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**THE EFFICACY OF PUBLIC AFFAIRS IN THE
FEDERAL COURTS**

by

Jacqueline (Knoll) Todd

A Thesis

Submitted in partial fulfillment of the requirements of the
Master of Arts Degree of The Graduate School at Rowan University
2000

Approved by _____

Date Approved July 1, 2000

ABSTRACT

Jacqueline (Knoll) Todd
The Efficacy of Public Affairs in the Federal Courts
2000

Advisor: Dr. Suzanne Sparks FitzGerald
Public Relations Graduate Program

The federal courts are undeniably one of the most important institutions in our society, yet we know little of this nebulous entity since the federal court system does not directly communicate to the public. The judiciary relies solely on the media to disseminate court decisions and information to the public.

The purpose of this study was to underscore the need for a public affairs office in the federal court system. This researcher held that a court public affairs office would serve to educate the public about the judiciary, as well as correct media accounts of court decisions that exhibit negative bias.

To determine the extent of media reporting bias, this researcher studied press accounts of controversial court rulings that appeared in local, regional and national newspapers. Content analyses performed on these articles revealed frequent negative biases when court rulings did not concur with the opinions of the media and the public.

Through intercept surveys, this researcher found that most respondents have little knowledge of the judiciary. As a result, the public, who relies on court information from a biased media, experiences negative perceptions of the court system.

Finally, in-depth surveys administered to federal judges revealed that most judges feel frustrated by inaccurate media reporting of court issues. The addition of a court public affairs office would correct erroneous reporting and improve public perception of the judiciary through education.

MINI-ABSTRACT

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This study examined the need of a public affairs office in the federal court system. Results obtained from a content analysis of newspaper articles revealed a negative bias in the press' reporting of controversial court decisions.

Other findings indicated that the public, who remained largely uneducated about the court system, relied on the media for information regarding the courts and court rulings. Inaccurate media reporting negatively affected public perception of the judiciary.

Federal Court judges recognized this problem and most concurred that a court public affairs office could serve to correct inaccurate media reporting and educate the public about the court system.

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- Finally, to my new husband, Brian Todd with whom I share my hopes, dreams and goals. Together, we will plant and nurture seeds of our own.

Dedication

This thesis is dedicated in loving memory of my stepfather, Joseph Rossi, Sr.

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Chapter 1

In 1997, a federal judge declared a Lancaster County, Pennsylvania woman “actually innocent” of the first-degree murder of a classmate. Because he found the murder investigation to be replete with flaws, cover-ups and prosecutorial misconduct, the judge barred retrial of the woman. The courts viewed this decision as a landmark in legal history.

The resulting outcry from the victim’s family and community illustrated a severely undermined public confidence in the legal system. The media’s viewpoint of this case depended largely on its locale. The Lancaster media ran articles that showcased readers’ anger and fueled conclusions that this case was “another reminder of the continuing failures of our legal system.” (Mixed Messages, 1997). The Philadelphia media highlighted reaction from both sides and maintained a neutral stance in reporting facts. As a result of media reporting, the public gained a highly subjective understanding of the facts and the law governing this case.

The media continues as the sole vehicle through which the general public obtains information about court rulings as well as interpretations of the law. Judge Gilbert S. Merritt (1997) writes, “What the public understands about the federal courts is what the media, particularly the television media, convey and purvey to the public.” (p. 510)

The media’s perception, however, is sometimes one-sided, and does not adequately reflect each side of an issue. Merritt goes on to write, “The media tends to sensationalize and oversimplify the cases that they have seen in the courts. The media doesn’t deal well with the complexity of the situations and with the problems of judicial process.” (p. 513)

The media's failure to understand and report an issue in its entirety prescribes a remedy that alienates the courts from the public.

There is currently no institution to address that remedy. To date, no entity exists to serve as a liaison to increase understanding between the courts and the general public. This lack of understanding contributes significantly to the public's mistrust of the court system.

Problem

This researcher will **assess the need for a public affairs program in the court system** and the impact, if any, a public relations program would have on the public's understanding of the structure and duty of the courts.

It is crucial for the public to be aware of the purpose and limitations of the court system. The decisions set forth by the judiciary dictate the laws to which the public must conform. The court system is indeed one of the most significant institutions in our society as it interprets and defines the laws by which citizens must abide. Yet, very few people outside the legal system understand this significant entity. They fail to recognize the purpose of the courts, yet they are quick to criticize when they perceive that the courts have failed in their duty. Joseph M. Bessette writes

Most Americans are skeptical of their criminal justice system, and properly so. ...In 1994, 85 percent of Americans maintained that the courts in their area dealt "not harshly enough" with criminals... Although the question specifically asks about courts, it is likely that respondents treat courts as a surrogate for the entire criminal justice system...

p. 1

It is important that the public view the court system as an ally rather than a foe. In order to accomplish that task, the public must get beyond its ignorance of the functions and constraints of the law.

It is equally important for the court to take an active role in educating the public as to its function. Judge Veronica S. McBeth (1999) voiced her opinion in a symposium highlighting judicial outreach initiatives. She said, "I believe, as do many of my colleagues across the country, that the judiciary must take an active role in enhancing the public's perception about the court system... But how do we inform the public that our system is worthy of our confidence and support when they do not have contact with judges or with the justice system, and they lack an understanding of our place in the scheme of our government?" (p. 1379)

The court's implementation of a public affairs program would proactively aim to educate the public in a way that it could make informed decisions based on its knowledge of the law, the workings of the court and the restrictions of statutory law which govern the courts.

Delimitations

With the time constraints and expense considerations, this researcher will focus on the U.S. District Court in Philadelphia, Pennsylvania. This researcher restricted the study to Philadelphia for several reasons. First, the District Court in Philadelphia is home to the Third Circuit Court of Appeals, a regional appellate body presiding over Pennsylvania, New Jersey, Delaware and the Virgin Islands. Second, Philadelphia is well known as a major metropolitan city. The implementation of a public affairs program in such a city might be more appropriate as it would reach greater numbers of the population. Third,

this researcher is familiar with the federal court in Philadelphia as she was employed there for ten years. Because respondents will be selected from only the Philadelphia Metropolitan area, the results may not be externally valid to the rest of the courts in the nation, whether federal or state. The simple fact that a public affairs program is needed in the federal court in Philadelphia, Pennsylvania may not necessarily prove that such a program is expedient in another area.

This thesis fails to address the specifics of the program's role. Although suggestions as to its function will be introduced, the program will not be detailed. The success of this program depends on trial and error. If implemented in the Philadelphia district court, this program would take on different forms according to the needs of the Court.

Finally, this thesis fails to consider other participants in the legal process. It fails to address entities peripherally related to the court such as the role of attorneys or related entities, such as the Philadelphia Bar Association.

Purpose

The major objective of this study is to analyze bias in media coverage of cases, to examine public sentiment toward the court, and to investigate the need of a public affairs program in the Philadelphia federal court.

H1: It is expected that the media allow public sentiment to interfere with its objectivity in reporting court cases.

Judge Gilbert S. Merritt writes,

They [editors] are interested in individual cases and they are interested when you can put some personality characteristics in the story; that is, that journalism today is much more about personality

than it is about policy; much more interested in individual people than in why something is done, the theory behind it.

p. 510

This researcher does not hold that all media fail to be objective in its portrayal in all cases. Journalists often succeed in reporting cases objectively. It does seem, however, that the media, when faced with an unpopular court decision, tend to jump on the bandwagon of public sentiment. The media positions itself to mirror the dictates of local predilection often without adequately explaining both sides of a controversial judicial ruling. Because the media serves as the only vehicle through which the public receives its information regarding court decisions, the public fails to receive both sides of the issue. A public affairs program would assist in providing an even playing field for the courts to communicate the reasoning and statutes the judges must follow in their decisions.

H2: It is expected that the public is unknowledgeable about the federal court system.

In 1995, the *Washington Post* published the results of a survey that examined public knowledge of the court system. The results were shocking. Researchers asked the respondents to identify the “Three Stooges” as well as three members of the United States Supreme Court. The results revealed that 59% of the 1,200 respondents surveyed knew the names of “The Three Stooges,” while a meager 17% could name three Supreme Court justices. (1995, October 12, *The Washington Post*, p. A2)

Intrigued by these findings, this researcher conducted an informal survey of fifty people. Forty-eight in the sample could name the “Three Stooges” within ten seconds of

this researcher's inquiry. However, when asked to name three Supreme Court Justices, the same individuals experienced difficulty. If they could answer at all, the individuals greatly exceed the ten-second-time interval used in identifying "Larry," "Moe" and "Curly."

Astonished by these findings, this researcher then asked the sample if they could identify the differences between federal and state court. They were uncertain what type of case belonged in federal court as opposed to state court. Sadly, they reported that their knowledge of the court system was gained by watching television shows such as "Law and Order" and "Judge Judy."

At present, the public's failure to understand the judiciary results in the public's mistrust of the courts. A 1998 survey conducted by the Roper Center at the University of Connecticut revealed that only forty-six percent of respondents had "some confidence" in the courts and the legal system. Twenty-four percent reported "very little confidence" and eight percent had "no confidence at all."

The court's projection of a positive image would assist in restoring public confidence in the courts. A federal judge notes,

They [the courts] have to give a fair presentation. One of the serious problems in the court system is that judges are prohibited from speaking out. In those cases where judges are vilified for making an unpopular decision, they can't answer or give an opinion. There is no one to speak for the judges, no one to relay how the judges are constrained by Guideline sentencing, and the evidence that is put on in a case. You get a very one-sided portrayal. There is no one to speak for the system.

Federal Judge #2 (personal interview, 1999.)

H3: It is expected that judicial officers will recognize the need for communication between the courts and the public and support the implementation of a program that fosters education and communication.

During an interview with this researcher, a United States District Court Judge described the ideal function of a federal court public affairs program.

A major portion would be education and it would go all through the system from the little ones [children] to the big ones [adults]. It would be a resource for the media to contact to get a straight story, to get a better understanding. It would be expected that that there would be seminars with press and someone from public affairs who could put some perspective on the court's role.

