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# PROCEDURAL FAIRNESS IN CALIFORNIA

## Initiatives, Challenges, and Recommendations

Submitted to the Judicial Council of California—Administrative Office of the Courts,  
Executive Office Programs Division

May 2011

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I N N O V A T I O N

**May 2011**

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*Written by Rachel Porter, Center for Court Innovation*

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## EXECUTIVE SUMMARY

Procedural fairness concerns the extent to which the courts are understandable, accessible, respectful, and trustworthy in the eyes of the people who use them. In 2005, the Judicial Council of California commissioned a landmark public trust and confidence assessment, *Trust and Confidence in the California Courts*, which identified perceptions of procedural fairness as the strongest predictor of whether members of the public approve of or have confidence in California's courts (Rottman, 2005). In 2007, in response to these findings and those in a follow-up study involving in depth focus groups and interviews with court users, administrators, bench officers, and attorneys (Wooden and Doble, 2006), Chief Justice Ronald M. George launched a statewide initiative on procedural fairness, the first initiative of its kind in the nation. It is aimed at ensuring fair process, quality treatment of all court users, and higher public trust and confidence in California's courts. In 2008, the California Administrative Office of the Court's Executive Office Programs Division commissioned the Center for Court Innovation to conduct a thorough needs assessment and analysis of best practices in promoting procedural fairness among the state's civil and traffic cases. This report describes findings from over 20 site visits and nearly 50 stakeholder interviews along with a document and website review.

In its research, the Center set out to meet these project goals:

- To identify and analyze how California's court employees and other courthouse actors conceptualize and meet procedural fairness concerns;
- To document the ways that California's courts currently promote procedural fairness; and
- To identify challenges and recommendations for the future.

For ease of reference, the report is organized into four sections:

- Procedural Fairness throughout the Courthouse;
- Key Venues: Traffic, Small Claims, and Family and Juvenile Cases;
- Key Users: Self-Represented, Limited English, and Culturally Diverse; and
- Assessing Procedural Fairness.



## **PROCEDURAL FAIRNESS THROUGHOUT THE COURTHOUSE**

From the moment court users access a website or enter a courthouse building to the moment they depart at the conclusion of a case, there are dozens of opportunities to signal that the justice system is capable of meting out fair and impartial justice.

### **Accessing the Court: Establishing Respect and Trust**

The analysis in this report suggests that courts can facilitate improved access to justice through a wide array of approaches, many of which are already underway in California, including:

- Assess and improve the clarity of court websites;
- Conduct outreach to libraries and other community sites;
- Prioritize courthouse facilities maintenance;
- Demonstrate concern for and attention to families, for example through childcare provisions or child-friendly waiting areas;
- Increase off-site availability of court hearings (e.g., video conferencing and mobile courts); and
- Survey targeted groups of court users about their concerns regarding their court experience.

### **Interaction between Court Staff and Court Users**

Once inside the courthouse, there are numerous opportunities to interact with court staff, from security at the courthouse door to officials inside the courtroom. Specific recommendations to improve interaction with court users include:

- Train staff and bench officers on the importance of procedural fairness;
- Encourage all staff to avoid joking about litigants in any context and especially in the courtroom;
- Ask bench officers to set the culture and the tone for the court by refusing to make any disparaging remarks regarding litigants at any time in the courthouse;
- Develop standard and carefully delivered descriptions of court procedure that can routinely be provided by court staff and bench officers; and
- Conduct brown bag discussions, mentorships, site visits, and other activities to help court staff and bench officers learn more about procedural fairness and how to interact more respectfully with court users.

### **Understanding Court Proceedings**

For litigants and members of the public, understanding what is happening in court is often challenging. Even litigants with attorneys often do not receive an explanation of the basis of the court's decisions. This problem is exacerbated for self-represented litigants and litigants with limited English proficiency. California has implemented self-help centers in every court to help self-represented litigants get information about how to file court papers, what to expect in court, and how to obtain widely-used orders (such as breach of contract or child support). Report recommendations include:

- Explain how case decisions are made at the beginning of a court session, including the concepts of admissible evidence and self-incrimination;
- Explain the basis for judicial decisions, including how facts and details of the case were assessed;
- Continue to simplify forms for litigants to use;
- Explain the principles and practices of confidentiality (especially in family-related cases), both in the courtroom and via community outreach; and
- Develop and make available fact sheets that describe court procedures, such as those found on the California courts' website.

### **Ensuring a Voice in the Court**

The unique traditions and rules of courtroom behavior—judicial robes, prohibitions on speaking, reading and eating, specified seating for court actors—are foreign to many litigants. The experience often involves a room full of strangers observing as the court decides their fates, frequently with high emotional, psychological, and financial stakes. Given this context, a critical element of establishing procedural fairness is honoring the individual voice of litigants, and creating space for court users to ask questions about their cases, the court process, and the court's decisions. Recommendations include:

- Provide opportunities for court users to comment on their experiences both in the courthouse and via the internet—and report their comments to court leadership;
- Develop tip sheets regarding effective communication techniques for judges, including appropriate listening skills while litigants are speaking and avoiding multitasking on the bench;
- Implement trainings in listening skills for bench officers, including temporary bench officers; and
- State and explain rulings from the bench, whenever possible, so litigants receive court rulings directly from a bench officer.

### **KEY VENUES: TRAFFIC, SMALL CLAIMS, FAMILY AND JUVENILE CASES**

Courts in California that hear traffic, small claims, family, juvenile, and other civil matters process hundreds of thousands of cases each year. For court staff and bench officers, the flow of cases may appear non-stop. For members of the public who come into court, each case may be of life-changing significance.

#### **Traffic Cases**

California sees more traffic cases than all other case types combined. As the state legislature increases fines, more people can be expected to come to court to contest traffic violations. The vast majority of these litigants will be self-represented. Recommendations include:

- Use uniform bench officer scripts at the beginning of each traffic arraignment and trial that explain procedures and the due process rights of defendants;

- Use online and in-court payment centers to reduce delay and crowds;
- Conduct enhanced trainings for clerks regarding the kinds of information they can and should provide to traffic litigants;
- Use volunteers to provide information to litigants and check that forms are correctly filled out; and
- Show videos about traffic cases that specifically include discussion of due process, public safety, fees and fines, and efficient means to process violations.

### **Small Claims Cases**

Small claims cases encompass breach of contract disputes, personal injury cases, and other civil cases. These cases involve no attorneys; all parties are self-represented. Consequently, a significant challenge is ensuring that litigants understand court procedure and are able to present their cases adequately. Self-help centers and small claims advisors can help provide information about what to expect in court, what documents are necessary, and how cases will be decided. Further recommendations include:

- Expand JusticeCorps, the AmeriCorps program initially developed in the Los Angeles area, and similar programs that provide information and assistance to litigants and help ensure that proper forms are filled out correctly;
- Train all bench officers in working with self-represented litigants, specifically addressing respectful interaction and problem solving with parties who do not have a clear understanding of the rules of the court; and
- Distribute uniform statewide “How to Prepare for Court” factsheets for small claims litigants and common civil cases, such as material available on the California courts’ web site.

### **Family and Juvenile Cases**

Family-related matters involve some of the most intimate aspects of court users’ lives and demand the highest levels of respect from the courts. The court’s attitude towards family members and others present can serve to reassure litigants about the integrity of the court process. Individual courts in California have developed projects to address these issues including family waiting rooms, outreach with local advocates, and family self-help centers. Building on these initiatives, recommendations include:

- Emphasize the importance of allowing time for litigants to present their case, consult with family members, and ask questions;
- Explain how decisions are reached in family cases (e.g., that both sides will be given an opportunity to be heard), the role of the judge, and the need for respectful interaction from all participants in the courtroom;
- Develop a buddy program for bench officers to informally discuss the challenges and rewards of hearing family and juvenile cases;

- Create children’s waiting rooms for all courts hearing family and juvenile cases, make these courtrooms more child-friendly by providing materials for small children, and train staff about appropriate interaction with children in the courtroom; and
- Continue with the development and implementation of training curricula developed by the Center for Families, Children and the Courts on working with cases involving children.

### **KEY USERS: SELF-REPRESENTED, LIMITED ENGLISH, AND CULTURALLY DIVERSE**

California has three sometimes overlapping groups of court users that require specific attention: (1) self-represented litigants; (2) litigants with limited English proficiency, and (3) litigants from culturally, ethnically, or racially diverse backgrounds. California’s courts have addressed many issues relating to these populations. Most notable is the support for self-represented litigants through self-help centers in every court. This achievement puts California at the head of the nation in addressing the needs of people entering court without attorneys. Other initiatives include the expanded use of interpretation services, including telephone interpretation when necessary, and cultural competency lessons that are incorporated into judicial training.

#### **Self-Represented Litigants**

Self-represented litigants are understandably focused on presenting and winning their cases, but they are typically unfamiliar with court procedure, evidentiary rules, and restrictions on the court’s ability to act. Given these challenges, recommendations include:

- Further develop “How To Prepare for Court” documents that can be downloaded and adapted to reflect local court rule specifications;
- Expand the JusticeCorps model to be used in more court jurisdictions;
- Develop calendars that are designed to assist self-represented litigants in high-volume court venues; and
- Educate members of the bench regarding published guidelines on how to handle cases involving self-represented litigants.

#### **Limited English Proficiency**

There are more than 100 languages spoken in California. While interpretation is mandated for certain types of cases, it is not required or always available in small claims or family cases. Therefore, court users who do not speak or understand English must rely on friends, family members, private interpreters, or self-help center staff to communicate in the courthouse and the courtroom. Several courts in California have hired multi-lingual staff, held staff training in diverse cultures and cultural norms, and trained bench officers and other court staff on appropriate interaction with interpreters. Low-cost recommendations to improve procedural fairness for limited English proficiency litigants include:

- Expand educational programming for court staff on the experience of limited English proficiency litigants in the court;

- Design and implement collaborative educational programming with bench officers, court staff and interpreters regarding effective courtroom interaction;
- Conduct community outreach to learn about local populations and to educate immigrant communities about the courts, services and available resources; and
- Have key educational materials regarding use of the California courts available on a statewide basis in the most widely-spoken non-English languages.

### **Culturally, Ethnically, and Racially Diverse Populations**

Of particular concern, the Trust and Confidence assessment (Rottman 2005) found that African-American and Hispanic court users were less likely to have a favorable view of the courts and had lower perceptions of procedural fairness than other court users. The California AOC and some local courts have developed cultural sensitivity trainings to improve staff understanding of the frustration and even suspicion that some groups may have of the courts. In addition to promoting staff and judicial diversity, other recommendations include:

- Use brown bag lunches to reflect on the experiences and concerns of court users from a variety of backgrounds;
- Invite local African-American and Latino leaders to come to court and speak about community needs and their experiences and expectations of the courts;
- Use judicial mentoring programs to train new bench officers on effective and helpful interaction with a variety of litigants that appear before the court; and
- Create campaigns to celebrate diversity and the community in the courthouse.

### **ASSESSING PROCEDURAL FAIRNESS**

The final section of the report provides a brief self-assessment tool that court administrators can use to examine procedural fairness in their local jurisdictions. The assessment tool instrument is designed to help courts isolate areas in which they are strong or where they could concentrate their efforts to enhance procedural fairness. The instrument is intended to help any court determine how members of the public view their experiences in court.

