

A background image of a classical building facade featuring a large statue of Lady Justice, blindfolded and holding scales, standing next to another figure. Below them are intricate carvings of lions and other figures. The image is overlaid with a dark semi-transparent rectangle containing the title and subtitle, and a solid yellow vertical bar on the left side.

Trust in Justice Project

Phase 2: Why the Public is Losing Trust in Justice and What to Do About It

Progress is impossible without change, and those that cannot change their minds, cannot change anything. – George Bernard Shaw

Report Summary

After we conducted a national survey showing widespread distrust in different aspects of the justice system, we facilitated a number of focus groups and interviews to delve deeper into the public's experiences, expectations, and emotions behind these beliefs. Group participants included individuals from diverse demographics, political affiliations, racial backgrounds, previous jurors, lawyers, and select judges.

This report outlines the feedback from our focus group participants. In the groups, a prevalent sense of disempowerment emerged, with the primary sources of frustration relating to the structure, practices, and processes of law enforcement, the courts, and the corrections system. Concerns included fairness, corruption, racial bias, economic disparities, and a lack of transparency, education, access, and accountability.

We next analyzed the systemic and cultural causes of these issues. We observed that the lack of trust in the justice system stems from the public's personal experiences and beliefs about systemic racism, mass incarceration, privatized prisons, negative news bias and media influence, a culture of opinion and conflict, the politics and propaganda of fear, resentment of authority, as well as systemic inflexibility and fatalism.

While many participants felt skepticism about whether the system could change, some participants expressed hope and suggested solutions. These solutions, along with our additional research, included reforms in policing, jury trials, criminal justice policies and practices, corrections systems shift in emphasis, judicial and court operations, as well as increased transparency, education, accurate media representation, public engagement, and ongoing community involvement.



Public Trust of the Court System

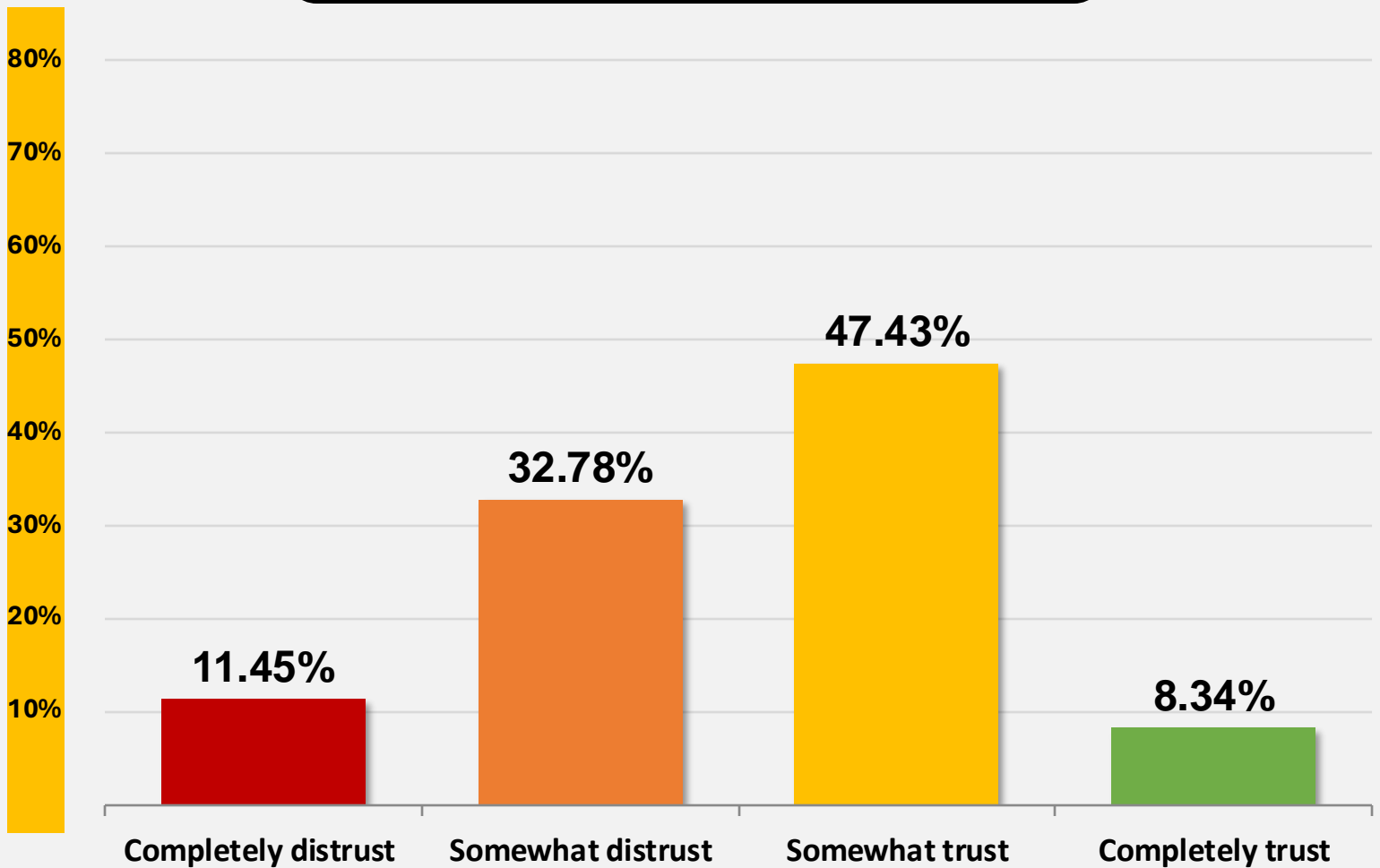
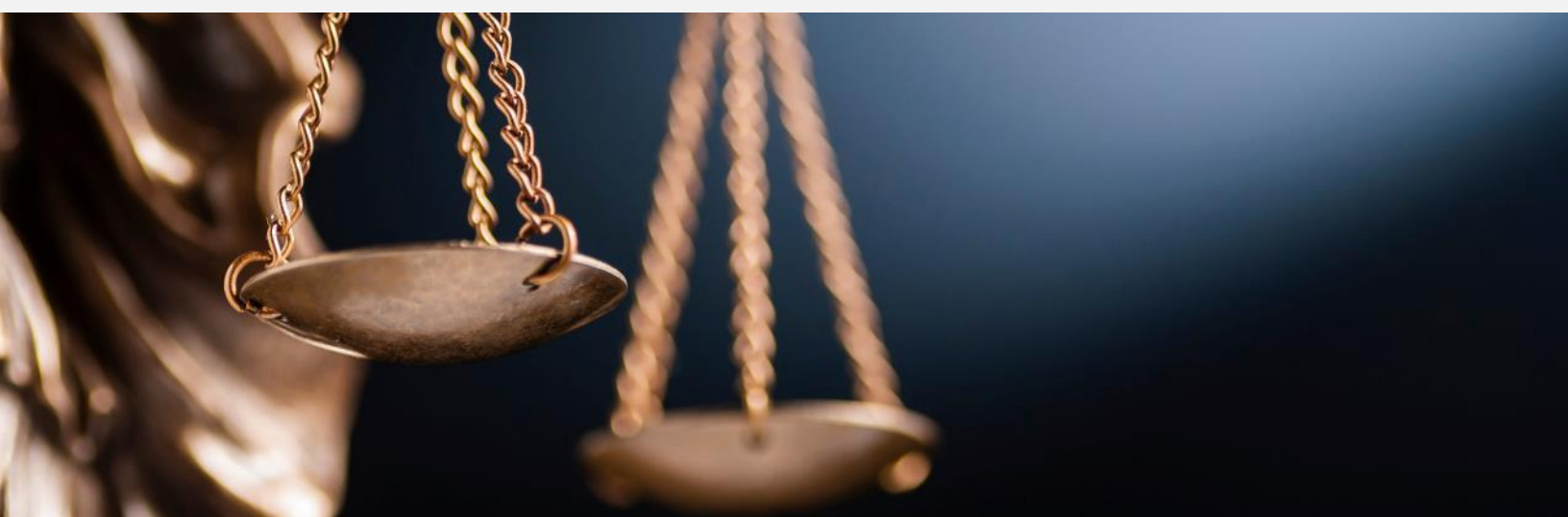


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Introduction



In recent years, a variety of polling organizations have shown a significant decline in the public's trust in most major institutions.¹ Those steep drops in confidence included the police and the criminal justice system as well the Supreme Court, which had traditionally enjoyed much higher favorability ratings. With tens of millions of cases filed every year² and over a hundred billion dollars spent on law enforcement, civil and criminal litigation, the courts, and our corrections system,³ the cost of that lost trust is too high.

