

Listening Justice: Active Listening in Judge Frank Caprio's Judicial Communication

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Abstract

This study examines active listening as a communicative process that shapes the interactional tone of courtroom discourse, focusing on Judge Frank Caprio in the television series *Caught in Providence*. Using the Active–Empathic Listening Scale (AELS) and the Active Listening Observation Scale (ALOS), the research systematically analyzes how Caprio's listening behaviors structure judicial interaction. Twenty courtroom episodes representing diverse emotional and situational contexts were transcribed and coded to assess verbal and nonverbal indicators of listening, including paraphrasing, empathic acknowledgments, clarifying questions, and responsive humor. The AELS framework was employed to evaluate internal dimensions of listening - sensing, processing, and responding - while the ALOS captured observable behaviors such as eye contact, prosody, and supportive feedback. Qualitative discourse analysis, supplemented by quantitative rating averages, revealed that Caprio's communication demonstrates consistently high levels of active-empathic engagement, with adaptability across affective contexts. Inter-rater reliability, measured using Cohen's kappa, confirmed coder agreement. Findings indicate that Caprio's courtroom talk operates active listening as a discursive and institutional practice, where empathic responsiveness humanizes authority and enhances perceptions of fairness. The study concludes that active listening, as measured through AELS and ALOS, embodies a communicative enactment of responsiveness, clarity, and respect in judicial settings.

Keywords: Active Listening, Discourse Analysis, AELS, ALOS, Jude Caprio

1. Introduction

Despite extensive research on courtroom discourse, pragmatics, and politeness strategies in judicial interactions (Cao, 2007; Goffman, 1983; Muneer, 2023; Wathen, 2005; Winiecki, 2008), a critical research gap persists in the empirical examination of judicial listening behaviors, particularly active listening as an interactional and institutional practice. While studies highlight the role of speech acts, facework, and relational dynamics in mitigating hierarchical asymmetries (Bakhshandeh, 2023; Erbert & Floyd, 2004; Glenn, 2024; Holtgraves, 1991; Rodat, 2019), they predominantly focus on adversarial exchanges, lawyer-client interviews, or general politeness in legal settings (Chow et al., 2022; Mısırlı & Akın, 2024), with scant attention to judges' active-empathic engagement (Fontana et al., 2015; Gustafson et al., 2021; Lustbader, 2015). Notably, validated scales such as the Active–Empathic Listening Scale and Active Listening Observation Scale, designed to assess sensing, processing, and responding dimensions through verbal (e.g., paraphrasing, clarifying questions) and nonverbal cues (e.g., eye contact, prosody), have rarely been applied to judicial communication (Kawałek, 2020; Nasir et al., 2025). Televised courtrooms like *Caught in Providence*, offering accessible data on real-time interactions across diverse emotional contexts, remain unexplored, leaving unanswered how judges humanize authority amid empathy-power tensions (Grieshofer, 2023, 2024; Widodo, 2025).

This study addresses these gaps by systematically analyzing Judge Frank Caprio's listening practices in 20 transcribed episodes. It poses three specific research questions:

1. To what extent does Caprio demonstrate active-empathic listening across AELS (internal: sensing, processing, responding) and ALOS (observable: paraphrasing, acknowledgments, questions, humor, nonverbal feedback) dimensions, as evidenced by quantitative ratings and qualitative discourse patterns?
2. How do these behaviors adapt to varying affective and situational contexts (e.g., high-emotion pleas vs. routine hearings)?
3. In what ways does Caprio's active listening function pragmatically to negotiate institutional roles, enhancing shared understanding and procedural legitimacy?

Theoretically, this research advances institutional pragmatics and discourse analysis by integrating conversation-analytic insights with AELS/ALOS, framing listening as a discursive achievement that blends procedural formality with relational work (Goffman, 1983; Heisterkamp, 2006; Muneer, 2023; Winiecki, 2008). It extends politeness and face theories to empathetic judicial authority (Erbert & Floyd, 2004; Holtgraves, 1991), illuminating how responsive humor and reformulations construct fairness amid asymmetries (Glenn, 2024; Rodat, 2019). Practically, findings offer a replicable model for judicial training (Gustafson et al., 2021; Kawałek, 2020; Lustbader,

2015, promoting active listening to boost perceptions of respect and legitimacy (Grieshofer, 2023; Sullivan, 2016; Wathen, 2005), reduce recidivism through humanized interactions (Tustonja et al., 2024), and enhance procedural justice in high-volume courts (Grieshofer, 2024; Nasir et al., 2025). By showcasing Caprio's consistently high engagement, the study underscores scalable strategies for judges, fostering empathy without compromising impartiality and ultimately strengthening public trust in justice delivery.

2. Theoretical Background

2.1 Pragmatics in Interaction

The field of pragmatics explores how meaning is created through context, intention, and social interaction rather than through linguistic form alone (Bara, 2011; Calder, 2019; Carston, 2008; Habermas, 2000; Kempson, 2017; Küçükbezirci, 2013; Moeschler, 2021; Parret, 2012; Verschueren & Östman, 2009; Watzlawick et al., 2011; Wierzbicka, 2006; Bara, 2011; Beilharz & Habermas, 2000; Calder, 2019; Carston, 2008; Kempson, 2017; Moeschler, 2021; Parret, 2012; Verschueren & Östman, 2009; Watzlawick et al., 2011; Wierzbicka, 2006). In judicial communication, language performs actions, to judge, to inquire, to empathize, to decide. Courtroom exchanges therefore represent institutional pragmatics, where talk is shaped by institutional roles and goals yet realized through interpersonal negotiation (Bernal, 2007; Cao, 2007; Greenberg, 2010; Unuabonah, 2017; Wathen, 2005; Cao, 2007; Pulido, 2007; Unuabonah, 2017; Wathen, 2005). Every utterance carries illocutionary force (Austin, 1975), positioning the speaker and hearer within a web of authority and accountability. In courtroom, pragmatic choices mediate the tension between empathy and institutional power. The use of narrative prompts ('Tell me what happened') and reflective remarks ('That must have been difficult') exemplify speech acts that perform understanding. These utterances do not merely process information but pragmatically construct fairness and respect. Listening, thus, functions as a communicative act (Romero-Trillo & Jesús, 2008).

Politeness theory (Bayraktarolu & Sifianou, 2001; Brown & Levinson, 1987) and Goffman's (1983) concept of face offer further insight into how active listening functions pragmatically in judicial contexts. Legal authority inherently threatens a defendant's negative face, the desire for autonomy and non-imposition. Mitigating these threats through positive-politeness strategies, humor, inclusive pronouns, and empathic feedback, moves soften the hierarchical asymmetry, transforming judgment into dialogue. Such discourse embodies what (Kádár & Haugh, 2013) term relational work, the ongoing management of social bonds through language. This duality demonstrates that empathy and impartiality are not opposites but coexisting pragmatic stances, maintained through linguistic tact and responsive timing.

2.2 Discourse in Courtrooms

Discourse analysis shifts the focus from isolated utterances to interactional meaning, viewing communication as jointly constructed across turns (Shuy, 2015). Courtroom discourse is a structured yet fluid interactional system, guided by adjacency pairs and repair sequences that maintain coherence. In this setting, understanding is not assumed but negotiated through grounding (Clark, 1992, 1996, 2006; Clark et al., 1983; Clark, 1996, 2006; Clark et al., 1983), repetition, and reformulation. Through paraphrasing and minimal encouragers, a judge creates a shared interpretive frame that validates defendants' experiences. Discourse blends the procedural and relational: it maintains the institutional formality of judicial questioning while opening conversational spaces that foster empathy (Ekpang & Ogolekwu, 2024; Muneer, 2023; Shuy, 2015; Winiecki, 2008). As Goffman (1983) notes, such discourse simultaneously moves between the authoritative voice of the judge and the human voice of the listener.

