

PROCEDURAL FAIRNESS WORKSHOP

SJC All-Sites Meeting
May 8, 2017



WHAT IS PROCEDURAL JUSTICE?

Judge Timothy C. Kuhlman
Toledo Municipal Court
Lucas County
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Key Elements of Procedural Fairness

- Voice
- Neutrality
- Respect
- Understanding / Explanation
- Trust



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Procedural Justice



Definition: The perception that you are treated with respect and your concerns are taken seriously

CENTER
FOR
COURT
INNOVATION

leads to compliance & legitimacy

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Procedural Fairness in a Nutshell

- Was the person listened to?
- Were litigants treated with respect?
- Do they understand:
 - What the decision was?
 - Why the decision was made?
 - Neutral principles

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Research basis

- **Immediate Effects:** PJ is more influential than distributive justice (win or lose) in determining compliance or intent to comply

(Tyler & Huo 2002; Tyler and Jackson, 2012)

- **Enduring Effects:** PJ can increase compliance with court orders, reduce crime, and reduce recidivism over time

(e.g., Paternoster et al. 1997; Tyler and Huo 2002; Gottfredson et al. 2009)

These effects hold even when the stakes are high
(e.g., long sentences, violent offenders)

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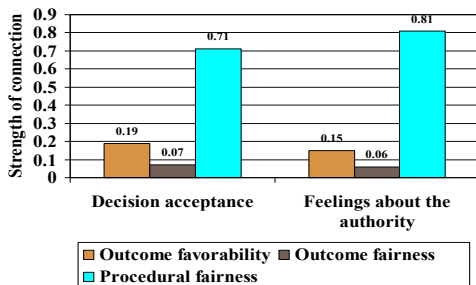
Factors that could matter to perceptions of fairness

- Outcome favorability – Did I win?
- Outcome fairness – Did I get what I deserve?
- Procedural fairness – Was my case handled through fair procedures?



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Why do people accept court decisions?

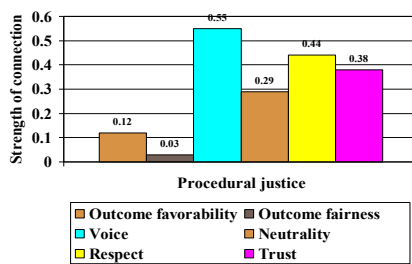


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The Meaning of Procedural Fairness

California study: respondents with personal experience with courts, strength of connection to court approval.



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**Our legitimacy is not assumed
by many who come before us.
Trust must be earned in each
encounter.**



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**There is a lack of trust in our
public institutions that,
although not focused specifically
on courts, police
and criminal justice,
is troublesome.**



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32%



33%

Honest and trustworthy?

Gallup survey May 18-22, 2016

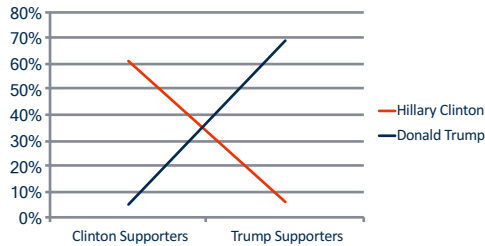


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Clinton Supporters vs. Trump Supporters: Who is honest and trustworthy?

Gallup survey, May 18-22, 2016



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Lawyers vs. the Public

Colorado judicial retention commission:

- Commission says:

The Commission credited him for hard work and efficiency, but...

[he is] **“arrogant, defensive, impatient, and lacking appropriate judicial demeanor.”**

- Judge responded:

“The appeals courts have upheld all of my trial court rulings. I’m strict in the application of law.”

Source: *Denver Post*, Sept. 26, 2014.

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Right Thing and Right Way

- Mr. Jamille Jamra challenged me to do the right thing, but also to do it the right way.
- I now believe the right way is with procedural justice.