Federal Judge #2 (personal interview, 1999)

In fact, the Administrative Office of the U.S. Courts, a body that administratively supports serves the judiciary, has recognized the need for communication of programs that foster communication between the courts and the public. To combat this lack of communication, the Administrative Office has implemented a public affairs office that serves the court system on a national level. On February 1, 1999, the Administrative Office commenced a pilot project that placed a public affairs officer in several judicial districts. This two-year project requires the public affairs officer to coordinate media relations, public education and community outreach functions. As this program is in its infancy, researchers cannot effectively evaluate its success. If this program were a success and the project expanded to a greater number of districts in the United States, it could serve as a crucial conduit in achieving education and understanding between the courts and the general public.

Most importantly, the implementation of such a program could assist in fostering public confidence in the courts. In a symposium titled, Rethinking Traditional Approaches, Judge Judith S. Kaye underscored the need to build public confidence by establishing a link between the courts and the public. She said, “My final point is that we need to be more than just good court administrators if we want to build public confidence and respect. We also need to be good communicators and that’s another new role for lawyers and judges. We have to see that the word gets out that courts are changing...” (Albany Lay Review, 1999, p. 1491)

Procedure

The author introduced both qualitative and quantitative methods in her research. To quantitatively measure media reporting on controversial court rulings, this researcher performed content analyses on stories that appeared in major metropolitan as well as local newspapers. With the assistance of coders, this researcher separated the news accounts into positive, negative and neutral categories to discover whether or not biased reporting existed. By performing a chi square test on the data, this researcher would determine whether the bias held statistical significance.

To test the hypothesis concerning the public’s knowledge of the court system, this researcher conducted qualitative research in the form of intercept surveys. Respondents rated the federal courts as well as their knowledge of the judicial system. They revealed sources from which they receive information on court decisions and reported the extent of their own contact with the court system. Finally, this researcher introduced two survey questions that directly tested the public’s knowledge of the courts.

In-depth interviews with twelve of the forty judges that comprise the U.S. District Court in Philadelphia allowed this researcher to investigate the validity of the final hypothesis in this study. By analyzing the judges' responses, this researcher discovered and recorded common themes that the judicial officials felt were crucial to communication. This qualitative research provided a better insight of the judges' thoughts and feelings about communication with the public, the media's influence and the court's vision of a court public affairs program.

Terminology

In order to fully understand the content of this thesis it is necessary for the reader to understand the structure of the federal court system.

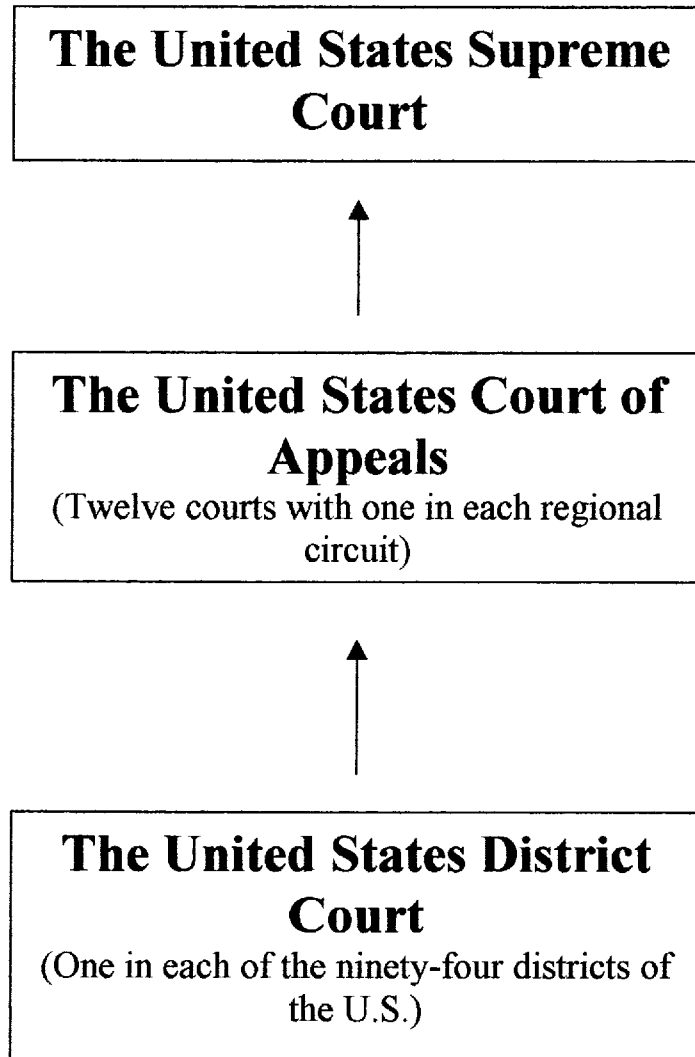
Federal courts, part of the judicial branch of the federal government, were established through Article III of the United States Constitution. Article III provides "The judicial power of the United States shall be vested in one supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

Federal courts are located in area known as **districts**. Congress has divided the United States into 94 districts. Each district contains a United States District Court. Congress further divided the nation into regional **circuits**. There are currently twelve circuits, each containing several district courts, an appellate court, known as the **U.S. Court of Appeals** and a bankruptcy court, or **U.S. Bankruptcy Court**.

As its name indicates, the U.S Bankruptcy Court includes judicial officials that preside over all bankruptcy matters.

The U.S. Court of Appeals is crucial in the appellate process. Each case decided on the district court level is subject to review by the appellate court. This court can either **remand** (send back) the case to the lower court, or **affirm** (uphold) the district court's ruling. A losing party in the U.S. Court of Appeals may direct a final appeal to the United States Supreme Court. *Figure 1* below may assist in illustrating the structure of the federal courts.

Figure 1



For the purposes of this thesis, the researcher will interchangeably use the terms **district court** and **federal court**.

The district courts differ from state courts in their **jurisdiction**. Jurisdiction is defined as “1. The legal authority of a court to hear and decide a case; 2. The geographic area over which the court has authority to decide cases” (Understanding the Federal Courts, 1999).

Federal courts have limited jurisdiction. A case, also known as an **action**, is brought to federal court if,

1. the case is related to a federal **statute** (law),
2. involves claims from parties (**citizens**) who reside in different states (**diversity of citizenship**),
3. involves a claim that asks over \$75,000. in **damages** (money given to a party in a lawsuit in order to compensate him or her for loss.),
4. all bankruptcy cases.

State courts, on the other hand, are courts with unlimited jurisdiction. Each county contains one state court. The state court in Philadelphia County is located in Philadelphia’s City Hall.

Other terms that one should know include:

Civil action: a case in which a **plaintiff** (a person, organization or entity) files a complaint against a **defendant** (another person, organization or entity) alleging that the defendant perpetrated an act that was unlawful.

Criminal action: a case brought by the state or the federal government against a defendant accusing the defendant of violating the law. The prosecutor in a state case is

referred to as a **District Attorney**. The prosecutor in a federal case is referred to as a **U.S. Attorney**.

Habeas corpus: a written order that allows a convicted prisoner to have his case reviewed by the court to ensure the legality of his imprisonment.

Judge: an officer of the court that decides disputes. This researcher will also refer to judges as **judicial officers**.

Sentencing guidelines: regulations created by the United States Sentencing Commission that federal judges must use to fashion a sentence for a convicted defendant.

pro bono : shortened version of the Latin phrase *pro bono publico*, “for the public good.” Free legal representation given by attorneys to low income clients.

pro se: Latin phrase meaning “For self.” Representing oneself without benefit of legal counsel.

Chapter 2

Establishing a Public Affairs Office in the Courts

In order to determine the appropriateness of a public affairs office in the federal court system, we must examine why there exists a need for one in any government office.

James E. Knox and Julian C. Najera (1985), suggest that an organization's survival depends on the way it displays itself internally and externally. They write,

Public affairs responsibilities exist whether one wants them or not. Often, the budget and even organizational survival depend on how these activities are discharged. These responsibilities are very important; therefore, it behooves an organization to establish an integrated public affairs program which serves as a central point of contact for public affairs activities. Only in that way can an organization "tell its story."

p. 174

Knox and Najera argue that an effective government public affairs program will serve a three-pronged function. Therefore, three audiences should be addressed: internal, external and intermediary audiences.

If we were to apply this theory to the court system, we must also identify and segment our audiences into different parts. Internal audiences of the judiciary include upper and middle management, workers, judges and their staff. All employees must feel connected to court happenings. They must become aware and feel involved in decision-making processes. Effective communication will result in worker satisfaction. Internal programs that invite employee participation and feedback such as conferences and continuing education seminars will encourage employees to act as "court ambassadors" to outside audiences. Successful employee communication leads to increased morale and thus, increased productivity.

In order to tell its story effectively, Knox and Najera believe that government agencies should also address external audiences. Those audiences include the media, trade associations, professional associations, the academic community, other federal agencies and most importantly, the general public.

The final prong of Knox and Najera's audience triad includes congressional and legislative affairs representatives. This intermediary group serves as conduit between the courthouse and the White House. They advise those who control the purse strings of the judiciary, therefore, it behooves a public affairs office to consider this crucial audience in its program.

Before implementing such a program within the federal government, Knox and Najera suggest that creators of this initiative consider the scope of the program. Will public affairs projects focus on external audiences and internal audiences equally? Proponents of programs that focus solely on external audiences contend that without outside recognition and support, the organization's image will fail. Thereby, the organization will lose public confidence.

A contrasting philosophy asserts that program organizers give equal weight to both internal and external agendas. This researcher agrees and maintains that the latter philosophy will result in a comprehensive, well-rounded public affairs curriculum.

Through their research, Knox and Najera share their insights in the genesis of such an ambition. They write,

1. Public affairs will lose organizational vitality if it does not have unlimited access to the head of the organization.