## INTRODUCTION

California leads the nation in its efforts to focus on the experience litigants have in courts. In 2005-2006, the state conducted a series of groundbreaking studies concerning *Trust and Confidence in the California Courts*. The first involved a random survey of California residents regarding their perceptions of the courts (Rottman, 2005). The second study, drawing on focus groups and interviews, explored the perspectives of court users, administrators, bench officers, and attorneys (Wooden and Doble, 2006). Both reports identified perceptions of procedural fairness as a critical ingredient influencing overall public satisfaction with court performance.

In 2007, Chief Justice Ronald M. George responded with an initiative, the first of its kind in the nation, designed to improve procedural fairness throughout California's courts. As part of that initiative, the Administrative Office of the Courts commissioned the Center for Court Innovation to assess current best practices in procedural fairness across the state's trial courts, with a specific focus on traffic, small claims, family, and other civil cases. Accordingly, this report aims both to describe initiatives that are already underway and to make further recommendations regarding how California's courts can improve public perceptions of procedural fairness.

### DEFINING PROCEDURAL FAIRNESS

*Procedural fairness* describes the experience that court users have with the court system, whether as litigants, jurors, witnesses, or affected parties. In focusing attention upon court procedures and interpersonal treatment, the concept of procedural fairness differs from *distributive fairness*, which refers to the perceived fairness of the case outcome (i.e., whether a litigant agrees with having ultimately “won” or “lost” the case). Perhaps surprisingly, research indicates that perceptions of procedural fairness exert more influence on litigants' overall view of the court than their perceptions of distributive fairness (Casper, Tyler, and Fisher, 1988; Tyler and Huo, 2002; Sunshine and Tyler, 2003). Furthermore, several studies demonstrate that when litigants believe the court process was fair they become more likely to comply with court orders and to follow the law (e.g., see Lind et al., 1993; Paternoster et al., 1997; Pruitt et al., 1993; Thibault and Walker, 1975; Tyler and Huo, 2002).

Tom Tyler (1990, 1997) distinguishes three specific dimensions of procedural fairness: (1) *voice* (litigants have an opportunity to tell their side of the story); (2) *respect* (litigants perceive that the judge, attorneys, and court staff treat them with dignity and respect), and (3) *neutrality* (litigants perceive that the decision-making process is unbiased and trustworthy). Others have teased out additional dimensions, notably *understanding* (litigants fully understand where to go, what forms to complete, and what decisions were made) and *helpfulness* (litigants perceive that court actors are interested in their personal situation to the extent that the law allows) (see Frazer, 2006; Wooden and Doble, 2006).

## RESEARCH METHODOLOGY

This report presents findings from research conducted by the Center for Court Innovation between July 2008 and December 2009. The research consisted of a series of nearly 50 interviews with policymakers and practitioners in key regions across California. The interviews were qualitative and open-ended; each lasted between one and two hours. Respondents included policymakers from the Administrative Office of the Courts (AOC), bench officers and attorneys with significant experience working on issues related to procedural fairness, and court administrators working on the front lines. The researchers also conducted 19 site visits to a variety of courts in urban, suburban, and rural areas. A list of respondents and sites is included in the Appendix at the end of this report. Finally, researchers conducted a structured review of every court website in each of California's 58 counties and court materials from approximately 35 courts and self-help centers across the state.

The Executive Office Programs Division of the AOC convened two advisory groups to support the research effort. The AOC's Informal Working Group on Procedural Fairness consisted of some 40 AOC staff who reviewed the research activities at several stages and who brought their expertise and concerns to bear on the project. The Procedural Fairness Editorial Board comprised of state and national experts reviewed the research findings at two points and contributed substance and structure to the final analysis.

## REPORT STRUCTURE

This report has four sections. Section I describes procedural fairness in the courthouse, encompassing not only the actual courtroom where cases are ultimately heard but the entire experience of planning a trip to the courthouse and seeking to find assistance within it. Section II focuses on issues unique to each of three high-volume court venues: traffic, small claims, and family and juvenile law. Section III describes how procedural fairness affects three critical groups of court users: self-represented litigants, litigants with limited English proficiency, and litigants from culturally, ethnically, and racially diverse backgrounds. Section IV presents an assessment tool that court officials can use to examine procedural fairness in local jurisdictions, courthouses, and courtrooms. Throughout each section, this report highlights initiatives to enhance procedural fairness and offers recommendations for further work.



## I. PROCEDURAL FAIRNESS THROUGHOUT THE COURTHOUSE

This section addresses how courts can enhance procedural fairness for all court users, regardless of whether their cases involve traffic, small claims, or family matters. Specifically, this section addresses the following four topics:

1. **Access to the courts:** How does the public know about local courts, access information, get to the courts, and get around inside of courthouses?
2. **Interaction between court staff and the public:** How does court staff communicate with the public on the telephone, the web, and in person; and is that communication respectful and informative?
3. **Understanding court proceedings:** What steps do courts take to ensure that court users receive the information they need to understand and complete their cases?
4. **Ensuring individual voice in the courtroom:** What opportunities exist for court users to express themselves in court, present their side of a case, and report on their court experiences?

### ACCESSING THE COURT: ESTABLISHING RESPECT AND TRUST

Court users may seek information about courts online, may call the courts to help a family member or friend, or may enter a courthouse as a litigant. How they access information about the courthouse, get to the courthouse, and navigate the building all help determine the tone of the overall experience of coming to court. If the experience of trying to find information online or on the telephone is frustrating, a person may be reluctant to take needed steps for a court case, or may assume that the entire court experience will be negative. If a person is not treated respectfully when passing through security at a court entrance, that person may assume that the rest of the staff they encounter will act similarly. If a person cannot find out where to go in the courthouse, that person may become confused, frustrated, or even angry. These concerns are likely magnified for vulnerable populations such as the elderly, the homeless or economically disadvantaged, and those who must travel a great distance to get to the court.



## CHALLENGES

Many pointed to the poor condition of buildings, lack of affordable parking, and confusing courthouse layouts as obstacles to public accessibility. Other respondents voiced concern that local court websites and the Judicial Council's website are difficult to navigate and do not contain enough useful information. (In an effort to improve online access to the California judicial branch, the California Courts website unveiled a new design in 2011.) Similarly, respondents were concerned that outreach to libraries, schools and other community centers was insufficient. These practitioners and policymakers want to see more forms available online that can be used in any court. They want to see additional information and signage inside courthouses. And they want to see better systems in place to reduce the time litigants and potential jurors spend waiting for a case to be called.

While many courts have a range of information in print and online, these resources are not distributed consistently according to some respondents and often are not available in every language in which they are needed—especially online. If information is hard to find, incomplete, inaccurate or confusing, people are less likely to come to court prepared—and in some cases are less likely to come into court at all.

Interviewees cited rundown buildings as significant challenges. Court users frequently perceive graffiti as neglect and a sign that the court itself is not a respected institution—especially if court users are forced to contemplate this condition while waiting in line to enter the building or for their case to be called. Another barrier to access occurs when security staff are demeaning, or if confusing or nonexistent signage hampers people's ability to find information about where courtrooms and other key offices are located. One respondent who works in a courthouse commented, "Judges and courtroom staff don't have much chance of instilling a sense of fairness if people are already feeling abused and mad by the time they walk through the courtroom door."

No one enjoys waiting in lines of course. Waiting for a case to be called can be a major impediment to a sense of fairness according to one senior policy maker focused on family cases. For example, litigants may be told to come to court at 8:00 a.m. and wait all day just to learn at 3:00 p.m. that the attorney on the other side is not available and the case will be adjourned. Even if a case is heard the day it is first scheduled, there is little formal effort to recognize litigant time constraints by minimizing the number of hours they must wait; several interviewees voiced concerns that scheduling cases for a specific time of day is beyond the current capacity of most courthouses. For courts in rural areas, access issues may include travel to a courthouse that is located far away, a challenge made more onerous by the extended time away from work that may be required. A judge from one of the state's larger cities noted that even in urban areas, physically getting to a court can be difficult for some people, particularly those living in poverty.

## INITIATIVES

Court buildings can be either imposing or inviting depending on both architecture and upkeep. The state has undertaken an initiative to modernize buildings such as The Peter L. Spinetta Family Law Center in Martinez and the Juvenile Courthouse in Ventura. These buildings are new, light, clean, and easy to navigate. But buildings do not have to be new to convey respect. Even older buildings can have clean hallways, elevators, court-

rooms, and restrooms. Any building can establish private and semi-private spaces for litigants to meet with attorneys and resources (such as payment centers) to facilitate fulfillment of case responsibilities. The state also has an ongoing commitment to assessing and improving access to courthouses for physically disabled court users.

Regarding access to the courthouse, several rural courts, including Butte, Fresno, and Imperial, have begun using phone and video conferencing to help litigants who are unable to get to court. Litigants can access the court without having to take excessive time away from work or find travel accommodations that could take a day or longer. Homeless courts and mobile courts, such as those operating in Fresno, Alameda, and Ventura, allow the court system to aid litigants who live in sparsely populated areas who would otherwise have to travel prohibitive amounts of time to get to a courthouse. These courts work out of camper-style vehicles that have been fitted with the technology and materials needed to hear cases.

## RECOMMENDATIONS

### Implement Today

- Review courthouses for cleanliness and prioritize improving poor conditions.
- Assess signage and the accuracy of building directories and improve as needed.
- Assess web content for clarity and web design for accessibility, paying particular attention to information about courthouse locations and to filing and case processing procedures.
- Identify the parents of children involved in delinquency proceedings and provide them with information regarding the time and location of their child's arraignment.
- Encourage bench officers and all courtroom staff, including security personnel, to demonstrate tolerance and understanding towards all persons who come to court.
- Conduct annual review of accessibility for physically disabled court users and respond to deficits.

### Implement in the Short Term

- Assess the travel burden for litigants in remote jurisdictions and look for opportunities to implement telephone or video conferencing of cases.
- Assess concerns of the elderly in court access and understanding.
- Develop linkages with child welfare agencies to facilitate custodial and other parental negotiation.
- Reassess case calendaring policies and implement new systems to reduce the time litigants and potential jurors spend waiting for a case to be called.
- Develop protocols to inform litigants upon arrival of their likely waiting time and of the reason why their case may not be called promptly. Include protocols to provide litigants with updated information throughout the day regarding when their cases are likely to be called, such as numbering systems at clerk's windows, or staggered hearing times.
- Develop and implement a pager or other scheduling system so that litigants can be called when the court is ready to hear their case rather than having them wait outside the courtroom indefinitely.

### Set as a Long-term Goal

- Continue to simplify forms to facilitate understanding and develop guidelines for courts to use in simplifying local forms.
- Develop mobile units and/or videoconference capacity to bring the courthouse to homeless litigants and litigants in rural areas.
- Conduct research to determine awareness and use of available on-line forms; couple with exploratory research on public interest in web-based resources.
- Conduct survey on court users' perception of access to the courts and interaction with court staff.

