



PUBLIC PERSPECTIVES ON TRUST & CONFIDENCE IN THE COURTS



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LOGAN CORNETT
Senior Research Analyst

NATALIE ANNE KNOWLTON
Director of Special Projects

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INSTITUTE *for the* ADVANCEMENT
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IAALS—Institute for the Advancement of the American Legal System

John Moyer Hall, 2060 South Gaylord Way, Denver, CO 80208

Phone: 303-871-6600

<http://iaals.du.edu>

IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

Scott Bales Executive Director

Rebecca Love Kourlis Founding Executive Director

Natalie Anne Knowlton Director of Special Projects

Janet Drobinske Senior Legal Assistant

Cynthia Bowling Executive Assistant

Logan Cornett Senior Research Analyst

James Swearingen Research Assistant

Jonna Perlinger Legal Assistant

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Your participation means everything.

EXECUTIVE SUMMARY

The courts in the United States exist to uphold the rule of law in our society. But the justice system does not operate in a vacuum, separate from the people it serves. To operate effectively, courts rely on, among other things, the trust and confidence of the public.

Researchers have frequently studied this issue. A large body of survey and public polling data highlights issues like perceived racial and gender bias, socioeconomic bias, and concerns over the role of politics in judicial decision-making. These surveys provide useful insights into how members of the public view the courts and the American legal system, but they are limited in terms of the depth of information they can provide. A qualitative approach can provide a better understanding of the perspectives that underlie survey and polling statistics.

IAALS, the Institute for the Advancement of the American Legal System, undertook the *Public Perspectives on Trust and Confidence in the Courts* project to explore this critical issue through a qualitative lens. The study's long-form, one-on-one interviews were designed to explore several facets of public trust and confidence in the civil legal system: the value of courts, trust in judges, ideal judicial behavior, available information on the legal system, popular media depictions of the system, and others.

This report focuses on the various perspectives that emerged from our research. Broadly, our findings suggest the following.

Perspectives on court systems:

- Our participants affirmed that courts are important to their lives, some noting the role of courts in preserving a civil society, maintaining democracy, or providing a mechanism for justice.
- In discussions on well-functioning courts, a clear consensus emerged around ideas relating to fairness, impartiality, and justice, but participants also identified issues of efficiency, transparency, consistency, honesty, and integrity.
- A majority of participants expressed concerns about the fairness of the current civil process, many of which centered on perceptions of systemic racial or gender bias, differential treatment based on financial ability, and judicial biases.

Perspectives on judges and the judiciary:

- Although participant perceptions on judges in their community were mixed, many participants did broadly trust their local judges.
- Those who did express distrust of their judges often referenced perceptions of judicial bias, specifically bias toward a particular political affiliation.
- Participants who trusted their community judges occasionally reported experience in the system or interaction with judges in personal or professional settings, yet many also based their trust on impressions from media or word-of-mouth in the community.

- Participants described their thoughts on ideal judicial behavior using words like fair, just, unbiased, professional, moral, and ethical. Some of these discussions highlighted a tension between whether judges should be held to a higher standard of behavior or that of an average person.

Perspectives on information about the legal system:

- Despite most of our participants not having any personal experience with a civil case, many had some sense of the broad legal process.
- Participants had exposure to television and movies centered on the legal system, but almost all recognized that these portrayals distort the legal process in certain ways.
- Participants reported a high level of interest in learning more about the legal system, particularly information on the following content: judicial decision-making, specific case information, court statistics, and useful terminology.

While these findings only scratch the surface, they offer important insights into public perceptions of the legal system. As a threshold matter, our study participants widely acknowledged—and articulated—the importance and value of the U.S. court system. An expressed desire for fairness in decision-making, equal application of the law, transparency, and a system that supports order and stability closely tracks with widely accepted definitions of the rule of law. Similarly, participants described the ideal behavior of judges in ways that parallel rule of law concepts and reflect many of the standards set out in judicial codes of conduct.

As one might expect, participants voiced concerns, both with the current legal process broadly and judges more specifically. Perceptions of bias in many forms in the system, including political influence, have been well-documented in public trust and confidence research, and our study participants discussed these issues, too. Less frequently considered, though, are the heuristics and cognitive biases that influence these perceptions. In discussing their impressions of trust in judges, some participants hinted at maintaining a default attitude of trust or distrust that persists until it is changed by information about a judge (via word-of-mouth sources, personal interactions, etc.). Broadly speaking, though, most of our participants had positive perceptions of judges in their community.

