

## Courtroom Observation Report

*Judges can alleviate much of the public dissatisfaction with the judicial branch by paying critical attention to the key elements of procedural fairness: voice, neutrality, respectful treatment, and engendering trust in authorities. Judges must be aware of the dissonance that exists between how they view the legal process and how the public before them view it. While judges should definitely continue to pay attention to creating fair outcomes, they should also tailor their actions, language, and responses to the public's expectations of procedural fairness. By doing so, these judges will establish themselves as legitimate authorities; substantial research suggests that increased compliance with court orders and decreased recidivism by criminal offenders will result. Procedural fairness also will lessen the difference in how minority populations perceive and react to the courts.*

*Hon. Kevin Burke, Minnesota District Court, Hennepin County, and  
Hon. Steve Leben, Kansas Court of Appeals*

*"Procedural Fairness: A key ingredient in public satisfaction," Court Review*

This observation report has two parts.

Part I is based on the principles of procedural justice. Please describe:

- 1) The behaviors that you observe; and
- 2) Your personal reaction to those behaviors.

Be as detailed as you can in describing the judge's behaviors as well as your reaction to them. Do not expect to see all of the listed sample behaviors each time you observe.

Part II asks additional, more general questions and provides an opportunity to comment on other aspects of your courtroom experience not covered in Part I.

Judge Name: \_\_\_\_\_

Court Location: \_\_\_\_\_

Date(s) of observation: \_\_\_\_\_

Type(s) of proceedings observed: \_\_\_\_\_

\*\*Any additional comments can be made in Part II of the report\*\*

## Part I

### Neutrality

*People bring their disputes to the court because they view judges as neutral, principled decision makers who make decisions based upon rules and not personal opinions, and who apply legal rules consistently across people and over cases.*

*Tom Tyler, "Procedural Justice and the Courts," Court Review*

*Consider, for example, whether the judge:*

- displayed judicial fairness and impartiality toward all parties;
- acted in the interests of the parties without regard to personal prejudices;
- listened carefully and impartially;
- applied rules consistently across people and over cases;
- maintained a neutral demeanor or expression while in court;
- was open, clear, and transparent about how the rules of law were applied and how decisions were being made;
- consistently treated participants equally and displayed behavior appropriate for the situation; and
- was unhurried, patient and careful.

1. How would you describe this judge's ability to be neutral, principled and consistent?

Observer comments:

## Respect

*[Respect] includes both treating people well, that is, with courtesy and politeness, and showing respect for people's rights ... Providing people with information about what to do, where to go, and when to appear, all demonstrate respect for both those people and their right to have their problems handled fairly by the courts.*

*Tom Tyler, "Procedural Justice and the Courts," Court Review*

*Consider, for example, whether the judge:*

- provided participants with clear information about what to do, where to go, and when to appear;
- treated everyone with courtesy, dignity, and respect;
- demonstrated appropriate consideration for the rights of all persons in the court;
- demonstrated an intention to do what is right for everyone involved;
- helped interested parties understand decisions and what parties must do as a result;
- used clear language when speaking to jurors, litigants, witnesses, and attorneys;
- demonstrated respect for people's time and acknowledged their patience as needed;
- demonstrated interest in the needs, problems, and concerns of participants;
- seemed prepared for the proceedings; and
- demonstrated respectful body language (e.g., eye contact, facial expressions, posture, attire) and voice quality (e.g., pitch, volume, tone).

## 2. How would you describe this judge's respect for people and their rights?

Observer Comments:

## Voice

*People want to have the opportunity to tell their side of the story in their own words before decisions are made about how to handle the dispute or problem. Having an opportunity to voice their perspective has a positive effect upon people's experience with the legal system irrespective of their outcome, as long as they feel that the authority sincerely considered their arguments before making their decision.*

*Tom Tyler, "Procedural Justice and the Courts," Court Review*

*Consider, for example, whether the judge:*

- allowed participants to voice their perspectives/arguments;
- demonstrated to the parties that their story or perspective had been heard;
- behaved in a manner that showed the judge had fully considered the case as presented through witnesses, arguments, and documents before the court; and
- attended, where appropriate, to the participants' comprehension of the proceedings.

3. How would you describe this judge's skill at providing the participants a voice in the proceedings?

Observer Comments:

## Part II

A: Understanding that the Judicial Performance Evaluation Commission will ultimately recommend that the voters retain a judge or not, is there anything else you would like the commission to know about your experience observing this judge?

*Consider, for example:*

- whether the judge earned your trust and/or seemed to earn the trust of others in the courtroom;
- the organization, administrative efficiency and/or timeliness of this judge's court; and
- the overall strengths and weaknesses of this judge's performance.

Observer Comments:

B. Apart from your specific observations about the judge, did you observe anything else that might help to improve the experience of court users?

C: If you were to appear before this judge, would you have confidence that this judge would treat you fairly? Why or why not?