2.3 Active Listening

Active listening is not a passive cognitive process but an interactional achievement (Baker & Warren, 2015; Bakhshandeh, 2023; Cichon, 2001; Glenn, 2024; Jäkel et al., 2025; Rodat, 2019; Rost & Wilson, 2013; Simon, 2018; Tustonja et al., 2024). Active listening is defined in the chapter as "the deliberate process of attending to, understanding, remembering, evaluating, and responding to messages" (Sellnow et al., 2018, p. 71). The process begins with attending, described as "the process of willfully perceiving and focusing on a message" (p. 72), which is challenging because our minds can process far more words per minute than speakers produce, giving us "lots of time to wander from the message" (ibidem). In the understanding stage, listeners work to "accurately interpret a message" (ibidem) and often use strategies such as paraphrasing, defined as "putting your interpretation of a message into words" (p. 73). Remembering then involves being able to "retain and recall information later" (p. 74), supported by techniques such as repetition. In the evaluating stage, listeners "critically analyze what you hear" (p. 75) before forming judgments. Finally, responding refers to "providing feedback" (p. 76) through verbal and nonverbal cues that show attention, understanding, or empathy. Collectively, these five steps demonstrate that active listening is an intentional, thoughtful process essential for meaningful and effective communication (pp. 71–76).

Bodie (2011) defines it as an integrated set of behaviors that signal attention and empathy. Each of these dimensions can be interpreted pragmatically as a sequence of speech acts: sensing corresponds to attentional cues that signal reception, processing is enacted through paraphrases and reformulations, and responding involves acknowledgment and evaluation moves that confirm shared understanding. For, Bodie (2011), Active-Empathic Listening (AELS) measures the listener's perceptual and emotional engagement. On the other hand, the Active Listening Observation Scale (ALOS) assesses externally visible listening behavior (Fassaert et al., 2007; Vickery, 2017). Hence, listening becomes an institutional resource for procedural justice, supporting the communicative pillars of voice, neutrality, respect, and trust (Tyler, 2007).

3. Literature Review

Procedural justice research shows that legitimacy and cooperation depend not only on outcomes but on how authorities communicate

during decision making. Across legal settings, fairness perceptions rest on voice, neutrality, respect, and trust, all of which rely on participants' experience of being heard (Mazerolle & Terrill, 2018; Murphy et al., 2015; Ohbuchi et al., 2005; Tyler et al., 2010). Studies of problem solving and specialist courts indicate that when judges listen attentively, acknowledge accounts, and explain decisions clearly, participants report higher procedural fairness and show greater short-term engagement or compliance (Berryessa & Krenzer, 2020; Festinger et al., 2018; Kopelovich et al., 2013). These findings identify active listening as a central mechanism through which procedural justice is enacted.

Active listening is most clearly articulated in communication research through the active empathic listening framework, defined as a triad of sensing, processing, and responding. This framework is operationalized by the Active Empathic Listening Scale (AELS), which shows strong validity across contexts (Drollinger et al., 2005; Keaton, 2017), and complemented by observer based measures such as the Active Listening Observation Scale (ALOS), which capture verbal, nonverbal, and emotional listening behaviors in applied settings (Fassaert et al., 2007; Vickery, 2017). Together, self report and observational approaches allow judicial listening to be examined as both an internal competence and an observable interactional practice.

The courtroom provides a distinctive interactional environment in which listening must be publicly displayed within institutional constraints. Court discourse departs from ordinary conversation in its turn taking and action formats (Atkinson & Drew, 1979), making practices such as clarification checks, formulations, paraphrasing, and reason giving key displays of attentive listening and cognitive processing (Chernyshova, 2018; Seuren, 2018)(Chernyshova, 2018). Research in courtroom linguistics further shows that judges' explanations and tone shape how listening is evaluated by participants (Cotterill, 2003; Gibbons, 2003). While empathy in judgment remains debated, with concerns about bias if unguided (Kawalek, 2020; Lee et al., 2024), work distinguishing cognitive perspective taking from affective contagion supports a model of judicial listening that remains compatible with neutrality and consistency (Bandes, 2011; Lima & Osório, 2021; Winczewski et al., 2016). This study conceptualizes judicial listening as an observable and internal practice through which courts operationalize procedural justice (Beier et al., 2013; Festinger et al., 2018; Kopelovich et al., 2013; Tyler et al., 2010).

4. Methodology

4.1 Research Design

This study adopts a mixed-methods design combining qualitative discourse analysis with quantitative scale-based assessment to examine active listening in judicial communication. The approach integrates interpretive analysis with standardized measurement using the Active–Empathic Listening Scale (AELS) (Drollinger et al., 2005; Keaton, 2017) and the Active Listening Observation Scale (ALOS) (Fassaert et al., 2007; Vickery, 2017).

4.2 Data Collection and Analysis

Data comprise twenty purposively selected episodes of *Caught in Providence*, drawn from official broadcast archives and the program's YouTube channel (<https://www.caughtinprovidence.com>), ensuring representation of minor offenses (e.g., parking, red-light violations, speeding/smoking/multi-violations) across varied emotional (e.g., positive/negative attitudes) and demographic contexts (e.g., gender, age, socioeconomic status, accompanying persons) to capture procedural justice dynamics and maximize variation in interactional patterns (Festinger et al., 2018; Kopelovich et al., 2013; Palinkas et al., 2013; Tyler et al., 2010). Purposive sampling is used to ensure variation in speaker demographics, interactional contexts, and offense types, with inclusion restricted to episodes containing extended judge–defendant exchanges that allowed sustained observation of listening behaviors.

Full verbatim transcripts were prepared from videos using Jeffersonian conversation analysis conventions, capturing turn-taking, pauses, overlaps, intonation, and nonverbal behaviors via descriptors (e.g., [gestures nod]; [laughter])(Bolden & Hepburn, 2016; Fraser, 2022; Roberts, 2004). A unified coding framework operationalized the Active–Empathic Listening Scale (AELS; canonical 11-item self-report adapted for observational retrospective rating of judge behavior: 4 sensing items [e.g., attentional focus], 4 processing [e.g., interpreting/reformulating], 3 responding [e.g., feedback/acknowledgment]) and Active Listening Observation Scale (ALOS-global; 7 observable items across verbal [e.g., paraphrasing/clarification], nonverbal [e.g., eye contact/nods], emotional responsiveness [e.g., affective validation] domains)—AELS dimensions rated per episode on a seven-point Likert agreement scale (1 = never/almost never true; 7 = always/almost always true) (Bodie, 2011; Drollinger et al., 2005; Fassaert et al., 2007; Keaton, 2017; Vickery, 2017); ALOS on a four-point frequency scale (0 = absent; 3 = frequent) rescaled linearly to 1–7 for comparability (e.g., 0→1, 3→7). This approach leverages the scales' established validity and reliability across interpersonal and applied settings (Drollinger et al., 2005; Fassaert et al., 2007; Keaton, 2017; Lima & Osório, 2021).

Two independent coders, trained via iterative cycles on sample transcripts (joint coding → independent → discussion/revision until $\kappa > 0.70$), analyzed full videos/transcripts, resolving discrepancies via consensus discussion and recalibration, achieving final inter-rater reliability of Cohen's $\kappa = 0.85$ (> 0.80 threshold for substantial agreement)(Goeze et al., 2014; Simon, 2018; Skillman et al., 2018). Quantitative data were analyzed in SPSS using descriptive statistics (means, standard deviations), subscale computations (equal-by-dimension averaging), and correlations to test relationships between empathic engagement and observable listening behaviors. Qualitative discourse analysis of high-scoring segments employed thematic coding of key practices, paraphrasing (Glenn, 2024), empathic acknowledgments (Bodie, 2011), humor, and turn-taking (Atkinson & Drew, 1979; Chernyshova, 2018), to illustrate how institutional authority is balanced with empathy, aligning with courtroom interactional research (Cotterill, 2003; Gibbons, 2003).

5. Results

5.1 Scales

We analysed 20 episodes using (i) the Active–Empathic Listening Scale (AELS) in its canonical 11-item configuration on a 1–7 continuum (1 = *never/almost never true*; 7 = *always/almost always true*), with Sensing (4 items), Processing (3 items), and Responding (4 items) (Bodie, 2011), and (ii) the Active Listening Observation Scale (ALOS-global) (Fassaert et al., 2007), rescaled to 1–7 and summarised under Verbal, Nonverbal, and Emotional Responsiveness domains. For each episode we computed AELS subscale means and an equal-by-dimension AELS overall (primary AELS index) and ALOS domain means and an equal-by-domain ALOS overall.

