

### Ensuring Fairness in Legal Financial Obligations

Measure

7a

**Definition:** Ratings by defendants/respondents of their treatment by the court in cases in which the court has imposed a legal financial obligation (LFO).

**Purpose:** This measure evaluates the extent to which the court is seen by its customers to demonstrate fairness, respect, equal treatment, and concern in the imposition of legal financial obligations (LFOs).

Ensuring that defendants/respondents succeed in meeting their legal financial obligations has two dimensions. First, it requires a court, including its judicial officers and staff, to follow applicable constitutional provisions, statutes, and case law that apply to the imposition, collection, and enforcement of LFOs. A judicial officer's discretion can vary from no discretion to full discretion and may be restricted by statute with respect to a judicial officer's authority to reduce or waive certain fees or fines.

Second, it involves the court's use of recognized effective practices for ensuring compliance with court orders. (*See CourTools Measure 7C for an enumeration of these practices.*) These practices include ensuring that defendants/respondents are treated fairly. This measure provides a tool for surveying defendants/respondents who have incurred a legal financial obligation to report on their experience. Comparison of results by location, division, case type, and defendant/respondent type can inform and improve court practices for managing the administration of legal financial obligations (LFOs).

Courts must not only do the right thing; they must do the right thing in the right way. The court's authority and legitimacy derive in large part from the extent to which it is perceived as using fair procedures and treating people fairly, as well as arriving at a fair outcome. Procedural fairness involves providing the opportunity for defendants/respondents to tell their side of the story; treating both sides in a dispute equally; treating people in a courteous and respectful manner; and demonstrating trustworthiness through listening, expressing concern for defendants/respondents, and explaining decisions. Conducting court business with procedural fairness has been shown to improve compliance with court orders.

**Method:** Assessment should be undertaken immediately following the imposition of LFOs. As defendants/respondents exit the courtroom or clerk's office, those who have been ordered to pay a fine and fees are asked to fill out a short, self-administered, and confidential survey. Defendants/respondents are asked to rate their level of agreement with each item, using a 1-5 scale. The survey should be conducted on a periodic basis, for example quarterly, so that results can be compared over time.

#### Recommendations

- Use the questions as worded in this survey.
- Use the questions in the order presented in this survey.
- Use the same survey in all locations, divisions, and courts, to facilitate reliable comparisons.
- Limit demographic questions to those that will actually be used to interpret the results.



## Steps for Preparing and Administering the Survey

### 1 Organize the Survey

- ✓ Target individuals ordered to pay fines and fees to document their perceptions of procedural fairness
- ✓ Specify the focus on individuals exiting courtrooms
- ✓ Design survey to take 5 minutes or less to complete
- ✓ Anticipate the review of actionable information gained from the survey

### 2 Schedule a Day

- ✓ Plan to survey parties in court proceedings subject to fines and fees
- ✓ Determine appropriate days & courtrooms where survey is to be administered based on relevant calendars
- ✓ Inform the public, media, and justice system partners of the date and location

### 3 Assemble Materials

- ✓ If paper survey, prepare copies, clipboards, tables & chairs, drop box for completed surveys
- ✓ If web-based, provide iPads (or other devices) for completing and submitting digitally
- ✓ Post signs explaining survey purpose

### 4 Train the Survey Team

- ✓ Advise team that individual willingness to complete the survey depends largely on the skills and positive demeanor of those running the survey
- ✓ Conduct orientation and walk-through to ensure survey team is successful

### 5 Administer the Survey

- ✓ Select dates and times with relevant calendars
- ✓ Survey outside courtroom (or clerk's office/collections office) for views of those ordered to pay fines and fees
- ✓ Ensure confidentiality
- ✓ Assure respondents all surveys are reviewed, and action will be taken to make improvements

### 6 Analyze Data and Take Action

- ✓ Use survey data to evaluate policies and practices
- ✓ Design and implement corrective action, if necessary



## Legal Financial Obligations Survey

This court aims to serve the best interests of both you and the public. Your feedback will help us do so. Please know that your responses are confidential. Nothing you say will be connected to your case. Your answers will not affect the actions of the court in your case now or in the future.

	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	Not Applicable
	1	2	3	4	5	n/a

### Section I: About Your Court Hearing

Circle the Number.

1. The judge listened to my side of the story before deciding on my fine and fees.	1	2	3	4	5	n/a
2. I was treated the same as everyone else.	1	2	3	4	5	n/a
3. I got a chance to tell the judge about my ability to pay the fine and fees.	1	2	3	4	5	n/a
4. The judge made a fair and impartial decision about fines and fees related to my case, based on the facts.	1	2	3	4	5	n/a
5. As I leave the court, I know what to do next with respect to my obligation to pay any fines and fees.	1	2	3	4	5	n/a

### Section II: About You and Your Case

What type of case brought you to court today?

