

**How Recent Court Users View the State Courts:  
Perceptions of Whites, African-Americans, and Latinos\***

by David B. Rottman and Randall M. Hansen

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## I. Introduction

*Background: How the General Public Views the State Courts*

A flurry of recent, and a large body of not so recent, state and national public opinion surveys reveal a consistent core message on what the public likes and dislikes about the state courts.<sup>1</sup> 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.

The positive image of the court centers on perceptions that courts meet constitutional obligations to protect rights, ensure that litigants have adequate legal representation, and that judges are well-trained and are honest and fair in individual case decisions. In addition, the American public believes that judges and court staff treat people who have business before the courts with respect and dignity. On balance, the American public moderately approves of and trusts the state courts.

Previous surveys also highlight significant differences, and some similarities, between White, African-American, and Latino perceptions of the state courts. Generally, African-Americans are the most critical and least satisfied. Latinos on some matters are as positive or more positive than Whites but also share with African-Americans concerns that juries are not representative, courts are out of touch with the community, and are discriminatory in their treatment of minorities.

Finally, analysis of survey data suggests that a key to understanding public evaluations of the courts is the perceived fairness of procedures. People with a positive view of the courts tend to sense that court procedures are fair, generally and in their own experience. Beliefs about procedural fairness trump beliefs about the favorability of court outcomes, court delay, and cost when people assess how well the courts are performing. The primacy of procedural fairness applies across racial and ethnic groups.

### *A New Survey*

Yet another survey was conducted earlier this year to refine our understanding of public opinion on courts. No attempt was made to replicate the questions asked in the

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<sup>1</sup> For a more detailed review of findings from these surveys and sources for the assertions made, see David B. Rottman, "Public Perceptions of the Court: A Primer," which immediately precedes this report in the Conference notebook.

comprehensive national surveys of 1998 and 1999. The specific contribution of the new survey is threefold. First, the interviews were conducted with a randomly selected sample of individuals who had been involved with the courts in some way during the previous 12 months. Second, detailed questions were asked about specific elements of fairness to provide a more refined portrait of that key aspect of public opinion about judges and courts. Third, questions were asked to measure the public's reaction to the changing roles of judges and the courts exemplified by drug treatment and other problem-solving courts.

**(a) What the survey found:**

- A modest majority of recent court users believe that the courts always or usually use fair procedures.
- African-Americans with recent court experience report significantly less fairness than do Whites and Latinos. In turn, Latino litigants generally perceive less fairness than do Whites.
- Jurors and witnesses are more likely than litigants to view outcomes and procedures as fair. The difference between the views of African-American jurors and litigants is slight, however.
- Judges and courts are credited with treating people respectfully and in a neutral manner, two basic elements of fairness.
- However, there is less agreement that courts allow people to make their views known or are trustworthy, another two basic elements of fairness of procedures in the public mind.
- African-Americans are consistently less likely than Whites or Latinos to believe that courts follow fair procedures.
- When describing their specific court experiences, Latinos and African-Americans share similar concerns over their ability to make their views known and the trustworthiness of judges and courts.
- There is a strong perception that people with low income receive worse treatment than other groups from the courts.
- African-Americans are about as likely to perceive low-income people as being treated worse as they are to see their own group as receiving worse treatment. Latinos tend to perceive more unequal treatment than do Whites.
- Courts are far less fair in the eyes of former litigants than in the eyes of former jurors and witnesses.

- A solid majority of the public backs new court and judicial roles associated with problem-solving and treatment.
- Support for these new roles is strongest among African-Americans and Latinos. For example, more than 80 percent of those groups support courts hiring counselors and social workers, compared to about two-thirds of Whites.
- The highly positive response of African-Americans to changes that would increase the involvement of the courts in people's lives is a marked contrast with the negative views African-Americans generally have of judges and the courts.
- The public tends to have a neutral view of court performance. Courts receive both fewer positive and fewer negative ratings compared to police and the schools.
- Despite generally positive views of how they were treated when in court, there is a distinct reluctance on the part of recent court users to return to resolve a similar future dispute in the courts.
- Former litigants who perceive that courts use fair procedures and give groups equal treatment are the most likely to have a favorable opinion of court performance. This applies across racial and ethnic groups.
- Perceptions that courts are timely and affordable also contribute to a positive view of court performance.

**(b) How the survey was conducted:**

Between March and May of 2000, some 1,600 Americans were asked to express their views about the courts in their community. Approximately 600 of the interviewees had been to court within the previous year as a litigant, juror, or witness and were asked detailed questions about their experience in court. The remaining 1,000 interviews were with individuals randomly selected to represent the national adult population. All respondents were asked a general set of questions about the courts to compare the views of recent court users with those held in the general population.

The sampling strategy also sought to correct for the tendency of telephone surveys to under represent members of minority groups. Such under representation creates two significant problems. First, the force of minority group opinions is not adequately represented in the survey findings. Second, there are too few minority respondents to study variation in African-American and Latino opinions. Therefore, an additional 300 African-Americans and 250 Latinos were interviewed as an "over sample". Nonetheless,

the number of African-Americans and Latinos with recent court experience is small and findings based on their responses should be viewed as indicative rather than definitive.

This report provides information and commentary relevant to the challenge of meeting the justice needs of a multicultural society. The specific questions addressed are:

- How fair are court outcomes and procedures? (Section II)
- What aspects of court procedures are viewed most positively? (Section III)
- Are some groups treated worse than others by the courts? (Section IV)
- How different is fairness in the eyes of jurors and of litigants? (Section V)
- Does the public support a changing role for courts? (Section VI)
- Who supports the courts, and why? (Section VII)

The answers to the questions compare the views of the three largest racial and ethnic groups in the United States: Whites (non-Hispanic), African-Americans, and Latinos. Distinctions are also made between the opinions of courts users with a clear stake in a specific case (litigants) with (largely) neutral observers (jurors and witnesses).<sup>2</sup> Also, at times the opinions of non-court users are compared to those held by the recent court users.

The main report is supplemented by a special report written by two prominent students of Latino politics to place the survey findings in the context of Latino history and general perceptions of American institutions.<sup>3</sup> An appendix describes the survey methodology and uses the frequency of “don’t know” responses to discuss how public confidence in its ability to judge the courts.