The following table (Table 1) shows the mean score of each test. Judge Caprio scored a mean of 6.09 (SD = 1.94) on the AELS and 6.10 (SD = 1.89) on the ALOS. The two scales produced almost identical averages, with overall variability of approximately 1.9 points across both measures. These values indicate that his performance remained numerically consistent between the two scales, with moderate dispersion around the mean.

Table 1. Scores

Scale Name	Mean	Std.
AELS	6.09	1.943
ALOS	6.10	1.887
Total	6.09	1.929

The dimensional analysis shows that Judge Caprio’s overall active listening is high ($M = 6.09$, $SD = 1.93$), with distinct strengths across subskills. Table (2) shows the mean of each dimension. The highest mean scores were found for Nonverbal Behaviors ($M = 6.28$, $SD = 1.63$) and Processing ($M = 6.22$, $SD = 1.78$), indicating consistent attentiveness through facial expressions, eye contact, and accurate interpretation of messages. His lowest and most variable score occurred in Emotional Responsiveness ($M = 5.70$, $SD = 2.43$), suggesting that emotional expression fluctuates depending on the courtroom context. Moderate scores in Responding ($M = 5.98$), Sensing ($M = 6.03$), and Verbal Behaviors ($M = 6.11$) reflect a balanced yet adaptable communication style.

Table 2. Dimension Score

Scale	Dimension	Mean	Std.
ALOS	Emotional Responsiveness	5.70	2.431
	Nonverbal Behaviors	6.28	1.625
	Verbal Behaviors	6.11	1.805
AELS	Processing	6.22	1.779
	Responding	5.98	2.035
	Sensing	6.03	2.038
	Total	6.09	1.929

5.2 Contextual Factors

Table (3) below shows mean active-listening scores and standard deviations across the contextual, including gender, age, case type, socioeconomic status, attitude, outcome stakes, and accompanying persons. It provides a view of how active listening varies across demographic, situational, and institutional conditions.

Factor	Category	Mean	Std.
Gender	Female	5.57	2.26
	Male	6.51	1.48
Age	Elderly	6.92	0.48
	Young	5.26	2.41
Case Type	Parking	5.07	2.48
	Red Light	6.73	1.00
	Speeding / Smoking / Multi-violation	7.00	0.00
	Other	6.49	1.62
Socio-economic Status	Student	7.00	0.00
	Retired	6.85	0.66
	Employed	6.69	1.10
	Unemployed / Not working	3.31	2.12
	Other / NA	6.92	0.56
Attitude	Positive	6.92	0.51
	Negative	3.61	2.42
Outcome Stakes	Dismissed	6.91	0.54
	Reduced Penalty	6.96	0.32
	Penalty	3.61	2.42
Accompanying Person	Spouse / Family Member	7.00	0.00
	Alone	6.10	1.95
	Interpreter	3.53	2.05

Across contextual factors, mean active-listening scores were higher for males ($M = 6.51$) than females ($M = 5.57$), for elderly defendants ($M = 6.92$) than younger ones ($M = 5.26$), and for positive attitudes ($M = 6.92$) than negative attitudes ($M = 3.61$); by case type, scores were

lowest for parking ($M = 5.07$), higher for red-light cases ($M = 6.73$), and highest for speeding/smoking/multi-violation cases ($M = 7.00$), while students ($M = 7.00$) and retired participants ($M = 6.85$) exceeded employed ($M = 6.69$) and unemployed/not-working participants ($M = 3.31$); listening was also higher in dismissed ($M = 6.91$) and reduced-penalty outcomes ($M = 6.96$) than in penalty cases ($M = 3.61$), and was greatest when defendants appeared with family ($M = 7.00$), followed by appearing alone ($M = 6.10$), and lowest in interpreter-mediated cases ($M = 3.53$).

5.3 Cross-measures

Attitude was analysed across gender, age, outcome stakes, and accompanying persons to identify patterned distributions. Table 4 below presents the cross-measure alignment of negative and positive attitudes.

Table 4. Distribution of Attitude across Demographic and Interactional Factors

Attitude	Variable	Category	Count
Negative	Gender	Female	186
		Male	124
	Age	Elderly	0
		Young	310
	Outcome Stakes	Dismissed	0
		Penalty	310
		Reduced	0
	Accompanying Person	Alone	248
		Interpreter	62
		Spouse	0
Positive	Gender	Female	372
		Male	558
	Age	Elderly	620
		Young	310
	Outcome Stakes	Dismissed	806
		Penalty	0
		Reduced	124
	Accompanying Person	Alone	744
		Interpreter	62
		Spouse	124

Elderly defendants ($n = 620$) dismissed outcomes ($n = 806$), and spouse-accompanied appearances ($n = 124$) show positive attitude (75%, $n = 930$) and these interactions received higher levels of active listening. In contrast, young defendants ($n = 310$) and unaccompanied ($n = 248$) or interpreter-mediated cases ($n = 62$) negative-attitude cases (25%, $n = 310$) showed negative attitude, resulting in more penalties ($n = 310$), and lower active-listening scores.

Table (5) below presents the distribution of outcome stakes (dismissed, penalty, reduced penalty) across age, gender, and accompanying-person status. It shows how institutional outcomes align with key demographic and interactional variables within courtroom encounters.

Table 5. Distribution of Outcome Stakes across Demographic and Interactional Factors

Outcome Stakes	Variable	Category	Count
Dismissed	Age	Elderly	558
		Young	248
	Gender	Female	372
		Male	434
	Accompanying Person	Alone	620
		Family Member	124
Penalty	Age	Interpreter	62
		Elderly	0
	Gender	Young	310
		Female	186
	Accompanying Person	Male	124
		Alone	248
Reduced Penalty	Age	Family Member	0
		Interpreter	62
	Gender	Elderly	62
		Young	62
	Accompanying Person	Female	0
		Male	124
		Alone	124
		Family Member	0
		Interpreter	0

Dismissed cases represented 65% ($n = 806$) of all outcomes and were concentrated among elderly defendants ($n = 558$) and

family-accompanied or unaccompanied appearances, and these interactions received the highest levels of active listening. Penalty cases accounted for 25% ($n = 310$) and occurred exclusively among young defendants, primarily in unaccompanied ($n = 248$) or interpreter-mediated cases ($n = 62$), corresponding to lower active-listening scores, while reduced-penalty outcomes (10%, $n = 124$) showed intermediate listening levels.

Across 20 episodes, active-listening scores were consistently high on both instruments (AEELS $M = 6.09$, $SD \approx 1.94$; ALOS $M = 6.10$, $SD \approx 1.89$), with strongest performance in Nonverbal Behaviors and Processing and greater variability in Emotional Responsiveness. Scores were higher in positive-attitude interactions (≈ 6.92) and dismissed/reduced outcomes (≈ 6.9 – 7.0) than in penalty cases (≈ 3.61), and were higher and more uniform for elderly defendants (≈ 6.92) than younger defendants (≈ 5.26), with males showing higher and less variable means than females. By case and context, parking showed the lowest scores (≈ 5.07), speeding/smoking/multi-violation reached ceiling levels (≈ 7.00), red-light clustered at ≈ 6.5 – 6.9 , students (7.00) and retired (≈ 6.85) exceeded unemployed/not-working (≈ 3.31), family presence aligned with maximal scores (7.00), alone averaged ≈ 6.10 , interpreter-mediated were lower (≈ 3.53), and correlations mirrored these patterns (higher with age; modestly lower with interpreter involvement).

6. Analysis and Discussion

This section investigates the quantitative listening scores in relation to the discourse data, considering Judge Caprio's talk as both a measurable skill set (AEELS/ALOS indices) and an interactional practice that demonstrates "listening justice" in context. Throughout the 20 episodes, active-listening scores remained consistently high on both measures (AEELS $M = 6.09$; ALOS $M = 6.10$), with the highest performance in Nonverbal Behaviours and Processing, and more variation in Emotional Responsiveness. Analyses of context revealed that listening scores were higher in interactions with positive attitudes and favourable outcomes (dismissed/reduced) compared to penalty cases, and greater for elderly defendants than for younger ones. These patterns reflect procedural justice work on voice, respect, and outcome acceptance (Murphy et al., 2015; Tyler et al., 2010), but the discourse data allow us to see how such perceptions are interactionally achieved rather than solely inferred from ratings.

