

Ideas for Promoting Deliberativeness and Overcoming Barriers to Deliberativeness

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The following 7 factors were identified by Illinois judges as common barriers to deliberative decision-making. **Addressing these barriers can promote deliberative decision-making and reduce the influence of implicit bias in decision-making.** Underneath each barrier is a list of ideas, generated by Illinois judges, for promoting deliberativeness.

1. Time Pressure from Heavy Caseloads

Individual actions:

- Ask staff and attorneys to provide more case background information (both factual case information and legal research)
- Restructure dockets to reduce inefficiencies in the schedule (For example, is it possible to reduce transition times between hearings by changing courtroom procedures? Can more of the clerical tasks be delegated to staff so litigants only appear before judges when their cases are ready?)
- Delegate as many administrative tasks as possible to staff
- Communicate clearly and often with staff about workflow, schedules, and when interruptions are/aren't appropriate
- Use bench cards and checklists, even in areas of law that are well-known; resist the temptation to feel that you've already seen this case before and know the answer
- Don't put more time pressure on yourself than necessary; don't impose arbitrary decisions deadlines on yourself; take more time to decide if you need it
- Take notes

Institutional actions:

- Hire more judges
- Hire more staff
- Eliminate or relax the use of case management statistics to reduce time pressure on judges
- Eliminate unnecessary hearings; use non-judges to triage cases; automate simple decisions (like continuances and case management meetings) that don't really need a hearing
- Increase the use of mediation services in certain areas

2. Multi-tasking

Individual actions:

- When thinking through a case, close doors, close email, don't take phone calls
- When thinking through a case, move to a different workspace with fewer interruptions/distractions
- Delegate administrative tasks to staff (especially during hearings)
- Use bench cards and checklists, even in areas of law that are well-known
- Write out an opinion for yourself (even if a written opinion isn't required); write down your own decision-making steps

Map out the week's or month's schedule in advance and set aside specific time for the kinds of tasks that often feel rushed

Communicate clearly and often with staff about workflow, schedules, and when interruptions are/aren't appropriate

Restructure dockets & work schedules to reduce the need for multitasking (for example, divide the week's work into different types of tasks and cluster similar types of tasks together on the same day)

Take notes

Take breaks

Practice mindfulness

Institutional actions:

Remove computers (or the need for judges to enter case data) from the bench

Hire more staff

3. Time Pressure from Complex Cases

Individual actions:

Be proactive in case management and scheduling to reduce roadblocks along the way

Set aside blocks of time for thinking and case preparation

Re-arrange the schedule so there are longer blocks of time for a specific case or case type

Ask for more material from the parties

Write out an opinion for yourself (even if a written opinion isn't required); write down your own decision-making steps

Take a little time before issuing a decision

Use bench cards and checklists, even in areas of law that are well-known

Take notes

Take breaks

Talk to colleagues and staff attorneys about tough cases

Consult statistics or summary information about similar cases

Be aware of procrastination habits

Don't put more time pressure on yourself than necessary; don't impose arbitrary decisions deadlines on yourself; schedule another hearing or take more time to decide if you need it

Institutional actions:

Hire more judges

Hire more staff

Re-evaluate standing orders that require hearings on specific schedules

4. Fatigue

Individual actions:

Take care of health, sleep, work-life balance

Take breaks

Talk to colleagues and staff attorneys about tough cases
Do some non-legal activities or hobbies
Take more recesses during trial
Restructure how hearings and meetings are scheduled
Use bench cards and checklists, even in areas of law that are well-known
Take notes
Use back-up judges effectively
Take a little time before issuing a decision
Consider occasionally taking work home instead of rushing
Practice mindfulness
Exercise; meditate

Institutional actions:

Hire more judges
Hire more staff
Rotate judges to new case assignments more often

5. Time Pressure from Broad Case Types

Individual actions:

Set aside blocks of time for thinking and case preparation
Talk to colleagues and staff attorneys for advice
Ask for more material from the parties
Get courtesy copies
Use bench cards and checklists, even in areas of law that are well-known
Take notes
Restructure how hearings and meetings are scheduled so there are longer blocks of time for specific case types and fewer transitions between case types
Write out an opinion for yourself (even if a written opinion isn't required); write down your own decision-making steps
Consult statistics or summary information about similar cases
Don't put more time pressure on yourself than necessary; don't impose arbitrary decisions deadlines on yourself; take more time to research or decide if you need it

Institutional actions:

Restructure how judges are assigned to different case types

6. Workplace Distractions

Individual actions:

Work with courtroom staff and security to prevent disruptions
Communicate clearly and often with staff about workflow, schedules, and when interruptions are/aren't appropriate
Set aside quiet time: close doors, close email, don't take phone calls

Move to quiet spaces when making decisions
Restructure how hearings and meetings are scheduled
Delegate as many administrative tasks as possible to staff
When thinking through a case, move to a different workspace with fewer interruptions/
distractions
Write out an opinion for yourself (even if a written opinion isn't required); write down your own
decision-making steps
Take notes
Take breaks

Institutional actions:

Design court buildings to keep foot traffic and noise away from office spaces/chambers
Re-evaluate technology that's getting in the way rather than increasing efficiency (e.g., putting
computers on the bench and making judges enter data as opposed to putting computers on the
bench to speed up judges' access to information)
Hire more security
Hire more staff

7. Threats to Safety

Individual actions:

Re-evaluate safety plans and make sure you feel ready in case of an emergency
Delegate courtroom control duties to staff and security
Provide resources for pro se litigants and other sensitive populations in advance to prevent
frustration and defuse tense situations

Institutional actions:

Hire more security; put deputies in all courtrooms
Increase security at strategic entrances and elevators
Increase transparency and procedural justice