

**Becoming a Culturally Competent Court**  
**By John A. Martin, Marcus Reinkensmeyer,**  
**Hon. Barbara Rodriguez Mundell, and Jose Guillen**  
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## **I. Background**

### Purpose and Contents Overview

Economic globalization, political instability and war in many parts of the world, along with the need to continue to expand the United States workforce despite the aging of the sizeable baby boomer workforce cohort, are among a few of the many long-term trends that have resulted in courts across the nation having to develop ways to deal effectively with increasingly culturally diverse groups of litigants and court personnel. As one consequence, becoming culturally competent is essential to courts today. Court user as well as court personnel beliefs and expectations about the essence of justice, what is right or wrong, appropriate or inappropriate, and fair or unfair, are shaped by culture. Moreover, beliefs about how justice is established and maintained, how the institutions of justice should work and be changed, and what it means to be a court employee, are all shaped by the complicated interplay among ethnic/national, professional, and organizational cultures.

This article presents the initial findings from two coordinated efforts to become culturally competent organizations now occurring in the Maricopa County, Arizona, and the Imperial County California Superior Courts.<sup>1</sup> We begin by describing the Maricopa County and Imperial County Superior Courts and the cultural contexts of the communities they serve. Next, in Section II, we define culture and cultural competency and examine why and how culture matters by inventorying the key aspects of the courts and justice system influenced by culture, and the sources and implications of ethnic/national cultural variation on the courts.<sup>2</sup> We conclude Section II with a review of the meaning of acculturation and why it is important to courts.

In Section III, we describe a seven-step process for becoming a culturally competent court, using lessons from the Maricopa and Imperial Court experience. Also, to supplement the general discussion, we provide detailed examples of how working with culture might mean altering the way courts traditionally have done business when processing juvenile, family, and dependency cases, providing litigant assistance, and providing mediation services. Finally, we end this article in Section IV with a brief concluding

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<sup>1</sup> Both the Maricopa County and Imperial County Superior Court efforts have been supported in part by the State Justice Institute, under grants number SJI-05-T-158 and SJI-A-06-002..

<sup>2</sup> The materials presented in this article build on the previous work on culture and the courts done by Steven Weller, John Paul Lederach and John Martin. Examples of their work include "Fostering Culturally Responsive Courts" 15/2 Court Manager (2000).

statement about the challenges that must be addressed to become a culturally competent court.

### Cultural Context and the Maricopa and Imperial County Superior Courts

***The Maricopa County Superior Court.*** With a current population approaching 3.8 million -- a 20 percent increase in just the last 6 years on top of a 40% increase during the 1990s – and a projected population of 4.75 million by 2015, Maricopa County continues to be among the fastest growing already populace counties in the United States. Along many measures Maricopa County is also one of the more affluent areas of Arizona and the Southwest with family and individual incomes that exceed those across the state and region generally. However, poverty remains a factor, accounting for the circumstances of 13% of the entire population.

In addition, the importance of accommodating cultural diversity is apparent in Maricopa County, as a result of numerous factors including the rapidly expanding Latino population which now accounts for about 30% of the total population, a growing African-American population of about 4%, and the presence of a diverse number of Asian, Native American, and African cultures which account for an additional 4% of the total population. Moreover, 25% of the entire Maricopa County population speaks a language other than English at home, and about 15% of the entire population is now foreign born. Further, the City of Phoenix just joined the ranks of “minority-predominant” cities, and trend data indicate that within the next three decades “minority” groups likely will become the majority population throughout the entire county.

Maricopa County Judicial branch services are provided by 94 court judges, 23 justice of the peace, 52 commissioners and approximately 4,000 staff in 52 court and probation service sites located across a massive county with a land area of 9,213 square miles. The organizational culture of the Arizona Courts is one of good stewardship and accountability to the public, a strong customer service focus and innovation. At the Superior Court, merit selected judges are supported by a cadre of merit selected court managers. Coupled with strong leadership from the Supreme Court of Arizona, this model has served the community well during the evolution from a mid-sized court to a busy, large scale urban judicial system.

The administrative culture in Maricopa County also cultivates constant evaluation of court programs and services, innovative pilot projects, and collaborative initiatives with other justice entities. Examples of innovation include the court’s “Fast Track” system, jury reform, the Self Service Center, a new Comprehensive Mental Health Court, a streamlined family court, an integrated criminal justice system, and extensive development of web-based court services. Performance measurement is also a high priority, given the court’s participation in the National Center for State Courts’ CourTools project and the County’s Managing for

Results (MFR) planning, budgeting, and management system. Moreover, for a number of years now, the Maricopa County Government has been committed to increasing appreciation of the County's diverse population and has actively supported a variety of innovations including a public sector service wide County Diversity Office.

Still, prior to the recent development of the comprehensive cultural competency initiative, the court's response to the multicultural population was well intended, but fragmented at best. Reflecting back, the response was largely project based, addressing important but narrow lines of judicial branch service delivery, such as the creation of Spanish language self service court forms, a few hours of diversity training for judges and staff, enhanced community outreach in recruiting for court jobs and State level efforts addressing over-representation of minority youth in the juvenile justice system. All of these efforts have had merit, enhanced the court-community effort, and served as an excellent foundation for the broader enterprise wide effort described here.

***The Imperial County Superior Court*** is a unified trial court of 12 judicial officers and 115 staff serving a relatively small but rapidly expanding population of about 170,000 in a vast geographic area of 4,175 square miles along the US/Mexico border between Yuma, Arizona and San Diego County, California. Current filings are about 75,000 cases per year and have been increasing by about 10% per year over the last decade. The Court maintains four service sites located across the County including the main court-house in El Centro, a town of about 30,000 people. Reflecting the general demographics of Imperial County and the service demands on the Court, many and likely a majority of the courts' judges and staff are bi-lingual and many have strong family and historical ties to neighboring Mexicali or other parts of Baja California Norte.

Although – it is important to note here that, in addition to the challenges and opportunities that accompany being a border community, Imperial County is confronted by a variety of changes including:

- increased long-distance commuting between more affordable homes in Imperial County and jobs in San Diego and Riverside Counties;
- a burgeoning Homeland Security presence that will result in over 4,000 new jobs in the next few years;
- accommodating the presence of major California State correction facilities totaling 8,000 inmates and the litigation their presence brings;
- demands for improved community infrastructure including better housing, schools, shopping, and public facilities; and
- increased cultural diversity within the community.<sup>3</sup>

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<sup>3</sup> The community context of the Imperial County Superior Court is described in detail in Martin, Guillen, and Altamirano "Borderland Justice: Working With Culture in Courts Along the US/Mexico Border" 22/ Court Manager (2007).

The implications of community context are examined throughout the remainder of this article, but the bottom-line in both Imperial and Maricopa Counties is an on-going need for the courts and justice partners to greatly increase service capacity, including the capacity to provide culturally appropriate services to increasingly diverse populations.

## **II. Becoming a Culturally Competent Court: Why Culture Matters**

### Culture and Cultural Competency

By culture, we mean the commonly shared, largely taken for granted assumptions about goals, values, means, authority, ways of knowing, and the nature of reality and truth, human nature, human relationships, and time and space, that a group has learned throughout its collective history. Ethnic/national culture refers to groups whose individual members' common affiliation is defined by reference to ethnicity or nation. Professional culture refers to groups of people with affiliations defined by occupation and profession, such as judge, court administrator, probation or social worker. Organizational culture refers to groups of individuals interacting within particular administrative units or agencies which together form the institutions of justice within a society such as courts, district attorneys, police departments, and child protection agencies.

***Ethnic/national culture matters*** because notions of culture greatly impact how people:

- define justice, conflict, and disorder, and determine when it is appropriate to involve third parties, including the state, in resolving problems and conflicts;
- describe events or “what happened;” and
- fashion responses or solutions to problems and conflicts.

In addition, ethnic/national culture matters because when cultures meet within a justice system, notions of culture often present opportunities both for misunderstanding and creative problem-solving. For example, the behavior for helping ill children which one culture might define as appropriate use of herbal and other forms of traditional medicine and healing -- such as the use of the mix of spiritual and organic remedies facilitated by a curandero -- might be defined in another culture as child neglect and even abuse. Notions of extended family inherent in some cultures might provide opportunities to link troubled family members with far more extensive family-based support resources than might be available in cultures where family is more narrowly defined. For people of some cultures, attending batterers' classes conducted by a highly trained outsider professional might be an effective technique for addressing some aspects of domestic violence, while being counseled by a “non-professional,” insider, respected peer might be more appropriate for people of another culture.