Finally, public ignorance of the civil justice system has sometimes been blamed for low levels of public trust and confidence in the legal system. Yet our study highlighted that many of our participants had at least a general understanding of how a civil case moves through the courts. While participants reported familiarity with popular television shows depicting the legal system, they generally recognized that this content is highly dramatized and portrays various inaccuracies. Further, participants did express an interest in learning more and having more information about the legal system. Many courts make available information about the legal system, but a separate issue is whether this information is accessible and understandable. Employing the principles of user-centered design in developing these kinds of resources can help courts further reach members of the public.

With so much work being done to improve our legal system, it is critical that we continue to engage the public and understand people's perspectives. The depth and nuances revealed through qualitative methods like interviewing can facilitate a deeper understanding of not only how the public views the system, but also what drives public perceptions and attitudes.

INTRODUCTION

Our courts exist to uphold the rule of law in American society—to determine innocence or guilt, to resolve disputes, and to ensure that laws are applied to everyone equally, fairly, and independently. While our judiciary is independent from the other two branches of government, courts do not operate in a vacuum, separate from the people they serve. To operate effectively, they rely on, among other things, the confidence of the public.

The need for public confidence in the justice system is particularly acute in a democracy like ours because compliance with norms and rules is largely voluntary. We generally expect people to comply not simply because there are consequences for non-compliance, but also because people believe those consequences are fairly and competently administered.¹

If the people who need and use the courts view them as inaccessible, biased, or inefficient, they may be less likely to seek the help of the courts—or worse yet, less likely to comply with dictates of the court.

Researchers have frequently studied issues around public trust and confidence in the courts. A large body of survey data, from studies conducted by organizations like the National Center for State Courts, Annenberg Public Policy Center, and others, highlights how issues like racial and gender bias, socioeconomic bias, and perceived politicization of the judiciary impact people's views. More recent surveys focus on how the public perceives the courts with regard to technology and innovation.

Surveys, while they provide a relatively quick and cost-effective way of generating data that lends itself to statistical analysis, are limited in terms of the depth of information they can provide. To better understand perspectives that underlie the statistics, we need a qualitative approach.

In the latter half of 2018, IAALS, the Institute for the Advancement of the American Legal System, undertook the *Public Perspectives on Trust and Confidence in the Courts* project. To explore this issue through a qualitative lens, we conducted long-form, one-on-one interviews with members of the public from across the country. We designed our interviews to explore these key points:

- Views on the value courts provide, what a well-functioning court system would look like, and concerns about the courts;
- Perceptions about levels of trust in judges and how judges should behave; and
- Perspectives on knowledge of the process, how the media depicts the legal system, and the public's desire for information about the legal system.

Although the findings only scratch the surface, this qualitative inquiry provides new, important insights into nuances in public perceptions. Better understanding how the public perceives the courts can provide system stakeholders and others with insights into how public trust can be earned and maintained.

This report sets forth the findings from this research, focusing on perspectives on court systems and processes, judges, and information about the legal system. We also detail some high-level implications stemming from this research and identify areas ripe for further inquiry.

1 Michael L. Buenger, Exec VP, NAT'L CENTER FOR STATE CTS., *Rethinking the Delivery of Justice in a Self-Service Society*, Remarks to the ABA Dispute Resolution Section Spring Meeting 11 (April 10, 2019).

FINDINGS

We recruited 39 interview participants and conducted the interviews in August 2018. Our participants represented a diverse swath of the public in terms of gender, age, income, education levels, race and ethnicity, and political perspectives. In terms of experience with the legal system, just over three-quarters (77%) had not been involved in a legal case within the previous five years;² one-third (33%) had experience serving on at least one jury. The appendix to this report describes in detail our methodological approach, including recruitment, participant demographics, and interview procedures.³

We present our findings below in three sections: Perspectives on Court Systems and Processes, Perspectives on Judges and the Judiciary, and Perspectives about Information on the Legal System. Each section first presents our research findings and then places those findings in context of other relevant research. Given the qualitative nature of this research, we share the various perspectives that our participants expressed without assigning percentages to describe the results.

Perspectives on Court Systems and Processes

Our interviews inquired about three broad topics designed to understand the public's perspectives about court systems and processes: the importance and value of the courts, the vision of well-functioning courts, and concerns about the current system.

IMPORTANCE AND VALUE OF COURTS

At the outset of each interview, we asked participants to consider whether and why courts are important to their life. An overwhelming majority of participants affirmed that courts *are* important, and when asked to elaborate, they described several roles the courts play. Many participants reflected on the courts maintaining order. One participant said courts are responsible for “keeping law and order in your environment and your community.”

Similarly, others recognized that the courts play a role in maintaining democracy. One participant said that the courts “keep a civil society” and “if we don’t have that, it’s anarchy.” Another related that “the legal system is important because, if there’s nobody to enforce the rule of law, then you don’t have democracy.” Several participants reported the courts are important because they provide a mechanism for justice. As one participant noted, “we have to have some system of righting any apparent wrong.” Another said they count on the courts to provide “an impartial ruler or judge . . . of the facts before them and to seek justice.”