While polling data on public opinions can seem somewhat abstract and distant, the erosion of public trust has very real and serious consequences for the justice system, the rule of law, and our foundational democratic principles. This loss of trust causes citizens to become less civically engaged, which affects voter turnout.⁴ If the public has less trust in the justice system, they come to question the legitimacy of the law, become less compliant with laws and less cooperative with law enforcement, which in turn can affect police morale and performance.⁵ As we have recently seen with controversies over Supreme Court decisions and court cases, a distrustful public can question the legitimacy of judicial rulings and jury verdicts, leading to social unrest and instability. More importantly, this loss of faith in our institutions intensifies divisiveness, causing us to mistrust each other and close our minds to new or different points of view. The justice system is reliant on law enforcement, the courts, and corrections being open-minded and objective in considering all the facts in a given matter. Yet, that becomes more difficult in a mistrustful environment.

Introduction

These declines in institutional confidence may seem easily explainable by political polarization and social justice movements, but the reasons are far more complex. These easy explanations make it seem like this distrust was inevitable. When we see events as inevitable, we tend to accept them. They become the norm. And therein lies the risk.

In 2023, we formed the **Trust in Justice Project** to better understand the causes of the loss of confidence in our justice system, the ramifications of that loss, and what improvements might be employed to help restore that trust.

This report details our cumulative findings from the first two phases of this project: the survey research we conducted on the public's attitudes toward the justice system and a series of focus groups and interviews where we explored the experiences, emotions, and reasons behind the public's beliefs. Finally, this report provides our analysis of the systemic and cultural causes of this decaying trust, as well as recommended reforms or practices to consider in order to restore public confidence.



National Survey Results

In the first phase of the project, we conducted a national survey to measure the public's trust and confidence in four key institutions in our justice system: law enforcement, the court system, the corrections system, and Congress.

Specifically, we measured the public's:

- Attitudes about fairness, bias, and their trust in the justice system
- Opinions about how well different groups are treated in the system
- Comprehension regarding how the system works
- Opinions regarding how well the system functions
- Opinions about whether problems were systemic or individual
- Personal experiences with the system
- Opinions regarding how the media informs their understanding of and attitudes toward the system

We published a white paper in 2023 to present our survey research findings on Americans' views on various aspects of the justice system.⁶ This polling of more than a thousand respondents from across the country confirmed the **significant drop in public trust** but provided a more detailed picture of respondents' opinions about law enforcement, civil and criminal courts, the Supreme Court, the corrections system, the media, and Congress.



National Survey Results



While we encourage readers to review the full survey report, here we note a few key findings to give the reader context for the focus group responses.

Around **40%** of the survey's respondents distrust *both* plaintiff and defense lawyers, the U.S. Supreme Court, and the court system itself.

Around **50%** think judges are somewhat or completely biased when making decisions on cases, but nearly **65%** feel that Supreme Court Justices are somewhat or completely biased in their decision making.

Further, nearly **50%** believe that the Supreme Court makes rulings in accordance with their personal and political beliefs, as opposed to the Constitution and established law.

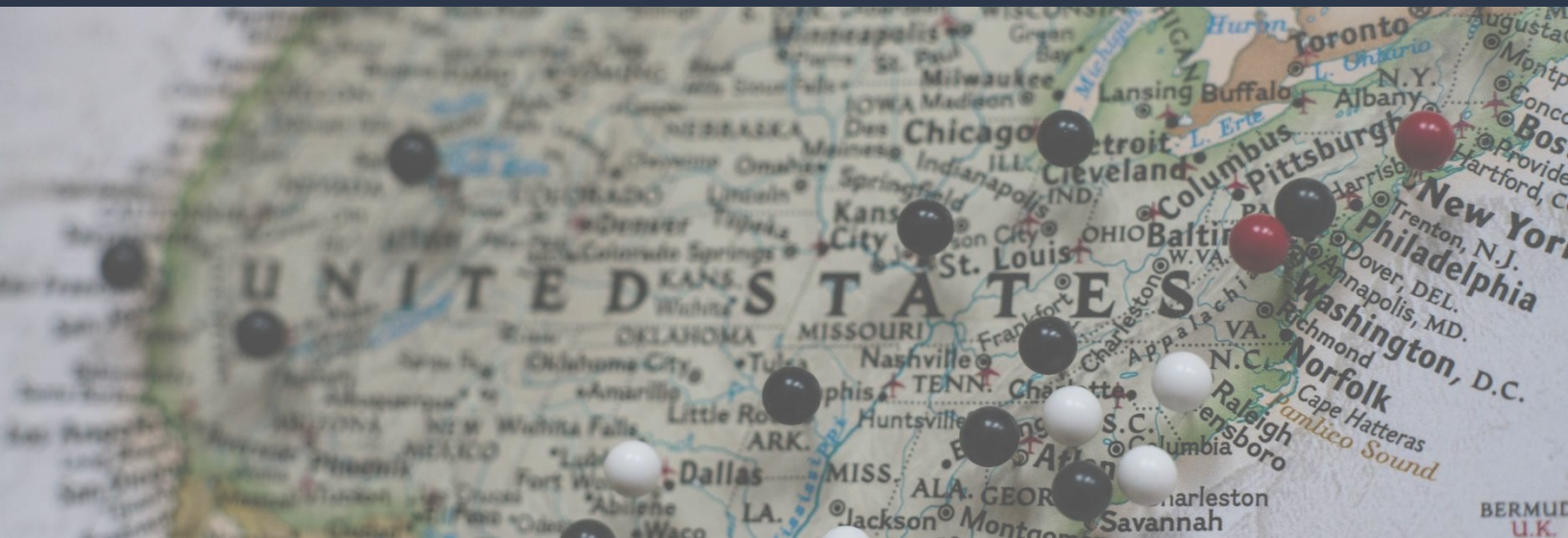
Speaking to the disenfranchisement that mistrust sows, **40%** of the public feels that the justice system does not serve them as citizens.

In the second phase of the project, we conducted online **focus groups** with respondents across the country in a series of two- to three-hour sessions. Because we were curious whether different demographic groups would have varying opinions of the justice system and because we saw some statistical differences in our polling, we conducted the research with the following groups:

- Groups of mixed demographics
- A conservative group
- A liberal group
- Groups of Black, Latino, and White respondents
- Groups of prior jurors
- Groups of lawyers
- Interviews with judges

We wanted to start exploring lawyers' and judges' opinions of the justice system, as well as their roles, limitations, and the challenges of operating in the system.

