

**Gender-Based Violence and the Court System:  
Measuring and Increasing Procedural Justice**

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GENDER-BASED VIOLENCE AND THE COURT SYSTEM:  
MEASURING AND INCREASING PROCEDURAL JUSTICE

WISE is a nonprofit organization in the Upper Valley that utilizes an empowerment model approach in supporting survivors as they respond to and make decisions regarding gender-based violence in their lives. WISE's mission states: "WISE leads the Upper Valley to end gender-based violence through survivor-centered advocacy, prevention, education and mobilization for social change" (WISE). Among a variety of resources, WISE offers a Court Observer Program, in which volunteers are trained to provide support, encourage accountability of legal personnel, and take note on what occurs during court hearings. Aside from being present for survivors and demonstrating that members of the Upper Valley care and are cognizant of what happens during these hearings, volunteers use the Court Observer report form to share information about court hearings with WISE. WISE partnered with our Sociology 11: Research Methods course to address concerns with survey reliability, such as the varying interpretation of survey questions by volunteers.

In this study, we propose an adapted model of WISE's Court Observer report form to increase response rate, reliability, and streamline data analysis so that WISE may more rapidly identify and address barriers to survivor justice in the courtroom. We begin by presenting a review of the literature used to inform our general understanding of the court system—namely, the challenges survivors face navigating the court system—and how fairness can be measured in court proceedings (i.e., the theory of procedural justice). We then explain our application of procedural justice in creating the revised survey instrument. This section includes a description of our research method, a discussion of its strengths and weaknesses, and ethical considerations.

We conclude by situating our proposed research in the larger contexts of WISE's organizational structure and mission, in addition to the Upper Valley court system.

## LITERATURE REVIEW

### *Past Legal Reform*

The challenges posed by the court system on survivors of gender-based violence have long been acknowledged. The first major push toward interpersonal violence (IPV) legal reform was marked by the Violence Against Women Act (VAWA) Civil Rights Remedy of 1989 (Daly 1994:780; Goldscheid 2002:419; Murphy 2002:499). Although it was declared unconstitutional by the U.S. Supreme Court, it carried two key implications. First, the VAWA formally acknowledged domestic violence and subsequent discrimination from the legal system as a form of sex discrimination (Goldscheid 2002:420). Second, it recognized sexual violence in the workplace as sex discrimination and a Title VII violation (Goldscheid 2002:420). Furthermore, the VAWA was instrumental in formally establishing an "anti-discrimination model" and illuminating how the need for plaintiffs to prove "gender motivation" introduced bias to the legal system (Goldscheid 2002:420).

### *Ongoing Problems with the Court System*

Despite the legal reforms catalyzed by the VAWA, the judicial system continues to fail survivors, namely survivors of domestic violence who undergo the process of filing for a Protective Order. In fact, although there was a significant need for the VAWA, many have also criticized its orientation toward aggressive prosecution policies that actually function to further

disempower survivors (Daly 1994:783; Epstein, Bell, and Goodman 2002:469; Kohn 2008:211). For example, though bias in Protective Order hearings is typically assumed to be reflected in their denial, it also manifests in the denial of a survivor's motion to dissolve the request (Kohn 2008:194; Murphy 2002:509). More generally, the court system remains highly inaccessible due to its confusing, frustrating, and bureaucratic nature (Epstein et al. 2002:483; Durfee 2009:9). More recent efforts for legal reform through "survivor-friendly" policies still do not make legal redress more accessible as they fail to mitigate the need for legal representation (Durfee 2009:11). If anything, "survivor-friendly" policies have shown to be problematic because they are misguided by faulty assumptions about survivors, the relationship between survivors and perpetrators, safety priorities, and the nature of domestic violence (Durfee 2015:472).