### SAMPLE RESOURCES

- The *Obstacle Courts* video (AOC Access and Fairness program) demonstrates the challenges of, for example, passing through security, moving from floor to floor and using restrooms for the physically disabled. It is one of several videos that can be used to train bench officers and court staff about the challenges of physically negotiating courts for those with restricted movement.
- Recommended language is available from the AOC for court signage and forms for notifying the deaf and hard of hearing about the availability of assistive listening systems and communication access real time translation (CART).
- The National Center for State Courts (NCSC) CourTools provides a tool to measure court users' perceptions about access to the courts. This survey, available both through the Judicial Council and from NCSC directly, can provide court executives with a standardized snapshot of perceptions that can be used to guide decisions about allocations, outreach, and areas to develop.
- A description of California's collaborative justice or problem-solving courts, including homeless courts, is available on the Collaborative Justice Courts program web site at [www.courts.ca.gov/programs-collabjustice.htm](http://www.courts.ca.gov/programs-collabjustice.htm).

### INTERACTION BETWEEN COURT STAFF AND COURT USERS

Procedural fairness is the responsibility of everyone who interacts with the public, including administrative staff, security staff, clerks, bailiffs, judges, and bench officers. This is an area where courts can achieve huge improvements with very little financial expense.

### CHALLENGES

One of the unintended consequences of heavy caseloads is that court staff are asked questions (frequently the same questions) from the moment court opens until it closes. In this environment, there is a risk that court staff—from security guards at courthouse entrances to judges and bench officers—may develop dismissive attitudes toward litigants. As a result, litigants may feel inhibited from seeking information, particularly clarification or follow-up questions; they may feel insulted or belittled by the attitudes of court staff; and they may feel that their concerns are not taken seriously. In understanding how to address this challenge, an important consideration is that the courthouse hold different meanings for court users and staff: for the former it is a

place to enter only in a crisis or other unusual circumstance, but for staff it is a place they enter every day. The repetitive and stressful nature of working in the courts can be a major challenge in encouraging respectful and attentive communication.

Another challenge is the reluctance on the part of many court personnel, particularly bench officers, to appear less than objective when interacting with the public. In an effort to visibly demonstrate that court officials are unbiased, many are wary of expressing anything that could be taken as advice and consequently provide little basic information. This impasse can generate frustration, anxiety, or a sense of futility for a court user. Moreover, court users often have specific needs that are never communicated to the court, for example difficulty in understanding judicial orders or problems dealing with the demands of another government agency, like child welfare authorities.

## **INITIATIVES**

The Judicial Council has made respectful interaction with the public a priority. In the Superior Court of Contra Costa County, for example, the court is working to assess families in divorce proceedings so those who need assistance can access help, while others can move through the process without what they might perceive as excessive intrusion from the courts.

Some courts in the state have unified family courts. These courts coordinate related cases and allow judges to hear all cases associated with a single family together so that decisions can be made and mandates imposed in a coordinated and efficient manner. While due process, including rules of admissible evidence, is maintained, unified courts institute common sense simplifications for families so that they do not have to visit the court multiple times and explain their situations to multiple judges. As a result, unified courts may increase the likelihood that judges hearing family cases will have all the information they need to avoid conflicting orders.

Several courts put a premium on staff training about how to interact with the public. In the Superior Court of Imperial County, court staff visits Mexican courts to learn about the cultural issues that may affect interaction with court users who are of Mexican heritage. Other courts rely on cultural competency training to help court staff better understand court users. On an annual basis, the California Court Association trains clerks about procedural fairness and cultural competence. This training could serve as a model for shorter, local trainings. Ideally, any training will include an impact evaluation (e.g., a pre- and post-assessment of knowledge and attitudes).

A model program was undertaken by the bench of the Superior Court of Santa Clara County, where bench officers gained a more objective view of their courtroom manner and style by volunteering to be videotaped and watching a video of themselves hearing cases. The videotapes were reviewed with an outside expert and with colleagues, or privately (to maximize comfort for the bench officer), and are not used in conjunction with a performance evaluation.

## RECOMMENDATIONS

### Implement Today

- Train staff about how to adopt problem-solving approaches to answering questions so that even when a question is unclear or poorly phrased, staff try to understand what the underlying question is and try to answer it clearly.
- Train court staff about the importance of procedural fairness. Ideally, trainings will be attended by the entire courtroom complement, including the bench officer, to encourage a unified approach to improving courtroom culture. Trainings should be evaluated using simple pre/post assessments of attitudes towards procedural fairness.
- Avoid all joking about litigants, especially jokes made by the judge or bench officers. Respectful attitudes towards litigants when court is not in session can help set the culture of the courtroom. Attorneys and security staff are also important contributors to perceptions of the justice system and should be encouraged to speak respectfully of all court users. One-page tip sheets, brownbag lunch conversations and even mass emails can all be used to remind staff about the importance of respectful interaction.
- Inform litigants without advising them about how to present their cases. All court staff should be empowered to inform court users about court rules, procedures, and resources before and after their cases are heard.
- Encourage bench officers and clerks to participate in an exercise in which they go through the process of appearing in court (including waiting on courthouse lines and going to self-help centers) to experience first-hand how the courthouse feels to court users.
- Encourage mentoring for all courthouse staff so that they have the opportunity to informally discuss the challenges of interacting with court users and how to effectively address those challenges.
- Assess employee job satisfaction and use findings to develop new initiatives to address concerns.
- Reach out to local social service providers, especially child protective services and programs serving domestic violence victims. By informing social service providers about how courts work, courts can establish linkages and reinforce the vision of a court system that cares about the needs of litigants.

### Implement in the Short Term

- Classify cases according to need for assistance from court staff. By developing and implementing a system to assess the needs of litigants, courts demonstrate their interest in customer service.
- Develop a special protocol for domestic violence cases in self-help centers and courts. For example, victims should not be asked to wait near or within sight of accused abusers, and special precautions should be made to ensure that children are not caught between parents appearing in court.
- Conduct court exchange visits and foster a culture of professional development for all court staff. Exchange visits between courts facing similar issues can promote information sharing and the creation of a professional community for court staff.
- Conduct special trainings on procedural fairness for temporary bench officers with a special focus on cases involving unrepresented litigants.

### Set as a Long-term Goal

- Develop “meet your judge” sections on court websites to demonstrate transparency. Encourage bench officers to participate in community events to discuss court mission and operations.
- Communicate court initiatives and performance to the public through court websites, public talks, and court open-houses.
- Develop an annual review plan so that court administrators can assess and track court performance with regard to improving interaction with the public. Establish protocols for following-up on assessment findings.

### SAMPLE RESOURCES

- *May I Help You?* (see [www.courts.ca.gov/xbcr/cc/mayihelpyou.pdf](http://www.courts.ca.gov/xbcr/cc/mayihelpyou.pdf)): This brochure specifies the differences between providing information and legal advice for court clerks. The Administrative Office of the Courts Education Division has also produced a broadcast series to help give court clerks a framework for assisting court customers.
- *The National Center for State Courts’ CourTools*: This survey, available both through the Judicial Council and from NCSC directly, can provide court executives with a standardized assessment tool to evaluate management style and measure employee satisfaction (see [www.courts.ca.gov/reference/documents/performance-management.pdf](http://www.courts.ca.gov/reference/documents/performance-management.pdf)).
- *Tour Guide: A Self-Guided Tour of Your Courthouse from the Perspective of a Self-Represented Litigant* (2008, National Center for State Courts; see [www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).

## UNDERSTANDING COURT PROCEEDINGS

Most court users are versed in neither the rules of evidence nor the letter of the law. The limited time in which most cases must be heard, the intimidating setting of the courtroom with its unique rituals, norms, and legal jargon, and the fact that many court users are not native English speakers all can make understanding court proceedings difficult for litigants.

### CHALLENGES

Perhaps the most common concern voiced by respondents was that court users have a hard time simply understanding the court process. Many litigants, and especially those without counsel, are likely to be anxious about the outcome of the case and reluctant to ask questions. The use of jargon, acronyms, shorthand, and legalese can exacerbate confusion. Many people interviewed expressed concern that litigants frequently walk into courtrooms without sufficient understanding to present their cases, and leave court without knowing what they need to do in order to comply with court orders. This confusion is heightened when decisions are not presented verbally by the judge, but are only presented in writing days after the case has been heard. Explaining judicial decisions clearly is critical to maintaining public confidence in justice.

## INITIATIVES

Many of the initiatives and recommendations in the section on self-represented litigants below also focus on enhancing understanding, because self-represented litigants are most likely to feel the need for clarification. But, it is worth noting that litigants with counsel are vulnerable to misunderstanding as well, especially those with limited funds to pay the hourly rate of an attorney.

Many courts have experimented with using people with legal training (attorneys, paralegals and law students for example) to provide targeted assistance to litigants at low or no cost. Unbundling attorney services—making attorneys available to work on discrete tasks rather than an entire case—can maximize the impact a single attorney can have. For many elements of a case, attorney expertise is not essential. A well-trained paralegal can help litigants read instructions and understand what information is needed in filling out forms.

Many courts offer classes, workshops, or videos to educate the public about what to expect and what forms are needed for particular kinds of cases. For example, several self-help centers now show video introductions like “What to Expect in Court” that run on loops throughout the business day. Other courts that do not have the resources or the space to conduct workshops rely on bench officers and judges to explain what will happen in the courtroom before hearing cases. In some cases, court officers also explain what just happened after making a final decision, again in order to be sure that litigants understand court proceedings. While such additional effort takes time (a few minutes per case), it has potentially far-reaching implications.

Many courts offer workshops (both on site and in communities) on topics such as how to obtain guardianship, how to get a divorce and how to respond to a small claims suit. These workshops typically reflect local needs; for example, the Superior Court of Riverside County began workshops on foreclosure proceedings as the number of foreclosures in the county swelled.

Some courts that do not have standalone self-help centers have found ways to provide information to court users through information desks and clerks who can provide details about locations, forms, and procedures. Many courthouses also have computers available with tutorials for court users. Recognizing that understanding the court begins before people enter the courthouse, many localities also reach out to communities to describe court activities.

### **Case Study: Establishing Settlement Conferences in Fresno**

*Challenge:* Judges in the Superior Court of Fresno County noticed that many divorce cases were regularly continued, leaving self-represented litigants frustrated by the process and confused about the status of their marriages. In particular, many of the litigants did not realize that they still needed to file paperwork and pay fees in order for the divorce action to be completed.

*Action:* Using grant funds, the court's self-help center developed a monthly settlement conference initiative, making staff available immediately after each case to discuss the bench officer's findings and make sure that litigants knew what steps still needed to be taken to finalize the divorce. These staffers, who have access to needed paperwork, speak English and Spanish. The self-help center is trying to secure funds to expand this on-site assistance to other matters, and already sends a paralegal into court upon request.

## **RECOMMENDATIONS**

### **Implement Today**

- Encourage judges to explain how decisions are made and to provide clear information about where court users should go if they do not know what form to use. Train judges to take particular care to explain why a case has been dismissed, ideally both in writing and verbally.
- Integrate goals of procedural fairness in trainings. This is especially critical in family cases where litigants are likely to be confused about what their rights are and about the protections associated with due process.

### **Implement in the Short Term**

- Develop mechanisms to inform parents whose children are involved in delinquency proceedings of all charges and of their obligations regarding restitution.
- Conduct outreach to communities regarding delinquency proceedings to inform the community about how courts handle these cases.
- Assess the quality of explanatory documents such as fact sheets, frequently asked questions, and tip sheets. Documents should be readable by court users with limited literacy skills. They should also be available in multiple languages. In addition, courts should develop protocols to communicate information to people who cannot read.

### **Set as a Long-term Goal**

- Partner with local media to provide public service announcements about how to conduct court business.