2. The Public Affairs director must attend the Commissioner's staff meetings and other important meetings.
3. Public affairs efforts must consist of more than "pie-in-the sky" ideals and broader generalities.
4. Public affairs goals must be based on strategic and tactical plans.
5. Public affairs deals with changing, reshaping, or formulation human perceptions. This is a time-consuming process which is not accomplished overnight.
6. Never mislead attentive publics. It's better to speak the truth about an uncomfortable situation than to lie and destroy credibility.
7. Start a new public affairs office gradually. It takes time for this office to build a network of internal and external relationships. Ironically, internal relational relationships usually take longer to establish. Start small and grow as needed.

p.179

This researcher seeks to support the creation of a public affairs office in the courts. In order to disseminate the court's message effectively, organizers must consider the main focus of this program, whether it is internal, external or a combination of both. Program designers must identify and segment audiences so that they can relay the correct message through the appropriate channels. Knox and Najera submit that an organization's endurance depends on its ability to "tell its story." This researcher submits that a court

public affairs program will assist audiences in understanding the court's purpose and mission. That understanding will improve perception of the courts that has long suffered because of the lack of communication between the courts and the general public.

Public Perception

Why is public perception crucial to the judiciary? In their article that addresses public perception and the Supreme Court, authors John M. Scheb, II and William Lyons (1998) argue that the Court "must enjoy a reasonable measure of public support or risk losing the legitimacy that undergirds its decisions." (p. 67)

A 1997 study performed by the Social Science Research Institute in Knoxville Tennessee indicated that 47 percent of respondents rated the Supreme Court as "excellent" or "good." This result was almost evenly split, with 49 percent of respondents who rated the Supreme Court as "fair" or "poor." (Judicature, 1998, p. 67)

The Supreme Court's ratings did not change much from a similar study conducted by the same researchers three years before. In the 1994 study, 45 percent of those surveyed rated the Supreme Court as "excellent" or "good", while 51 percent felt that the Court did a "fair" or a "poor" job. (Judicature, 1998, p. 67)

The federal judiciary ostensibly recognized the need for public trust and confidence so much that they convened a committee in 1999 to explore these issues. This committee, comprised of 31 members representing members of the judiciary, the Bar Association, civic leaders, legislators, educators and the media, embarked on a mission to find solutions to the decline of public confidence in the legal system.

The committee identified and concentrated on five issues that were directly related to public trust and confidence. These issues included:

Bias and Prejudice
Access to Justice
Judicial Administration
Legal and Judicial Ethics
Media Portrayal and Public Understanding

Bias and Prejudice

Through research, the committee found that bias and prejudice existed in the legal system. To combat those issues, the committee made several recommendations. Some of those recommendations include:

1. Provide education and sensitivity training to judicial officers, court staff, attorneys and security personnel.
2. Encourage law schools and local bar associations to offer programs that deal with minority issues.
3. Encourage a greater representation of minorities in the legal system.

Access to Justice

While investigating the public's access to justice, the committee found that those belonging to distinct socioeconomic circles viewed justice differently. The committee noted in their report, "A widely held view is that the legal system is based on wealth with one system of justice for the rich and one for the poor." (Report to the Chief Judge and Chief Administrative Judge, 1999, p. 4) Inadequate funding for community legal services has augmented this perspective. The privileged find justice easily attainable. The poor argue that their justice remains in the hands of overworked and underfunded

community defenders' offices. This perception hurts the image of the justice system, because the public feels that justice is for sale.

The committee called for action to change this perception. Some strategies include:

1. Dedicate additional funding for community legal services.
2. Encourage attorneys to increase involvement in *pro bono* cases.
3. Establish *pro se* representatives in the court system to assist those wishing to represent themselves.

Judicial Administration

In investigating the issue of judicial administration, the committee found four areas that required particular attention. The first involved a court system that was user-friendly to the public. The second included a positive jury experience. The third addressed delays in justice. The last called for funding for the maintenance of judicial facilities.

Strategies suggested by the committee include the following:

User-friendly Legal System

1. Create easily understood materials to explain the court system, the legal process and legal terms.

Jury Experience

1. Remind judges and court staff to be more sensitive to juror's needs.

Delays in Justice

1. Encourage judges and judicial staff to explain to litigants the reasons for delay in a case and list alternatives for case resolution.

Maintenance of Judicial Facilities

1. Develop short and long-term strategies to ensure sufficient funding of judicial facilities.

Legal and Judicial Ethics

Without the presence of legal and judicial ethics, the public will surely lose respect for law and for those who interpret it. To ensure credibility for the court system and its participants, the committee suggested some approaches:

1. Advise the public that aberrant judicial officers will be held accountable for their actions.
2. Establish programs in law schools and bar associations that address attorney professionalism and civility.
3. Produce materials that advise the public how to select legal counsel.

Media Portrayal and Public Understanding

Finally, the most important aspects that influence public perception of the court system involve the media's portrayal of the court system and the public's understanding of it. The committee discovered their investigation that the public's lack of understanding of the judiciary and their reliance on an often-uninformed media serves to undermine public perception. Moreover, negative public perception can potentially undermine the justice system. A disgruntled public can pressure legislators into taking action that affects the judicial budget. This, in turn, can adversely affect the operation of the judiciary. So, it behooves the judiciary to address these important issues.

The committee advocated the following strategies to deal with public education and the media's portrayal of the courts:

1. Expose students of all grade levels to the court system through courthouse tours, contests and multimedia learning materials.
2. Create a program that allows judges, attorneys and other courthouse staff to speak to churches, civic groups and other community organizations.
3. Appoint a public information officer to coordinate with media and handle media requests.

Each organization relies on public trust and confidence for its success. The judiciary is no different; perhaps it is even more important for this institution to enjoy these attributes because of the important role it plays in our society. As evidenced by the formation of a committee to investigate public trust and confidence, the judiciary has recognized the need to bolster public perception of the legal system. The committee's subsequent report identified areas of concern and advocated actions to close the chasm between the public and the judiciary. While some recommendations have been followed, still more remain unaddressed. Until the courts form a relationship with the public, independent of outside intervention, perception will not improve. Public trust and confidence in the judiciary will surely decline.

Courts and the Press

Historically, the press shaped public perception in the determination of guilt or innocence for those accused of criminal acts. In 1954, Marilyn Sheppard was bludgeoned to death as she lay sleeping in her home in a Cleveland suburb. The regional press printed

articles and editorials accusing local law enforcement of dragging their feet in the murder investigation. Subsequent editorials implicated the victim's husband, Dr. Sam Sheppard in the murder and demanded his arrest. Because of biased press reports, the public quickly came to the conclusion that Sheppard was guilty of murder.

As if negatively shaping public sentiment was not enough, the press then went on in a crusade to influence the jury in this case. Juror's names and photographs were regularly published. During the trial, reporters positioned themselves near the unsequestered jury in and out of the courtroom. The press ensured that Sheppard never had a chance for an unbiased trial. Sheppard was found guilty and sentenced to life in prison.

In modern times, proponents argue that today's enlightened standards would not allow such a circus to occur in the media's coverage of an event. Critics of the press, however, charge that articles involving the courts are "shallow and superficial, incomplete and misleading." (Lotz, 1991, p. 122)

Why then, are the courts often misrepresented in press accounts? Author Roy Edward Lotz (1991) offers an explanation as to why press coverage of the courts appears superficial. He writes,

Translating legalese into something readable can be particularly difficult when the court reporter does not understand the crucial legal points on which a case may hinge. Many reporters assigned to the courts are neophytes with little experience in any kind of news coverage and none at all in court coverage. Most court reporters are not legal specialists; few have gone to law school. Even those with legal training have much to learn...

p. 121

Linda Greenhouse worked in Washington DC as a correspondent for the *New York Times* in 1978. As a journalist, she covered the decisions released by the United States

the Supreme Court. In her essay concerning journalism coverage of the U.S. Supreme Court, Greenhouse (1996) outlined problems that exist within the media and the courts that preclude the best possible coverage of the judiciary. She offered thoughts from a reporter's perspective regarding coverage of the court. Greenhouse writes,

The press room at the Court is far from the action, in a ground-floor location that is actually a kind of half-basement... The Court's newsmakers, the Justices are rarely seen on that floor, visible, of course, on the bench whenever the court is in session, but opportunities for casual or unscheduled contact are almost non-existent. The journalist's job is almost entirely paper-dependent... While most politicians will cheerfully critique or angrily critique any story in which their name has appeared, Justices rarely respond to public comment, or even to rank error.

p. 1537

Unquestionably, communication between the courts and the press is lacking. The press, largely uneducated in legal procedure, feels that it cannot get the access to the information it requires to effectively cover the courts. Judicial officials, constrained by professional norms, feel that they cannot disseminate information regarding crucial litigation. Until these parties find an outlet in which to connect, their needs will remain unmet and the public will receive incomplete, superficial court information.

In this study, this researcher investigated press coverage of the courts to determine reporter bias. Through intercept studies and in-depth interviews, this researcher determined public knowledge and attitudes toward the court, as well as judicial attitudes toward the public and the media.

By supporting through research the need for a public affairs office in the federal court system, this researcher seeks to unite the court system, the media and the public.

An overview of the research and research methods will be presented in Chapter 3.

Chapter 3

Study Design

Overview of Methodology

This researcher aspired to define the attitudes of media, the general public and federal judges toward each other. To support the hypotheses listed in Chapter 1, this researcher compiled data using quantitative as well as qualitative methods. By understanding attitudes of the media, the general public and federal judicial officers, researchers can better determine the need for a program that will create and sustain positive relationships among the three parties.

To support the hypothesis concerning media coverage of court decisions, this researcher analyzed data collected through a content analysis of selected newspapers. This researcher separated newspapers into the following categories: urban daily, tabloid and elite media. This researcher then chose three controversial court rulings and coded newspaper coverage of those rulings to determine if the stories emitted a positive, negative or neutral tone to its readers. Upon the release of each court decision, this researcher collected newspaper stories that preceded and followed the controversial ruling. *Figure 2* illustrates the exact breakup of court decisions, newspapers and time periods of data collection:

To avoid the compromise of this investigation, this researcher enlisted the assistance of two additional coders to examine and rate the newspaper's court coverage as positive,

Figure 2

Decision/Issue	Newspaper	Category	Time Period
Habeas corpus	Intelligencer Journal	Urban Daily	3/31/97 - 4/30/97
	Lancaster New Era	Tabloid	
Exclusionary Evidence	New York Times	Elite Media	1/25/96 - 4/2/96
	New York Daily News	Tabloid	
Prison Overcrowding	Philadelphia Inquirer	Urban Daily	8/11/94 - 12/25/94
	Philadelphia Daily News	Tabloid	

negative or neutral. Coders were directed to read and classify each article as positive, negative or neutral according to their own opinions after contemplating the article. The coders' observations did not precisely match this researcher's codes. Nonetheless, as the coding results differed only by several points in each category, this researcher made the determination that there existed enough reliability in the results to move forward.

