The Accessibility and Fairness of the Nevada Judiciary

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As judges and court administrators, we are responsible for creating fair and accessible courts. With this responsibility, the Nevada Supreme Court has sought to know how the citizens who visit our courts each day perceive the judiciary’s performance on accessibility and fairness.

“To no one will we sell, to no one will we refuse or delay, right or justice”—Magna Carta, 1215

This quote from the 800-year-old Magna Carta shows how for centuries access to justice has been a primary tenet of the judicial system. On equal footing is the tenet of fairness in the judicial process. This principle is famously embodied in the last three words of a simple pledge created by Francis Bellamy and published in a children’s magazine (The Youth’s Companion) in 1892: “I pledge allegiance to my Flag and the Republic for which it stands, one nation, indivisible, with liberty and justice for all.” In our system of government, justice for all can only be had through a fair legal process. How then do you rate a court’s performance on providing access to justice? How do you know if that judicial system is inherently fair?

When most people consider fairness in relation to the court system, they routinely associate it with winning or losing a case. However, research on procedural justice has shown that people are more likely to rate a court as fair if they understand how the decision was reached through the transparency of the process that led to the decision, rather than by the actual decision (see T. Tyler, “What Is Procedural Justice?: Criteria Used by Citizens to Assess the Fairness of Legal Procedures,” Law and Society Review 22 [1988]: 103-36).

Measuring the accessibility and fairness of a judicial system has become increasingly necessary. For instance, the public’s views on court performance in relation to access and fairness are often driven by the increased politicization of the judicial system. This politicization is not just about what decision was made in a case; rather, the focus is on the process the case must go through to be heard. The public is demanding access, fairness, and transparency in the processes that cases flow through toward adjudication. Over the last couple of decades, courts throughout the country have undergone changes in the way they provide “justice for all.” Courts and individual judges can no longer simply decide matters on a case without regard for how the parties and the public view their management of the matters at issue. Courts must demonstrate that they are performing in a way that meets the needs of the society they serve, and they must do so in an ever more transparent, efficient, and meaningful manner. (For example, in Nevada, the need to demonstrate performance on accessibility and fairness is equally evident with regard to recent issues of misconduct by judicial officials and court security personnel.)

To better understand these challenges and whether courts are accessible and fair, more judges and administrators are turning toward quantifiable performance measures that help them determine whether they are meeting the needs of the citizens they serve.

Performance Measures

As courts began to focus on quantifiable measures of performance, differences in what or how things should be measured emerged. These differences have led to calls for standardized performance measures. As a result, the National Center for State Courts (NCSC) established a uniform system for performance measurement called CourTools. One of the performance metrics established through this effort was the measurement of court accessibility and fairness as determined by those who use the court.

Like many states, Nevada wanted to know how its courts are performing in the areas of access and fairness. Nevada has a non-unified court system, meaning courts around the state are under the administrative direction (not direct control) of the Supreme Court of Nevada. Generally, local courts have discretion on implementing different policies and procedures for administering justice. This autonomy allows judges in one jurisdiction to process cases differently than another jurisdiction. This is not inherently a problematic structure. Discretion is a necessary tool for judges to use in making judgments based upon local resources or a community’s specific areas of concern. Still, the differences between courts can also lead to an environment that challenges whether courts can provide accessibility and fairness in the judicial process. To compound these concerns, the geography and population centers in Nevada create concerns about accessibility and, especially, whether or not citizens in rural areas have adequate access to the courts. Accordingly, Nevada sought to use the court performance measure on accessibility and fairness to establish a baseline on court performance.

Procedure

Under direction from the Supreme Court of Nevada, the Administrative Office of the Courts (AOC) began a study to
implement the *CourTools* measurement on accessibility and fairness. The survey used was created by NCSC with slight modifications to accessibility sections. The first ten questions on the survey dealt with access, and the remaining five questions dealt with fairness. Fairness questions were asked to be completed only if the person had interacted with a judge. Respondents were asked to rate their agreement with each question on a scale of 1 to 5, where 1 was strongly disagree and 5 was strongly agree. To determine if Nevada courts are fair, an average response of 4 (agree) was needed to show that citizens agreed that the courts were fair.

During the planning process, five survey locations at urban and rural courts were identified. These locations represented more than 90 percent of Nevada’s population. The survey relied on the availability of subjects or court customers who were willing to participate in the study and who visited the court on the days the survey was conducted. To ensure the survey responses represented the normal activity of the court, the days selected for conducting the survey were made in consultation with the court administrators to ensure they represented the most normal court days. This proved more difficult in rural areas, as rural courts typically conduct court hearings or trials on specific days of the week. Accordingly, these days were both representative of the busiest and the common days of operations. To ensure that the survey process did not interfere with court operations, no court employees from any of the five locations were asked to participate or help administer the survey. The survey team consisted of staff from the Supreme Court of Nevada AOC.

To minimize the chance for a halo effect, where court staff would act better or attempt to provide better service on the day the court was surveyed, court managers were asked to notify their respective staff about the planned survey, using general talking points, several weeks before the survey was conducted. This would allow court staff to be familiar with the event, but due to the passing of time, it would reduce the chance of staff skewing the survey results by providing a different level of service than they normally would. More than 3,000 people participated in the survey.

