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## **Order in the Court: Communication Patterns in the Courtroom & Their Effects**

### **Introduction**

The way people communicate in the courtroom is a vital and under-recognized factor in determining case outcomes. Case rulings can be heavily influenced for or against someone depending on how they present themselves and what they express through their verbal and nonverbal communication. First-time participants in the courtroom are at a great disadvantage, since they don't have a chance to observe and learn courtroom communication norms before being thrown in the deep end. Not only do they communicate their discomfort through verbal and nonverbal signals, but also they may accidentally break courtroom norms without realizing it. When I went to observe some court cases, I experienced a similar disadvantage since it was also my first time in the courtroom.

On February 14, 2024, I observed several hearings in Department 3 at the Santa Barbara Courthouse, which were being ruled on by Judge Thomas Anderle. It was my first time in the courthouse, and I struggled to even get there. It was difficult to navigate the courthouse's website, especially figuring out what cases were happening and when. Eventually, I found a big list of cases that would be happening the next day. There was a lot of terminology that I didn't understand, so I asked my mom (who is an attorney) for tips on which type of case would be best to observe. She recommended that I dress nicely for court and arrive downtown thirty minutes early, and I followed her instructions. Even with some help, it was tricky to figure out where to

go and what to do once I arrived at the courthouse. After finding the entrance and being checked by security, I was ten minutes early to the 10AM cases I planned to observe. There were some people chatting in the hallway, waiting to enter as well. I wasn't sure what to do, so I tried opening the courtroom's door. It was locked, and I got glances from some of the other people there – clearly, they knew to wait, and I'd accidentally broken a social norm by trying to open the courtroom door before it was unlocked.

An employee unlocked the door a few minutes before 10AM and let us in. There were about five officers in the courtroom, some sitting on the benches and a couple standing in the back. I and several other observers sat on the benches near the back. Most of the people involved with the cases appeared in person, but a few appeared by Zoom and were shown on a big screen at the front of the courtroom. We watched three cases: the first was one lawyer against one ordinary-looking guy, the second case was very quick and included a couple lawyers and a client, and the final case featured lawyers representing several different parties who all argued with each other for a while. In these cases, the people dressed in normal clothes seemed uncomfortable and out of their element, while the lawyers were sharply dressed and were clearly well-acquainted with legal terminology and courtroom procedures. After the three cases were concluded, the judge announced that there were no more cases at this time and an officer asked all the observers to leave.

There were many interesting communication phenomena that occurred during my observation of the courtroom. Certain communication patterns had a definite impact on the judge's perceptions of those individuals, and therefore affected how sympathetic the judge was to their case. There are three major communication behaviors I observed in the courtroom that I believe impacted the courtroom environment and the outcomes of the cases. First, the speech

patterns and outer appearances of the people involved in the cases had an influence on how effective they were in achieving their goals. Second, the judge's polite, approachable, yet still professional speech patterns encouraged people to be more comfortable in the courtroom while still projecting his authority to the audience. Lastly, the rules of the courthouse were enforced formally through communication by the judge and officers and informally by everyone in the room. All three of these communication phenomena influenced the perceptions of everyone in the courtroom, and therefore influenced how they behaved and ultimately the outcomes of these cases.

### **How People Involved in the Cases Present Themselves**

The way the lawyers and people representing themselves spoke, dressed, and behaved while arguing their cases impacted the way that the judge and audience perceived the strength of their arguments. Lawyers tend to use powerful language because they are comfortable in the courtroom and they are trained to speak a certain way, while ordinary people representing themselves tend to be more uncomfortable and prone to using powerless language. "Powerful" language is characterized by minimal usage of hedges and hesitators, while "powerless" speech often includes frequent use of both. Using hedges such as "sort of" and "kind of" and hesitators like "um" and "er" can greatly decrease your perceived credibility and authoritativeness (Hosman, p. 390). Since lawyers are trained to avoid powerless speech patterns, ordinary people who don't have that training are at an automatic disadvantage when representing themselves.

In the first case that the judge called forward, one man represented himself while the other party was represented by a lawyer. The lawyer used powerful speech while still expressing respect to the judge. He said things like "yes your honor", minimized his use of hedges and hesitators, and he used a lot of legal terms while explaining what his side wanted from the case.

On the other hand, the man representing himself used more powerless speech including the hesitators “uh” and “like” and the hedge “sort of”. Although he used some legal terms, it was clear that he wasn’t very comfortable or familiar with them due to his use of hedges and hesitators while speaking to the judge. People who speak in a straightforward and powerful style statistically have a higher perceived credibility, so this man’s speech patterns put him at a disadvantage (Conley, O’Barr, & Lind, p. 1395). On top of everything else, this man really hurt his argument by trying to ask for something that had already been settled and decided in the previous week’s hearing. The judge patiently let this man stumble through an explanation of what he wanted, before replying “you are vastly too late, the matter was resolved last week”. By demonstrating his lack of understanding of his own case, the man representing himself drastically hurt his chances of winning.