## **II. How fair are the Courts?**

The survey included a number of questions that inquired directly about the perceived fairness of (a) court outcomes and (b) court procedures. Answers were solicited from three points of reference:

- How courts usually act.
- How a court acted in a particular case.
- How a court might act in a future case.

The first set of questions was asked of all survey respondents; the other questions were asked only of persons who had been a litigant, juror, or witness within the previous year.

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<sup>2</sup> Jurors and witnesses are combined in the analysis presented here to avoid problems associated with making comparisons among groups that contain relatively few respondents.

<sup>3</sup> See Rudolfo O. de la Garza and Louis DeSipio, “Latinos and the Courts,” which is located immediately after this report in the Conference notebook.

*How often are courts fair?*

Survey respondents with and without recent court contact were asked (a) How often do you think people receive fair outcomes when they deal with the courts?” and (b) “How often do you think the courts use fair procedures in handling cases?” The possible responses were “always”, “usually”, “sometimes”, “seldom” and “never”. The resulting answers are shown in Table 1.<sup>4</sup>

**Table 1: The Frequency of Fair Outcomes and Procedures:  
Views by Race and Recent Court Contact**

|                                       | White            |               | African-American |               | Latinos          |               |
|---------------------------------------|------------------|---------------|------------------|---------------|------------------|---------------|
|                                       | No Court Contact | Court Contact | No Court Contact | Court Contact | No Court Contact | Court Contact |
| <b>How often are outcomes fair?</b>   |                  |               |                  |               |                  |               |
| Always / Usually                      | 57%              | 49%           | 21%              | 15%           | 35%              | 40%           |
| Sometimes                             | 35%              | 35%           | 61%              | 52%           | 52%              | 37%           |
| Seldom / Never                        | 7%               | 15%           | 18%              | 33%           | 13%              | 23%           |
| <b>How often are procedures fair?</b> |                  |               |                  |               |                  |               |
| Always / Usually                      | 64%              | 57%           | 27%              | 25%           | 53%              | 40%           |
| Sometimes                             | 29%              | 27%           | 54%              | 50%           | 40%              | 42%           |
| Seldom / Never                        | 7%               | 16%           | 19%              | 25%           | 8%               | 18%           |

- Perceptions of fairness differ sharply by race and ethnicity. For example, among recent court users, nearly half of Whites (49 percent), just over one-seventh of African-Americans (15 percent), and four out of ten Latinos (40 percent) believe that court outcomes are always or usually fair. It is striking that twice as many African-Americans believe that outcomes are seldom or never fair as believe they are always or usually fair.
- Procedures tend to be seen as slightly fairer than outcomes. Still, Whites are twice as likely as African-Americans to say that court procedures are “always” or “usually” fair.
- The responses for Whites African-Americans, and Latino without recent court experience are similar to those found for respondents with recent court contact.

It is unlikely that the views of recent court users are monolithic within each racial and ethnic group. A basic distinction is between recent litigants and recent jurors or witnesses. The relevant comparison of responses is shown in Table 2. A cautionary note is needed here. The percentages in the table, and all others looking separately at jurors and litigants, are based on a relatively small number of African-American and Latino respondents. The small numbers reduce our confidence that we would find the same pattern of findings if the survey were to be repeated at a future point in time.<sup>5</sup>

<sup>4</sup> Differences noted in the text between the responses given by racial and ethnic groups or between former jurors/witnesses and former litigants are statistically significant.

<sup>5</sup> It is also noteworthy that the proportion of Whites with experience as a juror or witness (as opposed to a litigant) is larger (48 percent) than African-Americans (39 percent) or Latinos (37 percent).

- White jurors are more likely than African-American or Latino jurors to perceive fair outcomes. The difference between the perceptions of White and African-American jurors is deep: 63 percent of White and 17 percent of African-American (former) jurors and witnesses believe that outcomes are always or usually fair.

**Table 2: The Frequency of Fair Outcomes and Procedures:  
The Views of Recent Court Users**

|                                       | White           |                       | African-American |                       | Latinos         |                       |
|---------------------------------------|-----------------|-----------------------|------------------|-----------------------|-----------------|-----------------------|
|                                       | <i>Litigant</i> | <i>Juror/ Witness</i> | <i>Litigant</i>  | <i>Juror/ Witness</i> | <i>Litigant</i> | <i>Juror/ Witness</i> |
| <b>How often are outcomes fair?</b>   |                 |                       |                  |                       |                 |                       |
| Always / Usually                      | 38%             | 63%                   | 12%              | 17%                   | 38%             | 48%                   |
| Sometimes                             | 41%             | 26%                   | 47%              | 57%                   | 30%             | 45%                   |
| Seldom / Never                        | 20%             | 11%                   | 41%              | 26%                   | 32%             | 7%                    |
| <b>How often are procedures fair?</b> |                 |                       |                  |                       |                 |                       |
| Always / Usually                      | 48%             | 67%                   | 24%              | 25%                   | 27%             | 69%                   |
| Sometimes                             | 30%             | 22%                   | 44%              | 56%                   | 52%             | 24%                   |
| Seldom / Never                        | 22%             | 12%                   | 33%              | 18%                   | 21%             | 7%                    |

- There is little difference between the perceptions of African-American litigants and African-American jurors. Among Whites and Latinos, however, jurors and witnesses are far more likely than litigants to perceive fairness.
- African-American jurors are far less positive about the fairness of outcomes and procedures than their White and Latino counterparts. Only one in four sees procedures as “always” or “usually” fair.
- Among recent litigants, the perceptions of African-Americans and Latinos tend to be more negative than Whites. African-Americans again are highly negative: 41 percent see outcomes and one-third see procedures as seldom or never fair.

*How fair was the court in your case?*

Survey respondents with a recent court experience were read two statements about the fairness of court outcomes and court procedures:

- Fair procedures were used to make decisions about how to handle the situation
- The outcome of those procedures was fair.

They were asked, “Based on what you saw judges or court staff do or say, please tell me whether you strongly agree, somewhat agree, somewhat disagree or strongly disagree with each statement.” The proportion of respondents that strongly or somewhat agree with those statements is shown in Table 3.