VISION OF WELL-FUNCTIONING COURTS

As a follow-up to asking whether and how the courts are important, we asked participants to reflect on what well-functioning courts would look like. Notably, but unsurprisingly, there was a clear consensus around ideas

² We did not ask participants to elaborate on their role in the case, e.g., whether they were a party or a witness.

³ Further details about our methodological approach, including recruitment, participant demographics, and interview procedures are presented in the appendix, available at https://iaals.du.edu/sites/default/files/documents/publications/ptc_appendix.pdf.

relating to fairness, impartiality, and justice. As one participant put it, “I count on [the courts] to be fair above all. I count on them to also provide justice without any type of prejudice.”

Several other themes, however, arose in responses to this question. Many participants reflected that the courts should work quickly and efficiently: “I think the courts do a really good job when they fairly hear a case in an efficient manner.” Others shared that a well-functioning court system would be transparent and understandable, consistently apply the law, and demonstrate honesty and integrity.

CONCERNS ABOUT THE CURRENT SYSTEM

Another line of interview questions asked whether participants had any concerns about the fairness of the *current* civil legal process—and a majority reported that they did. When asked to relate their primary concern, a substantial majority perceived that those with a financial advantage are more likely to prevail. “The nature of my concern,” one participant said, “is that money talks.” Another reflected that “lawyers are so expensive, and it seems like people with more money can afford to hire more expensive or better-skilled lawyers than people that don’t have as much money.” Sharing a similar sentiment, another participant said, “if you can go buy a good lawyer, you’re more likely to get, maybe not a better verdict, but you will be heard.”

In addition to financial advantage, participants frequently remarked on several other concerns. Some raised issues about bias based on race or gender: “One [concern] is [the presence of] an innate bias that’s within everyone that may sway their opinion, depending on race or gender.” Others shared concerns about both sides being heard: “Just hoping that when you go [to court] both sides are heard, everything is looked at before coming to a decision and not walking in feeling like a decision has already been made.”

Another set of concerns related to judges making emotionally or politically driven decisions: “They already know what outcome they want, and that’s my perception.” Other participants were worried about how information is presented to the court: “I would be concerned that everything is presented the way it

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“I have a fairly positive perception of them, probably because I haven't heard any negative things about them, or there haven't been any controversies involving the local judges.”

needs to be presented, that all the facts haven't been tampered with.” Finally, some participants were concerned about accessibility: “Not everybody feels comfortable using the legal system. Not everyone knows how to utilize the legal system. So, this may put a person at a greater disadvantage when they have a legitimate claim.”

Perspectives on Judges and the Judiciary

In our interviews, we asked study participants to share perspectives on judges and courts. We asked them how they perceived judges in their communities and justices on the United States Supreme Court, as well as how they would like judges to behave.

PERCEPTIONS OF COMMUNITY JUDGES AND THE SUPREME COURT

We asked participants to broadly reflect on judges in their community. Most participants had positive perceptions. Some, though, had mixed or negative perceptions. To delve further into this topic, we asked participants whether they trust the judges in their community. A sizeable majority said they did; the remainder either had mixed feelings or did not.

Of those who reported some level of trust, many had direct experience with one or more judges, due to participating as a party or juror or otherwise interacting with a judge in a personal or professional setting. However, many based their trust on impressions from word-of-mouth or the media. Interestingly, several participants said their trust stemmed from a propensity to give judges the benefit of the doubt: “I have a fairly positive perception of them,” said one participant, “probably because I haven't heard any negative things about them, or there haven't been any controversies involving the local judges.”

Among those who did not trust their local judges, most shared a perception that judges are biased. For most of these participants, the issue was judges' political affiliations. “The concern that I typically have is . . . partisanship,” said one interviewee. Another said, “I think judges are very politically influenced,

“The concern that I typically have is . . . partisanship.”

at least in my community, because they're all elected." It was not just judicial elections, though, with which respondents expressed concern. As one interviewee explained, "I have a lot of trouble with a system where judges are political appointees."

As a follow-up question on the issue of trust, we asked interviewees what, if anything, they would need to know about the judges in their community to trust them more. The two most common responses were history of decision-making and personal background. Other less frequent factors included: public ratings of judges, word-of-mouth anecdotes, history of community service, and courtroom behavior. Several respondents also mentioned that knowing judges' political leanings would increase their levels of trust.