National Survey Results



After conducting the survey research, we were mindful going into the focus groups that respondents may have strong negative opinions about aspects of the justice system. We wanted to better understand the source of some of those negative feelings: the experiences, expectations, knowledge, and perhaps misconceptions about the system. Finally, we wanted to ask them, as citizens and constituents of the justice system, what recommendations, practices, and reforms might improve their faith in the system.

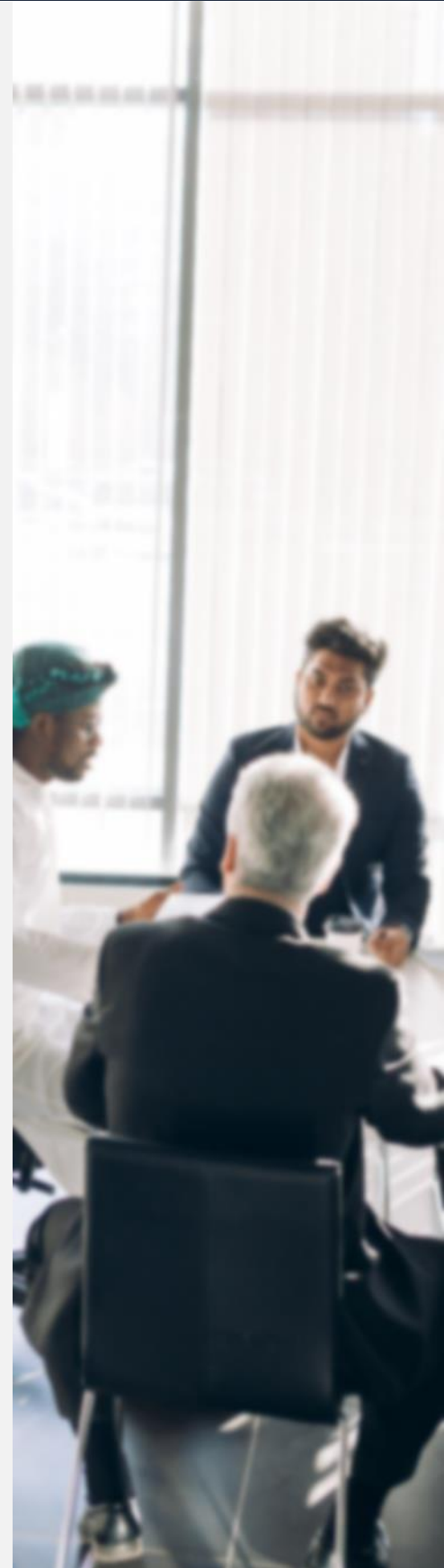
What follows is a summary of their thoughts, words, and recommendations, as well as our analysis of some of the systemic and cultural reasons that have contributed to the erosion of confidence. Additionally, we have included some models of reforms that we believe could also address systemic mistrust and start to rebuild confidence in the system.

While we recognize that this analysis cannot fully capture all of the nuances of such a complex issue, this report is intended to spur more conversations about ways to improve the system and the public's trust.

Insights from the Focus Groups

We conducted a total of **11 focus groups** and two interviews on the issue of trust in justice. Overall, our groups of participants did not feel like the justice system served them as citizens. We heard a strong sense of disempowerment and lack of agency as it relates to their participation in the system. Many felt the justice system was something imposed on them, done to them, or something to be avoided at all costs. As a result, they were critical of the justice system and skeptical of whether the system would or could change. We believe these attitudes stem from past negative personal experiences, perceptions of the system from the media, a lack of understanding about the system, and a reaction to a feeling of powerlessness. Yet, some participants were hopeful, suggesting solutions like systemic reforms at the state and federal level, increased transparency, and greater community involvement in the justice system.

Even though there were statistical differences among different demographic groups in the survey, the various focus groups were quite similar in their critiques of the system and proposed solutions. All of the groups were aware of racial bias in law enforcement and the courts, the economic disparities of who is able to afford a better quality of justice, the belief that judges were influenced by political and personal ideology in their case rulings, and that the media plays an outsized role in their negative views of the justice system. Although the various groups had many similar concerns which we discuss in the ***Justice System Issues of Concern*** section, there was a different emphasis in some their individual group discussions.



Group Differences



Mixed Demographics

The mixed demographic groups, which were comprised of citizens of various races, socioeconomic statuses, and political leanings, primarily focused on problems with law enforcement and unfairness to criminal defendants. They also discussed the economic disparity of those who could afford a better quality of representation and justice in the system; these participants expressed the feeling that our justice system works well for the wealthy, while failing the poor. When asked about reforms that would improve the system, they expressed skepticism about whether the justice system could truly change.

Conservative Group

The group of politically conservative participants focused on the need for transparency in the justice system and the appearance of fairness. While this group expressed more radical punitive measures (such as lie detectors and electrical shocks for all trial participants and publicly televised executions), they also focused a great deal on police accountability, more community involvement and training in policing standards, and acknowledged there were racial inequities in the system.

Liberal Group

The group of liberal participants focused more on civil lawsuits and “sending a message” to corporations. They were hopeful for change in the justice system and seemed to have more ideas for particular reforms that would improve the system.

Black Group

The group of Black participants had a strong focus on community and being fully represented in the justice system with jurors, attorneys, and judges that “look like us.” This group also offered the idea for a “community resumé,” where those who work in the justice system would provide information about their personal involvement in the community they serve.

Latino Group

The group of Latino participants discussed how difficult it was for people to navigate the court system in matters of custody, divorce, and immigration. They found the system confusing, the paperwork burdensome, and the courthouse staff to be less than helpful in assisting them to accomplish their needed tasks.

White Group

The group of white participants focused heavily on personal, traumatic experiences with the court system (e.g. felonies following them their entire life, murders in their family, and domestic violence). Some participants were more focused on fairness for crime victims while others were more focused on fairness for the accused.



Jurors, Lawyers, and Judges

The groups of **prior jurors** had generally positive views of the jury system and their jury service, although they felt the overall justice system could be improved. Those with negative experiences discussed the inconvenience, inefficiency, and financial hardship involved with jury service; many jurors felt that their time was frequently wasted or felt disrespected during their service. Jurors who had served on simpler, shorter cases had a more positive experience, while those who served on longer cases felt their cases were harder to understand and experienced unnecessary or redundant testimony that lengthened the case. Most jurors felt that their service gave them a better understanding of the justice system and the law, but still felt more education on legal principles, specific procedures, and their role as jurors would have been helpful.

The groups of **attorneys** were concerned by the public's lack of respect for lawyers and legal institutions, and they discussed their poor portrayal by the media. They also expressed concern about how the actions of our leaders – Supreme Court justices, politicians, and legislatures – are leading to the erosion of democratic norms. While they felt reforms are needed, they also had faith and wanted the public to have faith in the fundamental design of our justice system, particularly the jury system. They believed that early education and training for the public about our justice system would greatly assist the public's understanding.

We reached out to numerous judicial groups to participate in focus groups, but most were reluctant to provide opinions about the system. We did speak to **two retired judges** who felt freer to voice their thoughts. They expressed concern about what they viewed as pronounced attacks on the judiciary and the increased politicalization of judicial decisions. They felt that the current political environment is prompting more judges to express personal views in their judicial decisions. They discussed the importance of judicial independence and the need for greater funding support for the courts, expressing that judges these days seem to have to do more with fewer resources. They also believed that greater education was needed for the public to better understand the justice system.

The feedback from all of these groups underscores the need for reforms, continued conversations and engagement with the public, accurate media representation, and the crucial role juries play in fostering confidence in the justice system. What follows are the overall main issues that emerged from the focus groups.