Once the results were collected from the coders, this researcher sought to compare the expected with the observed frequencies of the data. Through the use of the chi-square formula, this researcher compared expected with observed frequencies of the data to determine significant change. If the frequencies exceed values listed on the Distribution of Chi-Square table (refer to Appendix 1), the results are considered statistically significant. If the results are considered statistically significant, it supports this researcher's hypothesis concerning media coverage of court decisions.

To explore the hypothesis with regard to the public's knowledge of the federal courts, this investigator conducted intercept surveys of 132 respondents in the Philadelphia Metropolitan area. Surveys were distributed and results collected from March 2000 through April 2000. The survey sought to measure public attitudes toward the federal court system. It required respondents to rate the federal court system, as well as list sources from which they receive information about court decisions.

Often, respondents' thoughts regarding their knowledge of institutions do not concur with their actual understanding. For example, a survey question in this study called for respondents to rate their personal knowledge of the court system. Confident respondents might rate their knowledge as excellent. In reality, their knowledge might lack. To test perceived knowledge with actual knowledge, this researcher included queries regarding the term length of federal judges and well as the appropriate number of jurors seated in a federal civil case. *Figure 3* depicts the survey distributed.

To ascertain the position of federal judges, this researcher conducted in-depth interviews with twelve judges in the U.S. District Court in Philadelphia from September 1999 to January 2000. This researcher crafted a letter seeking to conduct an interview with judges on the federal bench. This letter was mailed to thirty judges on the federal bench. Twelve judges responded favorably to this researcher's request.

During the interviews, this researcher asked each judge a series of ten open-ended questions. These questions were designed to ascertain the judges' feelings regarding media coverage of the court, public opinion toward the court and the court's own perceived image. They were asked if they thought that a public affairs program would

assist the public in better understanding the court. In addition, they shared their thoughts regarding the functions of a potential court public relations program.

This researcher then examined and compared the judges' responses to assess similarities. These interviews consisted of questions that assessed the judges' views concerning media coverage of cases. In response to the questions, judicial officers gave their views on how the media shapes public perception of the court system. Judges recalled cases they felt damaged the court's image in the eyes of the public. They talked about the positive and negative feedback they received from the press and the public. Finally, judges shared their thoughts on an appropriate role of a public affairs program within the federal court system. *Figure 4* outlines the in-depth interview questions.

Figure 3

Please take a few minutes to answer the following questions:

1. Based on your knowledge, rate the federal court system.

(Check one answer)

- excellent
- good
- fair
- poor
- unsure

2. Where do you get your information about federal court decisions?

(Check all that apply.)

- newspapers
- radio
- television
- other (Please explain) _____
- internet
- word of mouth (friends, relatives, etc.)
- no access to information

3. Rate your knowledge of the federal court system.

- excellent
- good
- fair
- poor

4. How many jurors are chosen to serve on a civil trial in federal court?

- eight
- ten
- twelve
- fourteen
- unsure

5. How long is a federal judge's term?

- two years
- six years
- ten years
- lifetime
- unsure

6. Have you ever had personal contact of any kind (as a juror, litigant, witness, etc.) with the federal court system?

- yes
- no
- unsure

7. What is your age? (Check the appropriate answer)

- 25 years and under
- 26 – 35 years
- 36 – 45 years
- 46 – 55 years
- 56 – 65 years
- over 65 years

8. What is your sex? (Check the appropriate answer)

- male
- female

Thank you for taking the time to complete this survey!

Figure 4

1. **Do you feel the media provides positive press toward court positions?**
2. **Do you think the public agrees with court positions?**
3. **To what extent does media reporting on court issues shape public perception of the court?**
4. **In your view, is it important for the Court to project a positive image in the media and in society?**
5. **Are there instances where it is not important for courts to project a positive image in the media or in the public's eye?**
6. **Can you recall any specific cases where the court's public image was damaged by media reports?**
7. **What positive feedback have you experienced from the media?**
8. **What negative feedback have you experienced from the media?**
9. **Do you think the courts and the public would benefit, or would better understand each other if a public affairs/public relations program was implemented in the courts?**
10. **In your view, what should a public affairs/public relations program look like? (What is its function?)**

The results of these studies will be presented in Chapter 4.

Chapter 4

Results

This study yielded valuable results in determining the behavior of the media, as well as the attitudes of the general public and the judges that preside over federal court cases. As no public affairs medium currently exists within the court system, this researcher expected a need for such an office.

H1: It is expected that the media allow public sentiment to interfere with its objectivity in reporting court cases.

This researcher dealt solely with newspaper media. In that venue, media reporting varied according to location as well as newspaper classification. Newspapers classified as “elite media” and “urban daily” reported stories in an objective manner. By contrast, “tabloid” newspapers reported court proceedings with a significantly negative slant after the court handed down unpopular rulings. The results of content analyses performed on the media coverage of selected court decisions illustrate that point.

On April 22, 1997, after having found that local police manipulated evidence against her, a federal judge declared petitioner, Lisa Michelle Lambert “actually innocent” of the first degree murder of classmate, Laurie Show. Because the staggering evidence mounted earlier in the hearing, the judge had released previously Lambert to the custody of her attorneys on 4/17/97. A content analysis of the two major local newspapers suggested that reporters maintained a neutral stance until the court made the unpopular decision to release Lambert.

Table 1

***Intelligencer Journal* – Lancaster, Pennsylvania**

Dates	Total Articles	Positive	Negative	Neutral
3/31/97 – 4/16/97	14	0	0	14
4/17/97 – 4/30/97	33	4	21	8

***Lancaster New Era* – Lancaster, Pennsylvania**

Dates	Total Articles	Positive	Negative	Neutral
4/3/97 – 4/16/97	10	0	1	9
4/17/97 – 4/23/97	27	1	17	9

Table 1 illustrates the frequency of positive, negative and neutral articles that appeared in the *Intelligencer Journal* and the *Lancaster New Era* at the time of this hearing.

Although the newspapers neutrally reported this hearing before the Court’s ruling, articles that appeared after the judge released Lambert carried a negative tone. The

negative tone continued and intensified as the court issued its final decision. In an attempt to incite its readers, both newspapers included stories featuring the horrified shock of the victim's family and the legal as well as general communities. The April 18 edition of the *Intelligencer Journal* even went so far as to highlight a pullquote illustrating Lambert's words, "Can you take me to Disneyland?" to elicit public outcry. The April 25 edition of the *Intelligencer Journal* included a particularly biased article written by *Intelligencer Journal* staff writer Jeff Hawkes. In the article, "In Show case, the truth keeps slipping away," Mr. Hawkes implied that the federal judge who presided over the case implemented "his [own] official version of the truth" in making this decision.

Letters that decried the court's decision poured into the editor's office. These letters were prominently displayed in the editorial section under subheads such as "Our sick system" (*Intelligencer Journal*, 4/28/97, p. A-13) and "Mocking Justice." (*Intelligencer Journal*, 4/30/97, p. A-11) The newspaper's editorial section appeared adjacent to the letters. It offered its sympathy to the police and indirectly criticized the court.

This researcher found no evidence of support for the court or its decision. The newspaper articles did not attempt to educate the reader as to the legal background of the case. Reporters merely outlined negative community reaction, included their own "two cents" and cemented perception that the court system had, once again, let down the people that it serves.

Results from calculation of the content analysis using the chi-square statistic support this researcher's hypothesis. This researcher collected 47 articles from the *Intelligencer Journal*. By recording the number of positive, negative and neutral articles expected and comparing them with those observed using the chi-square formula, this researcher

calculated a chi-square of 18.939. With two degrees of freedom, this value exceeds the .10 probability (4.605), the .05 probability (5.991) and the .01 probability (9.210) according to the Distribution of Chi-Square table. (See Appendix 1)

Similarly, results from the content analysis of the 37 articles from the *Lancaster New Era* also support this researcher's contention. Using the chi-square statistic to compare the expected frequencies to the observed frequencies, this researcher calculated the chi-square as 15.79. In consulting the chi-square significance table, this researcher found that with the required two degrees of freedom, the result of 15.79 far exceeded the probability value of 9.210. This indicates a statistically significant difference with a 99 percent level of confidence.

In layman's terms, the results achieved by a content analysis of the articles in both newspapers indicate a statistically significant negative slant in reporting. To further support the hypothesis concerning the media's lack of objectivity in reporting court cases, this researcher performed a second content analysis of two separate newspapers' coverage of a controversial court decision.

In 1986, lawyers representing the city of Philadelphia entered into a consent agreement with those representing prison inmates who had sued the City over the issue of prison overcrowding. This lawsuit, Harris v. City of Philadelphia, et al, 654 F. Supp. 1042; 1987 U.S. Dist. LEXIS 14619, was filed in federal court. Therefore, a federal judge presided over the case and approved the consent agreement.

Under the terms of the agreement, whenever the inmate population exceeded the limit, or "cap" of 3,750, officials took measures to ensure that only those charged with more serious offenses were jailed. Those charged with misdemeanor crimes were processed at

police headquarters and immediately released. Because the City consistently violated the terms of that agreement and allowed the prison population to swell beyond its capabilities, prisoners, who would otherwise remain jailed, were let out into the streets.

Understandably, this made some people upset. Philadelphia's mayor and district attorney topped the growing list of those infuriated by this policy. Instead of directing that energy into finding solutions for this chronic problem, they chose to direct that anger at the federal judge who approved the agreement.