Another thing that likely hurt his chances from the start is that although all the lawyers in the room were dressed professionally, most of them in suits and ties, this man was dressed casually in a green puffer jacket and jeans. Even before he opened his mouth, his outfit made it obvious that he was an outsider and not very well acquainted with the courtroom. Dressing professionally is an important norm of the American courtroom, so breaking that norm is a signal to others that you are inexperienced or unprofessional. I don’t know if his outfit choice was due to ignorance or if he doesn’t own any formal clothes, but court-appropriate outfits are yet another category in which most ordinary people are at a disadvantage compared to lawyers. The two parties came to an agreement with the judge, and Judge Anderle made some edits to his tentative ruling and showed it to them on the big screen at the front of the room. Both parties agreed to the ruling, but it was clear by his body language and the way he spoke that the man representing himself was unhappy with the ruling. His lack of legal knowledge and experience was a huge

disadvantage, and his powerless speech and lack of a professional outfit likely made it worse. One final contributing factor to his disadvantages is that he exhibited nervous behaviors, and each person's behavior affects how the judge perceives them.

The specific ways in which people act and communicate during their hearing affects the judge's impression of them, and thus impacts the judge's desire to side with them or not. In the third case of the day, various lawyers represented all the groups involved. One of the lawyers was passionate when he spoke and used powerful language, and his body language showed that he was comfortable in the room. He was relaxed in his seat, lounging a bit, and would occasionally show his annoyance to what someone was saying by putting a hand to his forehead or a fist to his mouth. The main opponent he was arguing with used some hedges and hesitations and didn't seem as comfortable in the courtroom. This more hesitant man asked for several court dates to be pushed back, and he unconsciously conveyed his discomfort by folding his arms and occasionally rocking back and forth a bit in his seat. A person's body language conveys to others how comfortable and self-assured they feel, so the judge and audience are more likely to believe and side with someone who exudes a confident aura rather than a person who seems unsure of himself.

However, one must be careful to not push beyond self-assuredness into arrogance, which the passionate lawyer did. The judge cut him off several times while he was speaking, and although Judge Anderle was unfailingly patient and polite, he didn't seem to appreciate the passionate lawyer's attitude. The lawyer voiced his frustration at how many times the other parties had already pushed back several court dates. The judge responded to his verbal and nonverbal expressions of annoyance by telling everyone that he likes to give people as much time as they need on cases, as long as it's reasonable. Judge Anderle sided more with the other

parties than with the passionate lawyer when picking the date of a future hearing, which is likely a result of the lawyer verbally and nonverbally disrespecting the judge's authority.

### **The Judge's Speech Patterns**

Throughout the hearings, the judge's speech patterns served to help make people more comfortable in the courtroom, but they also asserted his authority. At the very start of the hearings, Judge Anderle followed court protocol by first introducing the court reporter and security officer. In his measured, patient tone, he explained that although the audience that day seemed well behaved, the security officers were necessary especially in "these times". By following protocol and then stepping away from it for a bit to explain to newcomers why the officers were there, he strikes a balance between being powerful and personable.

Throughout the hearings, he would occasionally address the audience, often asking for our patience as he completed something. For example, while editing his tentative ruling during the third case, he asked us for our patience and explained: "the devil is in the details, so I want to make sure I wordsmith this right". While the lawyers were using plenty of legal jargon, the judge's diction was much easier for the common person to understand. He clearly understood everything happening in the cases and was very comfortable running his courtroom, but he didn't use much legal jargon when he spoke. Judge Anderle focused on making sure everyone, especially newcomers, was able to understand what was happening in his courtroom. He used a polite and powerful speech style whenever he spoke, and he carefully chose his words. Although politeness is sometimes perceived as powerless language, studies show that polite message types are actually pretty powerful and effective (Bradac & Mulac, 315). The judge's polite speaking style not only makes everyone in the courtroom more comfortable, but it also enforces his power.

The tone and pace of his speech also helps to convey his politeness and authority. Judge Anderle had a very calm, deep voice. He spoke slowly and patiently throughout all the hearings. Even when the passionate lawyer in the third case was getting a bit too worked up, the judge would cut him off with that same calm, patient voice. Keeping a calm voice is another way he expressed his authority, since this showed that he is so secure in his position of power that the anger and frustration of others does not phase him. With the judge acting endlessly calm and patient while the passionate lawyer lost his cool, the judge looked wise and powerful while the lawyer looked powerless and not in control of his own emotions.