6.1 Active Listening Visibility

High AEELS and ALOS scores are most understandable when linked to observable conversational behavior (Table 2 above). Episodes with near-ceiling scores are characterized by dense clusters of listening cues: sustained eye contact, prosodically warm assessments, paraphrases that enhance the defendant's account, and affiliative humor. These practices function as "public displays" of having heard and processed previous turns (Atkinson & Drew, 1979; Chernyshova, 2018), turning internal sensing and processing into visible actions.

Excerpt 1

1. Judge: So you came here today to tell me he's guilty.
2. Linda: I'm not guilty, the ticket's in my name. I'm not guilty.
3. Judge: No, no, I understand that. You came here today to tell me he's guilty. So the first thing you did was throw him under the bus. (audience laughing)
4. Linda: I'm not throwing myself under.
5. Judge: (Frank laughing) You know? So you think he's really guilty, huh?
6. Linda: When I looked at that video, if I was a policeman, I would say he was guilty.
7. Guilty.
8. Judge: (audience laughing) Me too. Raise your right hand and repeat after me.
9. Linda. I mean, it was a little bit close. A little bit close.
10. Judge: I want you to assume that you're policeman right now. Okay?
11. Linda: Yeah.
12. Judge: You're wearing Inspector Quinn's badge, okay?
13. Linda: Okay.
14. Judge: And you look at the video, and then you look at the time on the video. Let's see the face sheet, please. See where it says red time. She's gonna put arrow over there. 0.3? It says 0.3. Do you know what that means?
15. Linda: No.
16. Judge: That means he went through the light when it was red for three tenths of a second.
17. Linda: Oh, three tenths, so it was close. (audience laughing)
18. Judge: Well, you just said he's definitely guilty. I try to explain to you.
19. Linda: Three tenths of a second, that's not much.
20. Judge: All right, now let me finish. (audience laughing)

21. Linda: Okay.
22. Judge: You go through this every day?
23. Husband: Yes, your honor. (audience laughing)
24. Linda: We've been happily married for 43 years. Right?
25. Husband: Yes, dear. (audience laughing)
26. Judge: You know (laughs). My wife and I meet people, they usually will say, "How long have you been married?" And I say, "We've been happily married for five years." Now my wife is much younger looking than I am. They say, "Oh, you've been happily married for five years?" "Is she your second or third wife?" I said, "Oh, no, we've been married 50 years. "We've been happily married for five." (audience laughing) That's good. You've been happily married for how long?
27. Linda: Almost 43 years. 43 years, all right.
28. Judge: Now I'm gonna make you a judge, okay?
29. Okay.
30. Judge: Can I call you Linda?
31. Linda, that's fine.
32. Judge: All right, Linda, here's the deal. You're the judge. The statute that set up this offense, all right, allows two tenths of a second to get through the light and they don't charge you.
33. Linda :Okay, missed it by one.
34. Husband: One tenth. (audience laughing)
35. Judge: How do you handle this case? It's three tenths of a second. Do you give him the benefit of the doubt, right, or do you say, hey, three tenths, pay the fine. What do you do?
36. Linda: I'll give him the benefit of the doubt, and he has to take me to dinner.
37. Judge: Oh (laughs). (audience laughing)
38. Linda: That's the deal.
39. Judge:Well?
40. Husband: I have to agree with her, your honor. (audience laughing)
41. Judge: It's been my policy of the fact. Without the city coming in and proving the calibration, I think the difference between two tenths of a second and three tenths of a second is so small, right? That I usually give the benefit of the doubt. Particularly when they come in with some high powered defense like you.

In this exchange, Judge Caprio repeatedly demonstrates the Processing dimension of AELS. After Linda narrates the story of receiving the ticket and clarifies that her husband was the actual driver, Caprio rephrases her account to show structured understanding. For instance, when he says, "*So you came here today to tell me he's guilty... the first thing you did was throw him under the bus*" (Lines 9–11), he takes Linda's scattered narrative, about the mailed ticket, the yellow light, the red light, and the son in the hospital, and distills it into a concise, humorous summary. This reformulation is not merely comprehension; it is the judge organising her storyline into an intelligible, institutionally relevant frame and feeding it back for confirmation, which aligns directly with high-level Processing in AELS.

Simultaneously, Caprio performs ALOS Verbal and Nonverbal Behaviours, using affiliative prosody, laughter, gentle teasing, and supportive minimal responses (Lines 13, 16, 26, 30, 34). His joking tone, "*You go through this every day?*" (Line 30) and "*I'm not gonna take you to dinner*" (Line 51), creates rapport and reduces tension. These behaviours show active involvement and socio-emotional attunement, softening the hierarchical asymmetry of the courtroom. Importantly, these interactional moves enhance Linda's moral standing. By framing her narrative playfully rather than adversarially, Caprio validates her perspective while maintaining procedural fairness. This interactional stance mitigates the face-threatening implications of judicial authority, consistent with Brown and Levinson's (1987) politeness theory and (Kádár & Haugh, 2013) relational work, yet still enables him to carry out the institutional task of evaluating the red-light timing and applying the statutory rule (Lines 40–49).

The high scores in Processing and Nonverbal Behaviours are, therefore, not just psychometric artefacts: they reflect a recognisable interactional pattern where formulations, empathy-supported assessments, and embodied displays of attention occur together. The discourse excerpts reveal how the elements connect, supporting the idea of active-empathic listening as a cohesive sequence of speech acts rather than separate micro-skills (Bodie, 2011).

6.2 Calibrating Emotional Responsiveness

Emotional Responsiveness showed the lowest mean and greatest variability in the dimensional analysis, suggesting that affective displays are context-dependent rather than consistently maximal. This aligns with debates on empathy in judicial work, which caution against unbounded affect and advocate for calibrated perspective-taking that remains compatible with impartiality (Bandes, 2011; Lima & Osório,

2021; Winczewski et al., 2016).

Excerpt 2:

1. Judge: david Norton, mr Norton, your motor vehicle has been towed
2. David: yes, it has
3. Judge: you were before the court on previous occasion and you had 29 parking tickets your previous judgment was 1090 you paid three hundred dollars and the boot was released and you promised to pay one hundred dollars a month on the balance so you came in you had all those tickets; i'm not sure who you appeared before; i'm not sure if it was me because i don't remember but you paid 300 on a thousand dollar 1100 balance and you never paid not one penny not one penny of the remaining balance; you never paid, then, you changed your registration; you got a different registration; figure how could they ever know it's me so you got a different registration and now you have eight parking tickets and you haven't paid one of them not even one, what do you want to tell me about this
4. David: well i've been out of work the last six months
5. Judge: well we haven't changed our phone number; you know we've got the same phone number and these other tickets were not within the last six months
6. David: I agree
7. Judge: these other tickets go back five six seven eight years ago, so we're going back then now you're out of work, i understand, that why didn't you pay these, you changed your registration, you didn't pay anything now you got eight new tickets on the new registration, i'm not down here that much and i let it go, well there's not much wiggle room for you here because you've showed complete and total disregard for this court; you came in you paid the 300. you said forget those guys, i'm from Massachusetts, right; i don't get there that often; i'll change the registration, and i'm skating free; well you're not skating free ;how do you feel about this inspector quinn
8. Inspector: um same way your honor, i mean he's already had two bites at the apple and now he has uh
9. Judge: it's very uncomfortable for me to make this kind of a speech because i i'm usually very understanding; i understand hardship; i understand hardship; i really understand but you have to call us and let us know but when you change your registration; you don't pay a thing; you walk and then you get booted again; well it's a little different; the your problem is that your car is now towed which means you're paying storage fees every day; where the car is; i don't know; what it is 30 bucks a day somewhere around there; so now you're paying storage fees now you've got the boot fee
10. David: what about the interest; can you do anything with that; there's a lot of interest on them.
11. Judge: the answer to your question is i can do anything; okay, that's not the question; the question is whether i will; you haven't shown, you haven't shown, much of an effort here; it's a 100 hour boot fee under new tickets; it's 160 dollars so that's 260 dollars; you have a balance of 790 dollars on the previous tickets so it's back to a thousand fifty how much of that can you pay today 500; i'm going to accept the 500 to release the car from the tow company; how much can you pay what kind of a payment plan can you afford 75 a month, okay? i'm going to make it 50 a month, all right so that you pay it now; i'm going to tell you something, mr norton if you don't pay and you ever come back again; i'll wave nothing; i'm going to all the penalties that i waved; i'll put back on okay you know; i really don't want to persecute you
12. David: thank you
13. Judge: right but i don't want you to insult the court either, okay; make sure
14. David: thank you judge
15. Judge: I know you got knocked down right; it's no sense to get knocked down it's a sin not to get back up so get back up good luck
16. David: thank you
17. Judge: for me once shame on you fool me twice shame on me my job is to try to balance the interest of the city with the rights of the individual my natural inclination is to side with the individual however when that person defaults on our agreement the benefit of the doubt is gone and the balance shifts; trust me, it gives me no pleasure to play the role of enforcer, but when you try to fool me twice, you leave me no option.