**Table 3: The Proportion of Court Users with a Positive View of Fairness in Outcomes and Procedures**

|                     | White           |                      | African-American |                      | Latinos         |                      |
|---------------------|-----------------|----------------------|------------------|----------------------|-----------------|----------------------|
|                     | <i>Litigant</i> | <i>Juror/Witness</i> | <i>Litigant</i>  | <i>Juror/Witness</i> | <i>Litigant</i> | <i>Juror/Witness</i> |
| Saw fair outcomes   | 58%             | 85%                  | 44%              | 79%                  | 64%             | 87%                  |
| Saw fair procedures | 62%             | 85%                  | 53%              | 83%                  | 67%             | 97%                  |

- The majority of White and Latino respondents believe that they witnessed fair outcomes and fair procedures when in court.
- Latinos tended to be slightly more positive than Whites in their perceptions of fairness, but African-Americans were distinctly less positive, particularly in reference to fairness of outcomes.
- When asked about the court case in which they were involved, jurors and witnesses are significantly, and often dramatically, more likely than litigants to agree that they saw fair outcomes and procedures.

*How fair are the courts likely to be in a future case?*

After being asked to rate the fairness of their court experience, the respondents were asked: “Based on your experience in that recent court case, if you appeared in a court as a party in the same kind of case in the future: How fair do you think the outcome you received from the court would be? “And how fair do you think the judge would be in the way he or she treated you and handled your case?” Would you say very fair, somewhat fair, somewhat unfair, or very unfair?” Table 4 displays the proportion of recent litigants that thought their treatment would be “very fair” or “somewhat fair”.

**Table 4: The Proportion of Recent Court Users Expecting Fair Outcomes and Procedures in Future Court Cases**

|                       | White           |                      | African-American |                      | Latinos         |                      |
|-----------------------|-----------------|----------------------|------------------|----------------------|-----------------|----------------------|
|                       | <i>Litigant</i> | <i>Juror/Witness</i> | <i>Litigant</i>  | <i>Juror/Witness</i> | <i>Litigant</i> | <i>Juror/Witness</i> |
| Expect fair outcome   | 69%             | 86%                  | 53%              | 78%                  | 63%             | 90%                  |
| Expect fair treatment | 69%             | 88%                  | 55%              | 90%                  | 65%             | 93%                  |

- Recent litigants and jurors tend to anticipate fair outcomes and fair treatment if they returned to court on a similar matter.
- However, African-Americans are less optimistic than Whites or Latinos about the fairness of outcomes and procedures in a future court case.

**III. What Constitutes Fair Procedures?**

A number of specific elements contribute to a perception that procedures are fair or unfair. Previous research suggests that four key elements—interpersonal respect, neutrality, participation, and trustworthiness—are of particular relevance to



understanding public evaluations of the courts.<sup>6</sup> The survey asked all respondents one or more question related to each element. The series of questions began “I am going to read you a list of statements about courts in your community. Please tell me how strongly you agree or disagree with each.”

The following tables display the responses to eight procedural justice statements subdivided into the relevant element of fairness. Percentages indicate the proportion of respondents in agreement with a statement.

### *Interpersonal Respect*

Interpersonal respect is the sense that decision-makers treat you politely and with dignity and respect. Respect also follows from the sense that one’s rights are being protected. Three of the survey questions seek to tap this aspect of fairness.

**Table 5: The Proportion of Respondents Agreeing that “Courts are concerned with people’s rights”, “Courts treat people with dignity and respect” and “Courts treat people politely**

|                              | White                   |                      | African-American        |                      | Latinos                 |                      |
|------------------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                              | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| <b>Concerned with rights</b> | 84%                     | 71%                  | 67%                     | 56%                  | 81%                     | 68%                  |
| <b>Treat with respect</b>    | 79%                     | 68%                  | 59%                     | 49%                  | 78%                     | 67%                  |
| <b>Treat politely</b>        | 82%                     | 76%                  | 61%                     | 47%                  | 76%                     | 64%                  |

- A perception that courts treat people with respect is strongest among Whites, somewhat less strong for Latinos, and considerably less evident among African-Americans. Indeed, a slight majority of African-American respondents with recent court experience disagree with two of the statements concerning respect (that people are treated with respect and that courts treat people politely).
- Differences among the three racial and ethnic groups are similar for both those with recent court experience and those without such experience.

### *Neutrality*

The neutrality element of procedural fairness refers to a sense that decision-makers are honest and impartial, and base their decisions on the facts.

<sup>6</sup> See Tom Tyler, “Citizen Discontent with Legal Procedures: A Social Science Perspective on Civil Procedure Reform, *American Journal of Comparative Law* 45 (4), Fall, 1997, pp. 887-92.

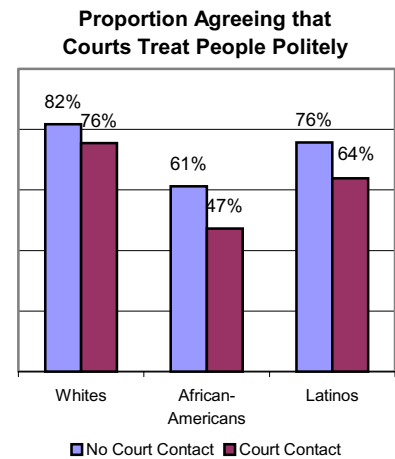
**Table 6: The Proportion of Respondents Agreeing that Courts “Make decisions based on the facts” and “Judges are honest in their case decisions”**

|                     | White            |               | African-American |               | Latinos          |               |
|---------------------|------------------|---------------|------------------|---------------|------------------|---------------|
|                     | No Court Contact | Court Contact | No Court Contact | Court Contact | No Court Contact | Court Contact |
| Decide on facts     | 84%              | 74%           | 67%              | 54%           | 80%              | 73%           |
| Honest in decisions | 85%              | 72%           | 71%              | 56%           | 77%              | 75%           |

- African-American respondents are less likely than others to agree that the courts are neutral. African-Americans with court experience are about as likely to disagree as agree that courts decide on the facts or that judges are honest in their decisions

*Participation*

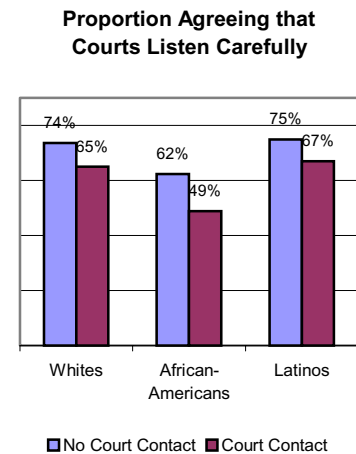
A sense of participation follows when litigants have an opportunity to express their views to decision-makers. Only one statement relevant to participation was asked of all survey respondents: “Courts listen carefully to what people have to say.”