**Professional culture matters** because actors within justice and human service systems may identify as much with the values, expectations, protocols, and notions of what constitutes meaningful work associated with an occupational discipline, as they do with the broader values, expectations, norms, and protocols of a justice system as a whole. For example, the values and expectations for what constitute good policing or appropriate social work in a particular jurisdiction might be shaped as much by national and international professional disciplines as they are by local values and expectations.

Understanding and accommodating diverse professional cultures is an essential component in justice system improvement. Often professional disciplines support similar ends for justice service provision, such as public safety, but differ greatly on the means for obtaining those ends. For example, increasingly across North America, notions of protecting individuals from harm derived from social work disciplines, coupled with notions of safety and public protection from policing, are being combined to form innovative approaches to justice service delivery, such as community policing and restorative justice.

**Organizational culture matters** because courts and justice institutions are composed of numerous separate organizations that somehow must work collectively to provide justice within a society. However, each organization potentially has a unique organizational culture that shapes values, expectations, and practice. For example, some organizations may have clearly articulated hierarchies and closely adhered to step-by-step work processes, while other organizations might have numerous decision-makers with great informal authority and considerable power, but no clearly defined work processes. Yet, somehow, for there to be justice in a community, these different organizational cultures must work together.

In addition, one recent attempt to clarify the relevance to courts of the over three decade old notion of “local legal culture” has come-up with an empirically based framework which classifies courts along two primary dimensions: (1) sociability – the degree to which judges and administrator get along and emphasize the importance of cooperative social relations, and (2) solidarity – the degree to which judges and court administrators pursue shared goals, common tasks, and agreed upon procedures.<sup>4</sup>

In short, understanding organizational culture often includes identifying and determining the impacts on both organizational and justice system performance of:

- visible organizational structures and processes, such as décor, architecture, how people behave toward you or toward each other, and the contents of organizational charts;

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<sup>4</sup> See for details Ostrom, Hanson, Ostrom, and Kleiman “Court Cultures and Their Consequences.” 20/1 Court Manager (2005).

- the espoused values of the organization, such as strategies, goals, mission and core function statements, and other justifications for what the organization does and why it does what it does; and
- the basic underlying assumptions of the organization, such as the taken-for-granted beliefs, perceptions, thoughts, and feelings.

### Cultural Competency

Cultural competency means first understanding where, how, and why culture matters. In particular, as suggested previously, cultural competency means understanding how culture influences people when they:

- define justice, conflict, and disorder;
- determine how and when it is appropriate to involve third parties, including the state, in resolving problems and conflicts;
- describe events or what happened; and
- fashion responses or solutions to problems and conflicts.

In addition, understanding culture means assessing how culture might influence:

- the ways people communicate;
- perceptions about the sources of legitimate authority;
- beliefs about individual and group responsibility;
- beliefs about what are fair processes;
- fundamental, underlying beliefs about cause and effect – such as the causes and treatment of illness; and
- beliefs about people and their motivations.

Moreover, cultural competency also means developing individual, organizational, and system capacity for culturally appropriate service delivery that helps individuals successfully navigate the courts and justice system, process information, make wise decisions, and understand and comply with court orders. Finally, cultural competency stresses that it is important to avoid stereotyping people and groups on the basis of ethnic identity. For example, while there may be aspects of a particular culture that can have a significant effect on both the sources and the treatment of family violence, not all families within a culture will fit the same patterns. Knowing about machismo, the very complicated cult of masculinity associated with some aspects of Mexican culture, for example, might be more or less helpful or not helpful at all in unraveling the complexities of family dynamics from family to family of Mexican origin.<sup>5</sup>

Cultural competency does not mean that one can understand the motivations, needs, and expectations of a particular individual simply because one has a

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<sup>5</sup> See for details Boye Lafayette De Mente (1996) Mexican Cultural Codewords, Chicago: NTC Publishing Group, pp. 172-176.

general understanding of the individual's cultural background. Instead, cultural competency provides tools to help unravel the complexity of individual circumstances. The focus should be on helping the people who work for the courts and justice system to increase their awareness and understanding of culture in general and of particular cultures to better assess the individual circumstances of a specific case and to help develop appropriate responses in a case. This includes understanding the characteristics, nuances, and implications of one's own professional, organizational, and ethnic cultures.

### Key Aspects of the Courts and Justice System Influenced By Culture

Listed in the left-hand column of Figure 1 are the fundamental assumptions and beliefs, values, and behaviors that Imperial County and Maricopa County cultural competency initiative participants identified as being important when cultures meet in the court and justice arena.<sup>6</sup> In particular, participants stressed that behaviors such as how one expresses deference or contrition, combined with orientation to key values, such as the meaning of respect or honesty, and fundamental beliefs about time and causality, can greatly influence what happens in court because these culturally based attributes are firmly embedded in the operational attributes of the work used to process cases as well as in the structure, organization and rationale underlying the court system generally.

For example, as shown in the right hand column of Figure 1 “time” in the traditional model of American courts is viewed as highly structured and valuable, and thus subject to being managed and controlled by a variety of techniques such as careful scheduling and detailed compliance monitoring that expects appropriate performance to occur within standardized time-frames. In contrast, in other cultures, time may be far more flexible, endless, and on-going, stressing the need to respond to circumstances and individuals rather than adhere to a schedule. A few other more obvious examples of the numerous culturally based assumptions embedded in the court and justice systems include notions that:

- illness is largely organically based and thus can be treated medically;
- knowledge can be gained by a combination of structured educational sessions such as parenting or anger management classes, by following the directions and counsel of judges, probation, and treatment providers, and by observing the successes of peers;
- individuals are in control of and responsible for their own actions;

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<sup>6</sup> Cultural competency project participants' views about the importance of the culturally shaped assumptions, beliefs, values, and behaviors examined here as also reinforced by the research literature. In particular, both the projects relied greatly on the work about culture completed over the decades by: Edward Hall (1966) The Hidden Dimension. New York. Doubleday; Myron Lustig and Jolene Koester (2006) Intercultural Competence. Boston. Pearson Education Inc.; and John Berry, Uichol Kim, and Pawel Boski (1988) “Psychological Acculturation of Immigrants, “ in Cross-Cultural Adaptation: Current Approaches, edited by Young Yun Kim and William B. Gudykunst. Newbury Park, CA: Sage.

- gender roles in child-rearing should be centered on equal parenting responsibilities between partners;
- people can be motivated to alter behavior by punishments and rewards;
- judges and other persons or authority within the court and justice system should be listened to and obeyed because of the positions they hold and the important roles society has assigned to those positions;
- people should show respect for court and justice officials;
- neutral, objective, third parties unrelated to litigants involved in a dispute can be effective in resolving disputes;
- written communication is an effective way to communicate; and
- determining when someone is truly sorry for what they have done and would like to make amends is important.

Each of the assumptions, beliefs, values, or behaviors listed above are of course largely steeped in Anglo/European cultures as well as the organizational and professional cultures of the courts and justice system. However, courts across the nations are now confronted by a new reality that more and more, there is a gap between the Anglo/European culturally based foundations of the courts and justice systems and the fundamental assumptions and beliefs, values, and behaviors of increasing numbers of people using the courts.

For example, increased presence in state courts across the nation of greater numbers of people with extremely diverse sets of cultural origins in the Middle East, African, Latin American, Asia, or the Pacific, as well as increased awareness of the cultural foundations of numerous Native Americans, have resulted in the need to work, routinely, with litigants who might:

- emphasize a spiritual or cosmic foundation for the origins and responses to illness and health;
- view gender roles as being very clearly differentiated and unalterable;
- maintain that behavior can not be modified by the forms of rewards and punishment routinely used by the courts and justice system;
- demonstrate deference, respect, and contrition in ways at odds with expected behaviors in courtrooms, probation offices, and treatment sessions;
- emphasize group responsibility over individual responsibility;
- misunderstand the authority in family matters assigned to outsiders; and/or
- have limited exposure to written language generally, and even less exposure to the official language of the courts and justice system.

### The Sources and Implications of Ethnic/National Cultural Variation on the Courts

In their widely used synthesis of decades of thinking about culture by contributors across a number of disciplines, communications experts Myron Lustig and Jolene Koester stress that members of a culture generally have a preferred set of responses to the world and that the sources of variation for these preferred responses encompass five orientations. For our purposes here, the five

orientations provide tools for inventorying the sources of cultural variation and the implications these sources might have on the courts and justice system generally.

