- National 1200 Telephone University
- Minnesota 1,100 Telephone Commercial
- New Mexico 601 Telephone Commercial
- Washington 1825 Telephone Commercial

Early 2000’s
- National Survey 200 Telephone University
- California: Public Trust and Confidence in the California Courts

Mid 2000’s
- Illinois, Access and Fairness Survey
- Ohio: statewide implementation of court tools for performance

Early 2010’s
- Utah evaluates individuals leaving courtrooms

Mid 2010’s
- Georgia conducted the Access and Fairness Survey
- Michigan and Minnesota implemented court performance measures statewide
APPENDIX E: Resources: Procedural Fairness Research and Principles

Particularly Noteworthy Websites:

- **Center for Innovation**: A leader in research on and application of procedural fairness principles [https://www.courtinnovation.org/](https://www.courtinnovation.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](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/](http://www.proceduralfairness.org/)

Publications:


Beijersbergen et al, 42 Criminal Justice and Behavior (2015). Dutch prisoners who felt treated in procedurally just manner less likely to receive a disciplinary report later in the process in the correctional facility.
http://cjb.sagepub.com/content/42/2/196


32. “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/


http://www.uakron.edu/centers/conflict/docs/Sunshine.pdf


39. To be fair: conversations about procedural justice. Foreword by Emily Gold LaGratta and Tom Tyler. Center for court Innovation (2017). A Compilation of interviews with practitioners from around the country who have worked to implement the tenets of procedural justice in criminal courts.

http://www.justiceinnovation.org/better-courts/publications/be-fair-procedural-fairness-courts

https://doi.org/10.1177/0269758013492755

Http://www.tandfonline.com/doi/abs/10.1080/00380237.2015.1039420#.Ve9PjhG6fiW

http://escholarship.org/uc/item/011185w5#page-1


47. “Why Do People Comply with the Law? Legitimacy and the Influence of Legal Institutions”. Jonathon Jackson et al., British Journal of Criminology, Vol. 52, No. 6, pp.1051-1071, 2012. Extends Professor Tom R. Tyler’s model of procedural justice to present a concept of legitimacy that is based on justification of power. Based on data from England and Wales, the authors find that people are more likely to accept police behavior when they believe that they have a “shared moral purpose” with the action. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1994490

APPENDIX F: Resources Improving Communication Skills

1. Centre for Intercultural Learning www.intercultures.gc.ca- Excellent Canadian website with lots of information about countries and cultures including communication style, decision making, etc. (see especially “Country Insights”)
10. Experiments in Listening, Mark Weisberg and Jean Koh Peters, Journal of Legal Education September 2007. An interesting, detailed article on listening in the field of legal education as well as in other professional and personal context.


15. Language and Law website: http://www.languageandlaw.org for the study “of all the ways in which language and the law intersect;” good resources including links to other sites. Hosted by Loyola Law School (Peter M. Tiersma)


22. “Understanding the Neurobiology of Trauma and Its Implications for Interviewing Victims.” Christopher Wilson, Kimberly A. Lonsway, Joanne Archambault, and James Hopper. 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
APPENDIX G: Judicial Canons

CANON 1
A Judge Shall Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and shall personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code are to be construed and applied to further that objective. As a necessary corollary, the judge must be protected in the exercise of judicial independence.

CANON 2
A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. As used in this Code, "impartiality" or "impartial" denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge. [Amended effective February 1, 2005]

B. A judge shall not allow family, social, political, or other relationships to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interest of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness. Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. Letters of recommendation may be written only on private stationery which does not contain any official designation of the judge's court, but the judge may use his or her title. A judge shall not initiate the communication of information in any court or disciplinary proceeding, but may provide such information for the record in response to a formal request by a court or disciplinary agency official.

C. A judge shall not hold membership in any organization that arbitrarily excludes from membership, on the basis of race, religion, sex or national origin, any persons who would otherwise be admitted to membership. The term "organization" shall not include, however, an association of individuals dedicated to the preservation of religious, ethnic, historical or cultural values of legitimate common interest to its members; or an intimate, distinctly private association of persons whose membership limitations would be entitled to constitutional protection.
CANON 3
A Judge Shall Perform the Duties of Office Impartially and Diligently

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge shall maintain order and decorum in judicial proceedings.