**Table 7: The Proportion of Respondents Agreeing that “Courts Listen Carefully to What People Have to Say”**

|                  | White            |               | African-American |               | Latinos          |               |
|------------------|------------------|---------------|------------------|---------------|------------------|---------------|
|                  | No Court Contact | Court Contact | No Court Contact | Court Contact | No Court Contact | Court Contact |
| Listen carefully | 74%              | 65%           | 62%              | 49%           | 75%              | 67%           |

- A perception that courts listen carefully is equally present among Whites and Latinos (between two-third and three-quarter agree with the statement).
- African-Americans, and particularly those with recent court experience are less positive in their rating of whether courts allow meaningful participation.



*Trustworthiness*

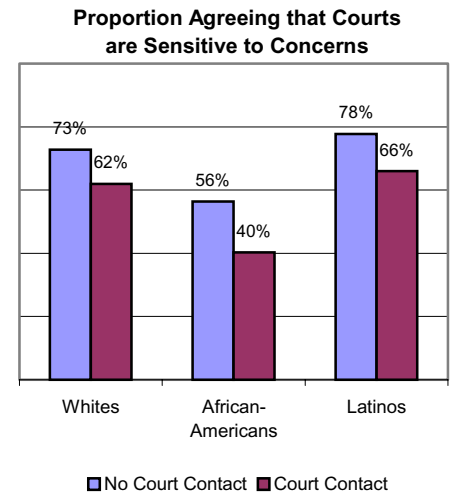
Trustworthiness refers to the sense people have of the decision-maker’s motivation and sincerity. A trustworthy decision-maker is motivated to treat the litigant

fairly, to be concerned with their needs, and to consider their side of the story.

**Table 8: The Proportion of Respondents Agreeing that “Courts take the needs of people into account” and “Courts are sensitive to the concerns of the average citizen.”**

|                       | White                   |                      | African-American        |                      | Latinos                 |                      |
|-----------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                       | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| Needs into account    | 70%                     | 61%                  | 56%                     | 45%                  | 69%                     | 69%                  |
| Sensitive to concerns | 73%                     | 62%                  | 56%                     | 40%                  | 78%                     | 66%                  |

- Generally, fewer respondents agree with statements indicating the trustworthiness of courts than agreed that courts are respectful and neutral.
- The lack of trust in the courts among African-American respondents is striking. The majority of recent African-American litigants disagreed with the two statements that relate to trustworthiness (courts take needs into accounts and courts are sensitive to concern).



Overall, the answers emphasize the importance of race and ethnicity in perceptions of fairness in court procedures. For example, African-Americans with court experience agreed on average with 49 percent of the statements, compared to average agreement levels of 64 percent for Whites and 69 percent for Latinos. The responses to the questions also suggest that in each racial or ethnic group people with recent court experience are less convinced of procedural fairness in “the courts in their community.”

#### IV. Are Some Groups Treated Worse than Others by the Courts?

All of the survey respondents were asked to indicate how frequently African-Americans, Latinos, non-English speakers, and people with low incomes are treated worse than other groups by the courts. The specific question read: “Some people say that the courts treat everyone equally, while others say that the courts treat certain people differently than others. How often is each of the following groups of people treated worse than others by the courts?”

The answers given by Whites, African-Americans, and Latinos are compared in the following four tables. Each table distinguishes respondents who were included in the general national sample and those selected because of their recent court experience.

**Table 9: How Frequently African-Americans are Treated Worse than Other Groups?**

|                       | White                   |                      | African-American        |                      | Latinos                 |                      |
|-----------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                       | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
|                       | <b>Always / Often</b>   | 19%                  | 23%                     | 45%                  | 52%                     | 31%                  |
| <b>Sometimes</b>      | 46%                     | 39%                  | 42%                     | 35%                  | 42%                     | 41%                  |
| <b>Rarely / Never</b> | 35%                     | 38%                  | 13%                     | 13%                  | 26%                     | 28%                  |

**Table 10: How Frequently are Latinos Treated Worse than Other Groups?**

|                       | White                   |                      | African-American        |                      | Latinos                 |                      |
|-----------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                       | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
|                       | <b>Always / Often</b>   | 16%                  | 23%                     | 35%                  | 37%                     | 27%                  |
| <b>Sometimes</b>      | 49%                     | 37%                  | 50%                     | 47%                  | 48%                     | 32%                  |
| <b>Rarely / Never</b> | 35%                     | 41%                  | 15%                     | 16%                  | 26%                     | 30%                  |

**Table 11: How Frequently are Non-English Speaking Treated Worse than Other Groups?**

|                       | White                   |                      | African-American        |                      | Latinos                 |                      |
|-----------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                       | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
|                       | <b>Always / Often</b>   | 18%                  | 22%                     | 28%                  | 38%                     | 36%                  |
| <b>Sometimes</b>      | 48%                     | 39%                  | 48%                     | 39%                  | 36%                     | 34%                  |
| <b>Rarely / Never</b> | 33%                     | 39%                  | 25%                     | 24%                  | 28%                     | 27%                  |

**Table 12: How Frequently is Someone with a Low Income Treated Worse?**

|                       | White                   |                      | African-American        |                      | Latinos                 |                      |
|-----------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                       | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
|                       | <b>Always / Often</b>   | 24%                  | 31%                     | 43%                  | 52%                     | 36%                  |
| <b>Sometimes</b>      | 46%                     | 38%                  | 38%                     | 32%                  | 42%                     | 31%                  |
| <b>Rarely / Never</b> | 30%                     | 30%                  | 18%                     | 16%                  | 22%                     | 24%                  |

- The strongest sense of worse treatment appears to be for “someone with a low income.”
- African-American respondents were about as likely to perceive discrimination against low-income people as they were against African-Americans as a group.
- Still, one-half of African-Americans (52 percent) believe that their group is “always” or “often” treated worse than other groups.