For example, as shown in Figure 2, an activity orientation defines how people of a culture view human actions and expressions of self through activities, and addresses such questions as can and should people change the circumstances of their lives, and whether or not life is a series of problems to be solved or simply a collection of events to be experienced. In addition, social relation orientation, describes how people in a culture organize themselves and relate to one another by addressing questions such as the extent to which some people are considered better than others and the obligations people have to extended family, friends, neighbors, employers or others. Self-orientation focuses on how one's identity is formed, whether the culture views the self as changeable, and, of particular significance for the courts, what motivates individual actions. World orientation addresses how people interact with the spiritual world, nature, and other living things and thus shapes views about how humans influence, control, and navigate events, and how to gain understanding and knowledge. Time orientation focuses on how people view time and addresses issues such as the meaning of timeliness, and the ability of humans to manage or control time.

Finally, culture and communications expert Edward T. Hall's high and low context culture taxonomy provides an additional tool for highlighting the sources of cultural variation and the source's potential impacts on the courts and justice system. As shown in Figure 3, Hall maintains that high-context cultures prefer to use high-context messages where most of the meaning is implied by the physical setting or is assumed to be part of an individual's internalized beliefs, values, norms, and social practices. Note also that in high-context cultures very little of the content of the message is provided in the coded, explicit, transmitted part of the message. In contrast, for low-context cultures the majority of information contained in a message is in the explicit code. Examples of high-context frequently identified in the research literature include Japanese, African American, Mexican, and Latino, while low-context cultures include German, Swedish, European American, and English.

### Acculturation

Given the substantial influx of newer arrivals to the United States, it should not be too surprising that acculturation -- the change processes and techniques people use to adapt to a new culture -- is also an important element that courts must consider as they strive to become culturally competent. In particular, acculturation can greatly influence people's willingness to use courts at all, as well as influence their capacity to understand and use court processes effectively, and comply with direction from the courts. As one result, acculturation can complicate further the already difficult tasks associated with

cross-cultural understanding and communication among the courts and the increasingly diverse groups of users they serve.

Lustig and Koester stress that acculturation is a two-dimensional process involving (1) the preservation of one's heritage and (2) the adaptation to the host society. Preservation and adaptation result in a new identity created through acculturation strategies that integrate the traditional norms, values, and beliefs with the new social norms, values, beliefs, and environment. A person going through this process grieves the loss of the old identity, the change of venue, and changes in lifestyle. This grieving process begins with the changes that occur during acculturation and can reoccur at later stages in life.

The acculturation process is influenced by a person's or group's level of acculturative stress. Understanding acculturation stress and creating strategies that incorporate ways to deal with it are especially important for the courts and justice organizations. This is because higher levels of acculturative stress will lessen one's ability to acculturate in the host society and failing to address acculturative stress factors can lead to maladaptive behavior. Acculturative stress levels vary by psychological and social factors developed prior to immigration, including:

- adaptive functioning – self-esteem, coping ability, unresolved issues;
- knowledge of new language and culture;
- cognitive outlook such as view of the future as positive or negative;
- the degree of tolerance for and acceptance of cultural diversity with the mainstream society;
- family support in the community;
- social support within the new community; and
- socioeconomic status, including education and income.

Finally, it is important when designing culturally sensitive services that courts acknowledge that ability to acculturate varies by age. Children acculturate easier than adolescents and adults because they have not developed an identity, making it easier to develop roles and adapt to norms and values that are consistent with the new country. Adolescents are in the process of developing an identity and are easily influenced by peers and a desire to fit in. When adolescents immigrate to a new country their identity can integrate the host country's new values, norms, and roles, rather than having to change them, making it easier to acculturate than adults. Adults on the other hand have developed identities and must change their pre-established norms and values to include those of the host country. The older a person gets the more difficult it is to acculturate.

### **III. Becoming Culturally Competent: A Seven Step Process and Examples From the Maricopa and Imperial County Superior Courts**

Figure 4 and Insert A summarize a seven-step process for becoming a culturally competent court that take into account the general insights about culture offered in the research and policy literature and the practical experience from working with culture in the Imperial and Maricopa Courts over the past few years. The initial four steps focus on building teams, collectively learning about culture, and identifying where, when, and how culture matters in the court and community generally. The later three steps stress assessing, designing, implementing, and monitoring culturally appropriate work processes, programs, and services.

In particular the purpose of Step 1 – building cultural competency teams -- is to make sure that efforts to create a culturally competent court are supported throughout the court and fully integrated into all aspects of court structure and operations. The experience of the Imperial and Maricopa Courts has shown that efforts to become culturally competent must complement if not directly address the most important priorities within a jurisdiction, as well as align with the court mission, values, and long-term strategic direction.

For example, in both jurisdictions, a variety of subject matter workgroups, targeting everything from personnel practices to different case types, have been established to foster widespread participation and support for the cultural competency initiatives. In addition, in both the Imperial and Maricopa Courts, the cultural competency initiatives have been closely tied with on-going strategic planning, community outreach, and case-flow management oriented work process improvements. Further, cultural competency efforts in Maricopa County have been integrated into efforts for more effective budget preparation and performance measurement systems that include culturally sensitive measures, and efforts to improve hiring, recruitment, and retention practices generally. Similarly, in Imperial County cultural competency has been an integral part of efforts to provide more effective self-represented litigants services for everyone who uses the court.

Collective learning among all personnel about the meaning and implications of culture has proven to be one the most important and most difficult aspects of the initiatives in both Courts, and thus Step 2 – identifying where, when, and how culture matters -- is now a key early step in the multi-step process. In large part, much of this difficulty has resulted from the fact that until now there have been few efforts to synthesize the substantial knowledge about culture in society and organizations generally with what is known about courts as organizations. Consequently, we have included here summary work about the intersection of culture and courts and samples of application of the tools developed during the projects. We are confident that these tools can be used in other jurisdictions, and that completion of this second step should occur much more quickly than the six month time-frame experienced in our pilot jurisdictions.

As personnel throughout the court become familiar and comfortable with the meaning and implications of culture when completing Step 2, our experience has

been that during Step 3 – defining community context -- they also become more skilled at assessing the range of cultures within the jurisdictions and establishing links with key groups. Ideally, this awareness of cultures within the community would be detailed enough to provide for each culture in a community the specific characteristics of that culture, as appears here for the traditional culture of American courts presented in Figure 1.

In turn, the essential purpose of Step 4 – assessing your court culture – is to first augment the collective understanding of culture learned during previous steps with a detailed description of the court's culture and then identify where there may be gaps between the culture of the courts and cultures in the community. The contents of Figures 1-3 illustrate the merging of general knowledge about culture with more detailed understanding of culture in the court setting. For example, Figure 1 illustrates the preferred responses in the current culture of the courts to key aspects of culturally-shaped behaviors, values, and beliefs, while Figures 2 and 3 show how cultural variations within the community might impact the courts.

The purposes of Step 5 – assessing critical processes, programs, and services -- and Step 6 – developing culturally appropriate processes, programs and services -- are to apply the knowledge about the cultures of the court and community to first assess and subsequently redesign critical work processes and programs with an eye towards improving the processes or programs while making them more culturally appropriate. Both Steps 5 and 6 draw on a common assessment and improvement framework which we designed and are using to guide improvements for seven processes and programs in the Imperial and Maricopa Courts – litigant assistance, juvenile, dependency, family, probate, and traffic case processing, court attached mediation, and personnel recruitment, hiring, and retention.

Figures 5 – 7 illustrate the use of the cultural competency assessment and improvement framework for dependency case processing, court attached mediation, and litigant assistance. The structure of the framework includes four components – facet, function, form, and formula. Facets are the generic, universal aspects necessary for the work of a process or program to be completed, while forms are the more culturally constructed strategies and approaches for completing the work.<sup>7</sup>

For example, as shown in Figure 5 the universal facets of dependency case processing are: (1) entry (2) gather perspective/assess litigant context (3) formulate an issue agenda (4) arrange/negotiate/ fashion responses, and (5) monitor progress and compliance. Along side these general universal facets, the

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<sup>7</sup> The facet, function, form, and formula framework used throughout this project is described in detail in John Paul Lederach (1995) Preparing For Peace: Conflict Transformation Across Cultures. Syracuse, New York: Syracuse University Press. Application of the framework to court attached mediation is described in greater detail in Weller, Martin, and Lederach (2000).

specific functions of dependency case processing in American court culture correspond to general case-flow phases – case initiation, determination of jurisdiction, determination of dependency, disposition -- and numerous official events, such as referrals, investigations, petitions, hearings, and orders.