(3) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(4) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, and shall not permit staff, court officials or others subject to the judge's direction and control to do so. A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the abilities of all litigants, including self-represented litigants, to be fairly heard, provided, however, that in so doing, a judge should not give self-represented litigants an unfair advantage or create an appearance of partiality to the reasonable person.
APPENDIX H: Surveys

Self-Assessment Survey

FREQUENTLY ASKED QUESTIONS (FAQS)

What the study is about.
We are investigating what perceptions judges have of themselves. The purpose of this study is to determine if there are any differences between how a judge sees their self and how the defendants see the judge. You must be an active Trial Judge in order to participate in this study.

Who is the researcher?
Judge Donald “Don” R. Johnson, a district judge, is conducting this study. He is a Ph.D. candidate at the University of Nevada, Reno.

How can I contact the researcher?
You are welcome to contact the Co-Investigator (Co-I) if you have questions about the project. Please direct your concerns and/or questions regarding the surveys at the following telephone number or email address. Any concerns about the nature of integrity of the survey should be directed to Nancy Moody at the Research Integrity Office, at The University of Nevada, Reno identified below.

(Co-I) Donald R. Johnson, Ph.D. Candidate
Judicial Studies Program
The University of Nevada, Reno
1664 North Virginia Street Mail Stop 0311
Reno, Nevada 89557-0311
Telephone: 225-278-5952
E-mail: drjohns1@mygrad.loyno.edu

Nancy Moody
Research Integrity Office
218 Ross Hall/ MS 0311
Reno, Nevada 89557
Telephone Number: 775-327-2368
E-mail: unr.edu/research-integrity

Who is funding/sponsoring the study?
There is no funding source for this study. Donald R. Johnson is conducting this study in partial fulfillment of a dissertation requirement at the University of Nevada, Reno, Judicial Studies Program.

Who are the participants? Why are you asking me to participate?
You were selected as a possible participant because you are a judge listed in the Louisiana State Judges Directory.
What we will ask you to do?
If you agree to be in this study, you will fill out the survey that you have received in this email or package. The survey should take approximately 20 minutes to complete.

Risks and Benefits.
We do not anticipate any risks to you participating in this study; other than those encountered in day-to-day life such as: time spent answering questions. There are no benefits from participating in this survey, other than it may provide insights into your own perception of yourself.

Instructions:
The researchers will conduct both an electronic and mail survey (identical to one another, multiple modes are for the convenience of the participants) to gather the same information. If you receive multiple forms of the survey, please only complete one questionnaire of your choice. The data and summaries will only be provided to the principal researcher once any identifiable information has been coded into an algorithm. No personal identifiers will be delivered with the data to the researchers.

Read the instructions given before each section of the survey. Read the entire question before answering. Please pay attention to bold print. Participation is voluntary. By completing this survey and returning it you are agreeing to participate in the study; although, you are able to withdraw from the study at any time. You may choose not to answer any question(s) you do not want to, but the more information that you provide to the study will allow for better understanding of the results.

Demographic information will only be used to group results into different categories to assess whether or not they interact with the overall results of the study. None of the demographic information will be linked to a specific survey or survey answers.

Your answers will be confidential.
The information received from this survey is confidential; it will only be used to evaluate the differences in perceptions between judges and defendants. Survey records will be kept in a locked file and only the main researchers will have access to this information. Any reports from this survey that are made public will not include any information that could identify you.

Taking Part is Voluntary.
Your participation in this study is voluntary. You can skip questions if you do not feel comfortable answering them. You are free to withdraw from the study at any given time.

You will be given a copy of this form for your records.

Statement of Consent: I have read the above information, and have received answers to any questions I asked. I consent to take part in the study.

Your Signature __________________________ Date __________________

Your Name (printed) ____________________________
Directions: Please rate the degree to which most court staff and court practices exhibit the characteristics listed below.

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<thead>
<tr>
<th></th>
<th>Not at all</th>
<th>Infrequently</th>
<th>Sometimes</th>
<th>Almost Always</th>
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<tbody>
<tr>
<td>1.</td>
<td>At the beginning of court sessions, the court’s bench officers provide a summary of what will happen during the appearance.</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>2.</td>
<td>At the end of court appearances, the court’s bench officers verify that court users understand the court’s decision and what is expected of them going forward.</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<td>3.</td>
<td>The court provides written and oral reminders about future court dates and other court requirements.</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<td>4.</td>
<td>The court considers the needs of limited English proficiency and illiteracy when creating court forms, signs, and other resources.</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>5.</td>
<td>The court provides a user-friendly mechanism for court users to give feedback about their experience in court (e.g. comment cards, surveys).</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>6.</td>
<td>The court ensures that litigants with limited English proficiency have access to a court interpreter.</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>7.</td>
<td>The court’s bench officers ask open-ended questions (versus yes/no questions) to solicit questions from court users.</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>8.</td>
<td>Security officers receive training or guidance regarding how to ensure that court users are treated with respect in verbal and non-verbal interactions.</td>
<td>1</td>
<td>2</td>
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</table>
9. The court’s bench officers or other court staff explains the order in which cases will be called.