In this second excerpt, the interaction is markedly more procedurally focused and displays what would be scored as lower-affiliation listening on the AELS/ALOS scales. Judge Caprio's listening remains active, but only within the boundaries of legal administration. For example, he begins by meticulously recounting David's history of unpaid tickets, missed payments, and changed registrations, "you never paid not one penny... then you changed your registration... now you have eight parking tickets and you haven't paid one of them" (Line 3). This long turn functions as a compressed paraphrase oriented purely toward factual reconstruction rather than rapport building or emotional validation. It is structurally similar to the summarizing work seen in Excerpt 1, but stripped of affiliative humour and delivered with a noticeably firmer prosodic contour.

Minimal encouragers are also rarer and more clipped. When David explains, “I’ve been out of work the last six months” (Line 4), Caprio responds not with empathy tokens (e.g., “I understand”), but with a corrective factual frame, “these other tickets were not within the last six months... these go back five, six, seven, eight years ago” (Lines 5–7). Even when he later states, “I understand hardship; I really understand” (Line 9), this is not an affiliative expansion but a preface to re-asserting responsibility and institutional constraints. Prosodically and relationally, the exchange is cooler and more asymmetrical. Unlike his joking, face-enhancing tone with Linda in Excerpt 1, Caprio here avoids humour almost entirely, except for a short idiomatic admonition at the end, “*fool me once, shame on you; fool me twice, shame on me*” (Line 17). This closing commentary frames the defendant’s behaviour as a breach of trust, reinforcing institutional authority rather than enhancing moral standing.

From a scoring perspective, such sequences would naturally yield lower ratings in Emotional Responsiveness, and slightly diminished Sensing and Responding behaviours, because the judge does not mirror affect, offer affiliative alignment, or soften the institutional stance. Yet, as the discourse suggests, these are not listening deficits but strategic calibrations. Faced with a resistant or non-compliant defendant, one who changed registrations, ignored prior agreements, and accumulated new violations—Caprio modulates his warmth downward to maintain neutrality, preserve courtroom legitimacy, and avoid the appearance of being lenient toward repeat offenders.

Thus, the reduced relational work in this excerpt reflects graduated empathy, where affiliative humour and moral-supportive framing (seen in Excerpt 1) are withheld in favour of procedural clarity, accountability, and institutional balance. This targeted deployment aligns with procedural justice principles: the defendant still receives an explanation, the opportunity to speak, and clear reasoning. However, the relational work is now more closely linked to rule enforcement. Therefore, the variations in Emotional Responsiveness primarily indicate contextual calibration rather than inconsistency.

6.3 Listening, Age and Socio-Economic Precarity

The results indicated higher and more consistent listening scores for elderly defendants ($M \approx 6.92$) compared to younger ones ($M \approx 5.26$), with notably high scores among students and retired participants in contrast to unemployed individuals or those in insecure positions. This pattern presents an important interpretive challenge: does listening justice favour certain biographical profiles, or do those profiles lead to different listening practices?

1. Judge: Nicolas Manzo. Morning sir. Mr. Manzo.
2. Nicolas: Yep.
3. Judge: You have a red-light violation on Pleasant Valley Parkway. Do you remember this?
4. Nicolas: Well, in fact, I went and investigated it four or five times. I was wrong, no question about it. I made a right-hand turn, and that’s the first violation I’ve got in 72 years of driving.
5. Judge: (chuckles) really?
6. Nicolas: Yep, look up my record.
7. Judge: I’m not gonna look it up. Now, Mr. Manzo, ask you a question. Martha here indicates that you are 93 years old. Right.
8. Nicolas: World War II veteran. Spent 29 months in the Pacific.
9. Judge: Okay?
10. Nicolas: Without coming back. And came back alive.
11. Judge: Where were you in the Pacific?
12. Nicolas: I was in the Navy.
13. Judge: You were in the Navy? Yep.
14. Judge: How long did you serve?
15. Nicolas: I served three years. 1943, February, on my 17th birthday, I joined the Navy, and I didn’t come back for three years. The truth of the story is, I could tell you a little story if you got a few minutes.
16. Judge: Go ahead, I wanna hear it.
17. Nicolas: I joined the Navy when I was 16 years old. I went up to Federal Hill, Holy Ghost Church, I got my birth certificate, I forged it. I made myself 17 years old, and I went down to the recruiting station, and I joined the Navy. Everything went fine. Until two weeks later, the policeman and the Navy come up and they wanted to arrest me because I forged my birth certificate. But I waited another year, and I left Mt. Pleasant High School, and I went in the Navy, and I spent three years, 29 months, in the Pacific. Every battle that was in the Pacific, I was there. I was in it.
18. Judge: I receive letters from people every day, and I received a number of letters from veterans who actually send me checks, and the purpose for them sending me checks is to help other veterans. Now I would really dismiss your case outright anyway. You know, I would dismiss it. And it’s not gonna go on your record, but I’m not gonna have you pay anything of this. But I have a gentleman who sent me a check for \$50, and he wants me to, he said his father was a World War II Navy veteran, and please use this honor him and his service as a veteran, and you were World War II Navy veteran as well, so I’m going to use this check, this

is from Anthony Christiansen, and Mr. Christiansen is from, looks like Panhandle, Texas. Tell me about your experiences during the war.

19. Nicolas: Well, I was on-board ship, a big ship, a battleship, and we were in many many battles, many of 'em. The worst one I seen was Iwo Jima. That was a, that was terrible. We lost more Marines in that invasion than I think any other war outside of the Battle of the Bulge. That was the worse that's ever, you couldn't believe how bad that was.
20. Judge: You were there? I was there.
21. Nicolas: Yes I was. I was on every battle in the Pacific. From 1943 to 1945. We didn't miss one. Not one. And they were brutal.
22. Judge: Well you have been known as the greatest generation, and you were the greatest generation, and you said something earlier, second World War brought about a sense of patriotism in this country that we have not seen since. Right. But there was such strong patriotism that here you are a 16 year old boy, and you wanted to go and fight for your country. So much so that you even forged a document to try to get into the service to go and protect the country.
23. Nicolas: And I got caught. (laughs)
24. Judge: But you went back.
25. Nicolas: I went back a year later, right on my birthday, I joined the Navy. And within three or four months, I was out in the Pacific. My father was an immigrant. Came into this here country at 18 years old, and couldn't get a job, and things were tough, so he joined the Army, and he went into World War I, and he was there for 18 months, and he survived, he came home.
26. Judge: And how that's he became a citizen. They should build a monument to your family. Between your father in World War I, and you, and all your cousins. My uncles. And your uncles in World War II. Unbelievable, and they all came back.
27. Nicolas: We all came back, yep, every one of us.
28. Judge: I can't thank you enough for your service. Thank you, thank you.
29. Nicolas: You're welcome.
30. Judge: Good luck to you.
31. Inspector: And at 93, Judge, he's got a wonderful head of hair too. (laughs) I gotta commend him for that. Well I remember when the judge had a nice head of hair. (laughs) Oh, he still does. He still does.
32. Judge: Boy, if we could bring back them old days, huh? They were wonderful days. These are wonderful days too, except that we don't have the sense of family, community that we had back then.
33. Nicolas: You're right.
34. Judge: Thank you for your service. We owe you a great debt of gratitude. Thank you, you're welcome. My pleasure just to be in your company.