### **Formal and Informal Rule Enforcement**

The American courtroom has many rules, and these are enforced by either formal or informal sanctions. The judge and the officers deliver verbal formal sanctions, while the group as a whole gives informal sanctions to rulebreakers. Before the hearings started, the judge asked the people calling in by Zoom to stay muted when it's not their turn to speak, and he also asked the audience to be respectful during the hearings. When someone accidentally shared their screen and it took over the big screen in the courtroom, the judge asked them to stop sharing their screen. The person scrambled to fix the technology issue and quickly turned off their screen share. Since the judge holds so much power in the courtroom and everyone knows it, all he needs to do to get people to change their behavior is ask. As judge, he holds authority over the courtroom, and everyone else must do what he says. He didn't need to exert his power directly over other people much during these hearings, but he didn't shy away from telling people if they needed to do something or stop a behavior. Judge Anderle called people forward at the start of each case, and they readily approached. He asked lawyers to reschedule hearings, and they quickly suggested a new date. Since the judge formally exerted his power in a polite

and clear way, everyone in the courtroom felt comfortable and knew the rules, which helped people to perform better in the courtroom and avoid breaking major rules.

While the judge was kind when exerting his formal sanctions, the officers were more aggressive and stern. During one of the hearings, another observer held up his phone and was trying to take a picture of the tentative ruling on the big screen. An officer quickly walked over and brusquely informed the observer that no photos are allowed in the courtroom. The guy tried to defend himself, explaining that he was trying to read the screen, but he quickly capitulated to the officer's demand and put his phone away. The court's no-photo policy is a firm rule, and the officer sternly enforced it with a formal sanction in the form of a verbal warning. If the guy had refused to stop taking pictures, the officer probably would have removed him from the courtroom, since officers are stationed in each courtroom to ensure that the rules are followed.

At the end of the hearings, the judge announced that this session was done. I and the other observers dawdled for a bit, several of them unsure of where to go because they wanted to observe more cases. The officer quickly approached us, telling us that we needed to leave because they were going to lock up the courtroom until the next set of hearings. Someone asked what other courtrooms we could observe, and he gave a couple recommendations. His verbal and nonverbal communication clearly expressed that we needed to leave, so all of us left soon after. The institution of the court gave that officer power over the people attending, and he formally expressed that power to us by making us leave after the hearings were done.

Rules of the courtroom were also informally enforced by the group. For example, while people comfortably chatted out in the hallway, everyone became silent as soon as they stepped into the courtroom. This important rule is enforced mostly informally by the group, since everyone would look at you and judge if you start talking in the back of the courtroom. While



court employees will formally enforce this rule if need be, it was not necessary during my observation because the audience members informally enforced it on each other. Another example of the group enforcing rules with informal sanctions is when people gave me judging looks for trying to open the courtroom door before it had been unlocked. Since I had accidentally broken a norm, I faced informal sanctions through other people's judgmental looks. Another woman tried to open the locked door a few minutes after me, and she received the same informal sanction.

During one of his lectures, Professor Abra told a story about his Economics professor using informal social sanctions to remove a couple disruptive students instead of formal sanctions. While the professor could have used his formal powers to call the campus police, he decided that it would be more effective to turn the rest of the class against the girls disrupting it. He was able to quickly and efficiently get them to leave by stating that either they must leave, or he would. The weight of the other students' frustration and judgement caused the girls to quickly leave. Like Professor Abra demonstrated with that story, informal sanctions are usually more effective than formal sanctions. You feel ashamed when you break a group's rule, and you behave properly because you don't want to feel ashamed (Abra, February 1, 2024). In the courtroom, both formal and informal sanctions work together to ensure that everyone follows the rules, and these methods are very effective. This stable environment ensures that people are comfortable and know what to expect in the courtroom, which helps them to better argue and defend their cases.

## **Conclusion**

There are many patterns of verbal and nonverbal communication that exist in the courtroom and have an impact on legal outcomes. The speech and behavior patterns of the

people in the cases, the speech patterns of the judge, and the formal and informal sanctions enforcing rules are all communication phenomena that influence how a court operates and its legal outcomes. People can experience positive effects if they follow the court's rules and people's preferences for powerful arguments through their appearance, behavior, and speech patterns, but they can experience unfair negative effects if they break norms or use powerless speech or body language. The judge and the court's consistent rules create a stable environment that should give people a fair chance at being heard and arguing their case, but people need to focus on their speech patterns and behaviors to ensure that they're not accidentally putting themselves at an avoidable disadvantage. It was extremely interesting to watch the way people spoke and behaved in the courtroom, since it's very different to how people behave in everyday life. Since court trials and hearings have the power to vastly improve or worsen your life, you need to learn and follow the proper communication patterns and rules if you want to have the best possible outcome in court.

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