- Latinos perceived more discrimination against low-income people than against Latinos as a group and the same level of discrimination against low-income people and non-English speakers.
- Within each racial and ethnic group there is no clear difference in the views of those with and those without recent court contact.

## V. How Different is Court Fairness in the Eyes of Jurors and of Litigants?

The survey respondents with recent court experience were asked to say whether they agreed or disagreed with a set of statements describing how fairly they were personally treated in the recent court case. The percentages in Table 13 indicate the proportion of favorable responses (strongly agreeing or agreeing that they were favorably treated). The statements are divided into the element of procedural fairness that they represent.<sup>7</sup>

**Table 13: The Percentage of Court Users with a Positive View of How Fairly they were Treated**

|   | White    |               | African-American |               | Latinos  |               |
|---|----------|---------------|------------------|---------------|----------|---------------|
|   | Litigant | Juror/Witness | Litigant         | Juror/Witness | Litigant | Juror/Witness |
| <b>Respect</b>                          |          |               |                  |               |          |               |
| <i>I was treated politely</i>           | 78%      | 96%           | 60%              | 92%           | 77%      | 94%           |
| <i>I was treated with respect</i>       | 72%      | 93%           | 60%              | 88%           | 75%      | 97%           |
| <i>My rights taken into account</i>     | 67%      | 89%           | 56%              | 87%           | 65%      | 100%          |
| <b>Neutrality</b>                       |          |               |                  |               |          |               |
| <i>My race made a difference</i>        | 82%      | 82%           | 51%              | 71%           | 62%      | 74%           |
| <i>I was treated the same as others</i> | 71%      | 91%           | 57%              | 79%           | 69%      | 97%           |
| <b>Participation</b>                    |          |               |                  |               |          |               |
| <i>I said what was on my mind</i>       | 58%      | 84%           | 49%              | 86%           | 45%      | 93%           |
| <i>My views were made known</i>         | 61%      | 86%           | 48%              | 86%           | 53%      | 97%           |
| <b>Trust</b>                            |          |               |                  |               |          |               |
| <i>My views were considered</i>         | 56%      | 86%           | 49%              | 77%           | 59%      | 93%           |
| <i>The judge did not care</i>           | 60%      | 87%           | 46%              | 69%           | 47%      | 90%           |

- Respondents with recent court experience tend to have a generally positive view of how fairly they were treated. On average, Whites responded in a positive manner to 78 percent of the statements, African-Americans to 66 percent, and Latinos to 71 percent.
- Recent jurors and witnesses in all racial and ethnic categories have a positive view of how they were treated by the courts; recent litigants have gloomier assessments, especially African-Americans and Latinos.

<sup>7</sup> A similar pattern of findings emerges from a series of statements describing what the respondent observed in the courtroom rather than what they experienced (for example, “People were treated politely” and “A person’s race or ethnic group made no difference in how the court treated them”).

- Generally, recent litigants respond least positively to statements indicating a sense of participation or trustworthiness. This did not apply, however, to African-Americans, who, as a group, did not differ greatly in the assessments across the four elements of procedural fairness considered here.
- African-American and Latino litigants responded less positively than Whites to statements regarding neutrality and participation.
- Latino jurors and witnesses tended to be slightly more positive than their White or African-American counterparts in their evaluation of the quality of participation and trust that they experienced.

## VI. Does the Public Support a Changing Role for Courts?

One purpose of the survey was to take a measure of public support for changes to the traditional role and operations of trial courts. The specific changes in question relate to drug treatment courts and, more generally, to therapeutic justice.

The preamble to the question read: “Some people think that courts should stick to their traditional role of looking at the facts in a specific case and then applying the law. Other people think that it is now necessary for the courts to go beyond that role and try to solve the problems that bring people into court. I am going to read you a few statements about the role of the court. Do you strongly agree, somewhat agree, somewhat disagree, or strongly disagree that courts should . . .”

- Should courts hire drug treatment counselors and social workers as court staff members?

**Table 14: Should Courts Hire Treatment Counselors and Social Workers as Court Staff Members?**

|                          | White                   |                      | African-American        |                      | Latinos                 |                      |
|--------------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                          | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| <b>Strongly agree</b>    | 35%                     | 34%                  | 59%                     | 60%                  | 55%                     | 46%                  |
| <b>Somewhat agree</b>    | 33%                     | 26%                  | 22%                     | 25%                  | 24%                     | 24%                  |
| <b>Somewhat disagree</b> | 13%                     | 15%                  | 10%                     | 9%                   | 7%                      | 13%                  |
| <b>Strongly disagree</b> | 20%                     | 25%                  | 9%                      | 7%                   | 13%                     | 17%                  |

- Should courts order a person to go back to court and talk to the judge about their progress in a treatment program?

**Table 15: Solve Problems by Bringing the Offender to Report Back to the Judge on his Progress**

|                          | White                   |                      | African-American        |                      | Latinos                 |                      |
|--------------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                          | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| <b>Strongly agree</b>    | 55%                     | 54%                  | 67%                     | 69%                  | 68%                     | 59%                  |
| <b>Somewhat agree</b>    | 31%                     | 29%                  | 23%                     | 20%                  | 23%                     | 27%                  |
| <b>Somewhat disagree</b> | 7%                      | 9%                   | 5%                      | 7%                   | 4%                      | 4%                   |
| <b>Strongly disagree</b> | 7%                      | 9%                   | 4%                      | 4%                   | 5%                      | 10%                  |

- c. Should courts take responsibility for making sure local agencies provide help to people with drug abuse and/or alcohol problems?