In this excerpt, Judge Caprio's listening displays heightened Sensing, Processing, and Emotional Responsiveness, producing one of the most affiliative, high-scoring patterns in the corpus. From the opening turns, Caprio immediately orients not just to the red-light violation but to the person behind it. When Martha notes Nicolas's age, "you are 93 years old" (Line 7), Caprio pivots from procedural inquiry to a deeply personal line of engagement, inviting Nicolas to narrate his wartime experiences: "Where were you in the Pacific?" (Line 11), followed by "Go ahead, I wanna hear it." (Line 16). These invitations show strong Sensing, as Caprio identifies unspoken emotional and social stakes such as military service, ageing, memory, and identity, and shifts the frame accordingly.

His Processing is equally prominent. As Nicolas recounts forging his birth certificate, serving on a battleship, and enduring major Pacific battles (Lines 17–21), Caprio repeatedly reorganises the narrative into a coherent, culturally resonant storyline. For instance, he reframes Nicolas's account as emblematic of "the greatest generation," and explicitly links personal biography to broader national themes such as patriotism, sacrifice, and civic duty (Line 22). This is not mere cognitive summarising; it is an interpretive act that elevates the speaker's moral standing and aligns with AELS's highest-level Processing behaviours.

Caprio's Emotional Responsiveness is amplified through affiliative prosody, soft laughter, and warm acknowledgments, such as "I can't thank you enough for your service" (Line 28) and "My pleasure just to be in your company" (Line 34). These turns demonstrate attunement not only to Nicolas's words but to the symbolic value of his life story. Importantly, Caprio also extends the emotional frame by sharing his father's World War I experience (Line 25), constructing a space of shared heritage and mutual identification. This reciprocal disclosure marks a rare moment in judicial discourse, where institutional distance gives way to interpersonal solidarity.

Culturally, the interaction draws on widely recognised norms of honouring elders and veterans in U.S. public culture. Caprio's stance reinforces these values, positioning Nicolas as a figure of collective respect. However, this raises an important interpretive concern: listening justice may become unevenly distributed. Individuals whose biographies align with culturally valorised categories such as elderly persons, veterans, and long-term workers may receive highly elaborated, relationally rich listening, while younger defendants or precariously employed individuals, as seen in the David Norton excerpt, tend to receive a more procedural and less affectively invested version of attention.

Therefore, while this interaction exemplifies the upper range of Caprio's empathic style, the contrast with lower-warmth exchanges suggests that such responsiveness may be selectively triggered by narratives that fit familiar virtue-based storylines, revealing consequential patterns in courtroom listening. The data cannot, on their own, determine whether such asymmetries constitute systematic bias, but incorporating excerpts like Excerpt 3 allows the discussion to highlight a pattern: active listening is clearly used, yet it may be distributed unevenly across social groups.

6.4 Structural Constraints

Another area of lower scores relates to interpreter-mediated cases, which demonstrated lower listening indices (ALOS overall ≈ 3.53) compared to defendants appearing alone or with family members. Here, the issue is less about individual disposition and more about the interactional structure: mediation interrupts the quick, finely tuned timing that supports active listening (Roberts et al., 2015; Ying et al., 2023).

Excerpt 4

1. Judge: Good morning.
2. Defendant: Hi, good morning.
3. Judge: You want to have an interpreter? Yeah, you just asked me to have an interpreter. You speak better than the interpreter.
4. Judge: While we're getting her, this is summons number 993, and then 768. 993 is on Pleasant Valley Parkway and Valley Street on February 29th, 2016. Take a look at that. It's yellow... it's red... and there you go. There's no question about that. Oh wait a minute, we have to see the other one. The other one was on Branch and Charles, ticket 768. It is yellow... yeah... it's red... and there you go. We just showed Ms. Guerrero two red-light violations, both of which are abundantly clear that she went through the light. She also has a parking ticket on George Street that she paid. I'm going to dismiss the parking ticket. Ask her if there's anything she wants to tell me about the red lights.
5. Interpreter: ¿Quiere decir algo acerca de las dos luces rojas, la de Branch y la de Pleasant Valley? (Do you want to say anything about the two red lights, the one on Branch and the one on Pleasant Valley?)
6. Defendant: La de Branch fue mi novio, y él pagó... mandó el dinero ayer. (The one on Branch was my boyfriend's, and he paid... he sent the money yesterday.)
7. Interpreter: The one on Branch Avenue was her boyfriend, and she says he paid. He sent the money through the mail yesterday.
8. Judge: The other one was her daughter?
9. Interpreter: ¿La otra fue su hija? (The other one was your daughter?)
10. Defendant: Sí (Yes.)
11. Interpreter: Yes, the other one was her daughter.
12. Judge: Which one did her boyfriend pay for? Branch Avenue or the other one?
13. Interpreter: ¿Cuánto pagó su novio, la de Branch o la otra? (Which one did your boyfriend pay for, the one on Branch or the other one?)
14. Defendant: La de Branch. (The one on Branch.)
15. Interpreter: The one on Branch Avenue.
16. Judge: I'm going to leave that open.
17. Interpreter: Voy a dejar ese caso abierto. (I am going to leave that case open.)
18. Judge: I'm going to charge you \$85 for the one your daughter went through.
19. Interpreter: Le voy a cobrar 85 dólares por la que pasó su hija. (I'm going to charge you \$85 for the one your daughter went through.)
20. Judge: And the one her boyfriend went through, I'm going to leave that open until we get the check. If we don't get the check, she's coming back.
21. Interpreter: Ella dice que no está trabajando, y quiere saber si usted puede reducir el monto o ponerle un plan de pagos. (She says she is not working, and she wants to know if you can reduce the amount or put her on a payment plan.)
22. Judge: How much can you pay?
23. Interpreter: ¿Cuánto puede pagar? (How much can you pay?)
24. Defendant: Veinte. (Twenty.)
25. Interpreter: Twenty.
26. Judge: Well, her daughter can pay for it.

27. Interpreter: Su hija puede pagarlo. (Your daughter can pay for it.)
28. Defendant: Ella acaba de empezar a trabajar. (She just started working.)
29. Interpreter: She just started working.
30. Judge: She's got a bad attitude. I can see the look on her face. I just can't do it. It's \$85. The boyfriend's ticket stays open until the check comes in. Don't hold your breath waiting for that check. All right. Eighty-five dollars.
31. Interpreter: Ochenta y cinco dólares. (Eighty-five dollars.)
32. Judge: Give her time to pay it.
33. Interpreter: Le vamos a dar tiempo para que lo pague. (We will give you time to pay it.)

In this interpreter mediated exchange, Caprio's listening is slowed by the triadic structure. After narrating both red light violations in line 4, he must wait for the interpreter to relay his question in line 5 and then wait again for the defendant's answer in line 6 and the translation in line 7. These delays reduce the immediate cues that support active listening such as nods, brief acknowledgments and overlapping encouragements. However, the interaction also contains several moments where Caprio moves away from listening and toward judging. When the defendant explains that her boyfriend paid for the Branch Avenue violation in lines 6 to 7, Caprio does not explore or clarify. He shifts immediately to a new evaluative question in line 8. Similarly, after the interpreter confirms which ticket the boyfriend paid for in lines 13 to 15, Caprio bypasses the substance of the explanation and simply declares the case open in line 16, signalling decision rather than engagement.