In addition to the aforementioned issues regarding agency and accessibility to legal action, survivors also encounter a host of issues related to perception and bias. One of the most pervasive, yet implicit and undetected, forms of discrimination in the court system is the existence of the "victim myth," in which the general public—including judges, jurors, lawyers, and court house staff—assumes and expects survivors to be "sweet, kind, demure, blameless, frightened, and helpless" (Kohn 2002:734). This disadvantages, for example, survivors who express anger rather than fear of their assailant (Kohn 2002:734). This type of narrative disempowerment and discrimination is reflected in some state legislation that ask plaintiffs to prove *fear* of imminent abuse (i.e., "explicit statutory fear requirement") or imply they must be fearful (Kohn 2002:737). It is also exemplified by judges who read this implicit fear requirement into their verdicts or the use of the presence or absence of fear to determine if an individual can even appear before a judge (Kohn 2002:737). Characteristics such as the employment status and

gender of the survivor and perpetrator, the length and type of relationship between survivor and perpetrator, and the type of allegations being made either align with or reject the victim myth, ultimately influencing judges' verdicts in civil Protective Order hearings (Lucken, Rosky, and Watkins 2015:2051).

Although many would consider courts to be impartial, the aforementioned literature points to less explicit forms of discrimination that covertly enter the courtroom. As articulated by Gibson (1989), "courts are perceived as the most procedurally fair of all political institutions, since many people view them as insulated from 'politics,'" (p. 471). Considering the salient yet subconscious nature of discrimination against survivors, court observer programs that specifically focus on identifying bias can function to strengthen justice and fairness in the court system (Stecich 1975:471).

### *Theories of Fairness as Procedural Justice*

Although it is clear that court observer programs are motivated to increase justice and fairness, how justice and fairness might actually be measured becomes less clear. The theory of procedural justice is particularly helpful in defining and parsing out the specific elements that comprise general impressions of fairness. In contrast to more conventional notions of distributive justice that emphasize the fairness of the outcome itself, procedural justice focuses on the process through which decisions are made (Hegtvedt and Johnson 2000:299; Molm et al. 2003:131). Moreover, we directed our attention to procedural justice as in-depth studies on domestic violence courts emphasized related dimensions of the court hearing process, like

courtroom atmosphere and disposition of legal personnel, in upending biased legal systems and promoting survivor justice (Mirchandani 2005:388-389, 413; Mirchandani 2006:782, 798).

First articulated by Thibault and Walker in 1975, procedural justice was defined by four factors: (1) satisfaction that all evidence was presented by both parties, (2) the amount of opportunity to present evidence, (3) fairness of procedure, and (4) satisfaction with procedure (Graham 2019:28). Later elaborated upon by Leventhal in 1980, procedural justice was conceptualized through “six procedural rules”: (1) consistency, (2) bias-suppression, (3) accuracy, (4) correctability, (5) representativeness, and (6) ethicality (Graham 2019:28).

### *Problems with the Theory of Procedural Justice*

Scholarship by Thibault and Walker (1975), and Leventhal (1980) were critical in beginning to reimagine fairness and justice through a procedural, process-driven orientation. However, the application of their conceptualizations to actually measure procedural justice has proven more difficult. Borrowing from Leventhal’s (1980) proposed conceptualizations of procedural justice, Tyler (1988) translated procedural justice theory into tangible survey items on a questionnaire (p. 107-113). The validity of these questions (i.e., how well they actually measure procedural justice) has been tested in other studies with relatively favorable conclusions (Ohbuchi et al. 2005; Graham 2019). These questions were also revised by Tyler according to “the group-value model” and “four component model” in 1990 and 2000, respectively (Graham 2019:60). Especially for more recent operationalizations (i.e., how abstract concepts are specifically measured), there is a lack of research regarding their validity and reliability.

Altogether, the actual measurement of procedural justice is a relatively new and emergent line of study. Academic research is still developing operationalizations of procedural justice, and have not advanced to validity assessments of existing research instruments. Additionally, more recent studies have focused on examining procedural justice in policing rather than the courtroom (Henderson et al. 2010; Gau 2011; Gau 2014; Maguire 2018). Furthermore, scholarship has not begun to address variations from different local and legal contexts. Altogether, previous literature has outlined a wide span of challenges encountered by survivors in the court system that could be addressed by procedural justice; however, operationalizations of procedural justice theory are less well developed, let alone adapted to more specific contexts relevant to court processes.