The media also placed blame on the judicial officer who did nothing less than her job in presiding over and enforcing the agreement that both the City and inmates advocated. Newspaper headlines screamed foul and fingers pointed at the judge for allowing the prisons to have an "Open Door Policy." (*Philadelphia Daily News*, 8/10/94) Philadelphia's mayor and district attorney regularly voiced their displeasure at this policy and at the judge who dared to enforce it.

City administrators used the media as a conduit to spread their message to Philadelphians and residents in neighboring regions. The media served as an anxious participant as articles emerged portraying the mayor and the district attorney as crusaders of justice, while at the same time portraying the judge and the court that she represented as villains. Newspaper articles pitted the City against the Court.

Because city officials used the media to launch this very public crusade against the judge, readers were treated to a one-sided view of this issue. Published letters to newspaper editors reflected the public's disapproval of this policy. They transferred that disapproval to the court system. ("Prison Cap Travesty Reflects Flaws In Court System," *Philadelphia Daily News*, 9/9/94)

The Rules of Professional Conduct preclude judges from commenting on pending litigation, thus the judge was precluded from defending herself and her actions. There existed no court public affairs program in place to refute public allegation. The media unfairly portrayed the court in an unfavorable light. This resulted in the loss of public confidence in the court system.

To test the hypothesis that media allowed public sentiment to interfere with objective reporting, this researcher performed a content analysis on articles that appeared in the *Philadelphia Inquirer*, an “urban daily” newspaper and the “*Philadelphia Daily News*,” considered by this researcher to be a “tabloid.” Articles that appeared in both newspapers during the period from 8/94 through 12/94 were collected and examined.

Contrary to this researcher’s hypothesis, the results suggested that the *Inquirer’s* reporting was objective as a whole. Some writers, much to their credit, actually came to the court’s defense and placed the court in a positive light. This newspaper offered articles, which highlighted both sides of the issue. Consequently, the content analysis results from the *Philadelphia Inquirer* failed to support this researcher’s contention concerning biased media reporting.

On the other hand, results from the content analysis of the *Philadelphia Daily News* supported this researcher’s hypothesis. Of the 47 articles collected from the *Daily News*, 31 articles were classified as negative and 16 articles as neutral. This researcher found no positive articles.

Table 2 illustrates the division of articles within each newspaper.

Table 2

***Philadelphia Inquirer* – Philadelphia, Pennsylvania**

Dates	Total Articles	Positive	Negative	Neutral
8/11/94 – 12/25/94	27	5	3	19

***Philadelphia Daily News* – Philadelphia, Pennsylvania**

Dates	Total Articles	Positive	Negative	Neutral
8/31/94 – 12/21/94	47	0	31	16

To test the statistical significance of the results of each content analysis, this researcher used the chi-square statistic to compare expected with observed frequencies in the data. By comparing the expected with the observed data from the *Philadelphia Inquirer*, this researcher calculated in a chi-square of 16.89. This sum exceeds the value listed in the Distribution of Chi-Square Table (Appendix 1) table under the .01 probability level. Accordingly, with a 99 percent confidence level, this researcher concludes that there exists a statistically significant neutral slant in the *Philadelphia Inquirer's* reporting of the prison overcrowding issue. This, consequently, does not support the hypothesis that the media allows public sentiment to skew its objectivity.

Results from the *Daily News*, however, are consistent with the stated hypothesis. The comparison of expected and observed frequencies effected a chi-square of 30.68. As this value exceeds that listed in the Distribution of Chi-Square Table under .01 probability, this researcher concludes with a 99 percent level of confidence that there exists a statistically significant negative slant in the *Daily News*' reporting of the issue of prison overcrowding.

To further explore this claim, this researcher examined articles from a 1996 federal court case in New York. In this case, a judge excluded evidence found by New York police officers during a car search. The judge ruled that the seizure of over 40 pounds of illegal drugs and the suspect's videotaped confession should be excluded as evidence. The drugs possessed a street value of approximately \$4 million. The judge excluded the evidence because he felt the police had no initial reason to search the vehicle. Because of the judge's ruling, the prosecution had no evidence upon which to proceed with the case.

The ensuing media firestorm emblazoned a brand of public mistrust on the court system. Newspapers openly attacked the ruling. They described the decision as "boneheaded" and "anti-cop." It wasn't until months later, when the judge reopened the case and reversed himself, that the flames became doused.

This researcher compared articles from the *New York Times*, part of America's "elite media," with those from the *New York Daily News*, a "tabloid." Although both newspapers covered the same event, they offered vastly different styles of reporting. Results gleaned from the *New York Times* data revealed a significant statistical neutral slant in its style of reporting.

By contrast, the *New York Daily News* coverage yielded results that supported a statistically significant negative slant in news reporting. Table 3 portrays the data gathered from each newspaper.

Table 3

New York Times – New York

Dates	Total Articles	Positive	Negative	Neutral
1/25/96 – 4/2/96	18	0	1	17

New York Daily News – New York

Dates	Total Articles	Positive	Negative	Neutral
1/25/96 – 4/2/96	17	0	16	1

As with the other newspaper results, this researcher used the chi-square statistic in calculating data. As a result of comparing expected with observed frequencies in the *New York Times* data, this researcher effected a chi-square of 30.34. This value exceeds 9.210, which is at the .01the probability level with two degrees of freedom, according to the Distribution of Chi-Square table. Thus, this researcher concludes with a 99 percent level of confidence, the *New York Times*' reporting of this court ruling held a statistically significant neutral slant.

Calculation of results from the *New York Daily News* effected a chi-square of 28.34. This also exceeds the value at the .01 probability level. With a 99 percent level of confidence we conclude that the *New York Daily News* featured articles carrying a statistically significant negative slant.

Results from the *Philadelphia Inquirer* and the *New York Times* failed to support this researcher's hypothesis. With respect to this research, this finding indicates that elite media and urban daily newspapers seek to remain objective in reporting events.

By contrast, results from the Lancaster newspapers as well as the *Philadelphia Daily News* and the *New York Daily News* support this researcher's contention. These newspapers enjoy large readerships. Because of biased reporting, readers receive a one-sided issue of court issues. Biased reporting affects public perception. Without a program in place to combat the effects of biased reporting, the public will continue to perceive the court system in a negative stance. Moreover, the public's ignorance of the court system will make them more likely to believe the negativity of the courts reflected in newspaper articles.

H2: It is expected that the public is unknowledgeable about the federal court system.

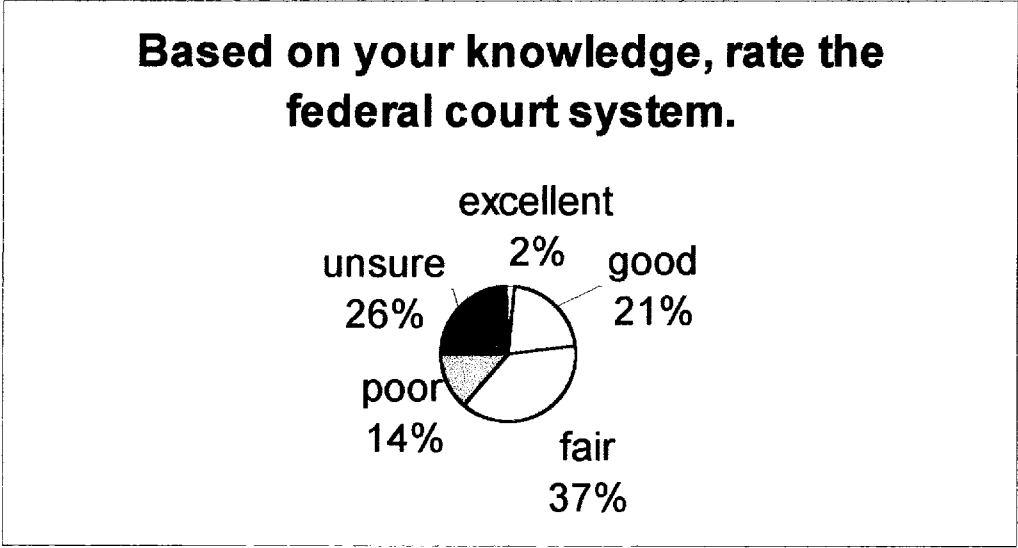
This researcher surveyed 132 respondents in the Philadelphia Metropolitan area. Males accounted for 41 percent of this sample and females accounted for 59 percent. Respondent ages ranged as follows:

25 and under:	19 %
26 – 35 years:	32%
36 – 45 years:	22%
46 – 55 years:	20%
56 – 65 years:	7%

Male respondents answered very much the same as female respondents. The differences in the responses of females compared to those of males were not statically significant. Thus, this researcher contends that public knowledge of the courts is not a gender issue.

There existed, however, significant findings as to the public's attitude toward the courts. Over 50 percent of those surveyed gave the federal court either a fair or poor rating. One-fourth of the respondents was unsure of their attitudes toward the court. Only 23 percent gave the federal court a good or excellent rating.

Chart 1 Numbers are rounded to the nearest percent. See Appendix 2 for exact percentages.



Perception of the courts forms in response to the media, since the media acts as the sole vehicle through which the public receives its information regarding court happenings. The intercept survey results revealed that most respondents get their news

from television and newspapers. A surprising number of respondents told us that they get their information on court decisions through word of mouth. Table 4 illustrates the breakdown of responses. Note that total percentages do not equal 100 because respondents were permitted to check multiple responses.

Table 4

Where do you get your information about court decisions?

	Frequency of Responses	Percent
Newspapers	86	65.2
Radio	60	45.5
Television	103	78.0
Internet	14	10.6
Word of Mouth	40	30.3
No Access to Information	3	2.3
Other	14	10.6

Interviewees’ knowledge of the court system seemed to parallel their attitudes. The majority of respondents rated their personal knowledge as “fair” or “poor.” In the few cases where respondents boasted an “excellent” comprehension of the federal court system, they proceeded to incorrectly answer the subsequent questions that tested their knowledge. Only two respondents that indicated an “excellent” scored perfectly. One of those respondents was an attorney.

Table 5 offers a breakdown of responses.

Table 5

Rate your knowledge of the federal court system.

