Why Dignity and Respect Matter in Our Courts

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When I was appointed a judge in Newark, New Jersey’s Municipal Court, back in 2009, it was not considered a plum assignment. As in many city courts, the churn of low-level cases into our courthouse felt relentless. Many of the defendants who appeared before me quickly became familiar faces. These people were not hardened criminals, but they were effectively serving life sentences—they were just doing it several days at a time, rather than in a single sentence. There was the 60-year-old grandfather who was stealing to feed his addiction. There was the drug-addicted survivor of sexual assault who was unable to escape life on the streets. Not to be forgotten, the mentally ill woman who constantly got into confrontations with her neighbors. These were the kinds of cases I would see, day in, day out. It was often hard to convince myself I was making a difference in my early days on the job. I quickly realized that the standard options available to judges in low-level cases—fines or multiple days in jail—would not help these people with their problems.

I noticed something else from my vantage point on the bench. It was not just the outcomes that did not make any sense—it was the process, too. Many defendants didn’t understand what was happening to them, and they did not respect the court process. This was not surprising. They were dealing with an opaque system that did not take the time to explain how it worked. On the rare occasions judges spoke directly to defendants, they quite literally and figuratively looked down on them—think of how the judge’s bench is elevated above everyone else.

This situation was bad for defendants, but it was also bad for judges—and for justice. This is bad for judges because a judge’s job does not end when we issue a ruling. That ruling must also be obeyed to ensure order. If defendants experience the authority and the process as unfair and coercive, no one should be surprised when our rulings are not followed.

This cycle of distrust can be exacerbated by law enforcement, including prosecutors, who are often seen as ill-equipped to respond to the complicated problems that bring defendants into our criminal justice system. Distrust of the justice system can radiate out from a defendant—to the defendant’s family and neighbors, and eventually into entire communities.

This brings us to the heart of many of the heated conversations taking place today about justice in our country. The word “reckoning” gets thrown around a lot, but I think it is accurate in this case. We are in the midst of a national reckoning with police
brutality, our country’s over-reliance on incarceration, and the unfair treatment of Black and brown people. I do not pretend to have the answers to all these problems, but I can tell you about what made a difference in my courtroom as I attempted to reduce the use of jail: making sure that all defendants were treated with the dignity and respect they deserved.

My approach to my service on the bench was rooted in my background. I am the daughter of an African American garbage-man born in Harlem, New York. Because of the overt and implicit racism my father experienced as an American, he never felt that he enjoyed the full benefits of being a citizen in this country. I am also the daughter of a Dominican beautician who came to this country for a better life. My parents instilled the principles of fairness in me early on. They required that I treat people with dignity and respect. While translating for family members as a child, I learned how intimidating it could be to navigate government systems because of both language limitations and race. I also spent a summer in the South overlooking land that once

Illustration by Stephanie Singleton
belonged to my godfather's family, which land had been forcibly taken by white folks. That summer was quite an education. I brought all of these experiences with me when I became a judge. I began by addressing defendants, victims, and others directly and in plain language. I welcomed them to my courtroom and explained the rules to them. I also went out of my way to give them a chance to tell their side of the story. Ensuring that defendants had a voice in my courtroom went a long way toward making them feel they had truly been seen and heard.

These may sound like small things, but I can assure you that in the context of municipal courts, they were a significant departure from business as usual. I made every effort to ensure that the process was neutral and fair, both in appearance and substance. At the same time, my goal was to ensure that court participants understood what was taking place, what they were responsible for, and what the consequences might be if they failed to comply.

**Procedural Justice**

It was only after being on the bench for a few years that I learned that what I was doing had a name—procedural justice. Treating people with respect isn't just common decency (though it is that). Rigorous studies have shown that defendants are more likely to perceive the process as fair in courtrooms that use procedural justice. Remarkably, this finding holds true independent of whether they win or lose their case. Further, defendants in these courtrooms are also more likely to follow through with the requirements of their sentences, saving system resources and helping courts operate more efficiently.

I will not pretend that procedural justice is a magic solution to all that ails our criminal justice system. But I can tell you that a simple act like referring to a transgender woman by her chosen name, instead of insisting on the name used on the legal complaint, goes a long way toward changing the dynamics in the courtroom. I have seen firsthand how doing this helped to transform a potentially volatile situation with an aggrieved defendant on the brink of arrest in court, because of her contemptuous behavior, into an encounter that felt affirming for her. This simple act of saying her male name low enough so that it could be picked up on the record and then saying her female name loud enough so she could walk down the aisle to counsel's table with dignity interrupted the cycle of distrust.