## RESEARCH QUESTION

Our research question is: How can procedural justice not only be measured, but also increased in gender-based violence—particularly Relief from Abuse and Protective Order—court hearings in the Upper Valley? The independent variable is the subcategory or type of procedural justice (i.e., procedural justice information related to the verdict, court proceedings, court staff, and judicial attitudes). The dependent variable is the process or action taken by WISE using the given type of information about procedural justice. Thus, the relationship between the independent and dependent variable is not explanatory, but rather one that describes a particular feedback process to increase procedural justice.

## METHODS

### *Research Design*

In order to observe trends in survivors' attainment of procedural justice in the Upper Valley, WISE will distribute self-administered, paper surveys to members in their Court Observer Program to complete during Relief from Abuse and Protective Order hearings held in the Lebanon Family Court, Grafton Superior Court, Windsor County District Court, and Windsor County Superior Court. The survey consists of a one page, double-sided questionnaire that is structured into four sections, organized sequentially according to court proceedings in Relief from Abuse and Protective Order hearings. The first section asks about hearing logistics, including defendant and plaintiff information, whether or not the hearing took place, time of hearing, hearing type, the name of the presiding judge, and the hearing outcome. The second section consists of a table of subjective, ordinal-level questions that inquire about the justness and equity in hearing procedures and judicial and staff demeanor regarding both the plaintiff and the defendant. The third section focuses on objective information about whether or not legal requirements were met during the hearing and legal details of the hearing outcome. The fourth section asks about action items, issues or concerns that may arise during a hearing. Action items include subsections that focus on both objective and subjective information about judicial bias, nature of contact between plaintiff and defendant during the legal process, and extraneous decisions made during the hearing that may impact the safety or justice attainment of the survivor such as access to weapons. A copy of the innovated survey can be found in Appendix A. Questions were adapted from the original WISE court observer survey (shown in Appendix

B), question banks created from our background research on procedural justice and questions from the New Hampshire Judicial Performance Evaluation Form (shown in Appendix C).

In this study, the independent variable is procedural justice, operationalized as the fulfillment of hearing logistics and legal requirements, fairness in court proceedings and verdict, treatment of both parties by court staff and judge, and judicial outcome(s) of the hearing. Survey questions corresponding to our independent variable include questions numbered two, three and five through nine. The dependent variable is the legal action taken by WISE based on the data they collect from the survey. Instead of a causal or explanatory relationship between the independent and dependent variable, we propose the use of an applied research methodology, which focuses on solving a particular social issue. An applied research approach will assist WISE in advancing the pursuit of procedural justice for survivors using the data collected in the court observer survey.

The proposed research is based within the top-down approach of deductive reasoning, in which the research moves from abstract theories of procedural justice and how it is best measured to collecting data through court observations. As WISE will be collecting new data to increase the procedural justice attained by survivors in the Upper Valley, an inductive research approach, moving from data to theory, would not be effective in meeting their goals.

The intended survey respondents are the court observer volunteers working with WISE. Given the sensitive nature of attending and reporting on court proceedings in Relief from Abuse and Protective Order hearings, survey participants will be those who enter the program and choose to go through WISE court observer training. As volunteers select into the Court Observer Program and choose if and how frequently they attend hearings, survey respondents will consist

of a nonprobability convenience, or non-random, sample. During WISE's court observer training, their data collection goals (i.e., gathering accurate and complete information regarding hearing procedures, ensuring the optimal experience of survivors in court, and using response patterns to inform legal action and increase procedural justice for survivors) will be completely transparent to respondents in order to encourage their continuous active participation. The survey will have sufficient instructions regarding how volunteers should interpret and complete each question.

Since WISE aspires to observe important trends regarding survivors' attainment of procedural justice overtime, this will be a longitudinal study. The achievement of procedural justice for survivors of domestic and gender-based violence is an ongoing process; therefore, there is not a restricted timeline for either the Court Observer Program or the implementation of the survey within the program. Additionally, as hearings vary in length, the time that respondents take to fill out each survey will correspond with the length of the hearing they attend.

As technology is not permitted in the courtroom, the survey will be printed. However, an online version of the survey will be made available to court observers through which they can promptly submit their responses to WISE. This will augment WISE's ability to quickly respond to urgent, time-sensitive observations.