	Frequency of Responses	Percent
excellent	3	2.3
good	13	9.8
fair	66	50.0
poor	50	37.9
TOTAL	132	100

The questions that directly tested respondents' knowledge of the federal court system yielded significant results. Most interviewees thought that the court required twelve jurors to sit on a civil jury trial. One-fourth of the respondents had no clue as to the number of jurors required to serve. In accordance with local rules, the U.S. District Court in the Eastern District of Pennsylvania prescribes that attorneys select a jury of eight to serve on civil cases.

Another significant observation involved the question concerning the length of time that judges may serve on the federal bench. While an impressive 42 percent of interviewees responded correctly, nearly the same number indicated that they didn't know. Charts 2 and 3 illustrate those observations.

Chart 2

Numbers are rounded to the nearest percent. See Appendix 2 for exact percentages.

How many jurors are chosen to serve on a civil trial in federal court?

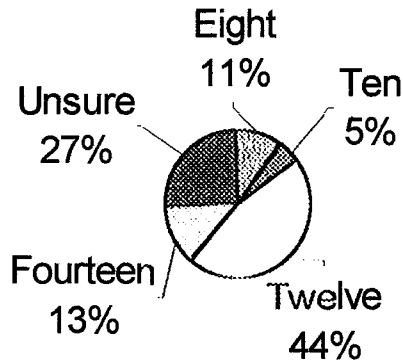
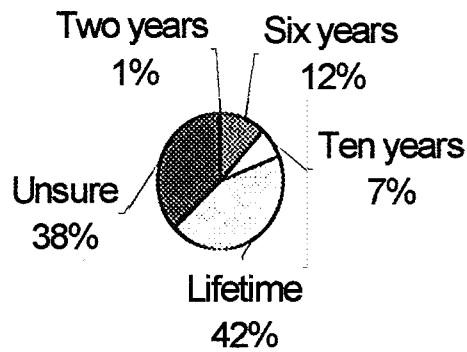


Chart 3

Numbers are rounded to the nearest percent. See Appendix 2 for exact percentages.

How long is a federal judge's term?



Of the 132 respondents that completed this survey, six correctly answered the questions that tested their specific knowledge. Only 23.5 percent of respondents reported they had personal contact with the federal court system at some point in their lives. More than three-fourths of the sample (75.8 %) had no contact with the federal court system.

Overall, these results paint a sad portrait of public attitudes and knowledge of the federal court system. While a few respondents gave an “excellent” or “good rating” to the courts, the vast majority rated the court as “fair” or “poor.” One-fourth of the sample could not give a definitive rating.

Respondents’ assessment of their own knowledge of the federal courts fared even worse. Over a third of those surveyed (37.9 %) indicated they possessed a poor knowledge of the courts. One half of respondents rated their knowledge as “fair.”

The test questions regarding judicial tenure and the number of civil trial jurors supported the respondents’ fair/poor self-assessments. While 42 % of respondents correctly answered the question regarding a federal judge’s term, an almost equal number of respondents (38%) indicated that they were unsure.

Similarly, responses to the question involving the number of jurors on a federal civil trial illustrated poor knowledge. Most respondents (44%) thought that twelve jurors served in federal civil trials. Only 11 percent gave a correct response to this question.

Because so few respondents had direct contact with the federal court system (23.5%), this researcher can only conclude that respondents get their knowledge of the courts through the media. Of those surveyed, the majority of respondents indicated that they receive news of court decisions through television and newspapers. Perhaps public

attitudes and knowledge of the federal court system lack because the media lacks in its reporting of the federal courts.

H3: It is expected that judicial officers will recognize the need for communication between the courts and the public and support the implementation of a program that fosters education and communication.

To ascertain federal judge's positions regarding the media's portrayal of courts, public perception of the courts and the necessity of a public affairs program in the federal court system, this researcher conducted in-depth interviews with twelve federal judges in the U.S. District Court in Philadelphia. The following statements are excerpts from interviews of the judicial officers. To protect the identity of those surveyed, this researcher will identify each judge with an assigned number.

1. Do you feel the media provides positive press toward court positions?

(Federal Judge #2) "It provides a partial picture of what's happening, unfortunately there is a sensational aspect, they have to look at what will be appealing to the purchasers of their newspapers. They sometimes give both sides, but not always. They don't give a fair review. Depending on the response of the public, they tend to continue something that doesn't need to be protracted or they abbreviate something that requires more explanation. We need an impartial reporting system that can accurately report what's going on."

(Federal Judge # 8) "I think they provide uninformed press. They are more concerned with getting a headline out there than they are with accuracy. They will report what sells newspapers. I don't blame them, because who cares about the subtleties of why a ruling was made. The average person doesn't want to read that. They want to read about sex and violence and disruptions. I don't think they go out of their way to trash us. Because they write at such a superficial level of what we do, the result of it is that we get inaccurate reporting. It sometimes aggravates me when I read a report about a proceeding and I know that half of facts are missing. If they were in there, the story would have an entirely different spin. They don't understand or they feel that the public doesn't need to know, so they give a superficial report of the proceedings."

Three judges felt that the media was generally positive in its representation of the court system. They praised the *Legal Intelligencer*, a legal trade publication, for its endeavor to report complete and correct facts.

The majority of judges, however, asserted that the fairness of media reporting varied case by case. They noted that the media often took positions of interest to the public. These positions were forged, however, without a complete knowledge of the facts of the case. Therefore, reports passed on to its constituents reflected the media's limited understanding. They influenced public perception because the public accepted those facts as true. The public had no other venue in which to compare facts and form its own opinions.

2. Do you think the public agrees with court positions?

(Federal Judge #1) "If the public knew the background of the cases, they would be inclined to agree, but because they don't, they make snap judgments and that's what hurts."

(Federal Judge #3) "Most of the time they do except when they don't understand the result of the case. They feel the judge was not strict enough without knowing all the factors, they sometimes don't realize that there are constitutional issues involved and the judge cannot overlook that or go beyond it. Because basically, you have the Court of Appeals which people are not aware of, look over the shoulder of the District Courts and come to their own conclusions that have nothing to do with what went on in court and it's never properly explained to people why they did it."

(Federal Judge #9) "In general, yes. I think they believe in the integrity of the system. Even though there may be a decision rendered by the trial level, the public is aware that there are the appellate courts that exist to correct errors that may have been committed by the trial judge. There is a feel among the common public, that if there is a wrong, there is another level that can be righted."

Most judges agree that the public would be more inclined to concur with court decisions if the public had all of the facts of the case before them. One judge noted that

through television shows, the media gives the public a “television-influenced idea of how the judicial system should work.” Federal Judge #8, (personal interview, 2000.) In an attempt to lure viewers, television writers submit story lines that highlight drama and suspense. In the world of TV, attorneys often engage in unorthodox and illegal methods to win cases. TV Judges, such as the infamous Judge Judy, indulge in hard-hitting, snappy one-liners that realistically would have no place in a court of law. These shows encourage a false perception of the court system.

3. To what extent does media reporting on court issues shape public perception of the court?

(Federal Judge #4) “I think it has a great effect on the public perception, positive or negative. Most people don’t go to the courthouse to observe what’s going on and most people don’t read court opinions. Their knowledge of the courts comes from the media via television or the print media or the radio.”

(Federal Judge #8) “I think it’s 100 percent because how else does the public know what courts do? Chances are that the normal educated person on the street doesn’t even know the difference between federal and state courts; or trial courts and appellate courts. We are a piece of the world that everybody knows of, but nobody knows about. Everybody knows there are judges in courts, but nobody, except for what they read in the paper, has the foggiest clue of what we do, who we are, which one of us does what. And they get that entirely from the newspaper. And what they don’t get from the newspaper, they get from L.A. Law, or one of those shows.”

(Federal Judge #12) “Totally. It’s the only place they find out about it.”

The judges unanimously agreed the media has the ability to affect public perception. The majority of the public comes into contact with the court system through jury service, or as a party in a court action. This exposure, however, is limited. Because of limited personal exposure to the court system, the public fails to comprehend the nuances of court procedure. Instead of increasing their own exposure to the court system, the public

remains content to rely on the media for information on the courts and court decisions.

Therefore, the media completely shapes public perception of the courts.

4. In your view, is it important for the Court to project a positive image in the media and in society?

(Federal Judge #2) “There is no question that they have to. The court must portray itself as an effective arm of the government. Many people do not understand the distinction between civil and criminal cases. They do not understand the distinction between “beyond a reasonable doubt” and a “fair preponderance of the evidence.” They have no foundation for much of what they read or what they see.”

(Federal Judge #3) “Absolutely, because for people to have regard for any institution, it’s important that they understand the institution and that it be a positive one, that it’s one for the good of the community and society. All the issues that the other two branches of government will not deal with end up in the courts. People who are elected do not wish to deal with it. These are issues that are heartfelt; there is no walking away from it. The courts must deal with it and make a stand whereas the others don’t have to do it; they can form a committee to avoid the problem.”

(Federal Judge #6) “Absolutely. There are three branches of government here. We’re all supposed to be co-equal branches of government. There’s a lot of issues entrusted by the constitution to the courts and it’s important that the public have faith and trust in the courts and the judges and the staff that make up the courts. Otherwise, I think there might be a situation that when the court does render a decision, there might be disobedience or disrespect for the court order and that could not serve society as a whole.”

Although all the judicial officers agreed that the public should perceive the court in a positive manner, they stressed that the court should not market itself. The judges strongly asserted that they are governed by the facts of each case and its applicable laws. While they felt that it was important for the public to have confidence in the court system, they refused to be governed by public perception.

5. Are there instances where it is not important for courts to project a positive image in the media or in the public’s eye?

(Federal Judge #4) “I think it’s always important for the courts to project an accurate image.”

(Federal Judge #5) “No I can't think of any instances where it would not be important. However, the courts can't be governed by whether or not the image they convey is a positive one. They have to be governed by the facts of the law of the case and rule accordingly. It's nice that the public think what they want to, but it’s even more important that what we do is correct.”