### SAMPLE RESOURCES

- Self-help websites (both state and county court) have forms and explanations that can serve as templates to create new documents. ([www.courts.ca.gov/partners/55.htm](http://www.courts.ca.gov/partners/55.htm)).
- California Judicial Branch Outreach to Students: A factsheet on programs is available at [www.courts.ca.gov/programs-lawrelated.htm](http://www.courts.ca.gov/programs-lawrelated.htm).
- Juvenile Delinquency Court Orientation Video ([mms://wms.1A57.edgecastcdn.net/001A57/cfcc/juvdelin\\_crt.wmv](mms://wms.1A57.edgecastcdn.net/001A57/cfcc/juvdelin_crt.wmv)).
- Handling Cases Involving Self-Represented Litigants, A Benchguide for Judicial Officers (January 2007): [www.courts.ca.gov/xbrc/partners/benchguide\\_self\\_rep\\_litigants.pdf](http://www.courts.ca.gov/xbrc/partners/benchguide_self_rep_litigants.pdf).

### ENSURING A VOICE IN THE COURT

The people interviewed for this study repeatedly came back to a shared concern that court users do not have sufficient opportunity to have their voices heard—whether it is to present their case, ask questions about their case, or comment on their experiences with the justice system. Because the law is complicated and time is limited, many of the interview respondents thought that litigants were too overwhelmed to be able to express themselves adequately. Others noted that even if court users want to express themselves, there is seldom the opportunity and almost never formal encouragement. While much remains to be done, many courts have taken preliminary steps to improve this situation. These efforts are almost always low-cost, but they can significantly improve how court users experience the court process and the trust they have in justice.

### CHALLENGES

Court users often have strong views on their experiences but limited outlets to express those views. When the courts allow litigants and other affected parties to participate in and reflect on the court process, they are less likely to feel that their cases happened “to them” and more likely to understand and accept the court’s decision. “Voice” can take many forms including description of the case, conversation about how to handle the case, and formal feedback in surveys and comment boxes.

A supervising attorney at the Center for Families, Children, and the Courts noted that voice directly informs how litigants perceive assistance when it is offered. Because cases can range from fairly simple to very complex, understanding the need of each litigant is important. If courts get this wrong, even if they are trying to offer help, the effect can be alienating. For example, litigants seeking a simple divorce may find it intrusive if they are asked to interact with multiple people. On the other hand, that same level of attention may be insufficient to help another couple achieve an equitable divorce. Similarly, some communities may be reluctant to accept service referrals and may resent their imposition while other communities may actively seek out help and would feel powerless to comply with court mandates absent social services.

## INITIATIVES

Several courts have allocated resources to soliciting comment from court users. The Superior Court of Ventura County has a pamphlet-sized handout that says in large letters on one side “We Value Your Opinion” and invites people to take the survey printed on the reverse side and leave it in the comment box that each courthouse has in its lobby. The Superior Court of San Diego County self-help center encourages staff to sit down with clients for as long as necessary to determine what paperwork is needed to pursue the case and, importantly, to give litigants the opportunity to fully explain their position. Finally, statewide initiatives like the Elkins Family Law Task Force demonstrate the interest of the state in assessing the concerns of court users. In addition to the public comment that has already been solicited, the Elkins Family Law Task Force has also recommended surveying court users about their experiences and their level of satisfaction.

### **Case Study: San Francisco ACCESS Center**

*Challenge:* Litigants feel that they do not have an opportunity to describe their side of a case.

*Action:* The Superior Court of San Francisco County ACCESS Center allocated resources to hear the full story behind the court case. The Center provides a range of information for self-represented clients including brochures, tip sheets, and guides in the region’s major languages. In addition, the Center has videos and workshops to prepare clients for court. ACCESS Center staff help clients figure out what forms they need and how to fill them out. They also take pains to listen when clients come in to get help. While time-consuming, this practice engenders trust, yields helpful information, and receives high marks from clients. This heightened attention to service was recognized with a Ralph N. Kleps award in 2004. This award program is designed to recognize individual court innovations that improve the administration of justice.

## RECOMMENDATIONS

### **Implement Today**

- Provide opportunities for court users to comment on their experiences with comment boxes in each courthouse, preferably on multiple floors, including at the building’s entry. Provide a similar opportunity on local court websites.
- Avoid issuing decisions by letter rather than in person, or at least encourage bench officers to comment on their process in deciding a case. Alternatively, educate traffic litigants on their ability to have a trial by written declaration, where appropriate.

### **Implement in the Short Term**

- Include review of public comments as part of the job description for staff in the Court Executive’s office and encourage localities to review comments on a regular basis. Describe these procedures in writing on websites and wherever a comment box is placed.

- Develop materials that provide tips for indicating to court users that they have a voice in proceedings.
- Develop suitable materials for court staff, including materials on appropriate listening skills with litigants and tips, such as avoiding multitasking on the bench.

### **Set as a Long-term Goal**

- Implement trainings in listening skills for bench officers and court staff. Trainings could include role-plays and videotaping role-playing exercises. All trainings should be discrete and independent of job performance evaluation.

### **SAMPLE RESOURCES**

The California courts and others offer a variety of resources to help ensure that people who come to court have a voice:

- Alternative Dispute Resolution (ADR) is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved ([www.courts.ca.gov/programs-adr.htm](http://www.courts.ca.gov/programs-adr.htm)).
- Exit Survey – this can be used to collect data from all persons leaving a courthouse, with a supplement seeking additional information from self-represented litigants ([www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).
- *Final Report on the Effectiveness of Courtroom Communication in Hearings Involving Two-Self Represented Litigants* (an exploratory study conducted by Greacen Associates, LLC and the Self-Represented Litigation Network; also available at [www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).



## II. KEY VENUES: TRAFFIC, SMALL CLAIMS, FAMILY AND JUVENILE CASES

The challenges of demonstrating a commitment to procedural fairness and of developing trust and confidence in the California court system vary depending on the type of case and the type of court. This study specifically focused on traffic, small claims, and family and juvenile cases.

The three case types of interest in this section are ones in which litigants are frequently self-represented and in which the volume of cases is overwhelming. According to the most recently published data, California courts heard more than 1.7 million civil cases along with more than 6.3 traffic infraction cases in fiscal year 2008-2009 (Judicial Council of California 2010). One sign of the resulting caseload pressures is the fact that many courts routinely use referees, commissioners, and temporary bench officers to hear these cases, because there are not enough judges to go around. Interview respondents frequently cited increased flexibility in calendaring and assigning judges and bench officers from less crowded calendars to more crowded calendars as a low-cost approach to addressing huge calendars. Adjusting calendars and assignments to respond to where the need is greatest could be accomplished by monthly review of caseload, through a system in which judges are on call to hear cases or by setting aside an hour or two daily for judges in a given jurisdiction to hear cases from a high-volume calendar.

## TRAFFIC CASES

The number of traffic cases in California exceeds that of all other case types combined. Traffic courtrooms comprise the most likely place for the public to have contact with California's government other than schools. As such, traffic cases are an opportunity for the courts to demonstrate to the public that the government works and that the system designed to assess and respond to infractions is a fair one.

## CHALLENGES

The level of frustration, indignation and anger in traffic courtrooms can become high. Due to the high volume of these cases, litigants who are involved in traffic matters come into crowded courtrooms and inevitably have to wait a while to resolve their case. In waiting, litigants may overhear others express frustration, may observe the bench officer rebuke or rule against someone with a similar case, and may learn, likely for the first time, that even if the bench officer agrees to reduce a penalty they will still face a significant mandatory fee, which the bench officer is required to impose, by ordering a payment of money or converting to community service. As the California State Legislature increases traffic penalties, people are likely to come into court to fight traffic penalties, thus increasing the already crowded dockets.

## INITIATIVES

Several judges and bench officers assigned to traffic cases are finding new ways to treat the litigants who come into their courts with dignity and fairness. For starters, these judges make sure that each litigant understands the process by speaking clearly and directly to the courtroom at the beginning of each session. They describe what will happen and explain that even though there are many people in the room waiting to have their cases called, each case is unique, and each person will have the chance to explain their understanding of what happened. This simple explanation immediately engages litigants and helps them anticipate what will happen when it is their turn before the judge. These judges have also become skilled in listening to litigants, speaking directly to them to elicit their stories and yet moving quickly through each case.

Efforts to engage litigants are bolstered when the courts also make it easier to comply with court orders. The Superior Court of Fresno County's After Criminal Traffic Infraction One-Step Network (ACTION) Center won a Kleps award for its innovative approach. (The Kleps award program in California is described at [www.courts.ca.gov/programs-innovations.htm](http://www.courts.ca.gov/programs-innovations.htm)). The Fresno ACTION Center is a one-stop court that immediately links defendants with services, payment options and information to help them fulfill all obligations—and to problems in the future. Services are available in English and Spanish.

Another way to communicate the importance of traffic matters is through outreach. The Administrative Office of the Courts, together with the Office of Traffic Safety, has developed the DUI Court in Schools Training Manual to bring awareness of drunk driving statutes into high schools and colleges. The manual describes what to expect in court, how sentences are determined and what the implications are of a DUI charge. The manual also provides contact information for organizations that work to combat drunk driving nationally and in California.

Beyond special initiatives or programs, courts can enhance their ability to promote procedural fairness simply by the manner in which they handle the large volume of cases. For instance, the Richmond Court is located in an economically depressed area of the Superior Court of Contra Costa County. The courthouse is old, and court users must walk around it to enter in a back door because the more formal front entrance is in disrepair. Nonetheless, the court has taken practical steps to ensure an atmosphere of respect. Court staff is trained to be helpful and respectful in their daily interactions with court users. When the bench officer who is responsible for hearing cases enters the courtroom, he speaks directly to the full assemblage of litigants who are waiting for their cases to be called. He describes what will happen, apologizes for the quickness with which cases will be heard and assures litigants that their story and concerns will be heard and addressed. For each case, he asks for details and explains the court's concerns. When making a judgment, he explains the terms and rationale for the decision and asks the litigant if there are questions. Such simple, low-cost steps in courtroom communication can help to counter the stereotypically frustrating experience that is commonly associated with a day in a traffic courtroom.

## **RECOMMENDATIONS**

### **Implement Today**

- At the beginning of a court session, encourage bench officers to explain court procedures to the full assemblage of litigants before hearing individual cases; and on each case, encourage officers to ask litigants if they have questions before and after their case is decided.
- Provide scripts to bench officers to ensure that they communicate key information to all litigants with the same content and recommendations each time.
- Improve transparency regarding rights and fees in traffic cases by making information available in courthouses and on the internet.
- Develop a buddy program to help new bench officers cope with the demands of a difficult and often unglamorous job.

### **Implement in the Short Term**

- Enhance training for clerks and other court staff handling traffic cases so that they can provide helpful information about fines.

### **Set as a Long-term Goal**

- Develop and employ videos to introduce litigants to the court process. Include information about paperwork, roles of court staff, responsibilities, and rights.
- Identify sources of job dissatisfaction among bench officers conducting traffic cases and create new initiatives to try to improve working conditions.

### SAMPLE RESOURCES

- On-line forms for traffic cases are available at [www.courts.ca.gov/1056.htm](http://www.courts.ca.gov/1056.htm).
- Frequently Asked Questions document: [www.courts.ca.gov/1057.htm](http://www.courts.ca.gov/1057.htm).
- Self-help for Traffic Cases: [www.courts.ca.gov/selfhelp-traffic.htm](http://www.courts.ca.gov/selfhelp-traffic.htm).