**Table 16: Should Courts Solve Problems by Coordinating the Work of Local Agencies?**

|                          | White                   |                      | African-American        |                      | Latinos                 |                      |
|--------------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                          | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| <b>Strongly agree</b>    | 52%                     | 48%                  | 72%                     | 73%                  | 67%                     | 70%                  |
| <b>Somewhat agree</b>    | 30%                     | 32%                  | 18%                     | 21%                  | 22%                     | 19%                  |
| <b>Somewhat disagree</b> | 8%                      | 11%                  | 4%                      | 4%                   | 6%                      | 6%                   |
| <b>Strongly disagree</b> | 10%                     | 9%                   | 6%                      | 3%                   | 5%                      | 4%                   |

- d. Should courts consider what psychologists and medical doctors know about the causes of emotional problems when making decisions about people in court cases?

**Table 17: Should Courts Solve Problems Using the Knowledge of Psychologists and Doctors?**

|                          | White                   |                      | African-American        |                      | Latinos                 |                      |
|--------------------------|-------------------------|----------------------|-------------------------|----------------------|-------------------------|----------------------|
|                          | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> | <i>No Court Contact</i> | <i>Court Contact</i> |
| <b>Strongly agree</b>    | 45%                     | 45%                  | 61%                     | 67%                  | 58%                     | 56%                  |
| <b>Somewhat agree</b>    | 44%                     | 38%                  | 35%                     | 23%                  | 33%                     | 27%                  |
| <b>Somewhat disagree</b> | 8%                      | 7%                   | 2%                      | 5%                   | 3%                      | 9%                   |
| <b>Strongly disagree</b> | 3%                      | 10%                  | 2%                      | 4%                   | 5%                      | 8%                   |

- Respondents have a very favorable reaction to all four changes to the traditional role of courts.
- African-American respondents tend to be the most supportive of change, followed by Latinos. Whites are distinctly less enthusiastic in their support of new roles for judges and courts. The magnitude of the differences in levels of support is evident in the proportion of “strongly agree” responses to the four statements.
- The level of support for hiring treatment counselors and social workers is the most notable difference in the views of Whites, African-Americans and Latinos. Whites are less supportive, although a majority is in agreement with the change.

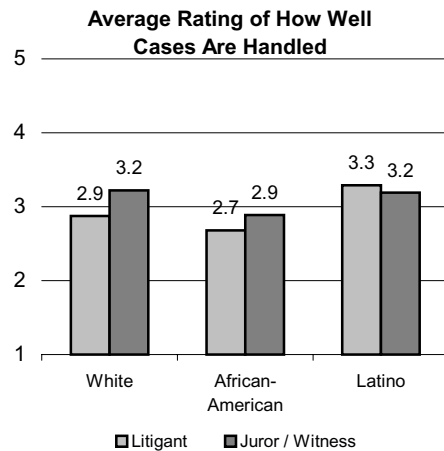
## VII. Who Supports the Courts?

The survey established that there is strong support for a change in the traditional role of the courts. That finding may be taken as good or bad news for the courts. It is good news to the extent that the public believes that the courts are able to make an important contribution to solving some of our most difficult social problems. It is bad news to the extent that the desire for change is rooted in unhappiness with current levels of court performance.

*How well do courts handle types of cases?*

The survey offers several basic measures of public approval for the way courts handle cases. The first measure is from questions about how well “the courts in your community” handle five kinds of cases. The survey interviewer asked each respondent, “On a scale from 1 to 5 with 1 being the very lowest rating and 5 being the very highest, please tell me how well you think the courts in your community handle each of the following kinds of cases:

- Criminal cases involving violence, such as robbery;
- Criminal cases involving drug abusers or drunk drivers;
- Civil cases, such as auto accidents and medical malpractice claims;
- Family relations cases, such as divorce, child custody, etc.; and
- Juvenile delinquency cases.”



The answers given by each respondent were totaled and then divided by five (the number of evaluations requested) to provide an overall performance score. The results (see chart to the right) for persons with recent court contact suggest that:

- Latinos, on average, give the courts the highest ratings and African-Americans the lowest.
- Former jurors and witnesses are more positive in their ratings than were litigants among Whites and African-Americans.
- There is no clear difference in the averages of the ratings given by Latino jurors and litigants. Both groups provide high, in a relative sense, ratings of 3.3 (litigants) and 3.2 (jurors\witnesses).



- The evaluations of all groups were either just above or just below a score of three, the precise middle of the range (from one to five).

*How do you feel about the courts in your community?*

The second direct evaluation was a measure of how people feel in general about the courts in their community. The question read, “On a scale from 1 to 5, with 1 being the least favorable and 5 being the most favorable, how would you rate how you feel about the courts in your community? If you feel neutral, use 3.” The same question was asked of how people feel about their local police and their local schools.

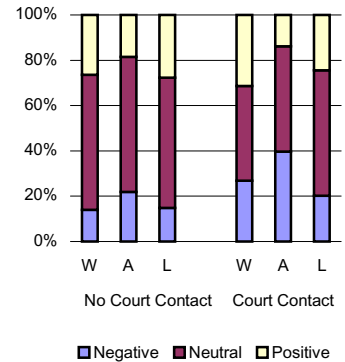
The answers to questions about all three institutions (see the charts to the right) suggest that courts are rated lower than the police or schools and also that they were rated in a very distinctive manner.

In terms of the perceived level of performance by courts, 26 percent of Whites without recent court contact rated the courts in a positive manner (score of 4 or 5). This compares with 60 percent positive ratings the same group gave to police and schools. African-Americans and Latinos without recent court experience also were less likely to give positive ratings to the courts but the margin of difference was not so large as for Whites (18 percent for courts versus 29 percent for the police and 37 percent for schools among African-Americans and 28 percent for the courts and 53 and 52 percent for the police and schools among Latinos).

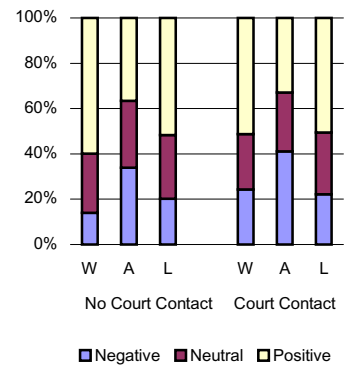
In terms of how the courts are rated, while the courts attracted fewer positive ratings (scores of 4 or 5) than the police or schools, the courts also tended to receive fewer negative ratings among minority group members. For example, 22 percent of African-Americans without recent court contact gave the courts a negative rating. This compares to the 43 percent negative ratings African-Americans gave to the police and 34 percent to schools.