Justice System Issues of Concern

The main source of frustration and criticism from our focus groups dealt with the structure and processes employed by law enforcement, the courts, and the corrections system. Many participants cited concerns of corruption, bias, favoritism, lack of transparency, and lack of accountability in the justice system. In particular, they felt that justice was not blind or equitable.

Racial Bias. Participants frequently cited racial bias with law enforcement and in the courts, many through personal experiences. They felt that law enforcement officers can be racist in their policing practices (due to both individual racial biases, and biases in how officers are trained and instructed), deliberately targeting people of color. For example, Anthony of Mixed Group 1 and Harry and Phil of Mixed Group 2 all brought up being pulled over for “driving while Black,” and Timberly of Mixed Group 1 said her brother and his friends of color were arrested for merely playing basketball at night.



“I don't think of ‘justice’ for people. I think of it just as a term, but not really true justice. We haven't seen enough justice to support what that means. We say that we're a country that will give justice to everyone, but what we say and what we do are two different things. For me personally when you say ‘justice,’ there isn't anything in me that feels anything will be just.”

– Timberly, Mixed Group 1

“I don't use the phrase ‘justice system.’ I don't think we have one. I think we have a ‘legal system.’ I think the outcomes are entirely based on socioeconomic status and race, and I think that the outcomes don't serve anybody well.”

– Chris, Mixed Group 1



Problems with Law Enforcement

Participants expressed a belief in the existence of disparity, unfairness, and bias with the police. Common concerns were expressed that the police employed a militarized culture with unchecked power and little accountability. Participants cited disparate treatment of ordinary citizens based on demographics – not just on race, but also on gender, economic status, and religion. Participants also discussed how law enforcement are more oriented towards preventing crime than serving the community.

They felt that police were generally not trained to identify the public needs (such as domestic or mental health issues) for which they are frequently asked to respond. They want law enforcement to treat people equally and truly embody their role to “protect and serve” by focusing more on the service part. It was difficult for many participants to separate the police from the courts because they felt the police were how a person “gets in the system” in the first place. Once in the criminal justice system, whether guilty or not, many expressed frustrations about how difficult it was for an accused to extricate themselves from the system.



Economic Influence on Quality of Justice

Participants expressed that the justice system delivers a higher quality of justice to those who have resources, money, and connections. They noted that poor criminal defendants who could not afford to pay fines, bail, a good attorney, or to fight unjust charges would have to plead guilty. This often results in individuals losing their jobs, not being able to get a new job, incurring other penalties, or needing to commit crimes to eat. Participants spoke of this as the recidivism cycle that benefited the private prison system. Participants were also critical of attorneys motivated by financial gain rather than the best interests of their clients. Anthony of Mixed Group 1 described attorneys as “dealmakers” and Marvin of Mixed Group 1 described them as “salespeople.” Participants suggested lawyers should evaluate and present their cases with a greater focus on the needs of their clients rather than their own self-interest.



“Depending on how much money you have for your attorney and to fight your case, your outcome’s gonna be different.” – **Heather, Mixed Group 1**

“Having a rich lawyer is like a thumb on the scale.”
– **Wilfred, Conservative Group**



Participants were also critical of not being paid a livable wage for time served on jury duty, both because it creates a financial hardship for them personally and because it creates a disparity in those who are economically able to serve.



“My civic duty is to pay my mortgage too. If I’m gonna get paid for [jury service], then I’ll do it. If not, I can’t be missing work that much.”

– **Juan, Prior Juror Group**

“I think, at minimum, it should be a livable wage for a full day of work for every day you serve on the jury. . . If working class people can’t financially afford to serve on a jury, we will always have disproportionate juries that represent a financial minority of the population.”
– **Rowan, Liberal Group**



Justice Equates to Case Outcome

Lack of Education about Justice System

Justice Equates to Case Outcome, not Fairness in the Process. When participants hear the term, “Was justice served?” they often think “Was the defendant convicted?” As a result, many equate justice with blame or punishment. In other words, “justice” becomes about whether the defendant in a criminal or civil case did something wrong, if they were held accountable, or they escaped punishment, rather than whether the respective sides were able to fairly present their cases and get an impartial hearing from a judge or jury. Participants also felt like prosecutors were mainly focused on convictions rather than justice, resulting in defendants being coerced into taking plea deals because public defenders were overburdened and under-resourced, impacting the quality of legal representation for their clients.



“One barrier to this is a bias that police and prosecutors and district attorneys all share, which is: get convictions. I mean, that group of people, the goal, I think, is not as lofty necessarily as dispensing justice. I think the goal is get convictions.”

– Josh, Mixed Group 2

Lack of Education about the Justice System. Participants generally had a poor understanding of how the system operates; its fundamental principles, goals, and limitations, as well as their rights as citizens in the system. Many participants did not have problems with the jury system per se, and those who had served as jurors generally had more faith in the system. However, many participants also expressed that jurors are not given enough tools or education on the legal principles and procedures in order to better perform their role as factfinders.

“How are we supposed to know if things are fair if we don’t understand how it works?”

– Kylee, Liberal Group



Lack of Access to the Justice System

Problems with Courts and Judges

Lack of Access to the Justice System. Similarly, a number of participants expressed frustration with accessing needed court services. For example, Justina in the Latino Group talked about her experience trying to navigate a divorce at the courthouse and how neither the clerks nor the judge would help her answer questions she needed to complete the required paperwork. Joniqua in the Black Group expressed similar frustrations of trying to navigate preparing a parenting plan without any help from court staff.

“They can't give you any direction. And I just, I literally felt like the room was spinning. I was like, I don't even, I don't even wanna do it. I don't know where to go. I don't know what resources I have access to. I don't even know how to find out, you know, what resources I can get. It was a huge headache, and I stopped it.”

– Joniqua, Black Group



Problems with Courts and Judges. Participants were critical of the courts expanding their role into dictating personal, moral, and medical decisions for individuals. They felt that judges come to the bench with preconceived judgments, are influenced by a defendant's past record, are too heavy-handed in influencing outcomes, indicate which side they are favoring, and are constrained to follow mandatory minimum sentencing guidelines. Participants also were critical of the process by which Supreme Court Justices are appointed based on their political views and connections. They believed that many of their rulings were based on politics, that they were legislating from the bench, and are influenced by lavish gifts bestowed on them by politically interested parties. Notably, those who had worked in the legal field, were aspiring to do so, and/or had served on juries were generally less critical of the court system.



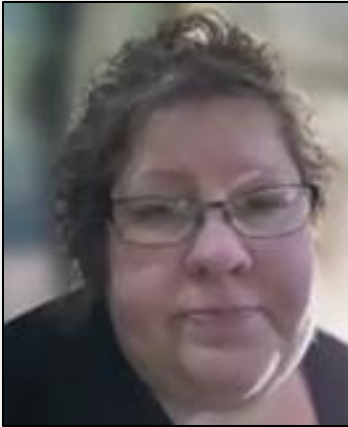
“Are we gonna talk about the Supreme Court? The way they're bought and sold, which was shocking for me to learn. I truly thought they were above all that. And then you find out two of the justices that they get more stuff handed to them and it's affecting how they rule.”

– Susan, Mixed Group 2

Problems with the Corrections System

Reforms Needed

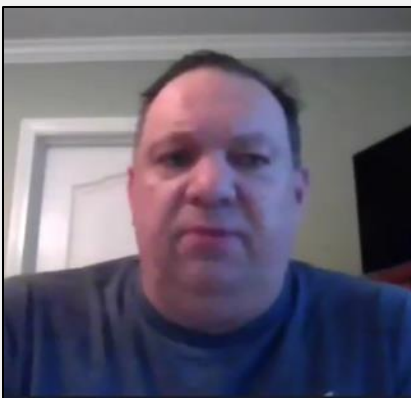
Problems with our Corrections System. Participants were aware of wrongful convictions and were critical of the ethicality of prisoner labor and privatized prisons. Many participants believed that incarceration should serve a much greater rehabilitative function than it currently does, and they expressed concerns about how difficult is for the formerly incarcerated to reintegrate into society.