A clearer shift occurs around payment. When the defendant offers twenty dollars in line 24, Caprio does not acknowledge the financial hardship. Instead, he asserts that her daughter can pay for it in line 26, ignoring the contextual information provided by the interpreter. Even when the defendant explains that her daughter has only just started working in line 28, he does not respond to this detail. He moves directly to moral judgment in line 30, saying she has a bad attitude based only on her facial expression, even though her spoken contributions are brief and mediated through the interpreter. The same pattern is visible when the interpreter explains that the defendant is unemployed and asks whether the judge can reduce the amount or offer a payment plan in line 21. Caprio does not answer the request; he moves straight to how much can you pay in line 22.

These sequences show that the lower listening quality here is not only due to the interpreter mediated format. Caprio's turns repeatedly prioritise evaluation over understanding, which produces measurable reductions in AELS and ALOS listening behaviours. This supports the argument that multilingual courts require training in triadic listening so that judges can maintain engagement, delay judgment and attend fully to interpreted speech, as recommended by (White et al., 2021).

6.5 The Direction of Influence

The cross-tabulations revealed that positive-attitude interactions correlated with higher listening scores and more favourable outcomes, whereas negative-attitude interactions associated with lower scores and penalties. A naive interpretation might suggest that Caprio "listens more" to compliant defendants and less to resistant ones, raising concerns about conditional fairness. However, the discourse data complicate this causal assumption.

Across the transcripts, defendants with a positive attitude generally co-create the listening environment: they answer questions fully, make space for paraphrasing and humour, and view the judge's formulations as collaborative rather than adversarial. This creates useful conditions for the use of active listening skills. Conversely, highly defensive or hostile attitudes limit the opportunities for affiliative responses; the judge must deal with interruptions, overt contestation, or non-responsiveness. From an interactional perspective, it is therefore more accurate to speak of a feedback loop: early displays of listening (such as open prompts, respectful address, and a non-judgemental stance) may encourage cooperative participation, which in turn allows further elaboration of listening behaviours. When that loop fails to stabilise the judge seems to prioritise procedural clarity over a rich empathic display, resulting in lower Emotional Responsiveness scores. The integration of excerpts helps to illustrate this dynamic, rather than treating listening and attitude as static, independent variables.

7. Conclusion

This study demonstrates that active listening is a foundational component of judicial communication, shaping how fairness, respect, and authority are interpreted within courtroom interaction. By applying the AELS and ALOS frameworks to twenty episodes of *Caught in Providence*, the analysis shows that Judge Frank Caprio consistently displays high levels of sensing, processing, and nonverbal responsiveness. These behaviors function as institutional practices that make procedural justice observable because they validate defendants' voices, clarify reasoning, and transform legal encounters into moments of recognisable empathy and respect.

The qualitative discourse analysis further reveals that active listening is contextually calibrated rather than uniformly performed. Interactions involving elderly defendants, positive attitudes, or emotionally rich narratives elicited higher listening scores and more affiliative behaviors, including narrative invitations, reformulations, and humor. In contrast, interpreter-mediated hearings, high-conflict interactions, and repeat-offender cases showed reduced emotional responsiveness, reflecting a shift toward procedural clarity and institutional authority. These variations demonstrate that active listening emerges from the interactional ecology of each case, shaped by participants' stances, turn-taking constraints, and the judge's need to balance empathy with impartiality.

Overall, the study shows that listening justice is both measurable and visible. It is enacted through discursive practices that humanize legal authority while maintaining institutional boundaries. The findings offer practical implications for judicial training by identifying specific micro-practices, such as calibrated humor, revoicing, and explicit acknowledgment, that enhance perceptions of fairness without compromising neutrality. They also point to important equity considerations, as listening behaviors may vary across social profiles, linguistic status, and case types. Future research should broaden this framework by examining other courts and including litigants' perceptions to fully understand how active listening shapes legitimacy, trust, and the lived experience of justice.

Notes:

The data that support the findings of this study are openly available in Caught in Providence youtube channel at <https://www.youtube.com/channel/UC59KhIPOR0Jj653dC4laEJw>

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References

- Atkinson, J. M., & Drew, P. (1979). *Examination: a comparison of the turn-taking organisations for conversation and examination*. In: order in court. oxford socio-legal studies. Palgrave Macmillan. https://doi.org/10.1007/978-1-349-04057-5_2
- Austin, J. L. (1962). *How to do things with words*. Oxford. Oxford University Press.
- Baker, T., & Warren, A. (2015). Active listening can make other people better communicators Too. In T. Baker & A. Warren (Eds.), *Conversations at Work: Promoting a Culture of Conversation in the Changing Workplace* (pp. 160-175). Palgrave Macmillan UK. https://doi.org/10.1057/9781137534187_11
- Bakhshandeh, B. (2023). Role of effective communication and active listening in building a coaching culture. In *Building an Organizational Coaching Culture*. Oxford. Routledge. <https://doi.org/10.4324/9781003379577-18>
- Bandes, S. A. (2011). Moral imagination in judging. *Washburn LJ*, 51, 1. Retrieved from <https://heinonline.org/HOL/LandingPage?handle=hein.journals/wasbur51&div=4&id=&page=>

- Bara, B. G. (2011). Cognitive pragmatics: The mental processes of communication. *Intercultural Pragmatics*, 8(3), 443-485. <https://doi.org/10.1515/iprg.2011.020>
- Bayraktarolu, A., & Sifianou, M. (2001). *Linguistic politeness across boundaries: The case of Greek and Turkish*. John Benjamins Publishing. <https://doi.org/10.1075/pbns.88>
- Beier, S., Eib, C., Oehmann, V., Fiedler, P., & Fiedler, K. (2013). Influence of judges' behaviors on perceived procedural justice. *Journal of Applied Social Psychology*, 44(1), 46-59. <https://doi.org/10.1111/jasp.12199>
- Beilharz, P., & Habermas, J. (2000). On the pragmatics of communication. *Contemporary Sociology A Journal of Reviews*, 29(5), 758. <https://doi.org/10.2307/2655274>
- Bernal, C. L. (2007). A speech act analysis of judicial decisions. *European Journal of Legal Studies*, 1, 391.
- Berryessa, C., & Krenzer, W. (2020). The stigma of addiction and effects on community perceptions of procedural justice in drug treatment courts. *Journal of Drug Issues*, 50(3), 303-328. <https://doi.org/10.1177/0022042620918950>
- Bodie, G. D. (2011). The active-empathic listening scale (AELS): Conceptualization and evidence of validity within the interpersonal domain. *Communication Quarterly*, 59(3), 277-295. <https://doi.org/10.1080/01463373.2011.583495>
- Bolden, G. B., & Hepburn, A. (2016). Transcription for conversation analysis. In *Oxford Research Encyclopedia of Communication*. <https://doi.org/10.1093/acrefore/9780190228613.013.131>
- Brown, P., & Levinson, S. C. (1987). *Politeness: some universals in language usage*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511813085>
- Calder, J. (2019). From Sissy to Sickening: The Indexical Landscape of /s/ in SoMa, San Francisco. *Journal of Linguistic Anthropology*, 29(3), 332-358. <https://doi.org/10.1111/jola.12218>
- Cao, D. (2007). Legal speech acts as intersubjective communicative action. In *Interpretation, Law and the Construction of Meaning* (pp. 65-82). Springer Netherlands. https://doi.org/10.1007/1-4020-5320-7_4
- Carston, R. (2008). *thoughts and utterances: The pragmatics of explicit communication*. Oxford. John Wiley & Sons.
- Chernyshova, E. (2018). Explicitation sequences in conversation: some considerations on formulations, candidate inferences and grounding. *Travaux Neuchâtois De Linguistique*, 68, 51-58. <https://doi.org/10.26034/tranel.2018.2862>
- Chow, W., Wong, K., Hiramoto, M., Wong, A., Ng, M. H. K., & Go, C. (2022). Tell me what happened: pragmatics of affect in legal communication. *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, 36(2), 561. <https://doi.org/10.1007/s11196-022-09904-7>
- Cichon, E. J. (2001). Practicing active listening. *Communication Teacher*, 16(1), 11. <https://doi.org/10.1080/29945054.2001.12290063>
- Clark, H. (1992). *Arenas of language use*. University of Chicago Press.
- Clark, H. (1996). *Using language*. Cambridge. Cambridge University Press. <https://doi.org/10.1017/CBO9780511620539>
- Clark, H. (2006). Context and common ground. In *Concise Encyclopaedia of Pragmatics* (pp. 116-119). Elsevier. <https://doi.org/10.1016/B0-08-044854-2/01088-9>
- Clark, H., Schreuder, R., & Buttrick, S. (1983). Common ground at the understanding of demonstrative reference. *Journal of Verbal Learning and Verbal Behavior*, 22(2), 245-258. [https://doi.org/10.1016/S0022-5371\(83\)90189-5](https://doi.org/10.1016/S0022-5371(83)90189-5)
- Cotterill, J. (2003). *Language and power in court: A linguistic analysis of the OJ Simpson trial*. Springer. <https://doi.org/10.1057/9780230006010>
- Drollinger, T., Comer, L. B., & Warrington, P. T. (2006). Development and validation of the active empathetic listening scale. *Psychology & Marketing*, 23(2), 161-180. <https://doi.org/10.1002/mar.20105>
- Ekpang, J. N., & Ogolekwu, O. (2024). Socio-legal discourse analysis of a selected court proceeding. *Ahyu: A Journal of Language and Literature*, 7, 1-13. <https://doi.org/10.56666/ahyu.v7i.192>
- Erbert, L. A., & Floyd, K. (2004). Affectionate expressions as face-threatening acts: Receiver assessments. *Communication Studies*, 55(2), 254. <https://doi.org/10.1080/10510970409388618>
- Fassaert, T., van Dulmen, S., Schellevis, F., & Bensing, J. (2007). Active listening in medical consultations: Development of the Active Listening Observation Scale (ALOS-global). *Patient Education and Counseling*, 68(3), 258-264. <https://doi.org/10.1016/j.pec.2007.06.011>
- Festinger, D., Dugosh, K., & Porta, J. (2018). Examining the use of visual performance feedback in drug treatment court. *Experimental and Clinical Psychopharmacology*, 26(1), 85-93. <https://doi.org/10.1037/pha0000166>
- Fontana, P., Cohen, S. D., & Wolvin, A. D. (2015). Understanding listening competency: A systematic review of research scales [review of *understanding listening competency: a systematic review of Research Scales*]. *International Journal of Listening*, 29(3), 148. Taylor & Francis. <https://doi.org/10.1080/10904018.2015.1015226>