This leaves the courts with a large proportion of neutral ratings (3 on the rating scale), twice the proportion of neutral ratings received by the police or schools. The courts appear to elicit less passion than some other public institutions. The same basic pattern, which applies to all three racial and ethnic groups, is found when comparisons are made among respondents with recent contact with the court system.

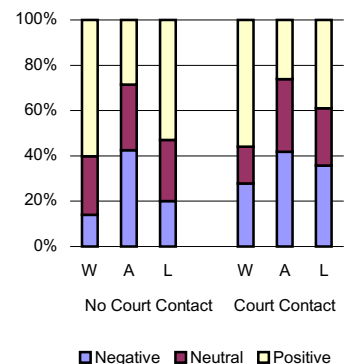
**Favorability of Courts**



**Favorability of Schools**



**Favorability of Police**



Legend:  
W=White; A = African-American; L = Latino

*How likely are recent court users to return to court in a future dispute?*

There is a third and perhaps most telling assessment of someone’s recent court experience. It comes in the answer to the questions: “How likely would you be to go to the courts to resolve a similar dispute you became involved in at some point in the future?” A significant minority (44 percent overall) replied that they were “very unlikely” or “unlikely” to return to court.

**Table 18: How Likely are Recent Court Users to Go to the Courts in a Future Dispute?**

|                      | White           |                       | African-American |                       | Latinos         |                       |
|----------------------|-----------------|-----------------------|------------------|-----------------------|-----------------|-----------------------|
|                      | <i>Litigant</i> | <i>Juror/ Witness</i> | <i>Litigant</i>  | <i>Juror/ Witness</i> | <i>Litigant</i> | <i>Juror/ Witness</i> |
| <b>Very Likely</b>   | 30%             | 38%                   | 39%              | 39%                   | 20%             | 37%                   |
| <b>Likely</b>        | 19%             | 26%                   | 14%              | 15%                   | 18%             | 30%                   |
| <b>Unlikely</b>      | 20%             | 19%                   | 12%              | 14%                   | 26%             | 13%                   |
| <b>Very Unlikely</b> | 31%             | 18%                   | 35%              | 33%                   | 37%             | 20%                   |

- Latinos are by a slight margin the least likely litigants (38 percent are “very likely” or “likely”) and most likely jurors or witnesses (67 percent) to be willing (that is, “very likely” or “likely”) to return to court.
- African-Americans are equally unlikely (47 percent) to return to court whether their experience was as a litigant or as a juror
- Among White and Latino respondents there was a substantial difference between the expectations held by jurors and of litigants.
- For Whites, one-half of the former litigants and 37 percent of the jurors and witnesses felt that they were unlikely to return to court.
- These differences among racial and ethnic groups should be regarded as tentative. The number of Latino respondents with court experience is small (95 in all).
- There is an intriguing pattern in which persons with recent and even positive court experience are reluctant to return to court in the future.

## **IX. Conclusion**

This report offers the first look at findings from a national public opinion survey conducted in the spring of this year. The survey featured interviews with a randomly selected sample of individuals with recent court experience, asked detailed questions about the perceived fairness of court procedures, and included questions to determine the public’s reaction to changing judicial and court roles in treatment and problem-solving courts.

The main purpose of the report is to describe differences and similarities in the reactions of Whites, African-Americans and Latinos to their recent experience in court. Some of the findings from the survey are clear. African-Americans are estranged from the court system. Latinos sometimes share the concerns of African-Americans over the fairness of outcomes and procedures but tend overall to be close to the more positive views that Whites hold about the courts.

Jurors and witnesses in each racial and ethnic group are more likely than litigants to view outcomes and procedures as fair. The difference between litigants and juror\witnesses is often dramatic. It is notable, however, that the size of the difference between African-American litigants and jurors sometimes is small relative to that for Whites and Latinos.

Public support is strong for non-traditional judicial and court roles that help solve the problems that bring people into court. That support extends to solving problems using the knowledge of psychologists and doctors and to bringing offenders to report back to the judge on their progress. African-Americans and Latinos are the strongest supporters of non-traditional court roles.

Perceptions that courts use fair procedures and treat different groups equally appear to be the strongest predictor of favorable evaluations of court performance. This applies across racial and ethnic groups and for litigants and for jurors and witnesses. However, perceptions that courts are timely and affordable sometimes contribute to a favorable rating of court performance.

There also are some intriguing and even contradictory survey findings. Recent court users, for example, believe that they would be treated fairly and receive fair outcomes in a future court case but nonetheless are distinctly reluctant to return to court. This applies to both former litigants and to former jurors\witnesses. It is important to understand the reasons underlying this apparent reluctance to use the courts again.

The group that is most critical of the courts, African-Americans, also strongly supports expanding the role of courts to take responsibility for coordinating the work of local agencies and bringing offenders back before judges to report on their progress. This suggests that African-Americans may have some important expectations of the courts that are not being met or that the courts and judges have attributes that African-Americans value despite their concerns over the fairness of court outcomes and procedures.

Finally, judges and courts tend, at least in this survey, to arouse relatively little passion when those with and those without recent court experience are asked to offer evaluations of judges and courts. In most respects, courts are rated as moderate in the fairness of outcomes and procedures, in how well they handle various kinds of cases, and in how favorably people feel about the courts.

That moderation in opinions and the support by African-Americans and Latinos for an expanded role for courts allow this report to conclude on a note of optimism. Specifically, there are grounds for optimism about the changeability of public support for the courts. Respondents to the survey were asked to rate how they feel about the courts in their community, their local police, and their local schools and given a specific score to use if they felt neutral. Neutral ratings dominated the responses people gave about the courts but were infrequently used in ratings the police or schools. Courts have both fewer supporters and fewer critics than other public institutions. The public image of the court may therefore be more susceptible to change than we might think.