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<th>Almost Always</th>
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10. The court’s bench officers introduce themselves by name.

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<th>Infrequently</th>
<th>Sometimes</th>
<th>Almost Always</th>
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<tbody>
<tr>
<td>1</td>
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11. The court’s bench officers make eye contact with litigants before them.

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12. The court’s bench officers explain the process by which decisions will be made.

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<th>Almost Always</th>
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13. Bench officers and other court staff avoid showing preferences towards prosecutors over defense attorneys or vice versa.

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<th>Almost Always</th>
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14. Courtroom staff attends training to enhance their cultural sensitivity and awareness of implicit bias.

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<th>Not at all</th>
<th>Infrequently</th>
<th>Sometimes</th>
<th>Almost Always</th>
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</table>

15. Court staff avoids making jokes or other commentary that could be perceived as derogatory or insensitive to certain classes of court users (e.g. gender, race).

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<th>Not at all</th>
<th>Infrequently</th>
<th>Sometimes</th>
<th>Almost Always</th>
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<tbody>
<tr>
<td>1</td>
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16. The court’s website is maintained to provide accurate and user-friendly information to court users.

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<th>Almost Always</th>
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17. Court staff provides information to court users about how to navigate the building and where to find necessary forms.

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<th>Almost Always</th>
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18. Bench officers are familiar with resources available at local social service providers.

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<th>Infrequently</th>
<th>Sometimes</th>
<th>Almost Always</th>
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19. The court’s bench officers make voluntary referrals when appropriate.

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<th>Infrequently</th>
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<th>Almost Always</th>
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</table>
Directions: Please indicate the extent to which you agree or disagree with following statements. You may leave any questions blank if you do not feel comfortable answering it.

<table>
<thead>
<tr>
<th>Statement</th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neither disagree nor agree</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
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<tbody>
<tr>
<td>20. A fundamental role of courts is to ensure fair processes and just outcomes for litigants.</td>
<td>1 2 3 4 5</td>
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<tr>
<td>21. It is important to measure litigant satisfaction.</td>
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<tr>
<td>22. It is important to encourage the integration of research on procedural fairness and effective decision-making processes into judicial education programs.</td>
<td>1 2 3 4 5</td>
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<tr>
<td>23. It is important to meet the public’s expectations regarding the courtrooms process in order to increase positive public perceptions of the court system.</td>
<td>1 2 3 4 5</td>
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<tr>
<td>24. It is important to meet the public’s expectations regarding the justice process in order to increase compliance with court orders</td>
<td>1 2 3 4 5</td>
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<tr>
<td>25. It is important to meet the public’s expectations regarding the justice process in order to reduce recidivism.</td>
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<tr>
<td>26. Judges who embrace the principles of procedural fairness are viewed as more accountable, judicially, from the</td>
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</table>
It is important to identify opportunities for judges to obtain honest feedback and mentoring (to build self-awareness and continue to develop as leaders in their courtroom).

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**Strongly Disagree** | **Disagree** | **Neither disagree nor agree** | **Agree** | **Strongly Agree** |
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<tbody>
<tr>
<td>28. It is important to practice giving participants a voice (letting them explain their side of the story)</td>
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</tr>
<tr>
<td>29. It is important to ensure participants understand what is being said (about the court processes).</td>
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<tr>
<td>30. It is important to build trust with the litigant.</td>
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<tr>
<td>31. It is important to treat every litigant with the same level of respect (regardless of race or gender).</td>
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<tr>
<td>32. It is important to help the litigants as much as possible without interacting with judicial ethics.</td>
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</tbody>
</table>

| 30. It is important to build trust with the litigant. |
| 31. It is important to treat every litigant with the same level of respect (regardless of race or gender). |

<table>
<thead>
<tr>
<th>33. Has your court integrated the components of fair procedures into any of its judicial education programs, court performance measures, or public materials?</th>
</tr>
</thead>
<tbody>
<tr>
<td>o No &gt;&gt;&gt; <strong>Skip to question 35</strong></td>
</tr>
<tr>
<td>o Yes</td>
</tr>
</tbody>
</table>
34. If your court has integrated the components of fair procedures, can you give specific examples?