### *Analyzing Survey Results*

The research we propose is a mixed-methods approach. The survey questions involve nominal (non-numeric variables), ordinal (numeric scale in which distance between variables is not meaningful), and open-ended response questions that will yield qualitative and quantitative

observations about court processes, issues that emerge, and the overall attainment of procedural justice during a given hearing. Ordinal questions will require quantitative analysis. Each ordinal question has five response options, in which 1 = not at all, 2 = not very, 3 = somewhat, 4 = very, and 5 = extremely. Ordinal questions were introduced to streamline data analysis and enable WISE to quickly identify trends across responses coded highly; this will help WISE staff in taking appropriate action to urgent issues happening in court. Nominal and open-ended response questions will require qualitative analysis (i.e., reading through responses, identifying key themes or issues, and drawing conclusions about emerging patterns overtime). Open-ended responses help to supplement the responses to ordinal-level questions by obtaining more detailed accounts of court proceedings that cannot be captured in ordinal-level questions alone.

The information yielded from court observer responses will not only help WISE track institutional trends of judicial and staff behavior, judicial decisions, and survivor experiences that manifest in the attainment or lack of procedural justice, but use these patterns to take tangible action in changing the legal environment and experiences to which survivors are exposed. Questions that will help WISE identify key issues or patterns detrimental to procedural justice include questions numbered two, three, six, seven, eight and nine. As the survey structure is organized sequentially to ameliorate survey respondent experience, the section entitled “Action Items” appears last. WISE can quickly identify urgent issues based on survey responses in this section. Among the action items, questions that may require more immediate action by WISE include questions numbered six, seven, and nine. Through the careful and continuous collection and analysis of survey responses, WISE may more efficiently and effectively bring awareness of systemic obstacles to procedural justice to the attention of Vermont and New Hampshire courts

in which they support survivors. With this goal in mind, we hope this survey will enable WISE to improve future survivors' judicial experiences.

### *Strengths of Survey Research*

Survey methodology was chosen as the ideal approach to data collection in this study because it has already been implemented by WISE's Court Observer Program and best meets their needs and capacity. Surveying court observers will help WISE gather data on important relationships and patterns occurring in Relief from Abuse and Protective Order hearings. The self-administration of surveys will enable information to be recorded immediately during court hearings, as surveys conducted by WISE staff during hearings would disrupt court proceedings and those conducted after hearings would be time-consuming for WISE staff and less reliable due to reliance on memory recall.

Benefits of survey research include its versatility in the possible topics on which data can be collected. Surveying court observers has and will enable WISE to gather information on judicial and staff demeanor, safety concerns for survivors, and survivor treatment and agency within hearings. Surveys are efficient and cost-effective, meaning that WISE can collect information from court hearings without expending too much of their financial and temporal resources.

Surveying court observers is the optimal research method to conduct within the courtroom context to gather accurate and precise observations about hearings and survivors' attainment of procedural justice within the legal system. While existing data analysis of previous court observer surveys may be helpful in recognizing problems that have impeded or infringed

upon procedural justice in the past and in informing future survey questions, this lacks temporal relevance and cannot meet WISE's goal of obtaining procedural justice for current and future survivors. Additionally, since most judges do not preside over Relief from Abuse and Protective Order hearings for more than a year in New Hampshire and Vermont court systems (Wise Program Operations Coordinator, Stacey Glazer), existing data analysis would not be sufficient in measuring procedural justice in the current legal environment. Lastly, while qualitative research may be helpful in gathering descriptive observations on each hearing, field research would be a tedious and disincentivizing process for volunteers. Furthermore, WISE does not have the capacity to take-on in-depth qualitative interviews with court observers after each hearing. Regardless, qualitative research would not necessarily yield more fruitful out-put than survey reporting, and would require a more time-consuming data analysis process than our mixed-method approach.

#### *Weaknesses of Survey Research and Proposed Solutions*

Despite the benefits of survey research, there are various weaknesses of this methodology that may impact findings. Survey self-reporting results in questionable reliability. As WISE has cited concerns about the lack of clarity among volunteers regarding the meaning and intention behind survey questions in the past, it is still possible that volunteers may read and conceptualize questions differently during the hearing process. Implicit biases of volunteers may also inform their responses throughout the questionnaire. Volunteer responses may be influenced by differing views on what issues and events are relevant to record on the survey. Questions that are subjective in nature, such as questions numbered two, six, and nine, are subject to greater

responder bias and variation than questions that are objective in nature, such as questions numbered one, three, four, five, seven, and eight.