In turn, also as illustrated in Figure 5, forms are the broader culturally constructed strategies and approaches for addressing facets and functions, while formulas are the highly culturally-based tactics, skills, techniques, and mechanisms – the specific means – for implementing forms. For example, the forms and formulas for addressing the gathering perspective and formulating issue agenda facets and functions of dependency case processing in the traditional Anglo-European culturally based approaches now used in American courts place heavy reliance on incident reports to start the process, abuse and neglect subject matter specialists, interviews at official sites and clinical settings, family member “cooperativeness,” standardized assessment and diagnostic tools, and assessment being conducted by strangers to the family.

In contrast, the forms and formulas for alternative more broadly culturally sensitive approaches might emphasize use of language and culture interpreters and intermediators to help litigants understand and navigate the justice system and know what is and is not appropriate behavior, as well as subject matter experts, interactions in family friendly settings, and a greater role for community elders and persons of respect.

Finally, note that in Figures 5 – 7 we have included lists of important attributes potentially influenced by culture to assist identification of the specific features of culturally-based forms and formulas.

With regard to the application of the framework, the three examples provided in Figures 5 – 7, show how the framework can be applied to different types of processes or programs and to different types of culture. For example, the levels and types of culture targeted in Figure 5 for dependency cases are the traditional American Court culture based approach as well as alternative approaches not so strongly grounded in Anglo-European cultures.

Figure 6 looks at court-attached mediation drawing distinctions between the Anglo-European based model used in most courts today and a Latino culturally focused model, while Figure 7 illustrates the application of the framework to traditional models of litigant assistance, and a very localized approach designed to serve Imperial County’s unique blend of majority Mexican and Mexican-American cultures, and minority Anglo, African American, Asian, and Native American cultures. In short, we have designed the culturally competency assessment and improvement framework so that, with some local initiative and hard work, it can be applied to any jurisdiction and accommodate a vast range of cultural diversity.

Next, the primary goal of Step 6 -- developing culturally appropriate processes, programs, and services -- is to convert the results of the assessment and process redesign into activities for implementing court improvements. This action planning is done initially process by process and subsequently done for the court as a whole. Some of the improvement themes that have emerged across processes include:

- increasing language skills and coordinating language service across the court and entire justice system for all phases of public contact and case, as well as the more formal aspects of case processing traditionally involving court interpreters;
- redesigning assessment tools, interview protocols and styles, and numerous other tools and techniques to make them more culturally appropriate;
- redesigning service sites and court program facilities;
- establishing the role of intermediators; and
- establishing culturally sensitive forms of community outreach.

Finally, in large part, Step 7 -- performance monitoring -- requires building culturally sensitive measures into the court litigant satisfaction, budgeting, and other on-going forms of performance measurement. For example, constructing measures that gauge the “healing” of fractured relationships may be more important to some groups than adherence to case processing time measures.

#### **IV. Conclusion: Five Essential Lessons Learned About Becoming A Culturally Competent Court**

Five critical lessons have been learned to date in the on-going Maricopa and Imperial County Superior Court efforts to become culturally competent courts. These lessons are:

- first, cultural competency can not be a separate program but rather must be a pillar in a new foundation for the way courts do business;
- second, cultural competency improvement initiatives need to encompass the essentials of court management philosophy and operations such as the core purposes of courts, case-flow management, and litigant assistance;
- third, cultural competency initiatives need to be conducted by courts in close inter-branch partnerships with state and local governments and community organizations;
- fourth, cultural competency initiatives require collective leadership and widespread participation throughout the court and justice community; and
- fifth, becoming a culturally competent court requires on-going executive commitment and active sponsorship.

With regard to the lessons one and two, becoming culturally competent requires courts to understand and embrace the cultural diversity of the communities they serve and transform into action the enduring values long associated with doing

justice in American society in innovative ways that better serve those communities. In short, as we have shown here, becoming culturally competent requires courts to re-think how the Anglo-European based core assumptions, values, and behavioral expectations they have about American justice and appropriate court management today can be merged with the assumptions, values, and expectations of additional cultures to result in culturally appropriate day-to-day practices and work processes.

With regard to partnerships, leadership, and executive commitment -- lessons three, four, and five – becoming culturally competent requires designing and sustaining long-term court improvement processes that are inclusive and comprehensive. Our experience has shown that becoming culturally competent entails collective scrutiny of every aspect of court structure, management, and operations by personnel from throughout the entire court and with the community and justice partners. Community and justice partners are especially important here because, together, they offer perspectives that potentially move well beyond the professional cultures of court management, law, and the judiciary, the organizational culture of a particular court, and the dominant Anglo-European ethnic and national cultural foundations that buttress American justice today.

Finally, leadership and commitment across the court is needed to help change often comfortable ways of doing business and, perhaps most importantly, to help challenge the fundamental belief that most of us have that the preferred, culturally-bound way we view the world must be the way that other people view it too. Ultimately, becoming culturally competent means becoming more than we are as courts and individuals today.

**Figure 1: Critical Culturally Based Attributes in American Courts**

Level of Culture	Traditional American Courts Characteristics
<p><u>Behaviors</u></p> <p>Appropriate Attire/Dress            Body Art and Decoration            Engagement            Deference            Styles of Oral and Written Communication            Contrition            Coercion            Time Management/Scheduling            Use of Technology            Public Displays of Affection            Expressions of Anger            Expressions of Disagreement</p>	<ul style="list-style-type: none"> <li>• Preferred forms of engagement include eye contact, active listening, dialog, and direct expression, including expression of understanding.</li> <li>• Oral communication should be on-point, organized, and concise.</li> <li>• System participants should express deference and respect for system officials.</li> <li>• System personnel should express deference and respect for hierarchy of positions within system.</li> <li>• Written communication should be structured and on-point.</li> <li>• All official communication should be carefully documented in a written form.</li> <li>• Time should be carefully managed.</li> <li>• Being on-time and prompt are important.</li> <li>• Time-frames should be established and followed around a series of predetermined events.</li> <li>• Behavior can be modified by learning the correct way to do things.</li> <li>• Expressions of contrition are important, and should include</li> </ul>

	<p>clear acknowledgement of responsibility for wrongdoing.</p> <ul style="list-style-type: none"> <li>• Improvement is demonstrated by completing activities.</li> <li>• Technology provides useful tools for increasing the efficiency of communication.</li> </ul>
<p><u>Key Values Regarding:</u></p> <p>Respect Dignity Fairness Integrity Honesty Justice Punishment/Rewards Family Obedience Compliance Reciprocity Intervention Community</p>	<ul style="list-style-type: none"> <li>• Respect and dignity – listen to people carefully and attempt to respond to their needs. Be polite and explain processes and outcomes. Explain one’s motivations and actions.</li> <li>• Fairness and integrity – follow the law using established, consistently applied processes. Be impartial, and treat people equally while doing individual justice in individual cases.</li> <li>• Honesty – provide full picture, and reveal intent and reasons for behavior.</li> <li>• Justice – following established processes carefully should result in best outcomes for all involved.</li> <li>• Punishment and rewards – fines, confinement, education, mentoring and other sanctions are techniques to be used to deter negative behavior and encourage positive behavior.</li> <li>• Family – parents, children, siblings, spouses, and other intimate relatives are defined by blood and marriage, or adoption and other court action.</li> <li>• Obedience – Follow the directions of judges and other formal authorities. Authorities are working to help you.</li> <li>• Compliance – Follow the directions of court and justice system personnel; following their directions will improve your life and the lives of others.</li> <li>• Reciprocity – The system will reward people who make an honest effort to meet system expectations.</li> <li>• Intervention – The system is doing things and asking you to do things for your own good. Officials have the authority to intervene in all aspects of people’s lives, including the intimate aspects of people’s lives.</li> <li>• Community – A community is defined largely by geographic boundaries shared by people with a common civic interest, in contrast to interest defined by ethnicity, clan, family, or other social groupings that might transcend geography.</li> </ul>
<p><u>Fundamental Assumptions and Beliefs About:</u></p> <p>Time Causality Illness Gender Roles Authority Human Nature Motivation How to Learn/Gain Knowledge Life Partners Same Sex Partners</p>	<ul style="list-style-type: none"> <li>• People can, and sometimes should, change the circumstances of their lives.</li> <li>• People are responsible for their actions.</li> <li>• People are fundamentally equal.</li> <li>• Authority is based on the formal position one holds in the courts and justice system.</li> <li>• The courts and justice system are involved in problem-solving; the system helps to identify, clarify and solve problems in peoples’ lives.</li> <li>• Time is linear, structured, and can be managed.</li> <li>• The causes of behavior are based in the physical world and subject to modification.</li> <li>• The causes of illness are organic and can be modified.</li> </ul>