Of course, you can treat people as nicely as you want to in the courtroom, but if you give everybody jail, you will not be doing much to improve perceptions of justice. In Newark, with the help of the Center for Court Innovation, we created an initiative known as Newark Community Solutions—a community court program that was designed to reduce the use of fines and short-term jail sentences. Newark Community Solutions stationed social workers, case managers, compliance monitors, and more in the courthouse. They were all there to support me as I attempted to address the underlying issues causing people to offend. With the help of this infrastructure and using community service, I was able to link low-level defendants to community-based interventions like community beautification projects, drug treatment, mental health counseling, GED classes, and more. Since the initiative's launch in 2011, more than 4,000 defendants have received these kinds of positive interventions in place of a jail sentence or fines.

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The media understandably focus most of their attention on felony cases in state courts, particularly those involving violence. But the reality is that the vast majority of cases are minor offenses committed by individuals grappling with significant individual problems. In many places, the easiest thing for a judge to do is sentence someone to a few days, weeks, or months in jail. Often overlooked by criminal justice reformers, local jails are essentially the front door to mass incarceration. According to the Prison Policy Initiative, there are around 10.6 million admissions to local jails annually. This influx consists of a mix of people, including those held pending trial as well as those sentenced for short stays and those held on probation or parole violations.

**A Real Case**

Veronica Thomas (not her real name) was an early case in which I saw someone doing a life sentence a few days at a time. I will never forget her. The officers brought her before me charged with prostitution. She was dressed in a teal green bolero sweater, a brown skirt with white and teal flowers, and a look she wore defiantly. She was visibly annoyed. She smoothed down her short, dark brown hair, which seemed to melt into her complexion.
The public defender reported that Ms. Thomas had rejected a plea offer that required a large fine and a guilty plea to prostitution. When I looked at the plea deal and her criminal case history, I saw that Ms. Thomas had 101 arrests. This is not a typo. I was floored. I had never seen a person with so many arrests. And this did not reflect the number of times she was arrested for failing to show up for her court dates or for probation violations. The public defender requested that I release his client without bail, but I could not turn a blind eye to that rap sheet. This case predated New Jersey’s bail reform that eliminated monetary bail. I was required by law to consider the defendant’s criminal record and prior history of bail before making a bail determination. I ended up imposing a bail that was in line with her record and her current offense. The amount of money didn’t matter; Ms. Thomas didn’t have it.

When I saw Ms. Thomas on her next court date, via video from the county jail, her public defender explained that she had rejected the State’s offer once again. Dressed in her orange jumpsuit, she told me, “Judge, I know I’m usually out there doing this (prostitution), but on the day they stopped me, I was going to a doctor’s appointment.” She explained that she lived on the local prostitution stroll and that police officers had swooped in and picked up everyone on the block.

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I knew that many people who engaged in prostitution in Newark lived in low-rent, high-drug traffic neighborhoods. I thought about her modest, church lady outfit the day she was picked up. I listened as she vehemently insisted that she was not engaged in prostitution on that day. I thought about all the times she had pleaded guilty to prostitution. I believed her.

I told her: “Ma’am, I guess the problem for the police is they don’t know when it’s your day off.” I dismissed Ms. Thomas’s case for the time she served.

In the days that followed, our conversation stuck with me. It helped me develop a more nuanced understanding of police operations. Later, an officer would explain to me that prostitutes were easy targets for arrests. They worked and lived in an isolated area, so it was simple for officers to raid those areas and arrest everyone in sight. The constant police raids explained why people like Ms. Thomas tended to have long rap sheets and cycle through jail frequently. It became a self-fulfilling prophecy—once you had spent time in jail, it meant that you were more likely to go to jail on your next case.

Knowing all of this, I started to see Ms. Thomas’s case in a different light. Perhaps judges should not automatically assume that a large number of arrests for prostitution warrants monetary bail—and an inevitable stay in jail.

I did indeed see Ms. Thomas again—she was arrested on yet another prostitution charge. This time, when she appeared before me, I released her without bail—and with a stern lecture about the consequences if she did not return for her court date. I also reminded her, “The last time you were before me, I listened to you and believed you. I am now going to believe that you will return to court if I release you.”

On her new court date, I saw her sitting in the back row, waiting her turn. She was nervous and fidgety. When I called her case, I asked her why she was so nervous. She said, “Judge, this is the first time in 18 years that I came to court through the courtroom door and not the cellblock door.”