In a separate set of questions, we asked participants about their perceptions of the United States Supreme Court. In response, participants related largely negative views. A majority shared concerns that the Supreme Court has been overly politicized. As one participant phrased it, "[The Supreme Court is] dysfunctional. I think it's a politically motivated organization. I don't think it's impartial." Another said that the Supreme Court is "supposed to be fair and impartial, period. It shouldn't matter to you what the politics of the people before you are. I just don't believe that's the case."

PERSPECTIVES ON IDEAL JUDICIAL BEHAVIOR

We asked interview participants to describe how they would like judges in their community to behave. Our analysis revealed several themes. Unsurprisingly given the prevalence of such themes throughout the interview, many responded to this question with descriptors like fair, just, and unbiased. One participant explained, "I would like to see them be unbiased and regardless of their feelings about the case, they judge based upon the evidence and based upon the letter of the law." Another participant replied, "I would like them to uphold the law and be fair and not 'some people get this punishment, some people get this punishment' for the same type of crime or incident."

Participants also expressed a desire for professionalism in judges. "I believe that people in such positions should act professionally," explained a study participant. Another described ideal judicial behavior in a bit more detail: "They need to present themselves in a timely manner to the bench. Their decorum should be appropriate, no foul language. They do not berate attorneys in front of other attorneys." Relatedly, some interviewees mentioned the importance of judges in their community behaving respectfully and being law-abiding citizens.

Several participants wanted judges in their community to behave with moral integrity and a sense of ethics. Said one participant: "I would like them to behave as though they are not only judges, but role models, and that whatever they do in

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I think [judges] have to hold themselves to a higher standard, a higher bar because they are the person that stands for you and passes judgment on you, so they have to be held to a higher accountability than most.

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their own personal lives . . . make sure if it hits the front page of the newspaper that you're not going to be embarrassed or ashamed.” Another reflected, “I would expect a judge to be an ethical person that not only carries out their professional responsibilities ethically but also interpersonally in their personal lives in an ethical manner.”

Some of the responses given to this question highlighted a tension between whether judges should be held to a higher standard of behavior or simply that of an average person. One interview participant opined, “I think they have to hold themselves to a higher standard, a higher bar because they are the person that stands for you and passes judgment on you, so they have to be held to a higher accountability than most.” Several of the interviewees expressed similar views. On the other hand, a few participants said they would want judges to behave like normal people: “[I] would like to think that as soon as they get out of the court, they act like one of us.”

Perspectives about Information on the Legal System

We asked participants to reflect on three broad aspects of information about the legal system: knowledge of the civil legal process, depictions of the legal system in the media, and desire for information about the legal system.

KNOWLEDGE OF THE CIVIL LEGAL PROCESS

To help us contextualize participant perspectives on the legal system, we asked participants to describe for us, to the best of their knowledge, the steps involved in a civil legal case. We did not expect people would have detailed knowledge, as our participants were not lawyers and most had no recent personal experience with a legal case.⁴

Most participants reported that a civil case begins when one party files with the court and ends when a judge or jury renders a decision at a trial—and many noted that parties frequently attempt to settle prior to trial. Several participants discussed service requirements or aspects of the discovery process, primarily depositions. A few participants described the process from beginning to end, including filing, service, pretrial conferences, discovery, motions, court appearances and hearings, settlement, and trial.

⁴ As noted in the Appendix, we did not include participants who were lawyers or had professional associations with the legal system. Nearly three-quarters (74%) had no involvement with a legal case within the past five years. *Id.*

DEPICTIONS OF THE LEGAL SYSTEM IN THE MEDIA

To understand participants' perspectives on media depictions of the legal system, we asked if they thought television and movies accurately or inaccurately depicted the system. All participants had at least some exposure to television and movies centered on the legal system: *Law & Order*, *Judge Judy*, and *Bull* were among the most frequently mentioned.

Many participants thought these depictions correctly reflect that the system involves an adversarial process where opposing parties present their side of a case. Notably, however, almost all participants recognized that these portrayals distort the legal process in certain ways. One participant said that television shows “have to have the elements to make it dramatic so people watch, because if nobody watches, you don’t have a program. So, there has to be something interesting to it other than watching a guy file paperwork.” Several noted that television and films compress the process. “It doesn’t bear any resemblance to reality,” said one participant, continuing, “We know that these things take years to go through the motions and it’s all done in a half an hour and you’re going, ‘That’s funny, nobody looks any older.’” Another said, “nothing’s solved in a day. Nothing’s solved in an hour. They make it look too easy and it’s just not.”