	<ul style="list-style-type: none"> <li>• Individuals can change their behavior in part by changing their responses to negative environments or controlling their environment.</li> <li>• People are motivated by material rewards and punishments.</li> <li>• The role differences between men and women are flexible; men and women should be equally responsible for family well-being and child rearing.</li> <li>• Knowledge is generated by professionals and experts and transmitted through classes and other forms of education and experience based on tangible rewards and punishments.</li> <li>• Most people are fundamentally good and can improve their lives.</li> <li>• One's presence in court is defined by being a party or an official. (Not by who you are or who you know.)</li> </ul>
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**Figure 2: Cultural Variation and the Courts**

Sources of Cultural Variation <sup>8</sup>	Implications For Courts and Justice Systems
<p><u>Activity Orientation</u></p> <p>1. <i>How do people define activity?</i>            Doing ----- Becoming ----- Being            Striving ----- Fatalistic            Compulsive ----- Easy Going</p> <p>2. <i>How do people evaluate activity?</i>            Techniques ----- Goals            Procedures ----- Ideals</p> <p>3. <i>How do people regard and handle work?</i>            End in itself ----- Means to other ends            Separate from play ----- Integrated with play            A Challenge ----- A Burden            Problem solving ----- Coping with situation</p> <p>Is it important to be engaged in activities in order to be a "good" member of one's culture? Can and should people change the circumstances of their lives? Is work very different from play? Which is more important, work or play? Is life a series of problems to be solved or simply a collection of events to be experienced?</p>	<ul style="list-style-type: none"> <li>• The purpose and value of activities, especially those associated with compliance with system expectations, might differ across cultures.</li> <li>• Views about the desirability and feasibility for change might differ.</li> <li>• Definitions about appropriate outcomes might differ.</li> <li>• Motivations for change might differ.</li> <li>• The meaning and measurement of progress towards a set of goals might differ.</li> <li>• Views about how to structure activity might differ.</li> <li>• Views about appropriate pace of activities might differ.</li> </ul>
<p><u>Social Relations Orientation</u></p> <p>1. <i>How do people relate to others?</i>            As equals ----- Hierarchical            Informal ----- Formal            Member of many groups ----- Member of few groups            Weak group ID ----- Strong group ID</p> <p>2. <i>How are roles defined and allocated?</i></p>	<ul style="list-style-type: none"> <li>• Key concepts and definitions, such as care-giver, family, provider, might differ.</li> <li>• Relative importance of officials, individuals, families, and groups in understanding, fashioning, implementing, and monitoring problems and solutions might differ.</li> <li>• Persons of authority and respect might</li> </ul>

<sup>8</sup> Note that the materials in this column throughout this figure are drawn from Lustig and Koester (2006) pp. 96 – 105.

<p>Achieved ----- Ascribed  Gender roles similar ----- Gender roles different  3. <i>How do people communicate with others?</i>  Directly ----- Indirectly  No intermediaries ----- Intermediaries  4. <i>What is the basis of social reciprocity?</i>  Independence ----- Dependence  Autonomy ----- Obligation</p> <p>To what extent are some people in the culture considered better or superior to others? Can social superiority be obtained through birth, age, good deeds, or material achievement and success? Are formal, ritualized interaction sequences expected? In what ways does the culture's language require one to make social distinctions? What responsibilities and obligations do people have to their extended families, their neighbors, their employers or employees, and others?</p>	<p>differ.</p> <ul style="list-style-type: none"> <li>• The need for, definition of appropriate, and the role of, intermediaries might differ.</li> <li>• Views about appropriate gender roles might differ.</li> <li>• Notions of guilt and contrition, and personal and collective responsibility might differ.</li> <li>• Views about appropriate appearance and demeanor in court and in other official settings might differ.</li> <li>• Meaning of rewards and punishment might differ.</li> <li>• Effective environments and settings for providing services might differ.</li> </ul>
<p><u>Self-Orientation</u></p> <p>1. <i>How should people form their identities?</i>  By oneself ----- With others  2. <i>How changeable is the self?</i>  Changeable ----- Unchangeable  Self realization stressed ----- Self realization not stressed  3. <i>What is the source of motivation for the self?</i>  Reliance on self ----- On others  Rights ----- Duties  4. <i>What kind of person is valued and respected?</i>  Youth ----- Aged  Vigor ----- Wisdom  Innovative ----- Prominent  Material attributes ----- Spiritual</p> <p>Do people believe they have their own unique identities that separate them from others? Does the self reside in the individual or in the groups to which the individual belongs? What responsibilities does the individual have to others? What motivates people to behave as they do? Is it possible to respect a person who is judged "bad" in one part of life but is successful in another part of life?</p>	<ul style="list-style-type: none"> <li>• Views about the possibility, desirability, motivation, and techniques for changing oneself might differ.</li> <li>• Role of individuals and social groups in shaping appropriate behaviors might differ.</li> <li>• Forces of motivation on the self – such as shame, family pressure, spirituality, and outsider assistance – might differ.</li> <li>• Definitions of child, juvenile, adult, elder, and parent, along with the duties, rights, and responsibilities of each, might differ.</li> <li>• Notions of effective role-models, teachers, mentors, and peers might differ.</li> </ul>
<p><u>World-Orientation</u></p> <p>1. <i>What is the nature of humans in relation to the world?</i>  Separate from nature ----- Integral part of nature  Humans modify ----- Humans adapt to</p>	<ul style="list-style-type: none"> <li>• Views about ability of humans generally and individuals to shape, control, and navigate events and circumstances might differ.</li> </ul>

<p>nature ----- nature  Health natural ----- Disease natural  Wealth expected ----- Poverty expected  2. <i>What is the world like?</i>  Spiritual-physical ----- Spiritual-physical  dichotomy ----- unity  Empirically ----- Magically  understood ----- understood  Technically ----- Spiritually  controlled ----- controlled</p> <p>Are human beings intrinsically good or evil?  Are humans different from other animals and plants? Are people in control of, subjugated by, or living in harmony with the forces of nature? Do spirits of the dead inhabit and affect the human world?</p>	<ul style="list-style-type: none"> <li>• Beliefs about ability and techniques to impact health, illness, wealth, and behavior might differ.</li> <li>• Views about meaning of facts, ways to know and gain knowledge, and the sources of knowledge might differ.</li> <li>• Views about importance of economics, religion, and other motivators of behavior might differ.</li> </ul>
<p><u>Time Orientation</u></p> <p>1. <i>How do people define time?</i>  Future ----- present ----- past  Precisely -----  measureable ----- Undifferentiated  Linear ----- Cyclical  2. <i>How do people value time?</i>  Scarce resource ----- Unlimited  Fast pace ----- Slow pace</p> <p>How should time be valued and understood?  Is time a scare resource or is it unlimited? Is the desirable pace of life fast or slow?</p>	<ul style="list-style-type: none"> <li>• Views about appropriate time-frames might differ.</li> <li>• Views about capacity to structure time might differ.</li> <li>• Definitions of timeliness might differ.</li> <li>• Emphasis on relative importance of past, present, and future might differ.</li> </ul>

**Figure 3: High and Low-Context Cultures and the Courts**

<b>Characteristics</b>	<b>Implications for the Courts and Justice System</b>																		
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## Figure 4: Seven-Steps For Becoming a Culturally Competent Court