- Traffic (examples: broken headlight, expired registration, failure to stop, making an illegal turn, failure to wear a seat belt)
- Traffic Misdemeanor (examples: reckless driving, driving under the influence, etc.)
- Non-traffic Misdemeanor (examples: theft, assault, disturbing the peace, etc.)

The total amount in fines, fees, and restitution you are required to pay as a result of your case is:

- None, all fines/fees/restitution were waived.
- Less than \$100
- Between \$100 and \$300
- Between \$300 and \$500
- Between \$500 and \$1,000
- Greater than \$1,000
- I am not sure

If you were not able to pay in full on the day of your hearing, please indicate if you were informed about and are taking advantage of any of the following:

	I was offered this:		I am planning to use this:	
	Yes	No	Yes	No
Installment payment plan or extension of time to pay	Yes	No	Yes	No
Methods of non-cash payment, such as community service	Yes	No	Yes	No
Credit for completion of a court-approved program (for example, job training, drug treatment)	Yes	No	Yes	No

How do you identify yourself?

- American Indian or Alaska Native
- Asian
- Black or African American
- Hispanic or Latino
- Native Hawaiian or Other Pacific Islander
- White
- Other: \_\_\_\_\_

What is your gender?

- Male
- Female



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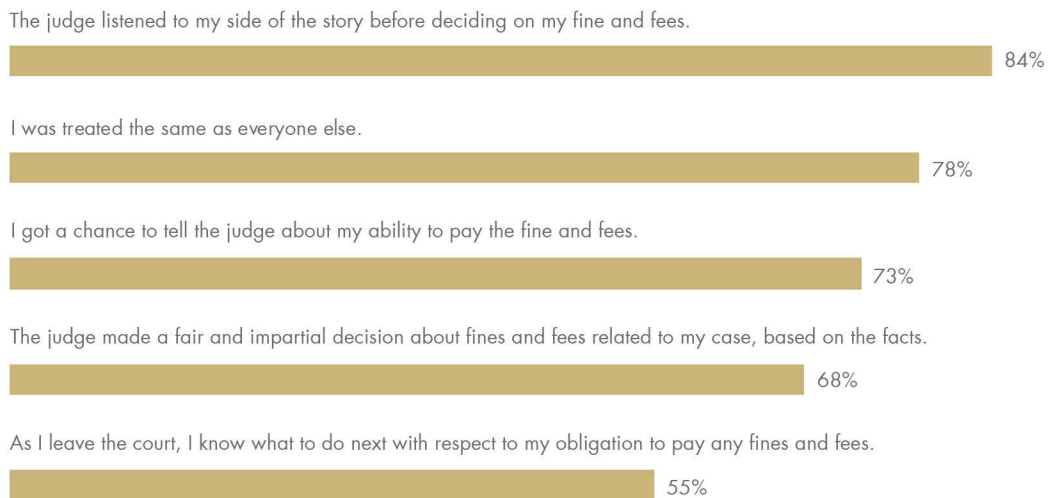
# 7a

#### Analysis and Interpretation

Compile the survey data to summarize the 5 items that capture respondents' opinions about procedural fairness and the 5 items that gather information about the case type, amount of LFO, options for satisfying LFO, and respondents' gender and self-identification.

Overall opinions about fairness are the first level of analysis. Courts may decide that a rating of at least 4 or better ("Agree" or "Strongly Agree") signifies that the court is meeting its goal. In that case, responses of 4 or 5 would be grouped together into a single category. The total number of these responses can be converted into a percentage of all valid responses. The results for each item can be shown in a single horizontal bar graph. The example below shows that respondents felt the process by which their LFOs were determined was fair, but a large share (45%) of respondents do not know what to do next in their case.

#### Percent reporting they strongly agree/agree with Fairness questions:



Responses for each of the 5 items can also be separated out to show the average score for each item. Enter the responses from each respondent into a spreadsheet or database to record and summarize the results. The following figure shows a sample spreadsheet for the 5 items. Note that the court surveyed 100 respondents, but that the number of valid responses for each question is not necessarily 100. If a respondent did not answer a question or answered Not Applicable, that respondent's answer is not counted as a valid response for that question.