To address concerns with survey reliability, we propose four solutions. First, inter-rater reliability can be maintained if multiple court observers attend the same hearing and fill out the survey separately; however, given the voluntary nature of WISE's Court Observer Program, this likely can only be encouraged, not enforced. Secondly, based on previous survey methodology research conducted by Alwin and Beattie (2016), the survey we propose will maximize the amount of objective questions to optimize the yield of reliable responses (p. 143). Third, we recommend that WISE compile a list of key terms that may appear in both the hearings and the survey, as well as their definitions, to reduce the potential of misunderstanding among volunteers. Lastly, pretesting the survey will enable WISE to identify barriers to reliability prior to its implementation. During the pretesting process, "behavioral coding" would be conducted at one of WISE's quarterly court observer meetings, during which WISE staff rate each survey question based on how often they elicit questions from the volunteers (Schaeffer and Presser 2002:81-82). Furthermore, volunteers would be asked to share any questions, concerns, or suggestions that they may have regarding the survey based on their previous experience attending hearings. By pretesting the survey before it is used in court, we hope to ameliorate any concerns with question clarity and survey goals.

Another concern in this study is its low generalizability. As court observers in WISE's program attend two New Hampshire courts and two Vermont courts, the survey data is generalizable only within these courthouses. It is possible that the data collected may be relevant to judicial procedures and decisions in domestic and gender-based violence cases in other courts

within the New Hampshire and Vermont judiciary; however, this cannot be ensured.

Nevertheless, WISE's primary concern at this time is survivors in the Upper Valley, so the generalizability of survey protocol to other court systems is not within the current bounds of this study.

Since the survey has been innovated to increase both the quality and quantity of responses while ensuring brevity, establishing validity in the research findings may be a challenge in the proposed research. The survey could measure convergent validity, the association between two different measures of the same concept, by asking various questions on the same theme. However, this would likely lead to a decrease in volunteer response quality. In lieu of this method, validity can be established by maintaining consistency across types of operationalized measurements of procedural justice.

## ETHICAL CONSIDERATIONS

For all research, it is important to be mindful of possible ethical issues and proactively address them. Foremost, in an effort to destigmatize and give power back to individuals who have experienced harm, our team intentionally decided to use the language "survivor" rather than "victim." Additionally, it is important to recognize the sensitivity of the research question at hand, as it is intimately related to domestic violence and more generally, gender-based violence. As outlined by the Belmont Report, we will prioritize protecting all parties involved in our research by upholding respect for persons, beneficence, and justice (Department of Health, Education, and Welfare 1979).

Respect for persons is an important component of protecting research participants. As stated in the Belmont Report, “respect for persons demands that subjects enter into the research voluntarily and with adequate information” (Department of Health, Education, and Welfare 1979:5). There are a number of possible vulnerable populations involved in this research; both survivors and court observers have the possibility of previously being exposed to domestic and/or gender-based violence. In order to remain sensitive to their backgrounds and lived experiences, we will encourage court observers to only provide information they are comfortable sharing and will not pressure them to disclose any personal details.

We aim to maintain the well-being of all participants and, therefore, be mindful of beneficence. Overall, we intend to “maximize possible benefits and minimize possible harms” involved in the proposed survey (Department of Health, Education, and Welfare 1979:5). The aim of redesigning the Court Observer Survey is to collect more reliable and analyzable data as well as improve survivors’ attainment of justice in the courtroom. We do not foresee any potential risks to survivors, both short-term and long-term. The Court Observer Report Form asks volunteers to provide the names of the plaintiff and defendant. Although this is public information given by the courts, to minimize potential risk, WISE should keep all personally identifiable information collected from the survey confidential.