<p><b>Step 1: Build Cultural Competency Teams</b></p> <ul style="list-style-type: none"><li>• Form a cultural competency oversight team composed of personnel from throughout the court.</li><li>• Identify aspects of the Court's strategic direction, including its mission, vision, and values, strategic issues and strategies, and priorities that are potentially influenced by culture.</li><li>• Identify priority improvement areas for the court.</li><li>• Form cultural competency workgroups that correspond to court priority improvement areas and areas where cultural content is especially important, such as litigant assistance, and cases involving families and children.</li></ul>
<p><b>Step 2: Identify Where, When, and How Culture Matters</b></p> <ul style="list-style-type: none"><li>• As a group learn about the concepts, skills, and resources available to assist in becoming a culturally competent court.</li><li>• Identify how culture might matter for the Court generally.</li></ul>
<p><b>Step 3: Describe Community Context</b></p> <ul style="list-style-type: none"><li>• Identify the cultures within the jurisdiction today and those likely to increase in presence over the coming years.</li><li>• Establish links to cultural communities.</li><li>• Determine perceptions of, and expectations for, the courts of key cultural communities.</li></ul>
<p><b>Step 4: Assess Your Court Culture</b></p> <ul style="list-style-type: none"><li>• Describe the court's general organizational culture.</li><li>• Identify behaviors, values, and fundamental assumptions and beliefs of importance in the court.</li><li>• Describe the preferred, current content of behaviors, values, assumptions, and beliefs of importance in the court.</li><li>• Identify potential gaps between court culture and community context.</li></ul>
<p><b>Step 5: Assess Critical Processes, Programs, and Services</b></p> <ul style="list-style-type: none"><li>• Identify priority improvement processes, programs, or other aspects of court operations and organization where culture matters.</li><li>• Identify facets/functions for priority processes or programs.</li><li>• Identify attributes of process or program potentially influenced by culture.</li><li>• Identify characteristics of traditional service approach.</li><li>• Identify characteristics of alternative service approaches.</li></ul>
<p><b>Step 6: Develop and Implement Culturally Appropriate Processes, Programs, and Services</b></p> <ul style="list-style-type: none"><li>• Prepare improvement action plans for each priority process/program improvement.</li><li>• Prepare an aggregate court cultural competency improvement plan which includes culturally sensitive performance measures.</li><li>• Integrate the cultural competency improvement initiative and other planning, policy, court improvement, and performance measurement efforts, including the courts strategic planning.</li></ul>
<p><b>Step 7: Monitor Performance</b></p> <ul style="list-style-type: none"><li>• Monitor and report performance measures.</li><li>• Engage culture-based communities to assess expectations and satisfaction with court service.</li><li>• Periodically review process and program improvements.</li></ul>

**Figure 5: Cultural Variation in Dependency Case Processing**

FACET/FUNCTION	FORM/FORMULA	
<p><b>1. Entry</b></p> <p>Litigants are referred into the social/justice system by formal and informal networks of mandatory and voluntary reporters.</p> <p>Case-Flow Phase: Case Initiation</p> <p>Referral</p>	<p><b>Attributes Potentially Influenced By Culture</b></p> <p>Cultural based differences in communication styles and appropriate demeanor between people and mandatory and voluntary reporters may lead to greater or lesser likelihood of incidence reports.</p> <p>It may be desirable for persons who provide initial contact to the system to be connected to the culture of the parties. Degree of trust of officials may vary.</p> <p>Willingness to go to health, social or justice system for information about child-rearing may vary.</p> <p>Assistance or intervention may need to accommodate family and friends of immediate disputants as well as those immediately involved in incident.</p> <p>Willingness to discuss family matters in public places may vary.</p> <p>Likelihood of mandatory and voluntary reporters to view culture based differences about child rearing from own worldview as being suspect might differ.</p>	
<p><b>2. Gather Perspective /Assess Litigant Context</b></p> <ul style="list-style-type: none"> <li>• Determine the gaps between family and</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• Beliefs about what is good for or harmful to a child, both physically and emotionally, might vary.</li> <li>• Beliefs about causality and responsibility for causes</li> </ul>	

<p>system understanding meaning about fundamental concepts such as abuse, neglect, discipline, and parenting.</p> <p>Determine litigant capacity for effective participation.</p> <p>Assess risk.</p> <p>Determine case “facts.”</p> <p>Express conflict and frustration.</p> <p>Acknowledge grievances, feelings, experiences, concerns</p> <p>Case-Flow Phase: Case Initiation</p> <p>Assessment and investigation Intake and potential removal of child (if necessary)</p>	<p>and effects, particularly with regard to the medical needs of a child and the uses of alternative medicines and approaches to healing, may vary.</p> <ul style="list-style-type: none"> <li>• Beliefs about what constitutes an authoritative source of information or advice may vary.</li> <li>• Beliefs about accepted discipline practices, children of opposite sex sharing bedrooms, presence of extended family in household, children caring for younger siblings, all may vary.</li> <li>• Beliefs about what will happen to the parents or child for doing or failing to do something might vary.</li> <li>• May be great variation in understanding of US courts and justice system</li> <li>• Understanding of who are authorities and what they can and can not do may differ</li> <li>• Notions of “fault” and the consequences of fault might differ</li> <li>• Levels of acculturation and familiarity with US court and justice system between children and parents and among family members might differ</li> <li>• May need to gather communal as well as individual perspectives.</li> <li>• May need perspectives of the extended families.</li> <li>• May need extensive case development before the intervention.</li> <li>• May need more opportunities for venting at outset.</li> </ul>				
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<p><b>3. Formulate Issue Agenda</b></p> <ul style="list-style-type: none"> <li>Triage for potential dependency related court and justice system issues, and other legal issues.</li> <li>Identify court and justice issues.</li> <li>Identify and acknowledge other issues.</li> <li>Identify core concerns.</li> <li>Create common meaning about fundamental concepts such as abuse, neglect, discipline, and parenting.</li> <li>Determine litigant capacity for navigating the system and using different types of assistance.</li> <li>Create a framework for advancing on concerns.</li> </ul> <p>Case-Flow Phase: Case Initiation/Determination of Jurisdiction</p> <ul style="list-style-type: none"> <li>Request for dependency petition</li> <li>Filing of petition</li> <li>Notice of petition and plea hearing</li> <li>Voluntary services (without invoking legal process)</li> <li>Temporary physical custody hearing</li> <li>Informal disposition (through legal process)</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>Definitions of fundamental concepts – such as intentional infliction of physical injury or emotional damage, and sexual assault, lack of parent or guardian, abandonment, lack of appropriate care and supervision, lack of necessary food, clothing, medical or dental care or shelter – may vary.</li> <li>Interests of parties may be determined by collective as well as individual values and needs.</li> <li>Different interpretations of data based on culture may arise.</li> </ul>	<table border="1"> <thead> <tr> <th data-bbox="621 747 987 804"><b>Traditional Approaches</b></th> <th data-bbox="987 747 1336 804"><b>Alternative Approaches</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="621 804 987 1797"> <ul style="list-style-type: none"> <li>Heavy reliance on standardized assessment and diagnostic tools.</li> <li>Considerable reliance on previous incident and investigation reports to make filing decision.</li> <li>Interviewing done by experts/specialists at official offices and clinical settings.</li> <li>Focus of investigation on risk to children.</li> <li>Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>Assessments are typically conducted by strangers to the family; there may be multiple assessments conducted by multiple people or teams of people.</li> <li>Focus is on decision whether or not to invoke court jurisdiction.</li> </ul> </td> <td data-bbox="987 804 1336 1797"> <ul style="list-style-type: none"> <li>Assessment and diagnostic tools and techniques are culturally sensitive and appropriate.</li> <li>All standardized reports explicitly consider potential role of culture.</li> <li>Interviewing done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>People respected in the community and/or familiar with family are involved in the process.</li> <li>Focus of family needs as well as risk to children.</li> <li>Intermediators help family understand and navigate system.</li> </ul> </td> </tr> </tbody> </table>	<b>Traditional Approaches</b>	<b>Alternative Approaches</b>	<ul style="list-style-type: none"> <li>Heavy reliance on standardized assessment and diagnostic tools.</li> <li>Considerable reliance on previous incident and investigation reports to make filing decision.</li> <li>Interviewing done by experts/specialists at official offices and clinical settings.</li> <li>Focus of investigation on risk to children.</li> <li>Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>Assessments are typically conducted by strangers to the family; there may be multiple assessments conducted by multiple people or teams of people.</li> <li>Focus is on decision whether or not to invoke court jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>Assessment and diagnostic tools and techniques are culturally sensitive and appropriate.</li> <li>All standardized reports explicitly consider potential role of culture.</li> <li>Interviewing done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>People respected in the community and/or familiar with family are involved in the process.</li> <li>Focus of family needs as well as risk to children.</li> <li>Intermediators help family understand and navigate system.</li> </ul>
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<ul style="list-style-type: none"> <li>Heavy reliance on standardized assessment and diagnostic tools.</li> <li>Considerable reliance on previous incident and investigation reports to make filing decision.</li> <li>Interviewing done by experts/specialists at official offices and clinical settings.</li> <li>Focus of investigation on risk to children.</li> <li>Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>Assessments are typically conducted by strangers to the family; there may be multiple assessments conducted by multiple people or teams of people.</li> <li>Focus is on decision whether or not to invoke court jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>Assessment and diagnostic tools and techniques are culturally sensitive and appropriate.</li> <li>All standardized reports explicitly consider potential role of culture.</li> <li>Interviewing done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>People respected in the community and/or familiar with family are involved in the process.</li> <li>Focus of family needs as well as risk to children.</li> <li>Intermediators help family understand and navigate system.</li> </ul>					
<p><b>4. Arrange/Negotiate/ Fashion Response (Adjudicate)</b></p>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>Negotiation for solutions may include intermediaries.</li> </ul>					