A number of participants reflected that television and film portray an unrealistically emotional and conflict-filled process. One participant said that the “verbal conflicts that come out in a court trial, I think, are all exaggerated. In the way the lawyers act and the judges act, I think that they’re much more emotional than what actually happens in reality.” Similarly, another said that shows are “trying to make it black and white with a quick resolution. . . . You have a lawyer screaming at somebody on the stand and, you know, pointing out that, ‘I saw you with the butler! It was Colonel Mustard in the library who did it!’ It’s not really the way it works.”

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[N]othing’s solved in a day. Nothing’s solved in an hour. They make it look too easy and it’s just not.

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DESIRE FOR INFORMATION ABOUT THE LEGAL SYSTEM

We concluded each interview by asking a series of questions to help us understand whether participants were interested in learning more about the legal system. We began by asking participants to rate their interest in learning more about the legal system on a scale of one to five, with one being the least interested and five being the most interested. A substantial majority of respondents provided a rating of three or higher. In a similar follow-up question, we asked participants to rate on a scale of one to five, with one being very unlikely and five being very likely, the likelihood that they would spend time reviewing information about the legal system if it were available in a format that was easy to understand. As with the previous question, a considerable majority of participants provided a rating of three or higher.

Delving further in, we asked participants to describe the kinds of information they would be most interested in having. They frequently shared interest in information about judicial decision-making, specific cases, court statistics, terminology, jury selection, and judicial selection. The most common response, however, was process-related information—“a breakdown of the whole process.” One participant, reflecting on anxieties about the possibility of going to court, said, “Whatever case it may be, for something as simple as a traffic case, I don’t know my rights. I don’t know what to do.” One participant poignantly articulated:

People only go to [court] reluctantly when there’s an issue. Nobody really wants to go to court. . . . It’s the last-ditch effort in a sad situation when civility has sort of crumbled, if you will, you wind up in the courts. So, it’s never a pleasant experience—to turn it into a nice, “Hey, know your judge and don’t fear the courts.” That kind of thing would be nice. . . . People fear, especially the uneducated, they just fear the courts. They’ve had run-ins or brief skirmishes with the law, so they’re paranoid to even go to the court for something that they may have rights or redress for. . . . [A] lack of understanding of the good that a court does is a huge hindrance for them. They’re not getting the full benefit of our society.



“ Courts must proactively address both the perception and the reality of racial biases if the public is to view our system as reflecting the rule of law. ”

DISCUSSION

Our findings provide many valuable insights into public perceptions of our courts and legal system. These findings, in turn, have implications for what can be done to increase levels of trust and confidence. We must address issues related to bias in decision-making, ensure judges act in accordance with ethical standards, create more opportunities for judges to be involved in their communities, and increase transparency of court information through employing principles of user-centered design.

Perspectives on Court Systems and Processes

As a threshold matter, our interview participants acknowledge the importance and value of the U.S. court system. Across the interview questions, participants coalesced around a shared goal of a court system: to protect people both collectively and individually. In other words, participants value the rule of law.

Although there is not one agreed-upon definition of rule of law, the most widely accepted definitions converge on a similar set of ideas. The World Justice Project defines the rule of law as “a durable system of laws, institutions, and community commitment that delivers four universal principles: accountability, just laws, open government, and accessible and impartial dispute resolution.”⁵ Similarly, a U.S. federal courts educational website describes the rule of law as “[a] principle under which all persons, institutions, and entities are accountable to laws that are publicly promulgated, equally enforced, independently adjudicated, and consistent with international human rights principles.”⁶ According to the United Nations (UN), the rule of law “requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, fairness in application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.”⁷ The UN further states that “[t]he rule of law is fundamental to international peace and security and public stability.”⁸

Similar principles and ideas were discussed by participants in this study. We consistently heard a desire for fairness in decision-making, equal application of the law, transparency, and a system that supports order and stability. We also heard concerns about behaviors that starkly contrast with these values—bias in decision-making, advantages for the wealthy, politically driven rulings, and lack of access to the courts.

The rule of law is a complex, multifaceted concept, but our findings demonstrate that people understand the principles that underlie the rule of law and strongly embrace them. Interview participants also, however, expressed concerns over issues in the court system that threaten to erode rule of law values. Specifically, our participants frequently shared concerns about bias in many forms in our legal system, particularly racial bias. These concerns, including racially biased sentencing, have drawn increasing attention from the public and empirical researchers over the past several decades.⁹ Courts must proactively address both the perception and the reality of racial biases if the public is to view our system as reflecting the rule of law.