### SMALL CLAIMS CASES

Small claims cases include civil matters where the disputed amount is less than \$7,500 and the litigants are self-represented. This presents myriad challenges to litigants and the courts.

### CHALLENGES

In this venue, one of the major challenges to procedural fairness is to make sure that court users have sufficient understanding of court process to present their cases effectively. Lack of understanding can lead to confusion and frustration for both the court users and staff. Litigants may feel they have not had sufficient opportunity to present their case and that they were not properly informed about what information is admissible. They may feel their time has been wasted if a case is “carried over” to another date. Any of these beliefs can engender a negative perception regarding the overall court experience.

### INITIATIVES

All of the initiatives discussed in Section 3 below in the context of self-represented litigants take on particular importance for litigants with small claims cases. One particular example of an effort to improve the court experience for such litigants is the JusticeCorps program, which originated in the Superior Court of Los Angeles County. Using AmeriCorps members, who receive a small stipend and college credit, the program trains college students to assist people waiting on lines in courthouses by verifying that they are in the right place, that their forms are the right ones for their case, and that the forms are filled out correctly. In the small claims venue, these tasks might otherwise never get done until the case is heard in the courtroom. With the “line triage” that JusticeCorps members provide, litigants receive information shortly after entering the courthouse and receive a level of attention that indicates their time and their case is important to court administrators. The recommendations identified below provide other suggestions that interview respondents believed would improve the experience of litigants with small claims cases.

### RECOMMENDATIONS

#### Implement Today

- Use videos to introduce litigants to the court process. Include information about paperwork, roles of court staff, responsibilities, and rights.
- Encourage bench officers to make decisions from the bench so that litigants have an immediate response from the court and can ask questions. Encourage bench officers to make sure that all orders include a simple description of its meaning and implications, including the consequences of noncompliance.

### Implement in the Short Term

- Provide “line triage” by engaging AmeriCorps members, law students, paralegals or volunteers in establishing whether litigants have completed the required paperwork.
- Work with self-help centers to develop workshops on what to expect in small claims cases, with a focus on landlord-tenant disputes, personal injury, and property damage. Encourage small claims advisors and self-help center staff to assist self-represented litigants who are clearly confused about procedure. When appropriate, bench officers should refer litigants to self-help centers or small claims advisors, including directions on how to get there and specific items to ask for help with.
- Nurture a professional environment in which it is acceptable for bench officers to provide information from the bench and to work to problem-solve situations in which two self-represented litigants are unable to adhere to court procedure.

### Set as a Long-term Goal

- Develop mediation workshops for litigants in specific types of small claims cases including personal injury, breach of contract, and consumer law disputes.

### SAMPLE RESOURCES

- AOC self-help center small claims pages are available at [www.courts.ca.gov/selfhelp-smallclaims.htm](http://www.courts.ca.gov/selfhelp-smallclaims.htm)
- The Superior Court of Sacramento County has developed a video about mediation in small claims court ([www.youtube.com/watch?v=oW9ZeaBQ51w](http://www.youtube.com/watch?v=oW9ZeaBQ51w)).

## FAMILY AND JUVENILE CASES

If they hope to craft enduring resolutions to complex family problems, courts must be prepared to help court users recognize and accept the responsibilities associated with court decisions. Efforts to improve procedural fairness can help family litigants to accept difficult court decisions and walk out of court with as little anger or confusion as possible.

### CHALLENGES

Since family cases involve intimate matters, they are often emotionally fraught. This places the court in an awkward position: having to demonstrate respect for the emotions of litigants while at the same time maintaining judicial neutrality. Extended family members who are intimately involved in a matter may further heighten the emotional and practical demands on the court.

A central challenge, and one that is widely acknowledged, is that court caseloads for family matters have increased dramatically, while resources allocated to these cases have not. Complicated legal and emotional issues are exacerbated by the high number of self-represented litigants, by disparities in resources among the parties of a case, and by cultural and linguistic differences.



## INITIATIVES

The Center for Families, Children & the Courts (CFCC) of the Administrative Office of the Courts has worked to develop special resources for family cases across the state. For example, the Center develops and produces the annual Beyond the Bench Conference to encourage court administrators and bench officers to reflect on how dependency cases are handled, including issues such as how to question children, what language to use in court, what resources are available in a jurisdiction, and how a court works as a team. The CFCC also provides a wide range of publications, training curricula and grant initiatives for courts to assess and improve their administration of family cases, with a specific focus on the impact that courts have on perceptions of justice (see the Center web site at [www.courts.ca.gov/programs-cfcc.htm](http://www.courts.ca.gov/programs-cfcc.htm)).

Regarding specific initiatives already undertaken around the state, many courts, such as those in the Superior Courts of Orange, San Francisco, and Los Angeles, have established children's waiting rooms where parents can leave their children in a safe environment while they attend to their cases. These facilities can be as simple as separate rooms with games, decorations appropriate for children, children's books, and an adult assigned to keep children safe. They can also be as elaborate as in the Los Angeles Dependency Court, in which nearly an entire floor of the courthouse is devoted to play areas, quiet/reading areas, classroom space, and private rooms for families to meet (see case study below). Even when the space does not exist for separate waiting areas, some courts have painted existing waiting rooms with brighter colors and provided toys, books and furniture appropriate for children. Other courthouses have set up childcare facilities on site so that parents do not have to find childcare in order to come to court. These facilities should be publicized, for example by explicitly noting them on the court's website. Still other courts make accommodations for children inside the courtroom, providing books, drawing supplies, toys, and even snacks.

In the Superior Court of Santa Clara County, the self-help center works with the local children's services department to move cases through the court. The court sends a staff person to the Department of Child Support Services weekly to conduct intake interviews and provide forms to people engaged in family disputes. These services are designed to help families in the midst of crisis get the help they need to resolve their cases.

Paternity and child support cases are particularly challenging for families when one parent is incarcerated. In the Marin court, the self-help center works with parents, either in person or by mail, to assist with forms and to coordinate with other state agencies so that undue burdens are not placed on either parent.

While all courts mandate mediation in family law cases where the parents do not agree about custody and visitation, some bench officers and self-help center staff suggest going further, discussing the advantages of approaching a settlement without rancor (as one judge in San Francisco put it, "entering into a business relationship" with the other litigant in order to minimize conflict).

### **Case Study: Los Angeles Juvenile Dependency Court**

*Challenge:* Dependency court cases in which parental rights may be terminated are laden with anxiety and emotion for litigants.

*Action:* The Superior Court of Los Angeles County built a court that seeks to convey to families involved with juvenile dependency cases that their concerns are legitimate, their needs are primary, and their privacy is to be respected. In the Edmund D. Edelman Children's Court, the entire building is designed with children in mind. The color of the walls, the security check, the waiting rooms, and the childcare facility are all designed to appeal to children. There is private space for families to meet. There are social services onsite. The courtrooms themselves are decorated with posters and litigants' tables that are outfitted with special chairs, paper, and colored markers. The building also has areas that are reserved for children from shelters to play, eat, or rest. Training for everyone who works in the court includes information about the nature of juvenile dependency cases and the importance of respectful, sensitive interaction with litigants.

## **RECOMMENDATIONS**

In attempting to enhance procedural fairness when hearing family and juvenile cases, courts should look to encourage staff and bench officers to display respect for litigants' time and for their emotions and to provide concrete assistance to reduce the stress of these cases for the litigants.

### **Implement Today**

- Make courtrooms more child-friendly to decrease intimidation for children and stress for parents. This could be as simple as providing coloring books and markers for children, encouraging court staff and bench officers to engage young people or distributing the CFCC workbook *What's Happening in Court: An Activity Book for Children Who Are Going to Court in California* ([www.courts.ca.gov/10408.htm](http://www.courts.ca.gov/10408.htm)).
- Encourage bench officers to solicit questions and verify that both parties understand the implications and expectations associated with a finding by the court.

### **Implement in the Short Term**

- Supply low-cost activities (such as books, paper, and colored crayons) for children in waiting rooms and courtrooms.
- Develop a buddy program to help new bench officers who are assigned to family cases to cope with the demands and responsibilities associated with judging family cases.

- Use videos to introduce litigants to the court process. Include information about the family court paperwork process, roles of court staff, responsibilities, and rights.

### **Set as a Long-term Goal**

- Assess litigant perceptions of how family cases are handled and develop plans to address areas of concern raised from the assessment.
- Increase the availability of children’s waiting rooms and private spaces outside of courtrooms where families can meet with attorneys or self-help staff.

### **SAMPLE RESOURCES**

- The Elkins Family Law Task Force report and recommendations are available at [www.courts.ca.gov/4267.htm](http://www.courts.ca.gov/4267.htm).
- The CFCC website provides a large range of resources including downloadable publications, training and grant opportunities. See: [www.courts.ca.gov/programs-cfcc.htm](http://www.courts.ca.gov/programs-cfcc.htm).
- Juvenile Delinquency Court Assessment and Implementation: [www.courts.ca.gov/8012.htm](http://www.courts.ca.gov/8012.htm).



### III. KEY USERS: SELF-REPRESENTED, LIMITED ENGLISH, AND CULTURALLY DIVERSE

Interview respondents repeatedly voiced concerns about the needs of three discrete populations: self-represented litigants; court users with limited English proficiency; and court users from culturally, ethnically, and racially diverse backgrounds.

#### SELF-REPRESENTED LITIGANTS

Whether represented by an attorney or not, court users come to courthouses because they have a problem that they cannot resolve on their own. They are seldom focused on legal protocols and procedures in the way that is required of court administrators, court staff and bench officers. Because of the relative dearth of low- or no-cost legal services, many people end up representing themselves. This raises the real possibility that court procedure will not be understood or followed, that court staff will struggle to understand some of the facts of the case.

#### CHALLENGES

A central challenge, and one that is widely acknowledged, is that court caseloads for family, civil and small claims, and traffic matters have increased dramatically, while resources allocated to these cases have not. Complex legal and emotional issues are exacerbated by the high number of self-represented litigants, by disparities in resources among the parties of a case, and by cultural and linguistic differences.

#### INITIATIVES

Perhaps the most comprehensive initiative undertaken across California is the development of self-help centers for self-represented litigants. Every court has at least one such center and many courts have several. Self-help centers typically provide court forms, handouts on what steps to take to conduct a range of court business, and assistance in filling out forms. Several centers provide more robust services, including computer and law library

access, workshops, telephone and email consultation, community outreach, interpretation services, mediation, follow-up consultations, how-to-prepare-for-court documents, and childcare. Some centers have informational videos that run in a loop, presenting basic information about what to expect in court. The videos also specify what forms and procedures are necessary for specific types of cases—divorce or child support for example.

Regarding specific self-help center innovations, the centers in the Superior Courts of Santa Clara, Ventura and San Francisco counties, among others, train librarians about basic court process and forms so that they can provide information to the community they serve. They also provide opportunities for judges and other court staff to appear on public panels to discuss the work of the courts. These professionals enhance understanding of the courts and serve as a symbol of the courts' public service mission. The self-help center in the Santa Clara court manages caseloads by sorting cases into three categories: fast track, civil, and more complex. By differentiating among cases, staff can develop targeted expertise and improve the quality of service delivery. In the Superior Court of Fresno County, an all-purpose clerk is available outside of one courtroom to explain what happened in court and to answer litigant questions about judicial orders, litigant obligations, and next steps.