(Federal Judge #6) “No, it’s hard to imagine why it wouldn’t be important. Even the most trivial or minor cases are still very important to the people that are involved in it. For the most part, cases that get into the media are important cases so even more so. So it’s important there’s a positive image that the court’s doing a good job and it’s following the law. Especially when you get into a situation where the courts applying the laws passed by the legislature, it’s important that the people know that so if the people are not happy with the law, there’s an avenue to change it by contacting their congressmen.”

As with the last question, the judges feel that it is more important to project to the public an accurate image of the court system. The judicial officers surveyed were not interested in considering their own popularity each time they rendered a decision. They voiced the intent to render decisions according to the facts and the law.

6. Can you recall any specific cases where the court’s public image was damaged by media reports?

(Federal Judge # 1) “The O.J. Simpson case; the case in New York where Judge Bear threw out drug evidence in 1996; Lambert v. Blackwell. In Lambert, the public didn’t have an accurate understanding of procedure. The media had a field day. They didn’t seem to be interested in technical aspects as to the reason this case was in federal court. This case was so contrary to the evidence. The public was outraged by the Court’s decision, but sometimes outrage can be modified. The public ought to know how important the aspect of habeas corpus is to an individual. People have the right to criticize, but they should have a reasonable understanding of the facts and the procedure.”

(Federal Judge #3) “The O.J. Simpson case. The media was reporting aspects of it and trying to get different points of view of the case, not necessarily from people who always knew what the facts were. What you had was various people making statements that get

into the press, that got on to the television that had nothing to do what was going on, a lot it was a critique or criticism, so people only heard negative things, not positive.”

The Lambert v. Blackwell case described earlier figured prominently in the judges’ responses. More than half of the respondents concluded that press coverage of this action negatively influenced public perception of the courts.

Harris v. City of Philadelphia, et al. , an action involving prison overcrowding outlined in Chapter 3, frequently occurred in the judge’s responses. Respondents felt that the press unfairly vilified the judge who presided over this case.

The widely-publicized O.J. Simpson murder trial further corrupted the court’s public image. The judges surveyed asserted that the parties involved allowed the media to create a three-ring circus in its reporting of this trial. This dealt a staggering blow to the public’s confidence of the court system.

One judicial officer spoke of a case involving Bruno Richard Hauptmann, a German immigrant accused of kidnapping and killing the baby of the American hero, Charles Lindbergh. In this case, circumstantial evidence and sensationalistic media reporting negatively influenced public perception toward the accused. Principles such as truth and justice ostensibly took a back seat during the “Trial of the Century.” Trial attorneys engaged in unprofessional behavior and viscous attacks for the press’s benefit.

Hauptmann was subsequently convicted and executed in 1936. Over 60 years later lingering doubts of Hauptmann’s guilt and the court system that condemned him remain.

Sensationalistic media coverage of these cases and others have traditionally chipped away at public confidence of the courts. While the judges maintain that the media does

have a right to question and challenge the legality of court decisions, they felt that biased and incomplete media reporting are unfair and have no place in American society.

7. What positive feedback have you experienced from the media?from the public?

(Federal Judge #6) “In settlement conferences, I get the opportunity to meet with the clients as well as the lawyers. They sit in my chambers and I have the opportunity to explain the case, the law and my views as a neutral mediator. I find that I get positive feedback in those cases because I resolve those cases to the satisfaction of the parties. They’re satisfied that a judge took the personal time to become involved and to talk directly to them. In the courtroom setting, I think it’s very rare that a judge has the opportunity to have direct contact with the litigants and bypass the lawyers.

Sometimes the public will write letter, thanking me for the job I’ve done.

For the most part the only media we have that actually measures our performance is a book called the *Almanac of the Judiciary* where the editors of that publication actually interview lawyers and ask them to assess the ability of the judge. We get, in writing their comments, which are published.

It’s very rare for the journalist to say that the judge did a good job or that that judge was wise or smart. They may comment on some of the things the judge said or the opinion they wrote but very rarely do we get an analysis of how we’re doing.”

(Federal Judge #9) “Recently, I got an article from a local community paper about a sentence I imposed on a woman. They wrote that I was “heartless.” This woman was convicted for conspiracy along with several counts of perjury. They didn’t talk about Guideline sentencings – The article was more interested in the harshness of the sentence.”

Most of the judges reported very little positive feedback. The positive feedback received often came from jurors who otherwise would not have been exposed to the court system. These jurors were surprised to find a court system that was very different from that they read in newspaper accounts.

8. What negative feedback have you experienced from the media?....from the public?

(Federal Judge #1) “Both are too quick to judge without knowing all the facts.”

(Federal Judge #5) “Usually it's not direct. It's by inference by the way it's reported.”

(Federal Judge #6) “The only negative comment, not a direct comment on our ability, but it would be that when they're writing up a case or describing what we did, it would be reported inaccurately or incompletely. They might explain what the judge did, but they don't explain why or left out certain details. You see that a lot when you read about U.S. Supreme Court Cases – when you actually read the case, you see that there was more to it, or that it was superficially covered.”

The judges overwhelmingly reported that the negative feedback they experienced came from the press. Negative feedback should not necessarily be viewed as a disadvantage. Instead, negative feedback serves to challenge an individual to revisit and improve performance.

Often the judges voiced the fact that negative feedback is an inevitable part of the judicial process. Federal Judge #4 notes:

Nobody likes to be criticized. Judges don't like to be criticized either. Judges don't like to be reversed, but that's the fact of life and you have to be prepared for criticism. We're in a public role and we can't avoid it and some of it might be justified and some of it might not be justified, but that's the way it is.

Federal Judge #4 (personal interview, 1999.)

Although negative feedback exists, one must ponder its source. Negative feedback from an uninformed press serves to create false public perceptions of the court system. These false perceptions corrode public confidence and create an environment of mistrust. To date, there exists no entity to rebut incomplete information and false charges by the media.

9. Do you think the courts and the public would benefit, or would better understand each other if a public affairs/public relations program was implemented in the courts?

(Federal Judge #1) “There is no doubt about it. A lot of judges come to the federal bench from law firms where they have has no real experience in handling the media. A public affairs program could assist in counseling the judges in what to say or not to say to the media. The Bar Association sometimes attempts to educate the public, but those programs are not well organized, or they are too scant to make a difference.

(Federal Judge #2) “Sure. Absolutely, starting with the children and their understanding of the law.”

(Federal Judge #3) “They would if the PR person was seen as “spokesperson” who spoke completely the truth, that didn’t put a spin on it.”

(Federal Judge #4) “I think we should have one. For several reasons; judges are under constraints in talking about their opinions to the media and to others. If we had a knowledgeable public relations arm, the media could go to that individual to get background information or to get a better understanding of what the court decided. I think a PR arm could also be useful in explaining to the public the role of the federal courts; how they work and even provide speakers to go to the public school and to groups to help the public better understand what we do. To put in that category, I think there’s a function for judges to do that on occasion to go to public schools, to go to groups, not to talk about individual decisions, but the importance of the federal courts and I think the public does not have as good an understanding of the courts as they may have of the congress or the executive branch. Anything we can do to educate the public about our role I think is very worthwhile.”

(Federal Judge #5) “Yes, I think it would be a good thing because obviously judges can’t do it themselves and often something is reported improperly and the judge just has to remain quiet and not come to some defense, so I think it would be important to have some public affairs or public relations program that can respond. I’m not saying they should do it in every case, but some of the serious ones. There have been cases, for example, you talk about specific instances here, the people were offended by what the judge did and called for impeachment. What he did was probably, although unpopular, what he did was probably right under the law. So, you have to have some way of responding to it. In the past in some cases the bar associations has responded but I think it might be better if you had public affairs arm of the courts which can do it accurately and quickly.”

(Federal Judge #6) “Yes. Usually, the press tries to contact the courts and the judges can’t respond to the press. If there was a public affairs officer that the press could contact, the stories would be more balanced about the courts. They would get the court’s point of

view. There would be a counter balancing of the negative criticism of the courts, or at least give it the court's perspective. To make it effective there should be an officer in each district. You'd have to make sure that the public affairs officer would run afoul of the Canons of Judicial Conduct which prohibit the judge from speaking to the media about ongoing cases."

(Federal Judge #7) "Somewhat, I think. Perhaps as a spokesman. Although the source of the case might have to come from me, so it's almost me speaking to the press. I'd have to think about that. I think it wouldn't hurt, but I don't know if that would justify employing someone for that."

(Federal Judge #8) "For sure, but the tough question is if you have a public affairs officer, what should that person's charge be? Some law firms have public affairs officers, but their sole job was to get the firm into the paper. We have none of that. We're not a business."

Of the twelve judges that took part in the in-depth interviews, ten agreed that a court public affairs program would benefit understanding between the courts and the public. One remains uncertain.

The two that did not agree voiced concerns that adding a public affairs office would amount to the addition of another layer in the interpretation of judicial decisions. They felt that an intermediary between the courts and the public would need to be skilled in the area of law. The dissenting judges argue that the Court should not try to market itself to the public.

This researcher submits, however, that public affairs offices are not concerned with marketing. Public affairs entities seek to fashion a communicative relationship with the public it serves. Those entities serve to pass on complete and correct information and gain valuable feedback to pass to its original source.

The research in this study supports the hypothesis that the media, which serves as the sole conduit between the courts and the public, fails to responsibly convey court news and information. The majority of the judges surveyed agree with this hypothesis. They

feel that a public affairs office in the court system would serve two major roles. These roles will be outlined in the next paragraph.

10. In your view, what should a public affairs/public relations program look like? (what is its function?)

(Federal Judge #1) “The program should not be just fluff. It should include some kind of aspect to educate the public on the courts and court procedure in certain cases.”

(Federal Judge #3) “Its function would be, primarily, to educate. To let people know exactly what the courts do. People don’t know what the courts are. They couldn’t tell you a state court judge from a federal judge. They couldn’t tell you a federal action from that of the state court. They have no idea, because those people don’t use the courts. Trying to recruit jurors that are intelligent, educated and willing to serve. They may explain certain questions that the judge cannot address in open court; people should have access to the Courts at all times. A “go between” between the press and the judge. To deal with the images that courts and lawyers have based on the soap operas and the various kinds of programs they put on that have absolutely nothing to do with what goes on.