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Training Tips

- Multi disciplinary team from several different criminal justice partners
- Strongly suggest a Judge, Elected Official or other senior leader both teaching and in attendance at every session
- Local specific examples



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Implementation at Toledo Municipal Court

- Procedural Justice discussion at Judge Meetings when discussing policy, court rules and procedures
- Cameras on Judges and all staff laptops. Video reviewed with a quality assurance officer who is not a direct supervisor and who does not do employee evaluation
- Probation reviews probation terms new client and asked them to discuss which requirements to address first and how
- Focus on practicing procedural fairness internally with staff otherwise it does not work externally



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Implementation continued

- After training Municipal Court staff, our training team provided training to other criminal justice partners 600 total (CTF) and we are working on a free CLE for the local Bar.
- Core, dedicated people discussing next steps for further implementation
- User surveys





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Measuring Success

- ✓ Regular survey of court users and professionals
- ✓ Additional Ideas:
 - Peer review programs
 - Informal feedback from colleagues
 - Self-monitoring
 - Comment boxes
 - Courtroom observations





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Research tools

- **Courtroom Observation**
- **Litigant Surveys**
- **Self-Assessment**
- **Peer review**

Defendant Exit Survey

We would like to hear about your experience in court.
Your feedback will help us to improve the service we provide to court users. Your answers will not affect your case in any way.
Thank you for your time.

Today's Date: ____ (MONTH) / ____ (DAY) / ____ (YEAR)

The first 6 questions are about your experience today only.
Please write in the blank or fill in the bubble next to your selected response.

1. What is the name of the judge you saw today?
(Leave blank if you don't know) _____
2. Approximately how long did you wait in the courtroom before your case was called today?
_____ minutes


www.courtinnovation.org




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A Procedural Fairness Primer




if you expect the world to be fair with you
 because you are fair, you're fooling yourself
 That's like expecting the lion not to eat you
 because you didn't eat him.




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UNLESS someone like you
cares a whole awful lot,
nothing is going to get better.
It's not.

—The Lorax



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Observable positive behaviors

- The court started on time.
- The judge apologized for any delay in the starting of court.
- The judge or other court staff clearly explained court etiquette and rules at the beginning of the court session.
- The judge provided some overview of what might happen during various court appearances and how decisions would be made.
- The judge assured the defendants that all of the evidence would be considered before making any decision.

- The judge made eye contact with the audience upon entering the court.
- The judge introduced himself/herself by name.
- The judge thanked audience members for their on-time appearance.
- 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.).

• Source: CCI, *Improving Courtroom Communication: A Procedural Justice Experiment in Milwaukee* (Jan. 2014).




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Voice ★

- The ability of litigants to participate in the case by expressing their own viewpoints.



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Neutrality



- Consistently applied legal principles
- By unbiased decision makers, who are transparent about how decisions are made.

Neutrality



Neutrality is important, but if applied improperly, it can mask that you care.




Respect




- Treating individuals with dignity while openly protecting their rights.

Trust



- If you practice Voice, Neutrality, and Respect, you will also be Trusted.
- Studies of legal authorities constantly show that the central attribute influencing public evaluations of judges is an assessment of the character of the decision maker (sincere, caring).
 - Are you listening to and considering people's views?
 - Are you trying to do what is right for everyone involved?
 - Are you acting in the interests of the parties, not out of personal prejudice?



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EXAMPLE: Mission Statements



PLEDGE OF FAIRNESS

The fundamental mission of the Alaska Court System is to provide a fair and impartial forum for the resolution of disputes according to the rule of law. Fairness includes the opportunity to be heard, the chance to have the court process explained, and the right to be treated with respect. The judges and staff of the Alaska Court System therefore make the following pledge to each litigant, defendant, victim, witness, juror, and person involved in a court proceeding:

We will LISTEN to you

We will respond to your QUESTIONS about court procedure

We will treat you with RESPECT

공정한 재판을 위한 시작

알래스카 법원의 기본 임무는 법치주의에 의거하여 분쟁의 해결을 위해 공평정당한 재판을 제공하는 것입니다. 공평하다 함은 말할 수 있는 기회, 법정 절차에 대해 설명을 들을 기회, 그리고 정당한 대우를 받을 권리를

AKUQIIN PIGULIRIA
ALLAKAKGAINRITTLERKAMEK

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Обещание справедливого отношения

В соответствии с принципом закона, основным законом в Судебной Системе штата Аляска является обеспечение справедливости и беспристрастности отношения на время разрешения споров. Справедливые отношения включают в себя возможность быть услышанным, возможность получить разъяснение судопроизводства.