<ul style="list-style-type: none"> <li>• Address legal issues.</li> <li>• Address court and justice system navigation issues.</li> <li>• Address non-court and justice system issues that might influence litigant capacity to best address legal and court and justice issues.</li> </ul> <p>Case-Flow Phases: Determination of Dependency and Disposition</p> <p>Dependency Determination</p>	<ul style="list-style-type: none"> <li>• Parties may accept hierarchical relationships and be willing to defer to authorities and superiors who are not part of the social and justice systems.</li> <li>• Officials may be required to serve as educator and persuader using a variety of approaches.</li> <li>• Officials might be more likely to provide advice about best options and explanations of consequences of best options.</li> <li>• Might need to fashion holistic solutions that address both legal/court/justice system issues and other issues.</li> <li>• Might be expectations that assistance providers will help assure litigants obtain just and fair outcomes.</li> <li>• Might be expectations that assistance providers will be available to help follow-up with all steps in legal process.</li> <li>• Methods for empowering people may vary.</li> </ul>	
<ul style="list-style-type: none"> <li>• Plea hearing</li> <li>• Psychological, physical, mental, and developmental evaluations</li> <li>• Discovery</li> <li>• Pretrial motions</li> <li>• Pretrial hearing</li> <li>• Developing a consent decree</li> <li>• Fact-finding hearing</li> </ul> <p>Disposition</p> <ul style="list-style-type: none"> <li>• Investigation for permanency plan</li> <li>• Creation of plan and dispositional report</li> <li>• Dispositional hearing</li> <li>• Issuance of order</li> </ul>	<p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Heavy reliance on standardized assessment and diagnostic tools.</li> <li>• Assessments are typically conducted by strangers to the family; there may be multiple assessments conducted by multiple people or teams of people.</li> <li>• Considerable reliance on previous reports and cumulative case file.</li> <li>• Interviewing done by experts/specialists at official offices and in clinical settings.</li> <li>• Focus of investigation on risk to children.</li> <li>• Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>• May or may not have interpreters present in interactions with attorneys.</li> <li>• Interpreters in court expected to focus on interpretation not explanation.</li> <li>• Expectations for family performance are</li> </ul>	<p><b>Alternative Approaches</b></p> <ul style="list-style-type: none"> <li>• Intermediators involved in explaining process and its implications, such as the practical Implications of a consent decree. All personnel, including judges and lawyers are culturally competent.</li> <li>• Assessment and diagnostic tools and techniques are culturally sensitive and appropriate.</li> <li>• All standardized reports explicitly consider potential role of culture.</li> <li>• Interviewing done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>• Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>• People respected in the community and/or familiar with family are involved in the process.</li> <li>• Focus of family needs as well as risk to children.</li> <li>• Intermediators help family understand and navigate system</li> </ul>

	<p>documented in written, formal documents, such as permanency plan.</p> <ul style="list-style-type: none"> <li>• Focus on formal legal process to resolve legal issues.</li> </ul>	<p>throughout process.</p> <ul style="list-style-type: none"> <li>• Instructions to families are made in ways that are culturally appropriate, for example greater reliance on verbal rather than written instructions, and increased use of intermediators.</li> </ul>	
<p><b>5. Monitor Progress and Compliance</b></p> <ul style="list-style-type: none"> <li>• Determine how relationships will be repaired among family members.</li> <li>• Monitor compliance with orders and expectations.</li> </ul> <p>Case-Flow Phase: Post-Disposition</p> <ul style="list-style-type: none"> <li>• Revision of dispositional order</li> <li>• Extensions of dispositional order</li> <li>• Changes of placement</li> <li>• Monitoring and implementation of orders</li> <li>• Termination of dependency jurisdiction to obtain permanence</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• Meaning of terms, time-frames, and consequences of compliance might vary.</li> <li>• Effective methods for monitoring – use of phone, interviews, meetings in official offices -- might vary.</li> <li>• May need to monitor for holistic solutions as well as immediate terms of compliance.</li> <li>• Solutions may be defined by culture, such as restoring harmony or balance.</li> </ul> <table border="1" data-bbox="623 842 1349 1856"> <tr> <td data-bbox="623 842 987 1856"> <p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Heavy use of standardized criteria to determine progress.</li> <li>• Service and treatment providers are key players in monitoring and determining compliance; contact with treatment providers is key.</li> <li>• Services typically are provided by strangers to the family; there may be multiple providers.</li> <li>• Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>• Considerable reliance on cumulative case files to monitor performance; written compliance reports are a key communication mechanism.</li> <li>• Focus is on determining compliance with orders and expectations of system personnel.</li> </ul> </td> <td data-bbox="987 842 1349 1856"> <p><b>Alternative Approaches</b></p> <ul style="list-style-type: none"> <li>• Indicators of compliance are tailored to needs of client.</li> <li>• Monitoring personnel and treatment providers are culturally competent.</li> <li>• Outcome measures are sensitive to culture.</li> <li>• Respected family and community members might be involved in monitoring compliance.</li> <li>• All standardized reports explicitly consider potential role of culture.</li> <li>• Interactions with clients done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>• Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>• Focus on family needs as well as risk to children.</li> </ul> </td> </tr> </table>	<p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Heavy use of standardized criteria to determine progress.</li> <li>• Service and treatment providers are key players in monitoring and determining compliance; contact with treatment providers is key.</li> <li>• Services typically are provided by strangers to the family; there may be multiple providers.</li> <li>• Presence of language interpreters may or may not occur during various activities; family members might serve as translators.</li> <li>• Considerable reliance on cumulative case files to monitor performance; written compliance reports are a key communication mechanism.</li> <li>• Focus is on determining compliance with orders and expectations of system personnel.</li> </ul>	<p><b>Alternative Approaches</b></p> <ul style="list-style-type: none"> <li>• Indicators of compliance are tailored to needs of client.</li> <li>• Monitoring personnel and treatment providers are culturally competent.</li> <li>• Outcome measures are sensitive to culture.</li> <li>• Respected family and community members might be involved in monitoring compliance.</li> <li>• All standardized reports explicitly consider potential role of culture.</li> <li>• Interactions with clients done by culturally competent personnel, assisted by intermediators and language specialists.</li> <li>• Interactions with family occur in familiar, neutral settings, as well as office settings.</li> <li>• Focus on family needs as well as risk to children.</li> </ul>
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**Figure 6: Cultural Variation in Court-Attached Mediation**

<u>FACET/FUNCTION</u>	<u>FORM/FORMULA</u>	
<p><b>1. Entry</b></p> <ul style="list-style-type: none"> <li>• Locate acceptable third party</li> <li>• Seek help/remedy</li> <li>• Define process</li> <li>• Establish expectations</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• Conceptualizations of conflict may differ</li> <li>• There may be different expectations of behavior of others in the conflict</li> <li>• When it is appropriate to seek the help of others may differ</li> <li>• It may be desirable for the mediator to be connected to the culture and familiar with the parties</li> <li>• May use cultural go-betweens</li> <li>• May hold mediation in the community</li> </ul>	
	<p><b>Traditional Models</b></p> <ul style="list-style-type: none"> <li>• Parties contact official agency or organization</li> <li>• Mediator has formal training and perhaps certification and is a professional</li> <li>• Mediator is neutral, disinterested, unknown to either party</li> <li>• Process confidential and limited to the immediate parties</li> <li>• Mediator may talk to each party privately</li> </ul>	<p><b>Latino-Focused Models</b></p> <ul style="list-style-type: none"> <li>• In the neighborhood</li> <li>• Use existing structures such as churches, schools, police</li> <li>• Mediator older, respected in the community</li> <li>• Mediator knows the culture and maybe the parties</li> <li>• Elicitive training of mediators</li> </ul>
<p><b>2. Gather Perspective</b></p> <ul style="list-style-type: none"> <li>• Forum/processes</li> <li>• Express conflict/vent</li> <li>• Acknowledge grievances, feelings, experiences, concerns</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• May need to gather communal as well as individual perspectives</li> <li>• May need perspectives of the extended families</li> <li>• May need extensive case development before the intervention</li> <li>• May need more opportunities for venting at outset</li> </ul>	
	<p><b>Traditional Models</b></p> <ul style="list-style-type: none"> <li>• One person talks at a time</li> <li>• Time limits on each session encourage a fast pace of revelation</li> <li>• Use of active listening</li> <li>• If not enough time, continue on another day</li> </ul>	<p><b>Latino-Focused Models</b></p> <ul style="list-style-type: none"> <li>• Must have sufficient time</li> <li>• Speak to extended family members, including godparents</li> <li>• Everyone gets their version out</li> <li>• Venting might be a big part of the initial process</li> </ul>