5 What is the Rule of Law?, WORLD JUST. PROJECT, <https://worldjusticeproject.org/about-us/overview/what-rule-law>.

6 Overview – Rule of Law, U. S. CTS., <https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law>.

7 What is the Rule of Law, UNITED NATIONS AND THE RULE OF LAW, <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>.

8 *Id.*

9 See, e.g., Travis W. Franklin, *Race and Ethnicity Effects in Federal Sentencing: A Propensity Score Analysis* 32(4) JUST. Q. 653 (2015) [hereinafter *Race and Ethnicity Effects in Federal Sentencing*]; Eric P. Baumer, *Reassessing and Redirecting Research on Race and Sentencing* 30(2) JUST. Q. 231 (2013) [hereinafter *Reassessing and Redirecting Research on Race and Sentencing*].

Perspectives on Judges and the Judiciary

Discussions around the ideal behavior of judges parallel many of those pertaining to perceived values of the court system. When participants were asked how they think judges should behave, their responses largely tracked the standards set out in judicial codes of conduct and ethics across the country.¹⁰ For example, the Code of Conduct for United States Judges centers on five principles of judicial behavior:

- A judge should uphold the integrity and independence of the judiciary;
- A judge should avoid impropriety and the appearance of impropriety in all activities;
- A judge should perform the duties of the office fairly, impartially, and diligently;
- A judge may engage in extrajudicial activities that are consistent with the obligations of judicial office; and
- A judge should refrain from political activity.¹¹

Essentially, participants described wanting nothing more from judges than what has been promised to them: judges who act independently of political motivations and who behave in accordance with existing ethical codes. Yet just as participants expressed differing views about courts in the abstract as compared to the current system, they also described disparities between the ideals and reality of judicial behavior. Specifically, some participants in our study reflected on politically driven judicial decision-making and lack of judicial independence. Importantly, our findings suggest that these concerns are not specific to either appointed or elected judges.¹² What our results suggest is that, regardless of the process by which judges are selected, the public is concerned that judges are beholden to whomever put them on the bench. In this sense, our study aligns with other public opinion research.

Results from a 2018 Pew survey indicated that the public views the judiciary as politically influenced; less than half (43%) of respondents thought that the statement “Judges are not influenced by political parties” describes the country well.¹³ A 2019 Annenberg Public Policy Center survey reported a similar finding regarding perceptions about the Supreme Court: a majority (57%) of respondents agreed that the Supreme Court “gets too mixed up in politics.”¹⁴ And the public recognizes the importance of an independent judiciary: more than 80% of both Republican and Democrat respondents to the 2018 Pew survey reported that it is very important that judges not be politically influenced.¹⁵

10 See, e.g., COLO. CODE JUD. CONDUCT R. 2.3 (Jul. 1, 2010), https://www.courts.state.co.us/userfiles/file/Code_of_Judicial_Conduct.pdf; CAL. CODE JUD. ETHICS (Oct. 2008), https://www.courts.ca.gov/documents/ca_code_judicial_ethics.pdf; ALA. CODE JUD. ETHICS (Apr. 2, 1980), <http://judicial.alabama.gov/library/RulesCanons>; N.Y. CODE JUD. CONDUCT (Feb. 4, 2006), <http://www2.nycourts.gov/rules/chiefadmin/100.shtml>.

11 U.S.C. CODE CONDUCT FOR UNITED STATES JUDGES (Mar. 12, 2019), <https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges>.

12 Note that, while we asked about perspectives on elected and appointed judges, we did not collect data about how judges in each participant’s community are selected.

13 *The Public, the Political System and American Democracy*, PEW RESEARCH CTR., April 26, 2018 [hereinafter PEW 2018], <https://www.people-press.org/2018/04/26/2-views-of-american-democratic-values-and-principles/> (referring to “judiciary” and “judges” broadly and did not appear to reflect the IAALS distinction between local judges and Supreme Court justices).

14 Press Release, The Annenberg Public Policy Center of the University of Pennsylvania, Most Americans Trust the Supreme Court, but Think it is ‘Too Mixed Up in Politics’ (Oct. 16, 2019) [hereinafter Annenberg 2019], <https://www.annenbergpublicpolicycenter.org/most-americans-trust-the-supreme-court-but-think-it-is-too-mixed-up-in-politics/>.

15 PEW 2018, *supra* note 13.

While our participants voiced these (and other) concerns about both community judges and U.S. Supreme Court justices, they tended to view the former favorably but the latter negatively. Other research on public perceptions of the Supreme Court suggests our study participants had particularly negative opinions of the Court. In the 2018 Pew survey, for example, two-thirds (66%) of respondents viewed the Supreme Court favorably, but public perceptions about the Supreme Court appeared to fluctuate based on recent Court decisions and respondent political affiliation.¹⁶ Similarly, the above-mentioned Annenberg survey found that “two-thirds (68%) of those surveyed trust the Supreme Court to operate in the best interests of the American people.”¹⁷

Finally, while our study and many others explore public attitudes about judges, less frequently considered are the heuristics and cognitive biases influencing these perceptions. The issue of implicit bias in judges is certainly front-and-center for court communities, where the impact of these biases in judicial decision-making are well-studied. Implicit biases, though, are pervasive—they exist in all of us.¹⁸ Just as implicit biases can affect judicial decision-making, they also shape public opinions about judges and courts.