Some of the foregoing material came from materials prepared by:

The Center for Court Innovation for Toledo Municipal Court training in 2016 and from Kim Ball, Senior Policy Advisor, Bureau of Justice Assistance
Emily Gold LaGratta, Center for Court Innovation

For the Smart Suite Research Practitioner Fellows Academy (Feb.2017)





- Center for Court Innovation
www.courtinnovation.org/proceduraljustice
- Procedural fairness website
www.proceduralfairness.org
- AJA blog
blog.amiudges.org
- Professor Tom Tyler, Yale Law School
www.law.yale.edu/faculty/TTyler.htm




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ALLEGHENY COUNTY

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Procedural Justice: Police

Procedural Justice 1
1000 Officers Trained

Procedural Justice 2
912 Officers Trained

Procedural Justice 3
400 Officers Trained

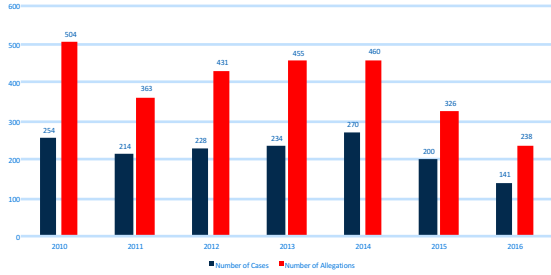
Procedural Justice 1
300 Community Members Trained

For more information: Eric Holmes, Commander Pittsburgh Bureau of Police, Eric.Holmes@Pittsburghpa.gov

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Citizen Complaints Against Police

Number of Cases and Allegations by year




Year	Number of Cases	Number of Allegations
2010	254	504
2011	214	363
2012	228	431
2013	235	455
2014	279	460
2015	200	326
2016	143	298

For more information: Eric Holmes, Commander Pittsburgh Bureau of Police, Eric.Holmes@Pittsburghpa.gov

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Procedural Justice: Courts

- One of 4 jurisdictions chosen for a court PJ assessment by Center for Court Innovation and BJA (2015)
- Key areas for the assessment:
 - Court facilities
 - Courtroom communication
 - Security
 - On-site services
 - Public Information
 - User voice and feedback
 - Institutional fluency



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Findings & Next Steps

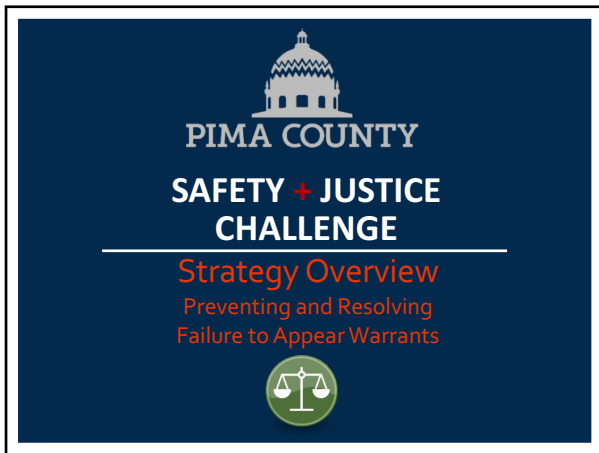
<p>Assessment (completed 2015)</p>	<p><u>Facilities and Communication</u></p> <p>Standardization of signage in community resource centers</p> <p>Partnership with behavioral economists at CMU to improve communications to court users</p>
<p><u>Institutional fluency</u></p> <p>New TA from BJA and CCI to conduct strategic planning and PO training on PJ</p>	<p><u>User voice</u></p> <p>Incorporation of PJ questions into online survey for people on supervision (administered out of resource centers)</p>

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PIMA COUNTY

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Why focus on FTA warrants?

Data Showed...

- **31%** of pretrial detainees released from jail in 2014 had at least 1 FTA
- More than **50%** of jail bed days were driven by FTA offenses
- Average Length of Stay (ALOS) for this population was 2 or 3 times higher than other pretrial charges of a similar nature.

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FTA By the Numbers - 2014

# released who had FTA	10,005	
Superior Court (felony)	508	5%
Justice Court (misd)	4280	43%
Tucson City Court (misd)	4628	46%
Other (misd)	472	5%

Bed Days Driven by FTA	216,477	
Men	157,127	72.6%
Women	59,350	27.4%
Cost to County	\$19.5M	\$90/Day

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FTA By the Numbers – 2014 By Race and Gender



Total FTA	10,005			
Race	Total	Male	Female	%
African American	896	688	208	9%
Asian	53	39	14	.5%
Hispanic	4150	3105	1045	41.5%
Native American	790	530	260	7.9%
White	4116	2900	1216	41.1%