35. If you are aware of Tom R. Tyler’s Principles of Procedural Fairness, have you changed the way you preside over your courts?
   - No >>> Skip to question #39
   - Yes
   - 

36. Please list the principles of procedural fairness you are familiar with.

37. In your opinion, what does procedural fairness mean?

38. Can you give specific examples of the way you have implemented the Principles of Procedural fairness?

39. If you were familiar with the CCJ/COSCA’s Nationally Adopted Resolution 12 (prior to this questionnaire), has its suggestions been incorporated into your court?
   - No >>> Skip to question #41
   - Yes

40. If your court has incorporated into any suggestions from Resolution 12, can you please give some specific examples (write N/A if this question does not apply to you)?

41. Have you received any judicial training (from curriculum) based on procedural fairness?
   - No >>> Skip to question #43
   - Yes
     If yes, please provide the source and date:

42. If you answered yes to question # 41, have you incorporated procedural fairness principles (based on that curriculum) into your courtroom practices?
   - No
   - Yes
     If yes, can you please give specific examples?

43. Have you read any procedural fairness literature in the past five years, including articles that aim to adopt procedural fairness research into practice?
   - No
   - Yes
44. Are you aware of any courts that have already engaged in the principles of procedural fairness?
   - No
   - Yes
   If yes, please give specific examples (i.e. adult drug court)?

45. What type of court jurisdiction do you currently preside over? (Choose only one response)
   - General Jurisdiction (Civil, Criminal)
   - General Jurisdiction (Civil, Criminal, Family)
   - General Jurisdiction (Civil, Criminal, Family, Juvenile)
   - Limited Jurisdiction (Civil Jurisdiction only)
   - Limited Jurisdiction (Criminal Jurisdiction only)
   - Limited Jurisdiction (Family Jurisdiction only)
   - Limited Jurisdiction (Juvenile only)
   - Limited Jurisdiction (Traffic)
   - Other, please specify:

46. What type(s) of specialty courts or program do you currently preside over? (Choose as many responses that apply).
   - Adult Drug Treatment Court
   - Juvenile Drug Treatment Court
   - Mental Health Treatment Court
   - Co-occurring Treatment Court
   - Reentry Court
   - Family Preservation Court
   - Domestic Violence/Interpersonal Relations Court
   - DWI/Sobriety Court
   - Veterans Court
   - Other (please specify):

47. How many years have you served on the bench?

48. Which law school did you attend:

49. What is your age?
   - 30<
   - 31-40
   - 41-50
   - 51-60
   - 61-70
   - >71
50. Politically, I consider myself a:

51. What do you consider yourself to be primarily...? *(Choose only one response)*

- Caucasian/White
- African-American/Black
- Asian/Pacific Islander
- American Indian/Alaskan Native
- Hispanic/Latino or Spanish Decent
- Other:

52. What types of degrees have you earned: *(Check all that apply)*

- □ Master (non M.B.A)
- □ M.B.A
- □ Juris Doctor (J.D)
- □ Joint Degree (J.D.-Master)
- □ Ph.D.
- □ LL.M.
- □ Other, please specify:

53. Are you...?

- o Female
- o Male
- o Other:
- o Prefer not to respond

54. Last year, what was your total *annual household* income from all sources, before taxes?

- o $50,000<
- o $50,001 to $99,999
- o $100,000
- o $100,001 to $249,000
- o $250,000 to $499,999
- o $500,000 to $999,999
- o > $1,000,000
- o I’d rather not say
55. What is the approximate population of the jurisdiction in which you preside?

- Less than 10,000
- Between 10,000 and under 25,000
- Between 25,000 and under 100,000
- Between 100,000 and under 500,000
- More than 500,000

56. Would you describe the place where you live as a… ? (Choose only one response)

- Large city
- Suburb near a large city
- Small city or town
- Rural area
- Other, please specify:

57. Regarding your attitude toward religion, on a scale of 1 to 7, where 1 is not at all religious and 7 is very religious, please select a number that corresponds with how religious you feel you are:

<table>
<thead>
<tr>
<th>1 Not at all religious</th>
<th>2</th>
<th>3</th>
<th>4 Neutral</th>
<th>5</th>
<th>6</th>
<th>7 Very religious</th>
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</table>
FREQUENTLY ASKED QUESTIONS (FAQS)

What the study is about?
We are investigating what perceptions defendants have of the courts. The purpose of this study is to determine if there are any differences between how a judge sees themselves and how the defendants see the judge. You must have an active court case in the state of Louisiana to be a participant in this study.

