

Hon. Edward J. Schoenbaum

*Improving Public Trust & Confidence in Administrative Adjudication:
What Administrative Law Practitioners, Judges, and Academicians Can Do*

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Abstract by Janet C. Goldberg

The public's trust and confidence in the judiciary is critical for the maintenance of a law-abiding nation. Justice John Paul Stevens explained, in his dissenting opinion in *Bush v. Gore*, that "confidence in the men and women who administer the judicial system is the true backbone of the rule of law." Fortunately, most Americans polled on the extent of their confidence in the judiciary believe that the American justice system is the best in the world, in spite of its problems, according to a national study conducted by the American Bar Association (ABA). However, a study conducted by the National Center for State Courts (NCSC) indicates that African-Americans perceive that they are treated worse than other groups during judicial proceedings. This perception of bias will eventually chip away at the public's confidence in the judicial system. If citizens believe that the judicial system is "tainted with bias," they will not expect the judicial system to remedy bias elsewhere in society.

As a result of this perceived bias, the judiciary must take active steps to improve public trust and confidence in the judiciary. Such steps include televising proceedings and other means of "opening up" court proceedings to the public. Judicial outreach programs are another important means by which the judiciary can gain the public's trust.

Ensuring the public's trust in the administrative judiciary is as important as ensuring the public's trust in the Article III judiciary. However, the administrative judiciary faces an additional challenge in gaining the public's trust: the public often views the administrative judiciary as biased in the execution of its responsibilities because Administrative Law Judges (ALJs) "are hired, promoted, supervised, and paid by the very agency for whom [they] are deciding if the decisions that the agency made are correct." To overcome this challenge and improve the public's trust, the administrative judiciary should engage not only in the same steps outlined above, pertaining to the Article III judiciary, but also take additional steps to improve public trust. Such additional steps include production of educational web sites, videotapes, brochures, information sheets, training, remaining unintimidated by any improper agency influence, finding out how the public perceives ALJs, educating the media as to what ALJs do, and involvement in national organizations such as bar associations.

ALJs are not the only individuals responsible for ensuring the public's trust in the administrative judiciary. Rather, "[a]ll of us, [ALJs], law judges, government attorneys, private practitioners, and academicians, should work together to improve the effective administration of our administrative adjudication systems and procedures"