“There are a lot of innocent people sitting in jail and in prison and on death row even. So, I think our justice system is in need of major help.”

– Hilary, White Group

Reforms Needed. For many, the idea of reforming our justice system and all its components seemed like an impossible task. When asked about what they thought would improve the system, many participants could not come up with a single suggestion. Some were disheartened and pointed out that suggested reforms would only fix a small part of the problem. Others felt that the system was too broken to be fixed, and we should “start over.” However, there were some participants who were more hopeful and engaged in providing ideas, as we will discuss below in the ***Solutions & Implications*** section.



“I was guilty, and I served a year and a half in prison for it. And that was 25 years ago. And . . . every time I get stopped by law enforcement, every time I apply for a job . . . I can’t even rent an apartment because 25 years ago I wrote a bad check.”

– Chris, White Group

Interpretive Analysis: Underlying Causes of Issues Identified

The participants' critical views of the justice system stemmed from a variety of factors, from personal negative experiences to systemic, cultural, and media issues. Below is our analysis of a number of the underlying causes for the public's eroding trust in the justice system.

Personal Experience. Participants shared a number of personal, negative experiences (mainly with the police and the courts) that seemed to be a significant contributor to their unfavorable opinions of the justice system. On the other hand, most of the participants who had served as jurors seemed to feel empowered by their direct involvement in the system.

Systemic Racism. The focus group participants often spoke of systemic racism as contributing to their adverse views of the justice system. Systemic racism is a form of racism that is embedded throughout systems, including laws, written or unwritten policies, and established beliefs and attitudes that perpetuate widespread unfair treatment of people of color.⁷ A large number of our participants were aware of discriminatory criminal justice policies and practices that have historically targeted Black and other people of color since the Reconstruction Era. Their view is that discrimination continues today, often less overtly, through disparate enforcement of seemingly race-neutral laws.⁸

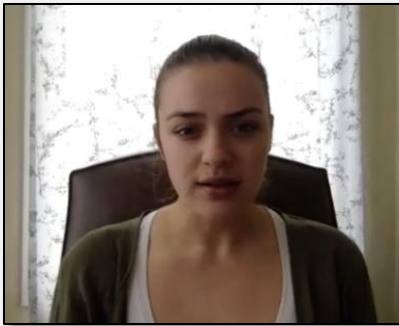
For example, some participants spoke of drug laws that have targeted or disproportionately been applied to people of color. While rates of illicit drug use across racial groups are similar, the imprisonment rate of Black people for drug charges is almost six times that of white people.⁹ The NAACP reports that 5% of illicit drug users are Black, yet Black people represent 29% of those arrested and 33% of those incarcerated for drug offenses.¹⁰

Systemic racism can also be seen in our corrections system in the United States. For example, 32% of the U.S. population is represented by Black and Latino people, compared to 56% of the U.S. incarcerated population represented by Black and Latino people.¹¹ One in three Black men born today can expect to be incarcerated in their lifetime, compared to one in six Latino men, and one in seventeen white men.¹²

Interpretive Analysis:

Systemic Racism | Mass Incarceration

Our survey respondents and focus group participants also believed that the criminal courts were somewhat or very biased when handling citizens of different races, religions, nationalities, genders, sexual orientation, and economic status. Yet, despite the evidence and prevailing sentiment that systemic racism exists, a vast majority of states have proposed or signed into law legislation that would restrict racial injustice from being taught in schools.¹³ This highlights the challenge and contradiction of addressing systemic bias. Is it enough for the public to have a general awareness of problems in our system, yet not be able to be educated on the root causes in order to provide meaningful solutions?



“Yeah, I was just gonna touch on the point he was making about how just some sentencing just doesn't make sense at times. And I've actually been having the conversation earlier this week with someone else about. . . Willie Simmons. . . He'd stolen \$9 and then he was sentenced to life without parole. And he's served over 40 years at this point.”

– Brianna, White Group

Mass Incarceration & Privatized Prisons. Our participants expressed that our prison system is not only a contributor to systemic racism, but also serves political and financial interests. Since 1970, the U.S. prison population has increased by 500%, with around 2 million people in our nation's prisons and jails.¹⁴ Despite making up approximately 4% of the global population in 2020, the U.S. had nearly 16% of the world's incarcerated population.¹⁵

While corrections systems in countries like Germany and the Netherlands are focused on resocialization and rehabilitation, the corrections system in the U.S. is focused on incapacitation and punishment.¹⁶ Rehabilitative goals remain secondary, at least in practice, if not in policy.¹⁷



“The first thing I think we have to do is we have to end for-profit, private prisons. That was the worst thing that ever happened in our prison system. It disincentivizes reforming people and letting them out because the private prisons get paid per prisoner for how much money they get. And so, their goal is to keep 'em in there as long as possible.”

– Rhonda, White group

Interpretive Analysis: Mass Incarceration & Privatized Prisons

As of 2017, the American system of mass incarceration costs the government at least \$182 billion every year, which includes \$81 billion as the cost for running the corrections system (prisons, jails, parole, and probation) and \$265 billion for the costs of federal, state, and local corrections, the police, and the court systems.¹⁸



Over the years, policies such as “get tough on crime,” three strikes laws, prosecutors adding charges to exact plea agreements, the “trial tax” imposed on criminal defendants who incur much longer sentences if they choose to go to trial rather than plead, and mandatory minimum sentences that legislatures pass to limit a judge’s discretion in imposing lesser or alternative sentences have all contributed to the impression that the courts and the corrections systems are oriented toward conviction rather than an objective process of dispensing fair, reasonable, and just outcomes.¹⁹

Interpretive Analysis: Media Influence

Currently in the United States, there are 194 million Facebook users,²⁰ 170 million Instagram users,²¹ 238 million YouTube users,²² 122 million TikTok users,²³ and 106 million users on X/Twitter.²⁴ Magazines collectively reach 222.2 million readers,²⁵ traditional news sources like newspapers reach 21 million readers,²⁶ and television news stations have between two and three million viewers a day.²⁷ Regular listenership of traditional AM/FM radio is down, but podcast listenership is up.²⁸ All of these services use research and algorithms to feed target demographic users similar stories or opinions to what they have clicked on, viewed, or listened to before, creating a reinforcing information loop rather than opposing views.

Even though participants expressed some mistrust of the media and were aware of its impact, the influence of the news and other media was clearly evident in shaping our participants' opinions. First, there was a bigger focus and awareness about criminal cases, high-profile cases, as well as issues with policing, racial bias, and excessive force—all of which have been in the news. For example, we heard references to George Floyd, Manny Ellis, Casey Anthony, O.J. Simpson, Gwyneth Paltrow, and Johnny Depp. Second, participants without negative personal experiences often supported their opinions about the justice system with details or claims commonly seen in news or on social media.

Further, **confirmation bias** – the tendency to search for, favor, and remember information in a way that confirms one's prior beliefs²⁹ – might also be causing the public to seek out more evidence in the news to support their beliefs that the system is broken. Rather than questioning one's own beliefs or seeking alternative views or explanations, the public may be more likely to use this self-perpetuating information loop to reinforce “what I believe” over facts that can cause cognitive dissonance to a person's beliefs.³⁰



Interpretive Analysis: Negative News Bias



“I think that the media causes a huge problem in the bias area. I think that cases that have been on the media a lot of times haven't even started going to trial yet before you find out about 'em. And so that whole “guilty until proven innocent” kind of culture that I feel like we're in, the media is a huge piece of that.”