A lot of cases that are worthy of the public’s attention but they don’t get it because of the amount of space allotted in the newspapers. Also the reporters assigned are very few and they don’t time to so that. In courts such as ours, there’s a large amount of material. It’s hard for them to go through that. Maybe a PR person could pull that out to show how it affects people.”

(Federal Judge #4) “I don’t think it’s the role of the PR person to put a spin on what were doing here. That’s not what I envision the job to be. It’s to give accurate information and to educate the public about the role of the courts, and to help the media in understanding decisions which are issued by the court.”

(Federal Judge #5) “Well its function, I think, should be to correct misreporting by the media and to give the side of the court. On the other hand, I don't think it should be a very obvious program, I don't think it should be out front all the time. I think it should be reserved for instances where it's definitely a miscarriage of reporting by the media to correct obvious misinformation, rather than a constant thing. I don't think we should be propagandizing all the time, but at least be able to report the truth to people, particularly when it affects the image of the court. And when it affects the image of the courts negatively, that doesn't just hurts the courts, but it hurts our whole system and hurts the people generally and that's what we're concerned about. We're not concerned about our image as individuals. We do what we have to do and if they want to criticize us so be it. But, I think that when they get a negative image of the court; when you get unjust

criticism, then it really hurts our system which, by the way, I think is the greatest judicial system ever created by mankind. It doesn't mean we're perfect.”

(Federal Judge #6) “The function would be proactive as well as reactive. Day in and day out, it would proactively educate the public. Whether it would be going to schools and having a school program, or having a “Courts Day” where the public could come in and observe things. Maybe have a training seminar or people could go into schools. The second function should be reactive. They react to public inquiries or public news stories about what’s going on in the Courts and they can explain why things happen. Not just sitting at his/her desk waiting for the phone to ring, but providing the public with information about the courts and what the law says. Maybe the public affairs officer can bring to their attention [the press] decisions that might not have otherwise been reported on and explain why they’re significant.”

(Federal Judge #7) “Its main function would be to educate people so that they would gain a confidence in the fairness of the court. I think that might be especially true in the criminal side where they would be able to explain things so that people understood.”

The two main themes echoed in the judge’s responses to this questions included education and the correction of misinterpretations in media reporting. Hypothesis #2 of this study suggests that the public remains unknowledgeable about the court system. Educational outreach efforts conducted by a court public affairs office could improve public understanding and perception of the court system. If the public gained more exposure to the court system through outreach programs, public perception of the courts would certainly improve.

In addition to outreach efforts, the judges felt that a court public affairs office would be crucial in serving as a source of correct and complete information on court decisions. Media reporting would improve drastically because the public affairs office would provide a credible source through which reporters could get the entire facts of a case and the ensuing court decision. Should reporters fail to report the complete facts of a case, the public affairs office could outline the facts missed by the media. The dispersion of

complete facts coupled with education of the courts and its function would make a public affairs office a crucial part of the court system.

Overall, the responses of those surveyed supported this researcher's hypothesis that judicial officers recognize the need for communication between the courts and the public. They feel that a court public affairs office would satisfy this need. Although the specifics of this capacity remain undefined, the judges did stress that education and dissemination of complete and accurate information play an important role. A public affairs office would serve to fill a communication void that exists between the court system and the public. In gaining knowledge and understanding, the public could effectively create a more informed perception of the institution that has such a profound influence on their lives.

In Chapter 5, this researcher will analyze the findings of this study and provide suggestions for future research.

Chapter 5

Discussion

Through the implementation of quantitative and qualitative measures, this researcher concluded that a court public affairs office would serve as an integral communication link between the federal courts and the public that it serves. Moreover, the presence of a court public affairs office will play heavily in improving public perception of the court system.

Content analyses performed on selected newspaper articles suggest that reporters exhibit a negative bias when reporting on unpopular court decisions. Results of intercept studies disclose that the public largely receives its information on court decisions through newspaper articles and electronic media. In addition, findings reveal that over 50 percent of the public that participated in the survey rate the federal courts as “fair” or “poor.” Because the media, which serves as the conduit of information between the courts and the public, fails to efficiently disseminate facts to its audience, the public is left with an unfairly biased perception of the court system.

Many judicial officers recognize the problem of the public’s poor perception of the court system. Thus, the majority of those surveyed agreed that a public affairs program would indeed assist in educating the public about the courts as well as correcting biased court information disseminated by the media. Results gleaned from this study suggest intriguing areas for future research.

H1: It is expected that the media allow public sentiment to interfere with its objectivity in reporting court cases. Although content analyses of articles from urban daily newspapers and elite media fail to support this hypothesis, results gained from the

local suburban press and tabloid newspapers suggest that bias exists. This bias may not be intentional. Reporters work on strict deadlines and have limited column space in which to report events. Editors assign few reporters to the courthouse beat. Those few reporters are responsible for covering happenings in the entire courthouse.

Understandably, the reporters can not be everywhere at once. Instead of sitting in on a court proceeding from beginning to end, they stay to hear the highlights. Then, they receive the rest of the facts from the judge's staff. This practice, however, leaves much open to misinterpretation and confusion. As a result, there exists a great chance that the subsequent newspaper article will inaccurately reflect the actual court proceeding and rulings.

A court public affairs office could remedy this occurrence by coordinating with print and electronic media to achieve a more complete and accurate product. This office will effectively encourage the flow of correct information from the courts to the media. With correct and complete information, the media will become more intuitive about court procedure and rulings. The media can then pass on this knowledge to the public. With more accurate media reporting, the public will become more educated about the courts and court decisions. An educated public will become more equipped to fairly weigh their perceptions of the court system.

H2: It is expected that the public is unknowledgeable about the federal court system. Results from intercept studies reveal that over 87 percent of respondents rated their knowledge of the federal court system as "fair" or "poor." When asked specific questions that tested their knowledge of the court system, over half of the respondents

either answered incorrectly, or listed that they were unsure of the answer. This comes as no surprise when one considers the fact that the general public has limited contact with the court system. Of those surveyed, over 75 percent reported that they have never had personal contact with the courts. That means that three-fourths of the sample must rely on other sources to receive knowledge about the court and court events.

A court public affairs office would serve to educate the public about the judicial system and its function. By conducting programs designed to educate and inform, the public affairs office will expose the public to the judiciary through different venues. For example, the implementation of a judicial outreach program that targets either students will provide direct expose to the court system in a positive manner.

Frequent exposure to this important institution will enable the courts and the public to better understand each other. This mutual understanding will result in an improved public perception and increased confidence in the court system.

H3: It is expected that judicial officers will recognize the need for communication between the courts and the public and support the implementation of a program that fosters education and communication. Judicial ethical codes constrain judges from commenting on pending litigation. When news and information are incorrectly reported to the public, judges understandably feel frustrated and powerless to correct the record. The majority of judges surveyed felt that a court public affairs office would assist in combating erroneous court information provided by the media.

In addition, they reported that education about judicial procedures and rulings would go a long way toward public understanding of the judiciary. The judicial officers

surveyed felt that the public often makes judgments without knowing the court system and its procedures. An enlightened public may be more understanding of judicial positions, even if those decisions are unpopular.

The judges were very quick to point out, however, that the court system is not an institution that should be swayed by public opinion. They did not feel that the court should market itself to gain public approval. They merely desired that the public consider judicial rulings on their own merit rather than on the media's interpretation.

Respondents asserted that a public affairs program employ officers that are knowledgeable in the legal realm. They warned that an officer must stick to the facts instead of assigning his own interpretation. Some respondents thought that it would be a good idea if the public affairs officer had a paralegal certificate or a law degree.

On the whole, judicial officers recognized the need for communication and understanding between the federal courts and its constituents. They were aware that a greater understanding of the courts would result in increased public confidence in the judicial system. By providing education and communication, the court public affairs office would serve as a crucial link between the judiciary and the public it endeavors to serve.

Future Research

This researcher fervently believes that the idea of a court public affairs entity holds much merit and promise. Further study is required, however, to determine the specific scope of this program. Thus, this researcher recommends that this study be replicated on a larger scale. Because of the limited scope of this study, results cannot be generalized to the rest of the population. By performing such a study in other metropolitan areas as well

as rural areas, the universality of the need for public affairs in the judiciary can be established. Further analysis will allow programs to be tailored to each court's specific needs. The results of this study support the need for further research. The benefits of future analysis will far outweigh the cost.

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Appendix 1

Probability

<i>df</i>	.20	.10	.05	.02	.01	.001
1	1.642	2.706	3.841	5.412	6.635	10.827
2	3.219	4.605	5.991	7.824	9.210	13.815
3	4.642	6.251	7.815	9.837	11.345	16.266
4	5.989	7.779	9.488	11.668	13.277	18.467
5	7.289	9.236	11.070	13.388	15.086	20.515

df = degrees of freedom

Appendix 2

Based on your knowledge, rate the federal court system.

	Frequency of Responses	Percent
excellent	3	2.3
good	28	21.2
fair	49	37.1
poor	18	13.6
unsure	34	25.8
TOTAL	132	100.0

How many jurors are chosen to serve on a civil trial in federal court?

	Frequency of Responses	Percent
Eight	14	10.6
Ten	7	5.3
Twelve	59	44.7
Fourteen	17	12.9
Unsure	35	26.5
TOTAL	132	100.0

How long is a federal judge's term?

	Frequency of Responses	Percent
Two years	1	.8
Six years	16	12.1
Ten years	9	6.8
Lifetime	56	42.4
Unsure	50	37.9
TOTAL	132	100.0

Have you ever had personal contact of any kind (as a juror, litigant, witness, etc.) with the federal court system?

	Frequency	Percent
Yes	31	23.5
No	100	75.8
Unsure	1	.8
Total	132	100

What is your age?

	Frequency	Percent
25 and under	25	18.9
26 – 35 years	43	32.6
36 – 45 years	29	22.0
46 – 55 years	26	19.7
56 – 65 years	9	6.8
Total	132	100

What is your sex?

	Frequency	Percent
Male	54	40.9
Female	78	59.1
Total	132	100