This reality is important for courts and stakeholders to consider in developing strategies for improving public trust and confidence in the legal system. A great deal of psychological research has demonstrated that pairing positive stimuli with objects of bias can change attitudes—both implicit and explicit biases.¹⁹ This suggests that positive interactions with judges could improve public attitudes about judges. When our participants discussed general perspectives of judges in their communities, they often referred to an interaction with a specific judge as being instructive. While many courts have implemented community outreach programs, more can be done to create opportunities for judges to have direct and positive interaction with members of the public.

Perspectives about Information on the Legal System

Discourse on public trust and confidence—particularly focusing on low levels of trust in the courts—often evokes studies noting the American public’s lack of knowledge about various aspects of our government and its processes. A 2016 Annenberg Public Policy Center study, for instance, reported that “[o]nly a quarter of Americans can name all three branches of government” and that only one-third knew what happens in a 4–4 tie in the Supreme Court.²⁰ There are numerous surveys of this sort, and these types of findings are said to

16 *Id.*

17 Annenberg 2019, *supra* note 14.

18 See, e.g., Anthony G. Greenwald, Debbie E. McGhee & Jordan L. K. Schwartz, *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test* 74(6) J. PERSONALITY & SOC. PSYCHOL. 1464 (1998); Bertram Gawronski & Galen V. Bodenhausen, *The Associative-Propositional Evaluation Model. Theory, Evidence, and Open Questions* 44 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 59 (2011); Brian A. Nosek, et al., *Pervasiveness and Correlates of Implicit Attitudes and Stereotypes*, 18(1) EUROPEAN REV. SOC. PSYCHOL. 36 (2007).

19 See e.g., Bertram Gawronski & Galen V. Bodenhausen, *Associative and Propositional Processes in Evaluation: An Integrative Review of Implicit and Explicit Attitude Change* 132(5) PSYCHOL. BULL. 692 (2006); Bertram Gawronski & Etienne P. LeBel, *Understanding Patterns of Attitude Change: When Implicit Measures Show Change, But Explicit Measures Do Not* 44(5) J. EXPERIMENTAL SOC. PSYCHOL. 1355 (2008); Bryan Gibson, *Can Evaluative Conditioning Change Attitudes Toward Mature Brands? New Evidence from the Implicit Association Test* 35 J. CONSUMER RES., 178 (2008); Mandy Grumm, Steffen Nestler & Gernot von Collani, *Changing Explicit and Implicit Attitudes: The Case of Self-Esteem* 45(2) J. EXPERIMENTAL SOC. PSYCHOL. 327 (2009); Michael A. Olson & Russell H. Fazio, *Reducing Automatically Activated Racial Prejudice Through Implicit Evaluative Conditioning* 32(4) PERSONALITY & SOC. PSYCHOL. BULL. 421 (2006).

20 Press Release, The Annenberg Public Policy Center of the University of Pennsylvania, *Americans’ Knowledge of the Branches of Government is Declining* (Sept. 13, 2016), <https://www.annenbergpublicpolicycenter.org/americans-knowledge-of-the-branches-of-government-is-declining/>.

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reflect the failing of our schools in providing adequate civics education to young Americans.²¹ Yet in our study, while very few participants could identify every step in the civil justice process, many had at least a general idea of how a civil case moves through the courts.

Certainly, improved civics education can lead to better understanding of government institutions and is beneficial for various reasons. It alone, however, cannot address the problem of public confidence in the courts. Considerable research supports the conclusion that bias is a real issue in the legal system and that litigants who cannot afford an attorney are disadvantaged.²² Increasing public education about how courts work does not address these and other fundamental issues that often drive negative public perceptions.

Popular television is also blamed for contributing to public concerns with the court system, by creating unrealistic expectations about what the process is like. Our participants, however, were discerning when it came to depictions of the legal system in the media. They generally understood that portrayals—including procedurals, dramas, and reality court shows—are created for entertainment value. More specifically, participants recognized that such television shows and movies are highly dramatized and portray various inaccuracies, particularly in terms of compression of process and time.

Moreover, participants who lacked knowledge about courts or court processes were not resigned to this situation. Instead, a considerable majority of our participants said they would be interested in learning more about the legal system. Further, a majority reported that they would be likely to spend time reviewing information about the legal system if it were easily understandable. Notably, though, much of the identified information is already available and accessible online.