– Brooke, White Group

Negativity bias refers to the fact that humans focus on negative information, events, and emotions over positive information.³¹ The negativity bias has been harnessed by the news media in its disproportionate coverage of negative events, such as crime, disasters, and conflicts – rather than on positive or neutral stories – to keep our attention. For example, Facebook’s algorithms used to give the “angry” reaction five times more weight than the traditional “like.”³²

After a few years, Facebook found that the angry reaction was more likely to show up with misinformation, on toxic posts, and on low-quality news pages.³³ And at least half of U.S. adults get news at least sometimes from social media.³⁴ It is also telling that news organizations are now putting out separate positive news publications, like Washington Post’s The Optimist³⁵ rather than incorporating more neutral or positive news into their regular coverage.

Negative news can influence our thinking in multiple ways, impact our mental health, and can also impact our cognitive biases.³⁶ Specifically, the overemphasis on negative news can distort the public’s perception of the justice system or patterns in crime rates.

“You get clicks, you get traffic, that’s how you get paid. So, the more fights you incite, more people are going to come hate-read you or come support-read you, and it causes interest in you in the social media algorithm. So that’s how you get trending, that’s how you get more traffic, that’s how you make more money; especially as a journalist, you’re paid per click, you’re paid for traffic, and you earn a commission based off of that.”

– Julian, Conservative Group



Interpretive Analysis:

Negative News Bias | Misinformation



Availability bias – the tendency for people to overestimate the importance of examples that immediately come to mind when considering a topic³⁷ – is also at play here. Because the public is constantly hearing negative news regarding the justice system, they are more likely to remember these news stories and think that it represents the general state of the system. A few of our focus group participants even commented how we do not often get information about routine civil cases, or neutral or positive outcomes.

Misinformation. All of this can be exacerbated by disinformation and propaganda which also focus on negative information. These campaigns by interested parties can easily filter into news feeds about the justice system and inform the public's opinions.³⁸ An example is that thirty percent of Americans still think that the 2020 election was won due to voter fraud. Sixty-eight percent of Republicans believe this disproven theory.³⁹

Russia and China both engage in significant propaganda campaigns to discredit democratic ideals. Through the use of bots, artificial intelligence, and deepfake technology, it has become easier to spread disinformation into news feeds on social media through their algorithms. While a certain percentage of the public will believe misinformation in these campaigns, the larger goal of propaganda is to get citizens to distrust all objective facts or evidence from trusted sources that conflict with existing beliefs as “fake news.”

Interpretive Analysis: Culture of Opinion

We are primed and encouraged to have opinions. Many social media sites and traditional news sources alike allow for public comment posting. As such, the public commentary on the news item becomes part of the story. Additionally, it can be hard for the average person to distinguish between news articles that are “analysis” versus “commentary” versus “opinion.” In a bid to attract and hold the attention of viewers, headlines and news stories are also often filled with adjectives or emotional language to tell the viewer, listener, or reader how they should feel about the story. Celebrities give their opinions about political or legal issues, and the personalities of judges, attorneys, and witnesses are often featured in stories about legal cases.



“We can’t always depend on the resources that we read. There is a lot of prejudice, I believe, in journalism. And so, when you read an article, it’s often very slanted towards whoever the journalist is inclined to want to promote. I see it a lot, and it frustrates me. We pay for a newspaper that is absolutely so biased that you really can’t believe most of what they write.”

– Becky, Conservative Group

Because there are so many competing media sources that have to provide content twenty-four hours a day seven days a week, the media at times posts articles on non-events, such as a defendant arriving at court. Because the media is looking for viewer or listener “engagement,” they encourage the public to have opinions on the content they are sharing. Once an opinion is given, a person can be more inclined (due to confirmation bias) to seek information to reinforce that opinion and dismiss facts that is contrary to that position, thus shutting out opposing or different perspectives. The more engaged we are in a particular issue, the more we start seeing it as part of our identity. It is no longer just an issue; it is part of us.

Interpretive Analysis: Culture of Opinion

This cultural shift can have ramifications in the justice system on the open-mindedness of law enforcement, judges, and jurors. Judges are traditionally more neutral players in the system, focused on the law, and applying that law to the facts of a case. But two of the retired judges (one a former appellate judge) we spoke to were concerned that they were seeing more and more judicial opinions with personal belief language contained in the opinion. Certainly, a majority of the public believes, fairly or unfairly, that the Supreme Court and other judges across the country are moving away from the established law and the Constitution by infusing their personal beliefs into their rulings. Part of this can be attributed to increased media coverage of Supreme Court rulings in recent years, and the infusion of political commentary into their coverage.



“Today you get on the Supreme Court because of who your political friends are, and they're putting people on there now that are gonna vote the way a particular politician wants them to vote. Not what's going to be best for the country as a whole . . . Sadly, I've lost faith in our Supreme Court. Okay? And if I can't have faith in it, what can I have faith in, in our judicial system?”

– Aggie, Mixed Group 1

“I think one of the big issues now is that. . . no one has an obligation to anybody anymore. It's just what you want, what you think. . . It's very individualistic. No one can change their mind. . . I think it's become worse since the pandemic. . . when we have no societal obligation to one another, if we always think we're right, then nothing is going to happen.”

– Chris, Mixed Group 1



Interpretive Analysis:

A Focus on Outcome | Culture of Conflict

A Focus on Outcome, Not Process. Binary, or dichotomous thinking is a tendency to classify ideas, people, and experiences within two opposing categories. It is much easier for us to either be for or against something, to be conservative or liberal, to think of a defendant as guilty or innocent, conduct as good or bad. However, by simplifying and classifying people and issues into two opposing categories, it makes it much more difficult for us to understand complex behavior or systems like the justice system.

Many in the public tend to focus on the justice as an outcome rather than a process to achieve an outcome. Thus, when the public hears about a high-profile trial's verdict or a Supreme Court ruling, they may think of the whole system as fair or unfair, just or unjust depending on whether they agree with the outcome. We can honestly disagree with the outcome of a case or the ruling of a judge while still respecting the process and the system.

Culture of Conflict. War, politics, and sports are all characterized as adversarial contests with battles, winners, and losers. The media and the legal profession also tend to characterize court cases in the same manner. Myside bias, which is a type of confirmation bias, evaluates new information to reinforce prior beliefs, but also to support a position that is different from an opposing side's beliefs.⁴⁰ This division creates tribalism and in-group favoritism – a human tendency to favor members of one's in-group over out-group members.⁴¹ This is what we mean when we speak of political polarization. A culture of conflict drives a need to win, again focusing on the outcome rather than the process of what might be the optimal resolution. And when we see our justice system as a battleground as opposed to a conflict resolution process, there are only winners and losers.



“They should be non-biased. Because when I watch news sources—let’s take for example the two big ones that we all know of, Fox News and CNN—both of them you can always tell there is a bias leaning one way or another way.”

– Julian, Conservative Group

Interpretive Analysis:

Politics of Fear | Resentment of Authority

Politics of Fear. Propaganda, disinformation, and heightened emotional language can create fear, division, and cynicism, even in areas where there is strong agreement.