## Computing the Average Fairness Scores

Respondent Number	Q1 Judge listened to my side of story	Q2 I was treated the same	Q3 Able to tell judge about ability to pay	Q4 Judge made fair & impartial decision	Q5 I know what to do next
10001	3	5	-	3	2
10002	-	2	2	2	1
10003	-	4	3	1	1
10004	1	0	5	3	-
10005	2	4	2	3	1
⋮	⋮	⋮	⋮	⋮	⋮
⋮	⋮	⋮	⋮	⋮	⋮
⋮	⋮	⋮	⋮	⋮	⋮
10100	3	4	3	3	2
<b>Total Score</b>	363	337	307	240	168
<b>Total Respondents</b>	100	100	100	100	100
<b>Total Valid Responses</b>	98	99	99	100	99
<b>Average</b>	3.7	3.4	3.1	2.4	1.7

$363 \div 98 = 3.7$

## Creating an Index Score

A court may wish to create an overall rating of fairness, using an easily understood 100-point scale. The 5 fairness questions each have a maximum score of 5, making the total maximum score 25 (5x5). Multiplying the summed averages by 4 converts these to a single score on a 100-point scale.

### Constructing the Overall Fairness Index Score

	Average score
1. The judge listened to my side of the story before deciding on my fine and fees .....	3.7
2. I was treated the same as everyone else .....	3.4
3. I got a chance to tell the judge about my ability to pay the fine and fees .....	3.1
4. The judge made a fair and impartial decision about fines and fees related to my case, based on the facts .....	2.4
5. As I leave the court, I know what to do next with respect to my obligation to pay any fines and fees .....	+1.7
	14.3
	x 4
	<b>Overall Fairness Index Score = 57.2</b>

## Interpretation

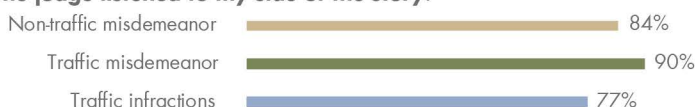
Assessments of results may vary by case type, court location, judicial officer, or defendant/respondent demographics. The graph below shows variation in the perception of fairness across case types. Judicial officers, court managers, and staff can examine the reasons for this variation by considering factors that may influence these results and their relation to the goals of the court. Policy changes or training needs may surface as part of that conversation.

### Percent Who Agree that...

#### They were treated the same as everyone else.



#### The judge listened to my side of the story.





The court should establish a baseline for its performance goals with respect to fairness in the administration of legal financial obligations. Comparison of results over time and with other courts can provide a useful basis for identifying whether solutions are working and performance results trends over time.

## Terms You Need to Know

**Defendant/Respondent:** The party against whom a claim is brought. In Traffic and Misdemeanor cases, the person who was issued a citation or arrested for violating a law or ordinance. In some states Traffic is handled as a civil matter, in which case these parties are called respondents, not defendants.

**Fee:** An amount of money charged to reimburse for a service or administrative cost or as an assessment.

**Fine:** An amount of money imposed as a penalty for violating a law.

**Index:** A single number used to summarize a set of data, providing a quick overview.

**Judicial Officer:** A judge, commissioner, referee, magistrate, or hearing officer.

**Legal Financial Obligation:** All discretionary and mandatory fines, costs, fees, state assessments, and/or restitution in civil and criminal cases. May also include late fees for late payments.

**Mean:** The average value of a set of values, equal to the sum of all the values divided by the number of values.

**Non-traffic Misdemeanor:** A lesser criminal offense, punishable by up to a year in jail. Offenses might include assault, disturbing the peace, or shoplifting and are distinguished by the seriousness of the crime or the amount of money or property involved. Punishment for misdemeanors can also include payment of a fine, probation, community service, or restitution.

**Procedural Fairness:** Conducting court business in a manner that demonstrates 1) voice (allowing both sides to tell their story); 2) neutrality (applying the rules consistently and explaining the way the rules were applied in each case); 3) respect (treating people with courtesy, showing respect for their rights, and ensuring they understand the legal process); 4) trust (listening and considering the best interests of all the parties.)

**Restitution:** An amount to be paid as compensation for an injury, loss, or damage.

**Traffic Infraction:** A non-criminal offense in violation of a law or ordinance, for example, speeding, failure to stop, making an illegal turn, failure to wear a seat belt, etc. These may be handled as criminal or civil matters.

**Traffic Misdemeanor:** A lesser offense violating a traffic law, including driving under the influence, reckless driving, speeding (over certain limits), etc. These cases carry up to a year in jail in most states. Punishment for misdemeanors can also include payment of a fine, probation, completion of a community service or court-ordered program, and/or restitution.

**Valid Responses:** Responses that should be counted for the purposes of analysis. For example, missing or nonsensical answers are not counted. For this survey, responses are sought from defendants who came to court facing a legal financial obligation as part of their case. If the LFO was waived, their response would be valid. If an LFO was never at issue in their case, their responses are not considered valid.



# CourTools

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