Regarding other steps to assist self-represented litigants, in many courts, information desks are staffed with clerks who are trained to help litigants navigate the courthouse and establish what paperwork they will need for common types of cases. Several courts, including the Superior Courts of Los Angeles, Sacramento, San Diego, and several counties in the Bay Area, have successfully implemented JusticeCorps programs, using AmeriCorps members from local colleges to listen to litigants' stories and help them determine which forms are needed and how to fill them out. Several courts, including the Superior Courts of Riverside, Sonoma, and Orange, have developed specialized calendars for self-represented litigants, assigning experienced judges and bench officers to handle cases without representation. Court staff in these courtrooms consider it part of their job to communicate clearly with litigants about their rights and court process. Typically, these courtrooms also have mediators, forms, and interpreters available on site.

The Superior Court of Ventura County assigns a case manager to divorce cases so that the cases do not linger while waiting for filings. And they develop timelines for divorce and other proceedings so that litigants can measure their progress against a typical case.

Four courts in the Bay Area (the Superior Courts of Monterey, San Benito, Santa Cruz and Santa Clara) collaborated to develop the "MyLO" (My Legal Organizer) file folders to help self-represented litigants keep all of their paperwork in a single place. The folders come with information about court locations as well as prompts for case file number and other essential case information. The self-help centers in these courts supplement the MyLO folders with forms that walk litigants through the likely steps and required paperwork of their cases. These informational materials, such as "How to Set or Change Custody, Visitation, Support and/or Court Orders" or "Do You Need to File for a Restraining Order?" provide litigants with the location of forms and other necessary details to move their case through the court.

Finally, courts throughout California are increasingly making use of "unbundled" legal services for litigants without representation. Unbundled services allow self-represented litigants to benefit from the assistance and

advice of an attorney without that attorney taking full responsibility for the case. Especially in areas with a dearth of pro bono legal services, unbundled services maximize the impact of counsel. Publications such as “20 Things Judges Can Do to Encourage Unbundling” (California Judges Association) help courts parse out where attorneys are most critical and how courts can encourage the best allocation of attorney services.

### **Case Study: A Pro Per Calendar in Orange County**

*Challenge:* Large numbers of family cases with at least one unrepresented litigant.

*Action:* To address the challenges presented by self-represented litigants, a judge in the Superior Court of Orange County decided to clear his calendar each week to hear only self-represented litigants. By focusing on the needs of this group of court users, the entire courtroom staff has developed expertise in shepherding the cases appropriately and respectfully. Another judge from the Orange court offered this example of how a focus on understanding the needs of self-represented litigants can help resolve cases: “I had a divorce case and everything was settled but the dog. They couldn’t agree who would get the dog. I could have told them to resolve the matter and come back but they were both getting agitated. I said: who walks the dog? The woman said, ‘I do.’ I said who feeds the dog and she said she did. I asked who cleans up after the dog and she said, ‘me.’ So I looked at the man and he said she should keep the dog. If that had not happened, they could have come to a domestic violence case because of that dog. You have to take the time to figure out what people need to resolve their case. The system is set up to fight, but most people don’t want to fight, they want to disengage. You have to problem-solve with people. It is almost collaborative what we do here.”

## **RECOMMENDATIONS**

In attempting to enhance procedural fairness when hearing family cases, courts should look to encourage staff and bench officers to display respect for litigants’ time and for their emotions and to provide concrete assistance to reduce the stress of family cases for the litigants.

### **Implement Today**

- Continue to design state forms to be understood by self-represented litigants. Develop preparation-for-court documents that can be centrally produced and distributed. These documents could reproduce some of the verbal assistance that already takes place in self-help centers. They could be put online and used to help litigants better anticipate the experience of appearing before a judge.

- Encourage all bench officers to practice patience, attentive listening, and respectful communication with self-represented litigants. This can be done through modeling by presiding judges, brown bag discussions and structured workshops.
- Conduct trainings for all court staff regarding the distinction between providing legal information (to assist self-represented litigants) and providing legal advice (which might compromise judicial neutrality). Include in the training how to offer empathic listening without compromising objectivity.

### Implement in the Short Term

- Expand the JusticeCorps program to assist self-represented litigants by establishing whether they have completed the required paperwork.
- Develop mentoring programs to help bench officers gain confidence and share resources in working with self-represented litigants. Similarly, courtroom teams should be encouraged to visit exemplary courtrooms to observe how they work with self-represented litigants.

### Set as a Long-term Goal

- Schedule calendars that solely serve self-represented litigants; this could be a few hours or even one day a week.
- Have staff or volunteer attorneys, mediators, domestic violence staff, and other professionals available to assist litigants in resolving their case.
- Distribute materials for self-represented litigants to inform them of what they may and may not do in court, including how to communicate properly with a judge.
- Develop a listserv on cases involving self-represented litigants that bench officers from across the state can access to share resources and ideas.
- Arrange site visits to the self-help centers for court officers and staff and encourage dialogue about what resources are available.
- Encourage private attorneys to provide more unbundled legal services.
- Expand education for bench officers in hearing cases with self-represented litigants, including how to gain necessary information and how to discuss proceedings in ways that are appropriate.

### SAMPLE RESOURCES

- Bench guide for cases involving self-represented litigants: [www.courts.ca.gov/reference/documents/benchguide\\_self\\_rep\\_litigants.pdf](http://www.courts.ca.gov/reference/documents/benchguide_self_rep_litigants.pdf).
- Programs for self-represented litigants: [www.courts.ca.gov/7338.htm](http://www.courts.ca.gov/7338.htm).
- California Courts self-help website: [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm).
- Guidelines for self-help centers: [www.courts.ca.gov/reference/documents/self\\_help\\_center\\_guidelines.pdf](http://www.courts.ca.gov/reference/documents/self_help_center_guidelines.pdf).
- The National Center for State Courts manages an online clearinghouse of self-help resources: [www.selfhelpsupport.org](http://www.selfhelpsupport.org).

## LIMITED ENGLISH PROFICIENCY

Over 100 languages are spoken by California residents; 40% of Californians speak a language other than English at home. Many respondents cited concern about the large number of court users who speak languages other than English and the dearth of resources available for these court users.

## CHALLENGES

While in criminal and certain juvenile court cases court interpreters are required under the California Constitution, in many types of civil cases they are not. Many court users rely on family members, a practice that is problematic. Predictably, this ad hoc system leaves many courts scrambling to understand the two sides of a case. Further, according to many of those interviewed, bench officers are often uncertain about how to move a case forward while still appearing objective when one side of a dispute understands English and the other side does not. Several policymakers and practitioners across the state interviewed for this report expressed concern that the lack of interpreters and other language resources is an indication that the courts do not adequately understand the people who appear in court every day.

## INITIATIVES

Every aspect of a court case can be confusing without English proficiency. Fortunately, the state has translated many forms and materials into Spanish. Additionally, the state and many courts have developed other resources in Chinese, Vietnamese, Korean, and other commonly spoken languages.

In the Superior Court of Imperial County, where many residents are originally from Mexico, one of the job requirements for most court staff is to be bilingual in Spanish. In the Superior Court of Contra Costa County, court administrators wanted to emphasize the importance of interpretation services for all court staff. They began training bench officers about how to work with interpreters with an eye toward changing the courtroom culture to make non-native English speakers more at ease.

The Superior Court of Ventura County implemented an innovation that was simple and low-cost, but effective enough to draw a Kleps award: the Tip of the Day. Each day, a Spanish-speaking staff person from the self-help center calls into a local radio show with a five-minute piece of advice relating to the local courts. Sometimes this advice focuses on resources available through the courts, such as the self-help centers or the waiting rooms for children. On other days, the advice focuses on specific actions, such as how to file for divorce or contest an eviction notice.

Increasing comfort for non-native English speakers also means increasing familiarity with the justice system before coming into court. In the Superior Court of Alameda County, the Family Bridges program goes into local communities to train residents about the importance of interpreter services and to recruit potential interpreters. In that court, as in many across the state, a premium is placed on bi- or multi-lingual staff both at the courthouse and in the self-help centers. In the Superior Court of Marin, as in Imperial, Orange, Ventura, San Francisco and others, self-help center staff attend community fairs and reach out to community-based organizations to inform community members about the work of the courts.



## RECOMMENDATIONS

### Implement Today

- Encourage all court staff to participate in trainings regarding the needs of non-English speaking court users. Role-playing exercises can be used to simulate the experience of being unable to communicate in the dominant language of the court.
- Seek out partnerships with local, non-English radio and television stations to provide public service announcements about the courts.

### Implement in the Short Term

- Develop guidelines for non-professional interpreters, based on the document *Professional Standards and Ethics for California Court Interpreters* (Judicial Council of California 2008).
- Establish standards and conduct trainings to encourage respectful treatment of interpreters.
- Assess readability of signage throughout courthouses and enhance where necessary with signs in other primary languages and/or with images. Assessment should be done by a panel that includes people from local communities and local education specialists.

### Set as a Long-term Goal

- Determine which languages are priorities in each region and set goals to have a significant percentage of key materials available in those languages.
- Develop volunteer community liaison positions for major immigrant groups in a jurisdiction to explain court services and to recruit interpreters.

## SAMPLE RESOURCES

- Standards and ethical guidelines for interpreters: [www.courts.ca.gov/xbcr/cc/Ethics\\_Manual\\_4th\\_Ed\\_Master.pdf](http://www.courts.ca.gov/xbcr/cc/Ethics_Manual_4th_Ed_Master.pdf).
- Court interpreter resources: [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm).
- Consortium for Language Access in the Courts: [http://ncsconline.org/D\\_Research/CourtInterp/CICourtConsort.html](http://ncsconline.org/D_Research/CourtInterp/CICourtConsort.html).
- White Paper on Interpretation from the Conference of State Court Administrators: <http://cosca.ncsc.dni.us/WhitePapers/CourtInterpretation-FundamentalToAccessToJustice.pdf>.
- Limited English Proficiency Resources: [www.courts.ca.gov/partners/53.htm](http://www.courts.ca.gov/partners/53.htm).

## **CULTURALLY, ETHNICALLY, AND RACIALLY DIVERSE POPULATIONS**

Several interview respondents were explicitly concerned that court staff do not always reflect the diversity of the population in California and that court users were especially likely to feel alienated if the bench officer does not look or sound like most of the litigants in the courtroom. Indeed, the Trust and Confidence study suggested that African-Americans and Latinos hold less positive perceptions of procedural fairness (as well as outcome fairness) than Asian-Americans and whites. Sensitivity to race and culture can play a significant role, especially in courtrooms that are filled with non-white or non-native English speakers and that process cases quickly. Accordingly, several interview respondents suggested that cultural sensitivity training is critical to remind court staff of the importance of respect for all court users. Respondents proposed exercises in empathy to help educate court professionals about how they may seem to court users who are not from the same background economically, racially, culturally, and/or linguistically.

### **CHALLENGES**

The challenges associated with serving a diverse population are much the same as those already described: litigants want to trust the courts to be fair and objective, but those assumptions are seriously challenged if the court seems to be a foreign place, with its own rules of behavior and a staff that does not engage with court users. An obvious challenge concerns the mismatch in some courtrooms between the backgrounds of the litigants and bench officers. This challenge in itself may be difficult to overcome, but where it exists, it highlights the need for strong efforts at taking other steps to promote procedural fairness.