"I think that it's gonna start in like Congress. As long as there is an "R" or a "D" by anybody's name, there's gonna be a bias in whatever they're gonna do because they are funded. . . it's all partisan based, unfortunately. Until we can get Congress to be for everyone instead of a Republican, a Democrat, an independent, a frigging alien, it does not matter as long as they are being fed and funded. There's no fairness as long as their salaries are paid based on how they vote." – Heather, Mixed Group 1

Although there is strong evidence to show that crime rates have fallen significantly since 2021,⁴² the public tends to see crime as a serious problem in the U.S.⁴³ While this can partially be attributed to a negative news bias which focuses on violent crime, it can also be cast as a divisive political issue. According to a June 2023 Pew survey, majorities of both Republicans and Democrats somewhat or strongly favor two policies that would restrict gun access: preventing those with mental illnesses from purchasing guns (88% of Republicans and 89% of Democrats support this) and increasing the minimum age for buying guns to 21 years old (69% of Republicans, 90% of Democrats).⁴⁴ However, the debate over gun control is often characterized as a political disagreement between the parties. Despite the demographic differences in the focus groups we conducted, our participants were strongly aligned on most of the justice system issues.

Resentment of Authority. Along with the negative news bias and drops in institutional trust, we have also seen declining trust in leadership. In fact, we rarely hear anything positive about our leaders in politics, government, science, business, medicine, or education. This can translate into a resentment of authority. Some of this resentment is born from historically disparate treatment of disenfranchised groups (e.g., people of color and those of lower socio-economic status) and some of the mistrust stems from a lack of understanding about how the system operates. This can result in the loss of respect for police, the courts, judges, attorneys, and the rule of law.

Interpretive Analysis: Fatalism & Systemic Inflexibility

"I think the more training is necessary, but I also think that we should end qualified immunity for cops and take away them from being in a union. And I say that as a wife of someone that was a 38-year teamster and a mom of a son that's a union organizer. Unions were created to give a power balance back to the employees from corporations or the companies, and police already have all the power. They don't need a union."



– Rhonda, White Group



"There should be no lifetime appointments for any type of judge. None. Supreme Court or federal judges. No. There should be more accountability for what judges do. There should be somebody who's overseeing what they're doing. There should be no immunity for police. We need more judges—women or men or gay or whatever—but more judges. Judges have too much work."

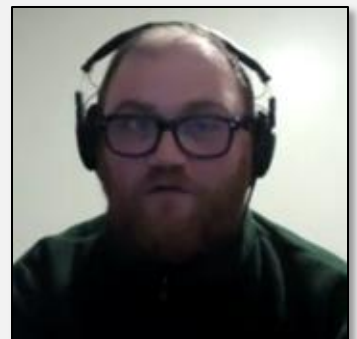
– Eddie, Latino Group

Another explanation for participants' negative attitudes towards the justice system is that it is a defense mechanism to avoid having to engage in a discussion of a complex and intimidating topic about systems they do not completely understand. Participants were critical of lawyers, and we often see lawyers being critical of juries. This mutual criticism appears to stem from a mutual lack of understanding and underlying fear between the groups.

Despite the increased media coverage of issues with the justice system, there has been very little visible change to the system in the eyes of the public. Some of the resistance to change stems from the law's heavy reliance on precedent, but most derive from antiquated ideas and habituated myths. As a result, any proposed innovation or reform, even if shown to be effective, is automatically met with skepticism and a list of reasons why it wouldn't work.

*"Its unflinching rigidness of it not working
– its unflinching nature is impressive."*

– Casey, Liberal Group



Interpretive Analysis:

Fatalism & Systemic Inflexibility

Policing practices, lawyer training, prosecutions, and jury trials are conducted similar to the way they have been done for decades. When Justice Elena Kagan was Dean of Harvard law in 2007, she stated: “When you haven’t changed your curriculum in 150 years, at some point you look around.” That same year, Edward Rubin, who was Dean of Vanderbilt Law School also stated, “Often people defend the traditional curriculum by saying that we are teaching them to think like a lawyer... I say we are teaching them to think like an 1870s lawyer.”

“I think people can change. I don't know if institutions can change . . . I don't think these systems were built for reform. They were designed to keep certain people out of decision making, to keep certain classes of people out of the process of reform.”

– Chris, Mixed Group 1



Despite the fact police consistently interact with individuals who have mental health issues,⁴⁵ law enforcement often does not have enough training on dealing with someone experiencing a mental health crisis,⁴⁶ which can result in them being more likely to use force against people with untreated mental illness.⁴⁷ Common sense practices in jury trials, like allowing juror questions and giving jurors copies of jury instructions are only sporadically used. Judges still hew to the disproven notion that jurors can set aside their biases or that their biases can be rehabilitated.

We also see a silo mentality with courthouses and judges. Often, each judge will have his or her own rules or unique way of conducting hearings or trial. There is little sharing of best practices from jurisdiction to jurisdiction, and sometimes courtroom to courtroom. This silo mentality creates opaqueness, inconsistency, and confusion for the public and litigants in the system. People do not know what is happening behind closed doors, which can contribute to suspicion and mistrust.

“I think they don't listen. The system is just made for them. It's not made for us at all.”

– Eddie, Latino Group





Improvements

The focus groups we conducted provided an opportunity for the public to give feedback. For many of our participants, this was the first time anyone had ever asked for their opinions on the justice system. What became clear is that most of the participants do not view the justice system as their system. For them, the system serves the police, the lawyers, and the judges – not the community they are supposed to serve.

This became most apparent when we asked participants what reforms they would like to see in order to improve their trust in the system. There were a number of suggestions, but most had no idea. Many of the participants did not really understand how the justice system operates due to lack of access to public information about the system, or simply being overwhelmed by the scope of systemic problems. As a result, many did not know where to begin in recommending reforms.

However, what follows below are a series of reforms that either our participants did list as a means to improve their trust in the system or practices that might address their concerns. While this is not a comprehensive list, it is intended to start a discussion on various means to improve the public's confidence in our system.

Policing Reforms: Most people rely on the police in their communities to keep them safe. They want to trust the police, but also mainly hear about negative encounters with the police through the media or have less than positive personal experience. As these impressions often involve use of force scenarios in conflict or crisis situations, there is also a natural fear of law enforcement. Some suggested improvements include:

- Community policing programs
- Regular oversight or community forums for citizens to have input, constructive feedback, or get better information about policing practices
- More training for police on bias, including race, religion, LGBTQ and gender issues, and different cultures
- More training on de-escalation practices
- More training on mental health

Jury Trial Reforms

The 6th and 7th Amendments – the right to a jury trial – is one of the cornerstones of our democracy. Yet, the jury trial is becoming a rare occurrence.⁴⁸ Juries bring together a cross-section of the community and give citizens a direct role in the justice system. Serving as a juror is also educational, increasing citizens' understanding of the legal system and complexities involved in making legal decisions. Verdicts delivered by peers, rather than a single judge, can increase public confidence in the system.

The idea of a jury is especially important in our current environment of polarization, tribalism and entrenched suspicion of others outside of our experience or beliefs.