Transparency and public access to information about the courts are foundational to the rule of law.²³ Many courts publish detailed annual reports that include statistics on case filings and various other aspects of court operations. An internet search pulls up myriad sites providing glossaries of legal terms. Similarly, many websites offer information about the steps involved in both civil and criminal cases, jury selection procedures, and judicial selection methods. So, if the public is interested in learning more about topics related to the legal

21 See, e.g., Matthew Shaw, *Civil Illiteracy in America* HARVARD POL. REV. (May 25, 2017), <https://harvardpolitics.com/culture/civic-illiteracy-in-america/>; Sarah Shapiro & Catherine Brown, *The State of Civics Education*, CTR. FOR AM. PROGRESS (Feb. 21, 2018), <https://www.americanprogress.org/issues/education-k-12/reports/2018/02/21/446857/state-civics-education/>.

22 See, e.g., Rebecca L. Sandefur, *The Impact of Counsel: An Analysis of Empirical Evidence* 9(1) SEATTLE J. FOR SOC. JUST. 51 (2010), <https://digitalcommons.law.seattleu.edu/sjsj/vol9/iss1/3/>; *Race and Ethnicity Effects in Federal Sentencing*, *supra* note 9; *Reassessing and Redirecting Research on Race and Sentencing*, *supra* note 9.

23 WORLD JUST. PROJECT, *supra* note 5; U.S. CTS., *supra* note 6; UNITED NATIONS AND THE RULE OF LAW, *supra* note 7.

system *and* that information exists and is available, we can deduce that there is some barrier—or set of barriers—that prevents people from accessing the information.

Through its A Better Legal Internet project, Stanford Law School's Legal Design Lab proposes a number of solutions to help courts and others providing online information about the legal system to ensure that the information is accessible and understandable.²⁴ One arm of the project focuses on creating a set of protocols and taxonomies to optimize machine learning and improve search engine placement for online legal information resources.²⁵ Another arm of the project provides a list of critical design issues for creating user-friendly legal information websites.²⁶ Their guidelines include:

- Navigability
 - Mobile responsiveness
 - Clean composition
 - Strong hierarchies
 - Staged information
- Accessibility
 - Reading level
 - Disability-friendliness
 - Loading speed
 - Multiple languages
- Content Visibility
 - Material presented directly on the site, rather than in documents that need to be downloaded
 - Avoiding long resource lists
 - Use of visuals

Even a cursory review of court websites demonstrates that the resources currently available to the public have not fully taken these principles of user-centered design into account.²⁷ Courts should audit their websites and the information they make publicly available, then make improvements to align those resources with these principles for navigability, accessibility, and content visibility.

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²⁴ A BETTER LEGAL INTERNET, <http://betterinternet.law.stanford.edu/>.

²⁵ *Id.*

²⁶ *The Legal Help Website Design Field Guide*, A BETTER LEGAL INTERNET, <http://betterinternet.law.stanford.edu/design-review/>.

²⁷ *Inventory of Current Legal Help Webpages*, A Better Legal Internet, <http://betterinternet.law.stanford.edu/design-review/inventory-of-current-legal-help-webpages/#1>.

Addressing these and other access challenges could help to bridge the gap between the public's desire for knowledge about the legal system and accessibility of such information. Beyond educating the public broadly, these efforts to increase transparency and accessibility of information about the legal system stand to greatly benefit litigants—particularly those who represent themselves. Self-represented litigants are very often faced with complex legal issues and court processes compounded by the emotional nature of involvement in a court case.²⁸ Given the prevalence of self-representation in civil cases,²⁹ access to information is critical for ensuring legal issues are resolved in a fair and just manner.

CONCLUSION

Our interviews revealed many insights into how the public views court systems and processes, judges and the judiciary, and information about the legal system. Importantly, our findings challenge many long-held assumptions about what the public believes and knows.

With so much work being done to improve our legal system, it is critical that we continue to engage the public and understand people's perspectives. The depth and nuances revealed through qualitative methods like interviewing can facilitate a deeper understanding of not only how the public views the system but also what drives public perceptions and attitudes.

28 NATALIE ANNE KNOWLTON, LOGAN CORNETT, CORINA D. GERETY & JANET DROBINSKE, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT* (2016), https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf.

29 NAT'L CTR. FOR ST. CTS, FAMILY JUSTICE INITIATIVE: *THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS* (2018), <https://iaals.du.edu/sites/default/files/documents/publications/fji-landscape-report.pdf>.





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UNIVERSITY *of*
DENVER

Institute for the Advancement of the American Legal System
University of Denver
John Moyer Hall, 2060 South Gaylord Way
Denver, Colorado 80208

303.871.6600 <http://iaals.du.edu> @iaals