<p><b>3. Locate Conflict</b></p> <ul style="list-style-type: none"> <li>• Identify core concerns</li> <li>• Create common meaning</li> <li>• Create a framework for advancing on concerns</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• Interests of parties may be determined by collective as well as individual values and needs</li> <li>• Different interpretations of data based on culture may arise</li> </ul>	
<p><b>4. Arrange/Negotiate</b></p> <ul style="list-style-type: none"> <li>• Address nature of relationship</li> <li>• Seek solution to issues and concerns</li> <li>• Create paths toward resolution and reconciliation</li> </ul>	<p><b>Traditional Models</b></p> <ul style="list-style-type: none"> <li>• Create agendas</li> <li>• Summarize</li> <li>• Reframe</li> <li>• Identify core interests</li> </ul>	<p><b>Latino-Focused Models</b></p> <ul style="list-style-type: none"> <li>• Importance of honor and saving face</li> <li>• Respect as an outcome</li> <li>• Interests of whole family or community network may be important to the parties</li> </ul>
<p><b>5. Way Out/Agreement</b></p> <ul style="list-style-type: none"> <li>• How will relationships continue</li> <li>• Monitor/implementation</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• May have greater mediator involvement in creating the solution</li> <li>• Negotiation may be through intermediaries</li> <li>• Parties may accept hierarchical relationships and be willing to defer to perceived superiors</li> <li>• Mediator may serve as educator and persuader</li> <li>• Mediator may criticize a party's behavior or attitude</li> </ul>	
	<p><b>Traditional Models</b></p> <ul style="list-style-type: none"> <li>• One issue at a time</li> <li>• Pick an easy issue first</li> <li>• Brainstorm options</li> <li>• Narrow list of options</li> <li>• Look for tradeoffs between issues</li> </ul>	<p><b>Latino-Focused Models</b></p> <ul style="list-style-type: none"> <li>• Mediator generates options</li> <li>• Multiple interdependent issues</li> </ul>
	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• May need to look for holistic solutions</li> <li>• Solutions may be defined by culture, such as harmony or balance</li> <li>• Mediator may maintain role in helping the parties obtain needed resources</li> <li>• Mediator may monitor compliance with the agreement</li> </ul>	
	<p><b>Traditional Models</b></p> <ul style="list-style-type: none"> <li>• Written agreement</li> <li>• Enough specificity to be enforceable</li> <li>• Process for follow-up specified</li> <li>• Mediator's role ends — responsibility for solutions is exclusively in the hands of the disputants</li> </ul>	<p><b>Latino-Focused Models</b></p> <ul style="list-style-type: none"> <li>• Use an ongoing arbitrator rather than detailed written provisions specifying what each party must do</li> <li>• Mediator may remain involved after agreement</li> </ul>

**Figure 7: Cultural Variation in Litigant Assistance**

<u>FACET/FUNCTION</u>	<u>FORM/FORMULA</u>	
<p><b>1. Access/Entry</b></p> <p>Locate source of assistance                      Access source of assistance                      Seek help</p>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• It may be desirable for person who provides initial contact to the system to be connected to the culture of the parties</li> <li>• Degree of trust of official sources of assistance may vary</li> <li>• May be reluctant to go to justice system locations for information</li> <li>• Location of assistance may need to be attached to a variety of familiar locations across the community</li> <li>• Assistance may need to accommodate family and friends of immediate disputants as well as those immediately involved in dispute</li> <li>• Parties may be reluctant to discuss family matters in public places</li> </ul>	
	<p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Assistance provision is largely courthouse based.</li> <li>• Brochures, signs, and other written sources direct clients to services.</li> <li>• Assistance providers are court employees or attached to court.</li> <li>• Assistance providers are trained to respond to specific legal issues.</li> </ul>	<p><b>Imperial County Approach</b></p> <ul style="list-style-type: none"> <li>• Court is the hub in an extensive service network who have materials and training needed to provide assistance. Network sites include court-houses and numerous other site locations. Network participants include health, social service, education, farm, church and other organizations.</li> <li>• Assistance providers help clients navigate justice system and serves as link to other services, as well as address specific legal issues.</li> <li>• Assistance providers include persons familiar with culture as well as law such as interns from neighboring law schools in Mexicali and Mexican consulate.</li> </ul>

<p><b>2. Gather Perspective/Assess Litigant Context</b></p> <ul style="list-style-type: none"> <li>• Determine litigant capacity for self-help and level of assistance needed</li> <li>• Establish expectations for assistance</li> <li>• Formulate details of assistance approach</li> <li>• Express conflict/frustration</li> <li>• Acknowledge grievances, feelings, concerns, frustrations, experiences</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• Trust and confidence in different types of oral and written forms of communication may vary; degree of direct/indirect, implicit/explicit, and linear/non-linear expression may differ</li> <li>• May need to gather individual as well as individual perspectives</li> <li>• May need perspectives of extended family</li> <li>• May be great variation in understanding of US courts and justice system</li> <li>• Understanding of who are authorities and what they can and can not do may differ</li> <li>• Notions of “fault” and the consequences of fault might differ</li> <li>• Levels of acculturation and familiarity with US court and justice system between children and parents and among family members might differ</li> </ul>	
	<p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Time limits on each session encourage fast pace of revelation</li> <li>• Service provider works one-on-one with client.</li> <li>• Service provider works in a court setting.</li> </ul>	<p><b>Imperial County Approach</b></p> <ul style="list-style-type: none"> <li>• Length of sessions is typically longer than in traditional approach.</li> <li>• Service provider might work with family members, friends, etc., as well with disputant.</li> <li>• Sessions might be in form of clinics held with groups of disputants with similar backgrounds and provide peer support.</li> <li>• Assistance includes education about system, and strategies for system navigation.</li> <li>• Assistance provided throughout the community, such as at job sites.</li> </ul>
<p><b>3. Formulate Issue Agenda</b></p> <ul style="list-style-type: none"> <li>• Triage for potential court and justice issues that can be addressed by litigant assistance services</li> <li>• Identify court and justice issues</li> <li>• Identify and acknowledge other issues</li> </ul>	<p><b>Attributes Potentially Influenced By Culture</b></p> <ul style="list-style-type: none"> <li>• What constitutes an authoritative source of information might differ.</li> <li>• Interpretations of facts and data might differ because of cultural perspectives (e.g., borrow children v. right of access to children).</li> </ul>	
	<p><b>Traditional Approaches</b></p>	<p><b>Imperial County Approach</b></p>

	<ul style="list-style-type: none"> <li>• Disputant identifies problems and concerns.</li> <li>• Service provider identifies facts.</li> <li>• Service provider triages law issues from “extraneous” issues.</li> </ul>	<ul style="list-style-type: none"> <li>• Service provider more actively involved in identifying problems and concerns.</li> <li>• Service provider helps describe and assess relationship between “extraneous” and legal issues.</li> </ul>
<p><b>4. Fashion Response</b></p> <ul style="list-style-type: none"> <li>• Address legal issues</li> <li>• Address court and justice system navigation issues</li> <li>• Address non-court and justice system issues that might influence litigant capacity to best address legal and court and justice issues</li> </ul>	<p><b>Attributes Potentially Influenced by Culture</b></p> <ul style="list-style-type: none"> <li>• Assistance might be more likely to provide advice about best options and explanations of consequences of best options.</li> <li>• Might need to fashion holistic solutions that address both legal/court/justice system issues and other issues.</li> <li>• Might be expectations that assistance providers will help assure litigants obtain just and fair outcomes.</li> <li>• Might be expectations that assistance providers will be available to help follow-up with results of next steps in legal process; might be expectations for long-term assistance relationship rather than single episode.</li> </ul>	
	<p><b>Traditional Approaches</b></p> <ul style="list-style-type: none"> <li>• Service provider focuses on ascertaining what disputant “wants to do.”</li> <li>• Service provider provides assistance but does not fill-out forms or provide legal advice.</li> <li>• Service provider identifies potential options but does not recommend preferred option.</li> </ul>	<p><b>Imperial County Approach</b></p> <ul style="list-style-type: none"> <li>• Service provider helps identify potential options, consequences of selecting options, and assists parties to identify best option.</li> <li>• Service provider helps litigant fill-out forms.</li> <li>• Service provider helps litigant fashion long-term system navigation strategy.</li> <li>• Service provider helps to identify resources for longer term assistance, including inter-mediators who can help litigants navigate the system.</li> </ul>