Who is the researcher?
DRJ is conducting this study. He is a Ph.D. candidate at the University of Nevada, Reno.

How can I contact the researcher?
You are welcome to call or E-mail the Co-investigator (Co-I) if you have questions, concerns, or comments about the project. Please direct your concerns, comments, and/or questions regarding the survey to the Co-I at the following phone number or email address. Any concerns about the nature or integrity of the survey should be directed to the Research Integrity Office, The University of Nevada, Reno identified below.

(Co-I) D.R. Johnson, Ph.D. Candidate
Judicial Studies Program
The University of Nevada Reno
1664 North Virginia Street/ Mail Stop 0311
Reno, Nevada 89557-0311
Telephone: 225-263-1419
E-mail: drjohns1@mygrad.loyno.edu

Nancy Moody
Research Integrity Office
218 Ross Hall/ Mail Stop 0331
Reno, Nevada 89557-0331
Telephone Number: 775-327-2368
E-mail: unr.edu/research-integrity

Who is funding/sponsoring the study?
There is no funding source for this study. DRJ is conducting this study in partial fulfillment of a dissertation requirement at the University of Nevada, Reno, Judicial Studies Program.

Who are the participants? Why are you asking me to participate?
You were selected as a possible participant because you have a current court case within the court system of Louisiana.

What we will ask you to do?
If you agree to be in this study, you will fill out the survey that has been given to you. The survey should take approximately 20 minutes to complete. If you complete the
survey at the courthouse, give your completed survey back to the research assistant. If you take the survey home, you will be given a self-addressed envelope to return the survey to the researcher.

**Risks and benefits?**
We do not anticipate any risks to you participating in this study other than those encountered in day-to-day life such as time spent answering the questions. There are no benefits from participating in this survey.

**Instructions:**
The researchers will conduct a survey of defendants leaving the courtroom. The data and summaries will only be provided to the researchers once any identifiable information has been coded into an algorithm. No personal identifiers will be collected with the.

Read the instructions given before each section of the survey. Read the entire question before answering. Please pay attention to bold print. You may choose not to answer any question(s) you do not want to, but the more information that is provided to the study will allow for better understanding of the results. Participation is voluntary. By completing this survey and returning it you are agreeing to participate in the study; although, you are able to withdraw from the study at any time.

Demographic information will only be used to group results into different categories to assess whether or not they interact with the overall results of the study. None of the demographic information will be linked to specific surveys or survey answers.

**Your answers will be confidential.**
The information received from this survey is confidential; it will only be used to evaluate the differences in perceptions between judges and defendants. Survey records will be kept in a locked file and only the main researchers will have access to this information. Any reports from this survey that are made public will not include any information that could identify you.

**Taking Part is Voluntary.**
Your participation in this study is voluntary. You can skip questions if you do not feel comfortable answering them. You are free to withdraw from the study at any given time.

You will be given a copy of this form for your records.

**Statement of Consent:** I have read the above information, and have received answers to any questions I asked. I consent to take part in the study.

Participant Signature _________________________ Date _________________________

Participant Name (printed) _____________________________________________
Directions: Please answer the questions to the best of your ability. If the question does not apply to you write N/A. You may leave any questions blank if you do not feel comfortable answering it. Questions 1-5 relate to your court experience TODAY only. Do not write your name or case number anywhere on this form, this survey is anonymous.

Today’s Date: / /

1. What is the name of the judge you appeared before today?

2. Approximately how long did you wait in the courtroom before your case was called today? Hours Minutes

3. Did an attorney represent you today?
   - No, I did not have an attorney with me
   - Yes, I was represented by a private defense attorney
   - Yes, I was represented by a public defender

4. When did your attorney speak with you about what might happen during your court appearance today? (Please choose all that apply)
   - Before today (prior to your court date)
   - Today, prior to the court appearance
   - Today, during the court appearance
   - None of the above, I did not speak to my lawyer about what might happen today

5. While waiting in the courtroom today, did the judge provide an estimate of how long you would wait until your case was called? (Choose One)
   - No
   - Yes
   - Not Sure/ I do not recall

6. What is your age?

7. What gender are you?
   - Male
   - Female
   - Other
   - Prefer Not to Answer
8. What ethnicity are you (check all that apply)?