Where else in our society today do we have the opportunity to sit and civilly discuss important issues and make important decisions with a group of people we don't know from diverse backgrounds? Some recommended improvements include:

- Pay jurors a livable wage to increase greater juror participation
- Outreach into underserved communities in the jury summons process to increase diversity and representation
- Create better juror education on jury service and legal issues
- Allow jurors to fill out online questionnaires and conduct remote jury selection⁴⁹
- Allow jurors to ask questions during a trial
- Focus case presentations and jury instructions more on juror comprehension



Criminal Justice Reforms

Participants were concerned about economic inequities in the system, political motivation by prosecutors, judges, and politicians to obtain convictions or harsher sentences, and alternative programs to address non-violent crime. Some recommended improvements include:

- Remove quotas and political incentives in prosecutions
- Provide greater funding and resources for Public Defenders and private attorneys to represent poor and indigent clients
- Reform plea bargaining, where defendants plead guilty to a lesser charge or reduced sentence in exchange for avoiding a trial⁵⁰
- Implement cash bail reform to eliminate or significantly reduce the practice of requiring defendants to pay a set amount of money as a condition of their release before trial, which aims to prevent the disproportionate impact on low-income individuals and reduce pretrial incarceration⁵¹
- Implement reforms to end the practice of imposing harsher sentences on defendants who choose to go to trial rather than accept a plea bargain⁵²
- Allow additional sentencing reforms which allow greater judicial discretion in creative sentencing rather than imposing mandatory minimum sentences⁵³
- Support restorative justice initiatives, which focus on repairing the harm caused by criminal behavior through facilitated meetings between victims, offenders, and community members to promote healing, accountability, and reconciliation⁵⁴



Prison Reforms

Participants were concerned about the political and financial incentives to maintain a system that profits private industry, as well as implementing greater rehabilitative practices into the corrections system. Some recommended improvements include:

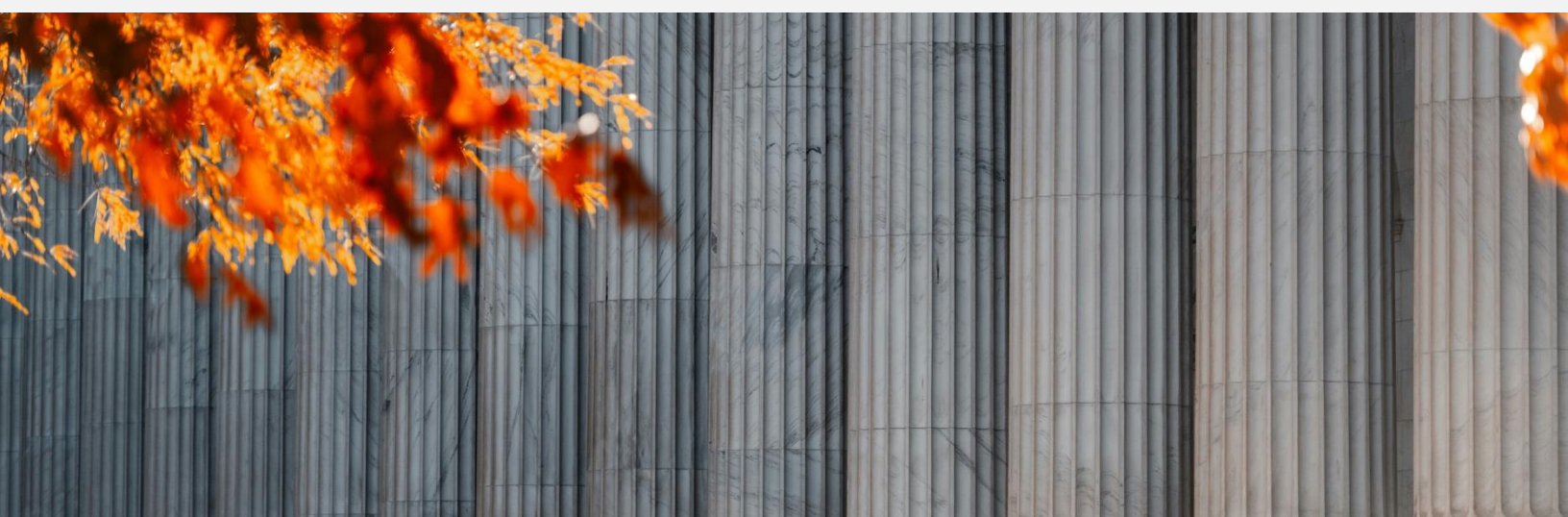
- Eliminate or regulate correctional facilities operated by private corporations to remove financial incentives from the incarceration system and promote fairer, more humane treatment of inmates⁵⁵
- Stop the practice of using incarcerated individuals to work for private companies, often for very low wages, or pay them a fair wage if they do. This will ensure fair labor practices, facilitate working skill development of prisoners for when they are released, and reduce exploitation⁵⁶
- Focus more on rehabilitation rather than punishment, using corrections models from northern Europe⁵⁷
- Diversion/alternative programs and treatments for non-violent, drug, or mental health offenders to avoid criminal charges and reduce sentencing, promoting rehabilitation and reducing recidivism⁵⁸



Judicial & Court Reforms

Participants were concerned about perceived bias and political ideology of judges in their decisions, as well as their long-term influence on the lives of citizens. They wanted greater accessibility to the courts, transparency of the judicial process, and understanding of the system. Some recommended improvements include:

- Create judicial training programs on judicial bias and decision making
- Have regular docent tours of courthouses for the public by trained staff, attorneys, and judges
- Greater customer service training for courthouse staff to assist citizens who are trying to navigate a complicated and foreign system while dealing with difficult personal issues in their lives
- Online access for litigants or others who have a harder time attending in-person hearings, such as people who do not have transportation, live far from a courthouse, have work, childcare, or elder care responsibilities, or have disabilities
- Reform lifetime appointments and term limits of judges
- Implement a review process for judges and the Supreme Court
- Livestream video of Supreme Court oral arguments



Transparency & Education

Accurate Media Representation

Transparency & Education. Transparency in the operations of and education about the justice system can also help shift perceptions and understanding of the justice system.

- Create educational videos, graphics, and written tutorials on the justice system for educators, employers, community groups, organizations, and the public
- Have programs and more assistance for people who are trying to navigate the system without an attorney
- Place a greater emphasis on educating children in school about the justice system
- Create a community resumé for those who work in the legal system, so ordinary civilians can see how invested various members of the court and police force are in the communities they serve

Accurate Media Representation. Given that the media is often the most available information citizens have on the justice system, accurate media representation of the justice system is critical.

- Ongoing training by the law schools, the courts, and lawyers for the media on the justice system process as well as how legal proceedings and jury trials are conducted
- In high-profile trials, the court and media could create discussion points about (1) how the trial will proceed, (2) the burden of proof, (3) protecting the privacy of juror and the integrity of the evidence and witness testimony, (4) whether cameras will be allowed, and (5) other sensitive or educational issues that would allow the media to more accurately cover trials
- Develop easy to understand graphics for the courts and the media to use to describe the different justice system processes
- Conduct regular town hall forums on news channels for the public, attorneys, judges, police, and prison officials to discuss justice system issues



Public Engagement & Continual Community Involvement

More forums are needed to provide a voice to those most affected by the justice system or those who have ideas to improve justice system practices. Participants suggested that the system especially engage with the people who have historically not had the power or influence to make decisions.

This would include facilitated community meetings involving members of law enforcement, court personnel, lawyers, judges, and local representatives to listen to community concerns, answer questions, and field suggestions on how the justice system could better serve their needs.



“More access, more availability, and more input in how things are going to transpire is a good thing.”

– Aggie, Mixed Group 1



“This [focus group] feels like a call to action and reinvigorates me to get involved.”

– Rowan, Liberal Group



Conclusion

Many of these reforms may seem overly ambitious or even unattainable. They involve significant changes in the way that the police, court systems, judges, lawyers, and prison systems operate. More importantly, these reforms involve a big change in how these entities think of and see their role.

But this change is already occurring. There are numerous organizations such as the National Center for State Courts, the Institute for the Advancement of the American Legal System, Impact Justice, the National Institute for Criminal Justice Reform, and the Georgia Justice Project that are conducting research, training, and programs in the areas mentioned in this report. And even small changes can make big differences in the lives of those who interact with the system. Our justice system and the rule of law is the foundation of our democracy. The continued erosion of public confidence in our system undermines that foundation. **Brick by brick, we need to start to rebuild the public's trust.**

– Richard Gabriel & Michelle Rey LaRocca



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