### **INITIATIVES**

Some courts, such as the Superior Courts of San Joaquin and Alameda, conduct explicit outreach to ethnic groups within their communities to discuss the courts and hear their concerns. Some courts have prioritized that staff be multilingual. The Judicial Council has also made clear its commitment to prioritizing diversity in its hiring practices.

In the Superior Court of Imperial County, court officials conduct outreach at job fairs for migrant workers. Additionally, self-help center staff are required to spend time observing Mexican courts and learning cultural norms about the court system in Mexico—cultural differences that are considered as important as linguistic differences. Administrators report that new staff is typically surprised to learn that in Mexico the court system is perceived by many people as less imposing than it is in the United States. For example, the judge wears layperson's clothing and sits at a desk, not on a platform.

## RECOMMENDATIONS

### Implement Today

- Engage bench officers and court executives in community outreach to demonstrate interest in communities and to provide information about the courts.
- Encourage staff discussions and brown bag presentations on different cultures that are prominent in a region.
- Prohibit Christmas and other denominational decorations in the courthouse; attempt to acknowledge all holidays of significance for all major religious and cultural groups.
- Use brown bag lunches to initiate periodic reflection on the experiences and concerns of court users from diverse backgrounds. These informal discussions should be led by the Presiding Judge or Court Executive Officer. Guest speakers could focus on cultural competencies, obstacles to communication and respectful interaction.
- Facilitate presentations by, and discussions with, ethnically diverse government officials who are willing to discuss their experiences and their perspective on diversity in the courts.

### Implement in the Short Term

- Institute structured brown bag lunches for court staff to discuss the courtroom culture and learn about topics such as cultural competence and non-verbal communication.
- Conduct educational workshops about the legal cultures of countries from which sizeable populations of California residents come.
- Create a campaign to celebrate diversity in the community and the courthouse. Take pains to recognize the historical challenges of establishing equality in the courts.
- Recognize Black History Month and any other federal or state celebrations of specific racial and ethnic groups.
- Conduct outreach to African-American and other ethnically diverse communities both to describe the ways that courts work and to hear community concerns.

### Set as a Long-term Goal

- Discuss with court staff whether court employees reflect the diversity and can meet the goals of the community.

## SAMPLE RESOURCES

- *How to Avoid Bias* is a brochure developed at the AOC that provides insight and tips. [www.courts.ca.gov/genderb.pdf](http://www.courts.ca.gov/genderb.pdf).
- Centro de Ayuda en español: [www.courts.ca.gov/13289.htm](http://www.courts.ca.gov/13289.htm)



## IV. ASSESSING PROCEDURAL FAIRNESS

To help court administrators examine procedural fairness in their own courts, this final section provides a brief assessment tool (beginning on the next page). The tool, totaling 45 items, is divided into sections corresponding to the three previous sections of this report. Each item should be judged independent of the others in the section using a scale of 1 (not at all) to 4 (almost always). For those interested in assessing all facets of procedural fairness, the entire instrument can be used. Others may be interested in focusing on individual areas.

By measuring how a court performs on each key dimension of procedural fairness, this tool can isolate a court's strengths and weaknesses. Importantly, surveys of this sort are intended to provide an approximate measure and should be used accordingly. If a court is interested in more detail, court staff may be able to expand the question items on their own with sufficient reflection and discussion, or staff may opt to partner with outside researchers, who may provide assistance at little or no cost. Used as a tool to assess and generate group reflection, this assessment tool could serve as a mechanism to jump-start a procedural fairness initiative in any courtroom, courthouse, or jurisdiction.

**PROCEDURAL FAIRNESS ASSESSMENT: INSTRUMENT FOR COURT LEADERSHIP**

Every court has strengths that it can build on to enhance users’ perceptions of procedural fairness. This instrument is designed to help assess current capacity and highlight areas for ongoing attention. Each section is self-contained and can be scored separately. All questions in a section should be completed using the scale provided where 1 equals “not at all” and 4 equals “always/almost always.”

To score each section, simply total the responses. For each section the scores can be interpreted as follows:

- 5-9: Procedural fairness in this area is relatively **weak** and could be improved using recommendations listed under “implement today.”
- 10-15: Procedural fairness is **developing** in this area and could be strengthened using recommendations listed under “implement today” and “implement this year.”
- 16-20: Procedural fairness is **strong** in this area. Court should consider visionary planning using the initiatives suggested under “set as a long-term goal” and should consider making court available as a model for other courts to visit, as a mentor court, and as a case study that can be documented.

<b>I. THE COURTHOUSE</b>	<b>SECTION SCORES:</b>
Accessing the court	Total: _____
Interaction between court staff & court users	Total: _____
Understanding court proceedings	Total: _____
Ensuring a voice in the court	Total: _____
<b>II. THE COURT VENUE</b>	
Traffic cases	Total: _____
Small claims cases	Total: _____
Family and juvenile cases	Total: _____
<b>III. THE COURT USER</b>	
Self-represented litigants	Total: _____
Limited English & culturally diverse	Total: _____

**I. PROCEDURAL FAIRNESS THROUGHOUT THE COURTHOUSE**

1-Not at all                      2-Infrequently                      3-Sometimes                      4-Almost always

**Accessing the Court**

- Information about our courthouse on our website is accurate.                      I      2      3      4      N/A
- We provide information about our courthouse location and hours of operation on the voicemail system that is listed for the general public.                      I      2      3      4      N/A
- We evaluate courthouse signs for clarity and readability.                      I      2      3      4      N/A
- Our court maintains weekend and/or evening hours.                      I      2      3      4      N/A
- We schedule court appearances using specific times.                      I      2      3      4      N/A

**Total** \_\_\_\_\_

**Interaction between Court Staff & Court Users**

- Courthouse staff are trained in respectful interaction.                      I      2      3      4      N/A
- Bench officers are trained in effective listening.                      I      2      3      4      N/A
- All courthouse staff consider it part of their job to provide information about courtroom and other room location and where to find necessary forms.                      I      2      3      4      N/A
- We assess treatment of the public by court staff.                      I      2      3      4      N/A
- Courtroom staff work together to create a courtroom culture that demonstrates respect and helpfulness to court users.                      I      2      3      4      N/A

**Total** \_\_\_\_\_

**Understanding Court Proceedings**

- Our website provides information about what to expect for a wide variety of court cases.                      I      2      3      4      N/A
- Our bench officers explain what will happen procedurally at the beginning of each court session.                      I      2      3      4      N/A
- Court users are encouraged to ask questions.                      I      2      3      4      N/A
- Our courthouse provides factsheets and other information that is clearly marked and accessible.                      I      2      3      4      N/A
- Our court provides information after a case is heard to verify that court users have understood the court’s decision.                      I      2      3      4      N/A

**Total** \_\_\_\_\_

**I. PROCEDURAL FAIRNESS THROUGHOUT THE COURTHOUSE (continued)**

1-Not at all                      2-Infrequently                      3-Sometimes                      4-Almost always

**Ensuring a Voice in the Court**

- Our courthouse website has clearly marked comment areas.                      I      2      3      4      N/A
- We have a designated person who reviews comments.                      I      2      3      4      N/A
- Staff in our self-help center(s) consider it part of their job to listen to clients' accounting of a case.                      I      2      3      4      N/A
- Our bench officers are trained in listening.                      I      2      3      4      N/A
- Our bench officers prioritize listening to litigants' comments and concerns.                      I      2      3      4      N/A

**Total** \_\_\_\_\_

**II. KEY VENUES: TRAFFIC, SMALL CLAIMS, FAMILY AND JUVENILE CASES**

1-Not at all                      2-Infrequently                      3-Sometimes                      4-Almost always

**Traffic Cases**

- There is an overview of procedure before each session.                      I      2      3      4      N/A
- Bench officers give litigants the opportunity to explain their side of the incident.                      I      2      3      4      N/A
- Resources to facilitate compliance are available in the courthouse.                      I      2      3      4      N/A
- Wait time for a case to be called is kept to a reasonable period (i.e. less than 1 hour).                      I      2      3      4      N/A
- All bench officers (assigned and temporary) are trained in elements of procedural fairness.                      I      2      3      4      N/A

**Total** \_\_\_\_\_

**II. KEY VENUES: TRAFFIC, SMALL CLAIMS, FAMILY AND JUVENILE CASES (continued)**

1-Not at all                      2-Infrequently                      3-Sometimes                      4-Almost always

**Small Claims Cases**

• There is an overview of procedure for all court users.	I	2	3	4	N/A
• Bench officers give litigants the opportunity to explain their side of the incident.	I	2	3	4	N/A
• Litigants have the opportunity to ask questions.	I	2	3	4	N/A
• Our court offers workshops on common disputes to facilitate resolution.	I	2	3	4	N/A
• All bench officers (assigned and temporary) are trained in elements of procedural fairness.	I	2	3	4	N/A

**Total** \_\_\_\_\_

**Family and Juvenile Cases**

• There is an overview of procedure for all court users.	I	2	3	4	N/A
• We provide videos and/or workshops for court users in custody proceedings.	I	2	3	4	N/A
• Our court has special facilities for children (e.g., children’s waiting room, play materials in the courtroom).	I	2	3	4	N/A
• Our bench officers give litigants the time they need to explain their cases and ask questions.	I	2	3	4	N/A
• All bench officers (assigned and temporary) are trained about how procedural fairness impacts family cases.	I	2	3	4	N/A

**Total** \_\_\_\_\_



**III. KEY USERS: SELF-REPRESENTED, LIMITED ENGLISH, AND CULTURALLY DIVERSE**

1-Not at all                      2-Infrequently                      3-Sometimes                      4-Almost always

**Self-Represented Litigants**

<ul style="list-style-type: none"> <li>• Our self-help center(s) are located in easy to reach sites for a majority of our customers and have clearly posted hours, and our website has clear links to our self-help resources.</li> <li>• Our self-help center staff helps customers to determine which forms they will need and to fill out forms correctly.</li> <li>• Our self-help center(s) provide workshops, computers, and educational materials.</li> <li>• We provide written and readily available instructions regarding how to fill out forms and what to expect in court.</li> <li>• Our judges are educated in hearing cases with self-represented litigants.</li> </ul>	<p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p>			
<b>Total</b> _____				

**Limited English & Culturally Diverse**

<ul style="list-style-type: none"> <li>• We assess signs, forms and other key information for readability from a non-English-speaking perspective.</li> <li>• We provide written forms, instructions, tip sheets, etc. in the major languages spoken in our county.</li> <li>• Our bench officers are educated on how to work with interpreters.</li> <li>• We hold staff discussions and brown bag presentations on different cultures that are prominent in our county.</li> <li>• We conduct outreach to diverse communities in our county.</li> </ul>	<p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p> <p>I    2    3    4    N/A</p>			
<b>Total</b> _____				

## RESOURCES

### ACCESSING THE COURT: ESTABLISHING RESPECT AND TRUST

- The *Obstacle Courts* video (AOC Access and Fairness program) demonstrates the challenges of, for example, passing through security, moving from floor to floor and using restrooms for the physically disabled. It is one of several videos that can be used to train bench officers and court staff about the challenges of physically negotiating courts for those with restricted movement.
- Recommended language is available from the AOC for court signage and forms for notifying the deaf and hard of hearing about the availability of assistive listening systems and communication access real time translation (CART).
- The National Center for State Courts (NCSC) CourTools provides a tool to measure court users' perceptions about access to the courts. This survey, available both through the Judicial Council and from NCSC directly, can provide court executives with a standardized snapshot of perceptions that can be used to guide decisions about allocations, outreach, and areas to develop.
- A description of California's collaborative justice or problem-solving courts, including homeless courts, is available on the Collaborative Justice Courts program web site at [www.courts.ca.gov/programs-collabjustice.htm](http://www.courts.ca.gov/programs-collabjustice.htm).