Ms. Thomas had managed to take my breath away one more time. My conversation with her had set in motion a whole series of events. I had changed. And so had her experience of the justice system. I ended up resolving her case by sending her to the Newark Community Solutions program to receive assistance with her drug addiction. She met with the program a couple of times. I never saw her again, even though she reported that she moved to a new street, one known for high drug traffic and arrests. The probability is she did not make it. This is not a fairy tale. Not every story has a happy ending. No matter how good, a judge cannot make up for a lifetime of trauma and abuse. But that does not absolve us from trying. And it does not mean that nothing was accomplished in Ms. Thomas’s case. I wish I could report that Ms. Thomas got clean and is now gainfully employed helping others. But I cannot be certain that she is. Nonetheless, I am still proud that we changed her experience in court for the better.

Happily, many of the cases that I handled in Newark did have positive outcomes. I cannot claim all the credit. Often the crucial moment for many of these cases came when I was not even present.

Effects Beyond the Courtroom

One of the things I discovered over the years was that giving people a voice during the court process often encouraged a different kind of interaction that extended beyond the courtroom. For example, I learned that defendants were engaging with each other in new ways while performing community service.
Now, I am not naïve. I would expect conversations during community service to be filled with the usual annoyance and displeasure with the “mean old judge” who ruined their lives by forcing them to do community service. However, I found that many of the conversations during community service were quite different and more important than I could imagine.

Their significance became evident when I assigned an essay to a young college student about decision-making. It was his first arrest for drug possession, and it was clear to me that he did not appreciate the severity of his circumstances. I explained that a guilty plea or finding on the charge could result in the loss of his financial aid for college. As he answered my questions, it became evident that he was torn between his desire for the life that an education would afford him and the need to maintain his “street cred” with his old friends from the neighborhood. I assigned him some hours of community service and an essay. If he completed these relatively minor obligations, his case would be dismissed, and he would leave court without a record. I was pretty sure I was doing the right thing, but I was not at all sure that he would comply—it didn’t seem like he was trying to hear me.

When he returned to court the following week, I was surprised to see a very humble young man. As he read his essay aloud, he described his community service work helping to maintain a community garden. He explained in detail what he had learned about prison from the other men on the site. One person told him that he had to fight people on his unit every day because he refused to join one of their gangs. Another person told him about the hardships he faced to get his life together after getting out of prison. They both counseled him to stay in school and avoid the lure of the streets. The college student told me that he realized he was doing the right thing, but I was not at all sure that he would comply. Respecting humanity meant that he was torn between his desire for the life that an education would afford him and the need to maintain his “street cred” with his old friends from the neighborhood.

I was proud of the men who decided to share their testimonies with this young college student to help get him headed in the right direction. These men cared enough to offer their counsel to save someone who was at a crossroads. They did not brag and boast about their glorious life on the streets. Instead, they spoke the truth. These men admitted they had made mistakes and continued to make them. The community was saving itself.

For judges, there is a constant tension between moving voluminous calendars and closing out cases, on the one hand, and ensuring that justice is delivered, on the other. Not to mention the daunting responsibility of keeping the community safe. I found myself constantly asking this question: How do I find the sweet spot between humanity and justice?

Respecting humanity meant that when I spoke with the people in my courtroom, I tried to summon the best of them and not assume the worst. I wanted to communicate hope and possibility both verbally and nonverbally. And I insisted that everyone in court—the attorneys and clerks and security personnel—do the same.

Seeking justice meant that I also had to acknowledge the harm that defendants had done to their community. Local residents understandably wanted to know that the court took their concerns seriously and that there were consequences for misbehavior. I felt that humanity and justice could be balanced in many, if not all, cases through alternatives to jail and fines. I am proud of the work the courts and Newark Community Solutions have accomplished to link residents to community-based interventions in lieu of incarceration and fines. Newark Community Solutions continues to emphasize an ethic of care for its clients, attempting to mitigate the harm often done by the conventional legal system.

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When I think back, I hope one of my most lasting contributions was a simple one: The people before me felt that I took them and their cases seriously. The kinds of matters that appeared in my courtroom were, in many senses, low-level. There were no thorny legal issues to be adjudicated. At that level, most of us are not trying to make it to the U.S. Supreme Court based on our carefully worded opinion in a shoplifting case. But I felt then, and I still maintain today, that these “minor” cases have far-reaching consequences. For each individual defendant and victim, their time in court is the most important thing that they will do that day or any day. As judges, we must honor this reality.

Just as important, we must understand the cumulative effect of the millions of misdemeanor cases and violations that are the daily fodder in our municipal courts. The legal consequences may be relatively minor, but the overall impact on the health of justice in our democracy is significant. Improving the way that courts handle these cases will go a long way toward restoring public trust in justice.