Lastly, justice is integral to the methodology proposed in this study. The Belmont Report poses an important question to keep in mind when thinking about justice and ethicality: “Who ought to receive the benefits of research and bear its burdens?” (Department of Health, Education, and Welfare 1979:6). In this study, we aim to employ a balanced distribution of risks and benefits for both court observers and survivors in the courtroom. Over time, with the use of

the revised Court Observer Report Form, WISE will be able to develop effective solutions to better support survivors in the courtroom. Furthermore, court observers will be able to better evaluate procedural justice through the revised survey questions, enabling them to be more effective court observers in future cases as well. The survey will benefit WISE, the court observers, and, most importantly, the survivors. All participants will be treated equally, ensuring justice for all.

### FEASIBILITY AND SIGNIFICANCE

The implementation of survey methodology is compatible with the existing structure of the WISE Court Observer Program, which currently documents court hearings through a paper and online questionnaire. Consequently, there are no foreseeable changes to the personnel, money, time, or other resources needed for the execution of the proposed research methodology. The revised Court Observer Form has been organized with the intention of making data analysis more efficient. Namely, the use of ordinal variables will allow WISE staff to quickly identify issues warranting feedback and immediate action. In short, the proposed survey will hopefully standardize the information collected by volunteers and streamline the subsequent action taken by WISE.

The information provided by both ordinal and open-response questions is central to identifying and advocating for survivor-centered court reform. Ways in which the collected data may be used to achieve procedural justice for survivors include compiling data into a report used to lobby for policies like trauma-informed training of court staff, or calculating objective statistics given to judges to combat underlying biases. Additionally, this data could be used when

applying for funding, as it empirically establishes the prevalence of a social problem, and thus the importance of the WISE Court Observer Program in addressing it. Internally, WISE can benefit from survey responses by communicating insights between Court Observer Program volunteers and flagging points of contention for future observation in the courtroom. Providing periodic reports at the Quarterly Meetings can increase volunteer motivation by more formally acknowledging their contributions and demonstrating their larger impact (Millette and Gagné 2008:17).

The potential findings from the proposed survey also hold sociological significance. By applying procedural justice to Relief from Abuse and Protective Order hearings in the Upper Valley, the survey would examine perceptions of procedural justice through a local community context. In doing so, the research would contribute to a growing body of literature on specific community dynamics and characteristics (e.g., rural, urban-transient). Survey responses may also provide insight on what elements of courtroom dynamics and procedures are more or less significant in shaping individuals' perceptions of justice, thereby identifying neglected blindspots that allow inequality to reproduce. Altogether, the survey will not only generate important information for WISE's internal use and community application, but will also add to the larger conversation on local conceptions of procedural justice in rural community settings.

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APPENDICES

Appendix A. Revised Court Observer Report Form<sup>1</sup>

**COURT OBSERVER REPORT FORM**

**Date:** \_\_\_\_\_ **Court:** \_\_\_\_\_ **Judge:** \_\_\_\_\_ **Side Judges:**  Yes  No  
**Hearing Start Time:** \_\_\_\_\_ **Hearing End Time:** \_\_\_\_\_  
**Hearing Type:**  Criminal  Civil  
**Subject:**  Protective Order:  Final  Extension  Modification: \_\_\_\_\_  
 Divorce  
 Custody  
 Other: \_\_\_\_\_  
**Outcome:**  Granted  Denied/Dismissed  Vacated  Continued  Other: \_\_\_\_\_

<b>PLAINTIFF</b>	<b>DEFENDANT</b>
Name: _____	Name: _____
Who was present? <input type="checkbox"/> WISE Advocate: _____ <input type="checkbox"/> Attorney: _____	Who was present? <input type="checkbox"/> WISE Advocate: _____ <input type="checkbox"/> Attorney: _____
How many others were present in court on plaintiff's side? _____	How many others were present in court on defendant's side? _____  <input type="checkbox"/> Defendant not present <input type="checkbox"/> Defendant not served with order <input type="checkbox"/> Defendant appears to be victim

1. Did the hearing take place where and when it was scheduled?  Yes  No  
If you answered no: Why was the hearing not held, or why was it moved?

2. Please check the box that best describes the court hearing, in which 1 = Not at all, 2 = Not very, 3 = Somewhat, 4 = Very, 5 = Extremely.

Question	Plaintiff					Defendant					Additional Comments
	1	2	3	4	5	1	2	3	4	5	
How well did the judge explain the proceedings to each party?											
How fair were the rules and procedures to each party?											
How thoroughly did the judge address questions and concerns of each party?											
How much opportunity did each party have to present their case to the judge before the verdict was made?											