**Statewide Results**

Following NCSC procedures, the total responses to the survey were averaged and then multiplied by 20 to create a 100-point index score. The overall survey scores were generally favorable. The results showed that Nevada courts achieved an accessibility index score of 85, which indicates people agree Nevada courts are accessible. The score for the fairness section of the survey was at 81, which also shows people agree Nevada courts are fair.

<table>
<thead>
<tr>
<th>Question</th>
<th>Overall Access Score = 85</th>
<th>Overall Fairness Score = 81</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finding Courthouse Easy</td>
<td>89%</td>
<td>79%</td>
</tr>
<tr>
<td>Forms Understandable</td>
<td>85%</td>
<td>79%</td>
</tr>
<tr>
<td>Safe</td>
<td>89%</td>
<td>80%</td>
</tr>
<tr>
<td>Physical Disabilities</td>
<td>84%</td>
<td>83%</td>
</tr>
<tr>
<td>Language Barriers</td>
<td>84%</td>
<td></td>
</tr>
<tr>
<td>Reasonable Amount of Time</td>
<td>84%</td>
<td></td>
</tr>
<tr>
<td>Courtesy and Respect</td>
<td>87%</td>
<td></td>
</tr>
<tr>
<td>Found Courtroom</td>
<td>88%</td>
<td></td>
</tr>
<tr>
<td>Website Useful</td>
<td>76%</td>
<td></td>
</tr>
<tr>
<td>Hours of Operation</td>
<td>83%</td>
<td></td>
</tr>
<tr>
<td>Case Handled Fair</td>
<td>85%</td>
<td>83%</td>
</tr>
<tr>
<td>Listened to Story</td>
<td>79%</td>
<td></td>
</tr>
<tr>
<td>Had Info for Good Decision</td>
<td>80%</td>
<td></td>
</tr>
<tr>
<td>Treated the Same</td>
<td>83%</td>
<td></td>
</tr>
<tr>
<td>I Know What to Do Next</td>
<td>85%</td>
<td></td>
</tr>
</tbody>
</table>
When looking at individual accessibility questions, the lowest rating was received on the usefulness of the courts’ Web sites, with an index score of 76, below the agreement threshold. Being able to find the courthouse and feeling safe in the courthouse both received the highest accessibility scores at 89.

In the fairness questions, having their cases handled fairly and whether the judge listened to their side of the story received the lowest scores at 79 each, both below the agreement threshold. The question about knowing what to do next in the case received the highest fairness rating at 85.

Among the many questions asked, the survey requested the reasons people were visiting the court. By asking court customers why they visited the courthouse, insight was gained into the areas that might better serve individuals.

The data helped to identify areas and ways Nevada courts can improve their performance. As mentioned previously, the lowest score received on the survey was the usefulness of the courts’ Web sites. Fifty percent of the people who visited the courthouses came to find or file documents, pay fines, or get information. Using this information, the Judicial Council of the State of Nevada’s Court Technology Committee is looking at recommendations for courts that will improve their Web sites, which will improve access to justice throughout Nevada, as well.
Rural vs. Urban Courts
The geography and population centers in Nevada create concerns about accessibility and fairness, especially in rural areas. On questions related to court accessibility, little difference was found between respondents visiting rural courts versus urban courts. Both urban and rural respondents agreed on all accessibility questions except for the usefulness of their courts’ Web sites, where both groups could not agree that they were useful.

When reviewing fairness questions, differences begin to emerge between rural and urban courts. Consistently, rural courts received lower ratings on fairness questions when compared to urban courts. This is especially evident for the question on whether the judge had the information necessary to make a good decision. Urban court respondents averaged an index score above 80, which demonstrated agreement; rural courts averaged an index score below 80, which means that, on average, respondents could not agree that the rural courts had the information necessary to make good decisions.

Considerations/Benefits
When conducting the survey, it became apparent that different questions on the survey may have been more meaningful. For example, many individuals are familiar with the courthouse location, because it is often a prominent building in the community. Accordingly, most survey respondents gave very high ratings for the courthouse being easy to find. However, many survey participants expressed a desire to rate the ability to find adequate parking. Those who helped administer the survey noted, especially in urban locations, that court customers entered and exited the courthouse on multiple occasions to pay for additional time at parking meters. Accordingly, replacing the question on finding the courthouse with a question about finding adequate parking may be more appropriate in future surveys.
An additional benefit realized during the survey was that of having the Supreme Court of Nevada AOC staff conduct the survey as an interested third party. Some court administrators and participants felt that having a third party conduct the survey did lend more credibility to the results of this important effort. Many participants expressed appreciation for being able to voice their approval or disapproval of their treatment by the court, while others expressed feelings of relief or satisfaction that the supreme court was willing to ask them about their experiences.

Conclusion
For centuries, societies have sought to provide access to a fair judicial system. A fair judicial system is not easy to create, and it is equally difficult to maintain and improve. Today, a sustained effort by those who are appointed and elected is required to do more than adjudicate cases. They must also commit to seeking out the perceptions of those they serve and have the courage to act on those areas that need improvement. In Nevada, the perceptions and information gathered from this survey will help guide judicial education as well as shape the use of court technology, which in turn will lead to improvement in the accessibility and fairness of the Nevada judicial system. These efforts should serve as an example or reminder for all courts to continue pushing forward to ensure accessible and fair judicial systems.

It doesn’t matter who you are, or whom you represent: when you come before the courts of this state, you will get a fair shake.

- Chief Justice Mark E. Recktenwald of Hawaii
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