- African-American/black
- Caucasian/white
- Asian/Pacific Islander
- American Indian/Alaskan Native
- Hispanic/Latino or Spanish Decent
- Other
- Prefer Not to Answer

9. What is the highest level of education you have completed?

- Less than high school
- High school diploma/GED
- Technical Degree/Certificate or Trade School
- Some College
- Undergraduate Degree
- Graduate Degree

10. Last year, what was your total annual household income from all sources, before taxes?

- Less than $10,000
- $10,001 - $20,000
- $20,001 - $30,000
- $30,001 - $40,000
- $40,001 - $50,000
- $50,001 - $60,000
- More than $60,001
- Prefer not to say

11. Have you had other court cases (prior to your current case)?

- No >>>> skip to question 12
- Yes
  - If yes, have you had other court cases (prior to your current case), how many times have you appeared before a judge?
12. On a scale of 1-5, where 1 is distrust completely and 5 is trust completely, what is your level of trust in the justice system in your jurisdiction?

   - 1 distrust completely
   - 2
   - 3 neither distrust or trust
   - 4
   - 5 trust completely

13. Whether you trust or distrust the justice system please explain why you feel that way (for example, the police have never/always helped you).

14. Do you have any thoughts on any changes you would like to see at the courthouse or in the courthouse staff (including the judge)?

15. How pleasant or unpleasant (given the circumstances) was your experience waiting in the courtroom today? (Choose only one).

   - Very unpleasant
   - Unpleasant
   - Neither pleasant nor unpleasant
   - Pleasant
   - Very pleasant
Directions. The rest of the questions are about your experiences throughout your entire case. Please circle your response.

<table>
<thead>
<tr>
<th></th>
<th>Strongly disagree</th>
<th>Disagree</th>
<th>Neither disagree nor agree</th>
<th>Agree</th>
<th>Strongly agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. When I was unsure of where to go, signs around the courthouse clearly identified the locations of the courtrooms.</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17. The judge was polite to me.</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18. The judge gave me or my lawyer a chance to tell my side of the story.</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. The judge tried to understand my particular needs for services.</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. The judge explained what was going on in words I could understand.</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Strongly disagree</strong></td>
<td><strong>Disagree</strong></td>
<td><strong>Neither disagree nor agree</strong></td>
<td><strong>Agree</strong></td>
<td><strong>Strongly agree</strong></td>
</tr>
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<td>----------------------</td>
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<td>-------------------------------</td>
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</tr>
<tr>
<td>21. The judge showed bias in favor of the prosecutor.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>22. The judge’s instructions were confusing or difficult to understand.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>23. The judge treated you worse than the judge treated others because of your race, gender, age, or some other reason.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>24. My attorney treated me with respect.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>25. My attorney listened to me.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>26. My attorney took the time to explain the judge’s decision to me.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>27. My attorney seemed very interested in helping me.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>28. Overall my case was handled fairly by the court.</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Question</td>
<td>Very unfairly</td>
<td>Somewhat unfairly</td>
<td>Neither unfairly nor fairly</td>
<td>Somewhat fairly</td>
<td>Very fairly</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>---------------</td>
<td>-------------------</td>
<td>----------------------------</td>
<td>---------------</td>
<td>------------</td>
</tr>
<tr>
<td>29. How fairly or unfairly did the judge treat you?</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>30. How fairly or unfairly did the prosecutor treat you?</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>31. How fairly or unfairly did your attorney treat you?</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>32. How fairly or unfairly did the security staff treat you?</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>33. Overall, how fair or unfair was the sentence or order you received?</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>

34. Is there anything else you would like to share about your experience?

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
Courtroom Observation Instrument

Courthouse:    Judge:     Observer Initials:

Date:     Observation Start Time: am/pm End Time: am/pm

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The court started on time.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>2. The judge or other court staff apologized for any delay in the starting of court. (N/A if there was no delay)</td>
<td>Yes  No</td>
</tr>
<tr>
<td>3. The judge or other court staff clearly explained court etiquette and rules at the beginning of the court session.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>4. The judge provided an explanation for the order in which cases would be called.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>5. The judge introduced him/herself by name.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>6. The judge thanked audience members for their on-time appearance.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>7. The judge acknowledged the experience of defendants while waiting for their cases to be called (e.g. having to sit quietly, waiting for a potentially long period, etc.)</td>
<td>Yes  No</td>
</tr>
<tr>
<td>8. The judge provided some overview of what might happen during court and/or how decisions would be made.</td>
<td>Yes  No</td>
</tr>
<tr>
<td>9. The judge assured defendants that all of the admissible evidence would be considered before making any decision.</td>
<td>Yes  No</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>10. The judge was audible.</td>
<td>Never</td>
</tr>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td>11. The judge made eye contact with defendants during their court appearances.</td>
<td>1</td>
</tr>
<tr>
<td>12. The judge used plain language to explain the case procedure and outcome.</td>
<td>1</td>
</tr>
<tr>
<td>13. The judge used plain language to explain legal terms or acronyms.</td>
<td>1</td>
</tr>
<tr>
<td>14. Overall, how helpful were court staff in addressing court users’ questions between appearances?</td>
<td>Not at all helpful</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Never</td>
</tr>
<tr>
<td>15. The judge demonstrated interest in the defendant’s understanding of what rights he/she was surrendering by pleading guilty.</td>
<td>1</td>
</tr>
<tr>
<td>16. The judge adequately described what the defendant must do to comply with the court order or sentence.</td>
<td>1</td>
</tr>
<tr>
<td>17. The judge expressed an interest in the defendant’s success/compliance.</td>
<td>1</td>
</tr>
<tr>
<td>18. The judge asked the defendant to repeat back his/her understanding of the sentence and/or next steps.</td>
<td>1</td>
</tr>
<tr>
<td>19. The defendant was provided written instructions about his/her sentence.</td>
<td>1</td>
</tr>
</tbody>
</table>
Concerning the actions and demeanor of the judge towards the defendants, the judge was:

<table>
<thead>
<tr>
<th></th>
<th>Strongly disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Respectful</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>b. Fair</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>c. Attentive</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>d. Interested</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>e. Consistent/predictable</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>f. Helpful</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>g. Knowledgeable</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>h. Clear</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>i. Intimidating*</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
</tr>
</tbody>
</table>

*Note: The scale for “Intimidating” is coded differently than the others. If you strongly disagree that the judge’s actions and demeanor were intimidating, circle 5. If you strongly agree that his/her actions and demeanors were intimidating, circle 1.

20. Please note any additional comments or observations here or on the back of the page.
APPENDIX I: IRB Approval Letter

DATE: July 23, 2018
TO: Shawn Marsh, Ph.D.
FROM: University of Nevada, Reno Institutional Review Board (IRB)
PROJECT TITLE: [1240176-1] Perceptions and Perspectives Regarding Procedural Fairness in Louisiana Trial Courts
REFERENCE #: Social Behavioral
SUBMISSION TYPE: New Project
ACTION: DETERMINATION OF EXEMPT STATUS
REVIEW TYPE: Exempt
DECISION DATE: July 23, 2018
REVIEW CATEGORY: Exemption Category-Flex Policy Exemption

An IRB member has reviewed this project and has determined it is EXEMPT FROM IRB REVIEW according to federal regulations. Please note, the federal government has identified certain categories of research involving human subjects that qualify for exemption from federal regulations and University policy.

Only the IRB has been designated by the University to make a determination that a study is exempt from federal regulations. The above-referenced protocol was reviewed and the research deemed eligible to proceed in accordance with the requirements of the Code of Federal Regulations on the Protection of Human Subjects (45 CFR 46.101).

Reviewed Documents
• Application Form - Exemption Core Application Research with Participants 083117 (1).docx (UPDATED: 07/11/2018)
• Consent Form - consent form for defendants.docx (UPDATED: 07/12/2018)
• Consent Form - consent form for judges.docx (UPDATED: 07/12/2018)
• Questionnaire/Survey - Self-Assessment Survey and Consent Form.docx (UPDATED: 07/12/2018)
• Questionnaire/Survey - Defendant Exit Survey.docx (UPDATED: 07/12/2018)
• Questionnaire/Survey - Courtroom Evaluation.docx (UPDATED: 07/12/2018)
• University of Nevada, Reno - Part I, Cover Sheet - University of Nevada, Reno - Part I, Cover Sheet (UPDATED: 07/11/2018)

If you have any questions, please contact Nancy Moody at 775.327.2367 or at nmood@unr.edu.
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