<sup>1</sup> Link to edit the survey on Google Docs (to preserve formatting):  
<https://docs.google.com/document/d/1Qd4Jj3gEXb7GPcPL1GkfZseb6MTagfDCLvdSKbu3P34/edit?usp=sharing>

How well did the judge explain the ruling to each party?																				
How respectful was the judge to each party?																				
How professional were the side judges and court staff to each party?																				

3. In what way(s) did the judge address history of domestic violence between the plaintiff and the defendant during the hearing?

4. Which of the following factors did the judge address in regards to reconciliation:  Child custody  Living expenses  
 Child support  Other: \_\_\_\_\_

5. If there was another case pending (criminal), did the judge explain the option to plead “No Contest,” or accept with no findings?  Yes  No

**Action Items:**

6. If any, what was the nature of the contact between the plaintiff and the defendant in the courtroom?

7. If the judge asked about weapons, what decision was made regarding access to weapons?

8. If the judge brought up factors not related to the case, please describe what the judge said and the context in which it was said.

9. Was there anything about the parties’ perceived or stated identities that appeared to have an effect on the judge’s ruling and/or behavior?  Yes  No

- If yes, was it related to:
- Socioeconomic Status  Age  Mental or Physical Disability
  - Race and/or Ethnicity  Citizenship Status  Past Criminality
  - LGBTQIA+ Identity  English Proficiency  Other: \_\_\_\_\_
  - Relationship Status

Please further elaborate on the perceived bias:

Appendix B. Original Court Observer Report Form

Revised 7/11/2017

**Court Observer Observation Report Form**

Date: \_\_\_\_\_ Court: \_\_\_\_\_ Judge: \_\_\_\_\_ Side Judges:  Yes  No  
 Hearing Start Time: \_\_\_\_\_ Type:  Criminal  Civil  
 Subject: Protective Order:  Final  Extension  Modification \_\_\_\_\_  
 Divorce  Custody  Other \_\_\_\_\_

PLAINTIFF Name: \_\_\_\_\_

Who was present?  
 WISE Advocate: \_\_\_\_\_  
 Attorney: \_\_\_\_\_

How many others were present in court on plaintiff's side? \_\_

DEFENDANT Name: \_\_\_\_\_

Who was present?  
 WISE Advocate: \_\_\_\_\_  
 Attorney: \_\_\_\_\_

How many others were present in court on defendant's side? \_\_  
 Defendant not present  
 Defendant not served with order  
 Defendant appears to be victim

Outcome:  Granted  Denied/Dismissed  Vacated  Continued  Other: \_\_\_\_\_

<p><b>Judicial/Staff Demeanor</b></p> <p>Did the judge ask if there was a history of domestic violence? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Was the judge patient with the plaintiff? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the judge reprimand or show visible signs of disapproval? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the judge ask questions about reconciliation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the judge discuss factors not related to the case? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Were the side judges and court house staff professional? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Comments:</p>
<p><b>Efficiency &amp; Organization of Proceedings</b></p> <p>Did the other hearings before or after this hearing appear to influence the ruling of the judge? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the hearing take place where and when it was scheduled? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p><b>Safety</b></p> <p>Did the judge ask about weapons? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Are weapons going to be seized? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the plaintiff and the defendant have any contact while in the court room? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Was there discussion of child custody? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Was child support ordered? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Was there a decision made regarding economic/living expenses? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p><b>Treatment &amp; Education of Plaintiff/Defendant</b></p> <p>Did the judge explain the proceedings to both parties? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the judge explain the ruling to both parties? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If there was another case pending (criminal), did the judge explain the option to plead "No Contest", or accept with no findings? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Did the judge answer questions fully? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Was there anything about the parties' perceived or stated identity that appeared to have an effect on the judge's ruling and/or behavior? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Related to: <input type="checkbox"/> Mental or Physical Disability <input type="checkbox"/> LGBTQ identity  <input type="checkbox"/> English Proficiency <input type="checkbox"/> Socio-economic Status <input type="checkbox"/> Citizenship Status  <input type="checkbox"/> Past Criminality <input type="checkbox"/> Age <input type="checkbox"/> Other: _____</p>	<p><b>Additional Notes on back</b></p>