### INTERACTION BETWEEN COURT STAFF AND COURT USERS

- *May I Help You?* (see [www.courts.ca.gov/xbcr/cc/mayihelpyou.pdf](http://www.courts.ca.gov/xbcr/cc/mayihelpyou.pdf)): This brochure specifies the differences between providing information and legal advice for court clerks. The Administrative Office of the Courts Education Division has also produced a broadcast series to help give court clerks a framework for assisting court customers.
- *The National Center for State Courts' CourTools*: This survey, available both through the Judicial Council and from NCSC directly, can provide court executives with a standardized assessment tool to evaluate management style and measure employee satisfaction (see [www.courts.ca.gov/reference/documents/performancemanagement.pdf](http://www.courts.ca.gov/reference/documents/performancemanagement.pdf)).
- *Tour Guide: A Self-Guided Tour of Your Courthouse from the Perspective of a Self-Represented Litigant* (2008, National Center for State Courts; see [www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).

### UNDERSTANDING COURT PROCEEDINGS

- Self-help websites (both state and county court) have forms and explanations that can serve as templates to create new documents. ([www.courts.ca.gov/partners/55.htm](http://www.courts.ca.gov/partners/55.htm)).
- California Judicial Branch Outreach to Students: A factsheet on programs is available at [www.courts.ca.gov/programs-lawrelated.htm](http://www.courts.ca.gov/programs-lawrelated.htm).

- Juvenile Delinquency Court Orientation Video (<mms://wms.1A57.edgecastcdn.net/001A57/cfcc/juvdelin.crt.wmv>).
- Handling Cases Involving Self-Represented Litigants, A Benchguide for Judicial Officers (January 2007): [www.courts.ca.gov/xbrc/partners/benchguide\\_self\\_rep\\_litigants.pdf](http://www.courts.ca.gov/xbrc/partners/benchguide_self_rep_litigants.pdf).

### ENSURING A VOICE IN THE COURT

- Alternative Dispute Resolution (ADR) is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved ([www.courts.ca.gov/programs-adr.htm](http://www.courts.ca.gov/programs-adr.htm)).
- Exit Survey – this can be used to collect data from all persons leaving a courthouse, with a supplement seeking additional information from self-represented litigants ([www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).
- *Final Report on the Effectiveness of Courtroom Communication in Hearings Involving Two-Self Represented Litigants* (an exploratory study conducted by Greacen Associates, LLC and the Self-Represented Litigation Network; also available at [www.courts.ca.gov/partners/143.htm](http://www.courts.ca.gov/partners/143.htm)).

### TRAFFIC CASES

- On-line forms for traffic cases are available at [www.courts.ca.gov/1056.htm](http://www.courts.ca.gov/1056.htm).
- Frequently Asked Questions document: [www.courts.ca.gov/1057.htm](http://www.courts.ca.gov/1057.htm).
- Self-help for Traffic Cases: [www.courts.ca.gov/selfhelp-traffic.htm](http://www.courts.ca.gov/selfhelp-traffic.htm).

### SMALL CLAIMS CASES

- AOC self-help center small claims pages are available at [www.courts.ca.gov/selfhelp-smallclaims.htm](http://www.courts.ca.gov/selfhelp-smallclaims.htm).
- The Superior Court of Sacramento County has developed a video about mediation in small claims court ([www.youtube.com/watch?v=oW9ZeaBQ51w](http://www.youtube.com/watch?v=oW9ZeaBQ51w)).

### FAMILY AND JUVENILE CASES

- The Elkins Family Law Task Force report and recommendations are available at [www.courts.ca.gov/4267.htm](http://www.courts.ca.gov/4267.htm).
- The CFCC website provides a large range of resources including downloadable publications, training and grant opportunities. See: [www.courts.ca.gov/programs-cfcc.htm](http://www.courts.ca.gov/programs-cfcc.htm).
- Juvenile Delinquency Court Assessment and Implementation: [www.courts.ca.gov/8012.htm](http://www.courts.ca.gov/8012.htm).

### SELF-REPRESENTED LITIGANTS

- Bench guide for cases involving self-represented litigants: [www.courts.ca.gov/reference/documents/benchguide\\_self\\_rep\\_litigants.pdf](http://www.courts.ca.gov/reference/documents/benchguide_self_rep_litigants.pdf).
- Programs for self-represented litigants: [www.courts.ca.gov/7338.htm](http://www.courts.ca.gov/7338.htm).
- California Courts self-help website: [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm).
- Guidelines for self-help centers: [www.courts.ca.gov/reference/documents/self\\_help\\_center\\_guidelines.pdf](http://www.courts.ca.gov/reference/documents/self_help_center_guidelines.pdf).

- The National Center for State Courts manages an online clearinghouse of self-help resources: [www.selfhelpsupport.org](http://www.selfhelpsupport.org).
- JusticeCorps program: [www.courts.ca.gov/programs-justicecorps.htm](http://www.courts.ca.gov/programs-justicecorps.htm).

#### LIMITED ENGLISH PROFICIENCY

- Standards and ethical guidelines for interpreters: [www.courts.ca.gov/xbcr/cc/Ethics\\_Manual\\_4th\\_Ed\\_Master.pdf](http://www.courts.ca.gov/xbcr/cc/Ethics_Manual_4th_Ed_Master.pdf).
- Court interpreter resources: [www.courts.ca.gov/programs-interpreters.htm](http://www.courts.ca.gov/programs-interpreters.htm).
- Consortium for Language Access in the Courts: [http://ncsconline.org/D\\_Research/CourtInterp/CICourtConsort.html](http://ncsconline.org/D_Research/CourtInterp/CICourtConsort.html).
- White Paper on Interpretation from the Conference of State Court Administrators: <http://cosca.ncsc.dni.us/WhitePapers/CourtInterpretation-FundamentalToAccessToJustice.pdf>.
- Limited English Proficiency Resources: [www.courts.ca.gov/partners/53.htm](http://www.courts.ca.gov/partners/53.htm).

#### CULTURALLY, ETHNICALLY, AND RACIALLY DIVERSE POPULATIONS

- *How to Avoid Bias* is a brochure developed at the AOC that provides insight and tips. [www.courts.ca.gov/genderb.pdf](http://www.courts.ca.gov/genderb.pdf).
- Centro de Ayuda en español: [www.courts.ca.gov/13289.htm](http://www.courts.ca.gov/13289.htm)

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**APPENDIX. LIST OF SITES VISITED AND STAKEHOLDERS INTERVIEWED****SITE VISITS**

Site	Date
Court Solutions Conference, National Center for State Courts, Baltimore, MD	9/08
Elkins Family Law Task Force Public Hearing, San Francisco, CA	4/09
Superior Court of California, County of Alameda	9/08
Superior Court of California, County of Contra Costa	9/08
Superior Court of California, County of Imperial	4/09
Superior Court of California, County of Los Angeles	4/09
Superior Court of California, County of Marin	9/08
Superior Court of California, County of Orange	4/09
Superior Court of California, County of Riverside	4/09
Superior Court of California, County of San Diego	4/09
Superior Court of California, County of San Francisco	9/08
Superior Court of California, County of Santa Clara	9/08

**INDIVIDUAL INTERVIEWS****A. California Administrative Office of the Courts**

Name	Role/Focus	Date
Maggie Cimino	Education/Training	10/08
Nicole Claro-Quinn	JusticeCorps	9/08
Donna Clay-Conti	Access & Fairness Advisory Committee	10/08
Charlene Depner	Center for Families, Children & the Courts	8/08
Audrey Fancy	Juvenile/Restorative Justice	9/08
Lisa Galdos	Court Relations	9/08
Bonnie Hough	Training/Self-Represented Litigants/Elkins Family Law Task Force	8/08
Patrick O'Donnell	Civil/Small Claims	8/08
Lucy Smallsreed	Interpreters/Standards	8/08
David Smith	Trust & Confidence	2/09
Nancy Taylor	Collaborative justice	3/09
Courtney Tucker	Traffic	9/08
Julia Weber	Elkins Family Law Task Force/Domestic Violence	8/08

**INDIVIDUAL INTERVIEWS** *(continued)***B. California Courts (Superior and Appellate)**

<b>Name</b>	<b>Role/Focus</b>	<b>Date</b>
Hon. Diana Altamirano	Superior Court of California, County of Imperial	4/09
Hon. Gordon Baranco	Superior Court of California, County of Alameda	9/08
Diane Bras	Superior Court of California, County of Placer	12/08
Judith Beck	Superior Court of California, County of Marin	9/08
Hon. Robert Broughton	Superior Court of California, County of Contra Costa	9/08
Scott Brown	Superior Court of California, County of San Diego	4/09
Jocelyn Burton	Superior Court of California, County of Santa Clara	9/08
Bill Darden	Superior Court of California, County of Contra Costa	9/08
Kathleen Dixon	Superior Court of California, County of Los Angeles	4/09
Hon. Francisco Firmat	Superior Court of California, County of Orange	4/09
Jeanette Flores	Superior Court of California, County of Los Angeles	4/09
Hon. Michele Flurer	Superior Court of California, County of Los Angeles	4/09
Pastor Herrera	Superior Court of California, County of Los Angeles	4/09
Kristen Hoadley	Superior Court of California, County of San Francisco	10/08
Hon. Jamie Jacobs-May	Superior Court of California, County of Santa Clara	9/08
Hon. Mark Juhas	Superior Court of California, County of Los Angeles	10/08
Hon. James Lambden	California Court of Appeal, First Appellate District, Division Two	10/08
Maria Livingston	Superior Court of California, County of Orange	4/09
Judy Louie	Superior Court of California, County of San Francisco	9/08
Brenda McCormick	Superior Court of California, County of Ventura	4/09
Maria Murphy	Superior Court of California, County of Riverside	4/09
Hon. Dennis Murray (Ret.)	Superior Court of California, County of Tehama	12/08
Leigh Parsons	Superior Court of California, County of Santa Clara	9/08
Michael Planet	Superior Court of California, County of Ventura	4/09
Hon. Ronald Robie	California Court of Appeal, Third Appellate District	12/08
Michael Roddy	Superior Court of California, County of San Diego	11/08 & 4/09
Patricia Saucedo	Superior Court of California, County of Riverside	4/09
Hon. Marjorie Slabach	Superior Court of California, County of San Francisco	9/08
Hon. Fumiko Wasserman	Superior Court of California, County of Los Angeles	11/08
Hon. Nancy Wieben-Stock	Superior Court of California, County of Orange	11/08
Hon. Erica Yew	Superior Court of California, County of San Francisco	9/08
Hon. Laurie Zelon	California Court of Appeal, Second Appellate District, Division Seven	10/08



**INDIVIDUAL INTERVIEWS** *(continued)***C. Other**

Name	Court	Date
Ana Maria Garcia	Neighborhood Legal Services of Los Angeles County, CA	4/09
Betty Nordwind	Harriet Buhai Center for Family Law, Los Angeles, CA	4/09

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