

BJA Court Recovery Task Force Adult Criminal and Lessons Learned Committees' Court User Surveys Highlights

Disclaimer: Given the low response rates of the court user surveys, the surveys should be considered exploratory, preliminary, and not representative of the population of all jurors, defendants, and unrepresented litigants. The highlights provided should not be used to represent a popular opinion or basis for decision-making.

Background

The BJA Court Recovery Task Force Adult Criminal and Lessons Learned Committees developed and implemented juror, defendant, and unrepresented litigant surveys to gather information about COVID-19 accommodations and any impacts on court proceedings.

In spring and summer 2021, three court user surveys were distributed across the state. Courts and stakeholders were asked to share the surveys with the respective court users who appeared in courtrooms either in person or virtually. The defendant and unrepresented litigants' surveys were available in English, Spanish, Russian, and Vietnamese. The juror survey was offered in English only. Surveys could be distributed via email, survey monkey link, QR code, or paper copy.

Findings for All Surveys

The number of respondents was very low for each of the three surveys, and language diversity among respondents was almost nonexistent. Although disappointing for the current effort, we have an opportunity to learn and be curious about how we can improve. Several options are open to us as we try to increase the number and diversity of respondents for future surveys.

To increase court user response, we might:

- observe the court process to identify times and locations that could be better for getting and holding the attention of the court user;
- ask interpreters to assist with survey dissemination;
- use incentives for survey completion;
- provide multiple, briefer questionnaires that would reduce the number of survey questions an individual would be asked;
- conduct focus groups or in-person interviews instead of paper or Internet-based questionnaires.

Each of the three surveys related to aspects of court processes that vary in both design and implementation across jurisdictions. Aggregated, statewide responses to the surveys can inform state policy but they are just as relevant to the management of court operations at specific sites.

Defendant Survey

For the Defendant Survey only 97 individuals answered any of the questions and, of the 97, none responded in any of the translated versions of the survey (Spanish, Russian, and Vietnamese).

Given the response rate (only 36 provided responses about in-person hearings and only 27 about remote hearings) and that only English language responses were obtained, the survey itself should be considered exploratory, preliminary, and not representative of the population of all defendants. Given those caveats, the results indicate that:

- a. of those who appeared in person, most reported feeling safe from COVID exposure during their hearing;
- b. of those appearing remotely, most reported have no “problems with technology” during their court hearing, although particular barriers were mentioned by some respondents;
- c. respondents were more likely to agree that they were able to communicate during the hearing and to “clearly hear” others in the hearing than they were to agree that they were able to speak privately with their attorney. In comments, one respondent volunteered “I really wish I could have come back in person” and another reported confusion, adding that “Documents that were email are incomplete. Have no idea of what’s going on.”

Recommendation: identify times, locations, and other justice partners that could better engage defendants and implement surveys.

Juror Survey

For the Juror Survey, there were 276 respondents, which is most likely a small subgroup of the total number of people summoned to appear as jurors during the survey period, and therefore results are not representative.

Two hundred and forty-one (241) Juror Survey respondents answered the question about racial and ethnic identity; of those, 1% identified as Black/African American, 1% Native American/Alaskan Native, 1% Native Hawaiian or other Pacific Islander, between 3 and 4% as Latino/Hispanic, and 86% as White/ Caucasian. For other demographics, 56% identified as female, 51% were age 55 or older, and 20% indicated they were “in a high-risk category for COVID.” Other results from the survey:

- a. about nine out of every 10 respondents who went to a courthouse reported feeling safe from COVID while there;
- b. of those participating remotely, most did not report technology problems;
- c. large majorities of respondents reported being able to see and hear all that happened in court, that the proceedings were understandable, that it was easy to stay focused, and that they could communicate with fellow jurors during deliberations;
- d. about one-fourth of all respondents offered additional comments that addressed topics from staff friendliness to lack of Internet access in the jury room. Several mentioned the convenience of participating remotely.

Recommendation: increase outreach to jurors to obtain the benefit of their perspective on jury service.

Unrepresented Litigant Survey

The **Unrepresented Litigant Survey** effort obtained only 45 responses, so results cannot be considered representative.

Among the 45 respondents, 43 used the English language and 2 used the Spanish language version of the survey. Other provisional results include:

- a. of the 30 respondents who identified the type of issue that brought them to court, about three-fourths selected family law while the remaining respondents selected either protection order, adult criminal, traffic or other;
- b. about one-tenth of respondents indicated that they did not understand what they needed to do in court;
- c. of those with a court hearing, about one-third did not understand what they needed to do following the hearing;
- d. about one-eighth reported not being treated with respect;
- e. respondents, by a two-to-one margin, would prefer to handle court matters in the evenings or on weekends;
- f. respondents heavily favored having the option to make payments online or by phone;
- g. those with in-person court business reported feeling safe from COVID infection in the courthouse.

Recommendation: trial courts should work towards improving response rates and surveying unrepresented litigants periodically but at least yearly, so that courts can try adapting current processes as they try to make courts more accessible and responsive.