Additional Notes

Consider:

- Does it seem like people believe that they've been heard and the process has been fair/unbiased (note body language, tone, etc)

## Appendix C. Question Bank Used to Create Revised Survey

**WISE Original Court Observer Report Form**

1. Did the hearing take place where and when it was scheduled?
2. Did the judge explain the proceedings to both parties?
3. Did the judge ask if there was a history of domestic violence?
4. Did the judge explain the ruling to both parties?
5. Did the judge ask questions about reconciliation?
6. Was there discussion of child custody?
7. Was child support ordered?
8. Was there a decision made regarding economic/living expenses?
9. If there was another case pending (criminal), did the judge explain the option to plead “No Contest”, or accept with no findings?
10. Did the other hearings before or after this hearing appear to influence the ruling of the judge?
11. Did the judge answer questions fully?
12. Was the judge patient/respectful? with the plaintiff?
13. If the judge expressed disapproval toward the plaintiff, what were the signs of disapproval? (You may check more than one circle)
14. Did the judge discuss factors not related to the case?
15. How professional were the side judges and court house staff?

**NH Judicial Performance Evaluation Questions**

Deficient, below average, average, good, excellent, or no grade (N/A)

\* Questions only asked to attorneys

1. Being fair and impartial toward each side in a case.
2. Writing opinions that are clear.
3. Writing opinions that adequately explain the basis of the court’s decision.
4. Writing opinions that clearly set forth rules of law to be used in future cases. \*
5. Writing opinions that clearly address the merits of the legal issues advanced by the parties. \*
6. Issuing opinions in a timely manner. \*
7. Making decisions without regard to possible criticism. \*
8. Treating parties and attorneys with patience, respect, and courtesy.
9. Treating parties and attorneys equally regardless of race, sex, or economic status.
10. Being prepared and attentive at oral argument.
11. The court staff was friendly, courteous, and patient.
12. The court staff was willing, available, and able to answer questions.
13. Notice of the scheduling of oral argument was sufficient.

14. The court's rules are clear and easy to follow.
15. Please write comments you would like to make about the Circuit Court in the space below.

1 = strongly disagree, 2 = disagree, 3 = agree, 4 = strongly agree

16. The judge starts court on time.
17. The judge is prepared to hear a case when taking the bench.
18. The judge treats people fairly and with respect.
19. The judge pays attention during hearings and trials.
20. The judge asserts appropriate control over the proceedings.
21. The judge allowed a fair opportunity for parties to be heard.
22. The judge uses common sense in handling cases.
23. The judge knows the law.
24. The judge follows the law.
25. The judge issues decisions in a timely matter.
26. The judge's decisions are thorough.
27. The judge's decisions are easy to understand.

### **Tyler's Process-Based Model**

1. How much opportunity did each party have to present their problem or case to the judge before the verdict was made?
2. Do you think either party received a worse outcome than others because of their race, sex, age, nationality or some other characteristic
3. How hard did the judge try to be fair to you?
4. Did the methods used by (the police, judge, etc.)...
  - a. Favor one person over the other,
  - b. Were equally fair to everyone involved in the dispute
  - c. Don't know
5. Did the judge get the information needed to make a good decision about the case?
6. Did the judge try to bring the problem into the open so that it could be solved?
  - a. Did the judge ask questions about reconciliation?
7. Was the judge polite to you?
8. Did the judge show concern for your rights?

**Tyler's Four Component Model** (distributive justice, procedural justice, quality of decision making, quality of treatment)

1. Decisions are made based upon facts, not personal biases and opinions
2. The rules and procedures are equally fair to everyone
3. My supervisor's decisions are equally fair to everyone

4. Are your supervisors' decisions are consistent across people and situations?
5. My rights are respected when decisions are made.
6. I am usually given an honest explanation for decisions made.
7. My needs are taken into account when decisions are being made.
8. My views are considered when decisions are made.
9. How fairly does your supervisor treat you when he/she is making decisions?
10. In general, how fair are the outcomes that you receive from your work organization?