## APPENDIX

### SURVEY METHODOLOGY

The project staff at the National Center for State Courts designed the survey instrument with the advice of an advisory committee and assistance of the Indiana University Public Opinion Laboratory.<sup>8</sup> Pre-tests refined the survey instrument, which was revised before the questionnaire was implemented in its entirety. The interviews were conducted by professional interviewers at the Indiana University Public Opinion Laboratory from special facilities on the Indiana University-Purdue University Indianapolis campus. All interviewers received at least four hours of general interviewer training, in addition to specific training for this particular project instrument (the questionnaire). Most of the interviewers were experienced interviewers having participated in many other survey research projects.

Public Opinion Laboratory interviewers completed telephone interviews with 1005 residents across the United States, comprising the national sample. Additionally, over-samples of 308 African-Americans and 254 Hispanics were completed. In the national sample and in each of the over-samples a quota system was used to ensure that the desired target of respondents with recent (within the previous 12 months) court experience was met.

The maximum margin of error in the national sample (when comparing sub-cells) is 3.15%. That means if the same questions were asked of a similar sample, 19 out of 20 times you would receive answers within +/- 3.15 percentage points of those reported in this document. Of course additional errors may result from things such as question wording, respondents' inattention, pace of speech by the interviewer, and other factors. Each of these is given special attention during the data collection phase so they are minimized as much as possible. There is no reason to believe that there are any significant biases in the data collected for this research.

Survey Sampling provided a random sample of United States residences. Survey Sampling also provided the samples for the African-American over-sample and the Hispanic over-sample. The African-American over-sample included 308 interviews with a margin of error of 5.7% and 254 interviews were conducted for the Hispanic over-sample with a margin of 6.27%.

The data were collected from March 22, 2000 through May 3, 2000. The cooperation rate for this survey was acceptable, according to the AAPOR formula (see [www.aapor.org](http://www.aapor.org)), as established by the American Association for Public Opinion research.

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<sup>8</sup> Advisory Committee Members: Louis DeSipio, Rodolfo de la Garza, Larry Heuer, Barry Mahoney, Alan Tomkins, and Tom Tyler.

**National Sample**

**DISPOSITIONS**

|                              |       |
|------------------------------|-------|
| No Answer                    | 19282 |
| Busy                         | 4843  |
| Answering Machine            | 11873 |
| Refusal*                     | 3389  |
| Not in Quota                 | 7854  |
| Disconnected                 | 1370  |
| Not in Service               | 768   |
| Break-off                    | 275   |
| Callback                     | 2866  |
| Need Spanish-speaking Inter. | 408   |
| Complete                     | 1005  |

TOTAL DIALINGS: 53933

**African-American Over-sample**

**DISPOSITIONS**

|                              |      |
|------------------------------|------|
| No Answer                    | 8468 |
| Busy                         | 1249 |
| Answering Machine            | 3987 |
| Refusal*                     | 1430 |
| Not in Quota                 | 3108 |
| Disconnected                 | 807  |
| Not in Service               | 419  |
| Break-off                    | 145  |
| Callback                     | 2146 |
| Need Spanish-speaking Inter. | 73   |
| Complete                     | 308  |

TOTAL DIALINGS: 22140

**Hispanic Over-sample**

**DISPOSITIONS**

|                              |       |
|------------------------------|-------|
| No Answer                    | 14011 |
| Busy                         | 2061  |
| Answering Machine            | 4146  |
| Refusal*                     | 1254  |
| Not in Quota                 | 3558  |
| Disconnected                 | 770   |
| Not in Service               | 372   |
| Break-off                    | 69    |
| Callback                     | 1851  |
| Need Spanish-speaking Inter. | 4688  |
| Complete                     | 254   |

TOTAL DIALINGS: 33034

\* This number reflects total number of refusals. A single number could have up to three refusals.

*NOTE:* Up to 20 attempts were made on some phone numbers. A number was not called again if:

- ...The respondent refused to participate on three separate occasions.
- ...A disconnected or not in-service number was encountered.
- ...Attempts to the number yielded a *no answer, busy or answering machine* on 20 separate occasions.

*NOTE:* Each interviewer was given a set of answers—“What the Respondent Might Like to Know”—to provide standard answers to any question raised by the people contacted for an interview.

## **SUPPLEMENT to METHODOLOGY APPENDIX**

### **How Confident are People in Their Ability to Judge the Courts?**

People who agree to participate in an opinion survey, especially a telephone survey, are asked a lot of specific questions in rapid fire. Immediate, not reflective, answers are sought. Researchers can rely on social pressures and expectations that encourage people to give an answer rather than indicate their lack of opinion or lack of sufficient knowledge to form an opinion on a topic.

Nonetheless, virtually all survey questions attract answers of “don’t know” and are met with refusals to give an answer. The proportion of the public unwilling to answer questions about the courts provides some insight into where the public feels competent to make evaluations and express opinions.

- Survey respondents seem to experience the greatest difficulty with questions asking for an evaluation of how the courts handle different kinds of cases. More than one respondent in five (22 percent) did not evaluate the courts’ handling of civil cases. Respondents were more likely to offer an evaluation of how the courts handle criminal cases involving drug abusers or drunk drivers. Even there, however, one respondent in eight did not evaluate.
- Survey respondents were also cautious when answering questions about whether the courts treat some groups of people worse than others. Don’t know (and no answer) responses ranged from 18 percent for Latinos and non-English speakers to 9 percent for “someone with a low income.”
- Most (90 percent or more) respondents gave answers to questions about fairness in court procedures and outcomes. Questions about “respect” seem to be among the questions most likely to be answered.
- Most respondents (96 percent) felt that they could answer questions about the changing role of the courts.
- Respondents with court experience apparently found it easy to predict how well they might be treated in a future court case (less than 3 percent did not give an answer) and to say if they would go to court to resolve a similar dispute.
- Respondents had little apparent difficulty in saying how favorably they felt about the courts in their community. Only two percent did not answer, the same percentage that did not express their degree of confidence in the police (and slightly more than the percent not answering the question about public schools).

- White respondents were less likely than members of minority groups to offer an evaluation of court performance in specific types of cases. The difference was greatest for evaluations of juvenile cases.
- Overall, the public is more comfortable making general judgments on court performance than in evaluating the specifics of court performance.