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Our FTA Strategies



Preventing and Resolving Failure to Appear Warrants

- Enhance automated call, text, and email court-reminders
- Establish multi-jurisdictional weekend warrant-resolution days



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Our FTA Strategies Pima County Consolidated Justice Court & Tucson City Court



- Warrant Resolution Courts
 - Saturday Court
 - Evening Court
 - Walk-in Warrant Court
- Outbound IVR (Interactive Voice Response)
(court date reminder)
 - Phone
 - Text messaging



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Results (6/11/16 to 4/30/17)**Warrant Resolution Court Events****Pima County Consolidated Justice Court**

Warrants Quashed	908
DL Suspensions Lifted	640
Hearings Held	1239
Customers Served at a Window	2156

Tucson City Court

Warrants Quashed	423
Other Issues	758
Hearings Held	1092
Total Served	1184
*Warrants quashed at M – Th	More than 350
Walk-In Warrant Court	Per month



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Outstanding Warrants**Pima County Consolidated Justice Court**

- 18,402 Active Warrants
 - 72% are for FTA
- Net Warrant growth is near zero without Warrant Resolution Court events.
 - With Warrant Resolution Court events, there is a net reduction of 80 to 200 warrants per month

Racial/Ethnic Composition of PCCJC Active Warrants

Ethnicity	Warrants	% of Total
White	7,865	42.7%
Hispanic	5,007	27.2%
Other/Multiple	3,097	16.8%
African American	981	5.3%
Native American	804	4.4%
Asian	111	0.6%
Unknown	608	2.9%



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Top FTA/FTC Warrant Charges**Pima County Consolidated Justice Court**


Category	FTA	FTC	Total	% of total
DSL	2,557	50	2,607	14.8%
DUI	1,185	1,402	2,587	14.6%
Bad Check	781	959	1,740	9.8%
Drug	964	494	1,458	8.2%
Assault	664	541	1,205	6.8%
Shoplifting/Theft	905	176	1,081	6.1%
Trespassing	899	144	1,043	5.9%
Other Alcohol	814	148	962	5.4%
Disorderly Conduct	418	312	730	4.1%
Criminal Damage	287	209	496	2.8%
Other Traffic	480	14	494	2.8%
False Reporting	219	24	243	1.4%
Other	2,351	676	3,027	17.1%
Total	12,524	5,149	17,673	100.0%



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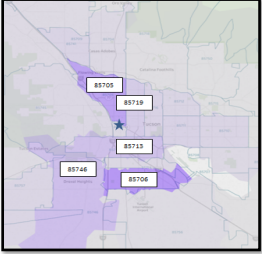
Geographic Distribution of Warrants

Pima County Consolidated Justice Court



- Of 18,402 Active Warrants, 32% of defendant addresses are within five zip codes

Zip Code	Warrants	% of Total
85706	1,367	9.8%
85705	1,117	8.0%
85746	776	5.6%
85713	751	5.4%
85719	464	3.3%




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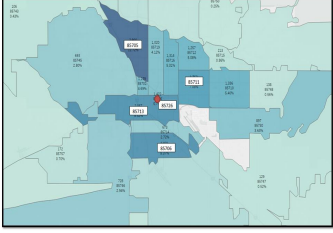
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Geographic Distribution of Warrants

Tucson City Court



- Of 24,908 Active Warrants, 41% of defendant addresses are within five zip codes




Zip Code	Share of All Warrant Defendants
85705	11.72%
85706	8.37%
85713	8.32%
85711	7.08%
85726	5.75%

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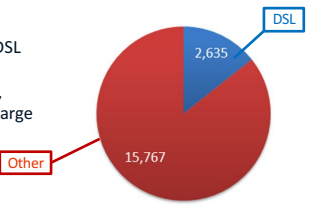
Driving with a Suspended License

Pima County Consolidated Justice Court



18,402 Active Warrants

- 3636 warrants (20%) include at least one DSL charge
- 2635 warrants (14%), DSL is the primary charge in the case




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Court Accessibility

Upcoming in 2017-2018




- **Joint County-City** warrant resolution courts at same location
 - Saturday court – quarterly
 - One evening a month
- **Tucson City Court:** Night court once a week
- Continued **weekday** walk-in court, both courts
- Exploring use of **remote court**
- Increased focus on **Driving on a Suspended License**
 - Law student clinic, cooperation with DMV


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HARRIS COUNTY

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DISCUSSION



SafetyAndJusticeChallenge.org