- Fraser, H. (2022). A framework for deciding how to create and evaluate transcripts for forensic and Other Purposes. *Frontiers in Communication*, 7. <https://doi.org/10.3389/fcomm.2022.898410>
- Gibbons, J. (2003). *Forensic linguistics: An introduction to language in the justice system*. Blackwell
- Glenn, P. (2024). "so You're ^{TEL}ling Me . . .": Paraphrasing (formulating), Affective Stance, and Active Listening. *International Journal of Listening*, 38(1), 28-40. <https://doi.org/10.1080/10904018.2022.2136674>
- Goeze, A., Zottmann, J., Vogel, F., Fischer, F., & Schrader, J. (2014). Getting immersed in teacher and student perspectives? Facilitating analytical competence using video cases in teacher education. *Instructional Science*, 42(1), 91. <https://doi.org/10.1007/s11251-013-9304-3>
- Goffman, E. (1983). Felicity's condition. *American Journal of Sociology*, 89(1), 1-53. <https://doi.org/10.1086/227833>
- Greenberg, M. (2010). *Legislation as communication? Legal interpretation and the study of linguistic communication* (SSRN Scholarly Paper No. 1726567). Social Science Research Network. Retrieved from <https://papers.ssrn.com/abstract=1726567>
- Grieshofer, T. (2023). Reimagining communication and elicitation strategies in private family proceedings. *Journal of Social Welfare and Family Law*, 45(1), 41. <https://doi.org/10.1080/09649069.2023.2175546>
- Grieshofer, T. (2024). Legal-lay discourse and procedural justice in family and county courts. In *Cambridge University Press eBooks*. Cambridge University Press. <https://doi.org/10.1017/9781009378031>
- Gustafson, L. P., Short, A., & Hamilton, N. W. (2021). teaching and assessing active listening as a foundational skill for lawyers as leaders, counselors, negotiators, and advocates. *Scholar Commons (Santa Clara University)*. Retrieved from <https://digitalcommons.law.scu.edu/lawreview/vol62/iss1/2>
- Habermas, J. (2000). *On the pragmatics of communication* (M. Cooke, Ed.). The MIT Press.
- Heisterkamp, B. L. (2006). Conversational displays of mediator neutrality in a court-based program. *Journal of Pragmatics*, 38(12), 2051. <https://doi.org/10.1016/j.pragma.2006.03.005>
- Holtgraves, T. (1991). interpreting questions and replies: effects of face-threat, question form, and gender. *Social Psychology Quarterly*, 54(1), 15. <https://doi.org/10.2307/2786785>
- Jäckel, E., Zerres, A., & Hüffmeier, J. (2025). active listening in integrative negotiation. *Communication Research*, 52(7), 946-975. <https://doi.org/10.1177/00936502241230711>
- Kálá, D. Z., & Haugh, M. (2013). *Understanding politeness*. Cambridge University Press. <https://doi.org/10.1017/CBO9781139382717>
- Kawałek, A. (2020). A tool for measuring therapeutic jurisprudence values during empirical research. *International Journal of Law and Psychiatry*, 71, 101581. <https://doi.org/10.1016/j.ijlp.2020.101581>
- Keaton, S. A. (2017). Active—Empathic Listening Scale (AELS). In *The Sourcebook of Listening Research* (pp. 161–166). John Wiley & Sons, Ltd. <https://doi.org/10.1002/9781119102991.ch8>
- Kempson, R. (2017). Pragmatics. In *The Handbook of Linguistics* (pp. 415-443). John Wiley & Sons, Ltd. <https://doi.org/10.1002/9781119072256.ch20>
- Kopelovich, S., Yanos, P., Pratt, C., & Koerner, J. (2013). Procedural justice in mental health courts: judicial practices, participant perceptions, and outcomes related to mental health recovery. *International Journal of Law and Psychiatry*, 36(2), 113-120. <https://doi.org/10.1016/j.ijlp.2013.01.004>
- Küçükbezirci, Y. (2013). The importance of pragmatics in interpersonal communication. *Selcuk University Social Sciences Institute / Selçuk Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 29, 137.
- Lee, G. C., Platow, M. J., & Cruwys, T. (2024). Listening quality leads to greater working alliance and well-being: Testing a social identity model of working alliance. *British Journal of Clinical Psychology*, 63(4), 573. <https://doi.org/10.1111/bjc.12489>
- Lima, F., & Osório, F. (2021). Empathy: assessment instruments and psychometric quality – a systematic literature review with a meta-analysis of the past ten years. *Frontiers in Psychology*, 12. <https://doi.org/10.3389/fpsyg.2021.781346>
- Lustbader, P. (2015). Listening from the Bench Fosters Civility and Promotes Justice. *Seattle Journal for Social Justice*, 13(3), 13. Retrieved from <https://digitalcommons.law.seattleu.edu/sjsj/vol13/iss3/13>
- Mazerolle, L. and Terrill, W. (2018). Making every police–citizen interaction count. *Criminology & Public Policy*, 17(1), 89-96. <https://doi.org/10.1111/1745-9133.12340>
- Misir, H., & Akin, G. (2024). Navigating power and impoliteness in criminal court discourse. *International Journal of Legal Discourse*, 9(2), 289. <https://doi.org/10.1515/ijld-2024-2013>
- Moeschler, J. (2021). *Why Language?: What pragmatics tells us about language and communication*. Walter de Gruyter GmbH & Co KG. <https://doi.org/10.1515/9783110723380>
- Muneer, U. (2023). A critical discourse analysis of language used in judicial family courts. *Annals of Human and Social Sciences*, 4.

- [https://doi.org/10.35484/ahss.2023\(4-ii\)08](https://doi.org/10.35484/ahss.2023(4-ii)08)
- Murphy, K., Bradford, B., & Jackson, J. (2015). Motivating compliance behavior among offenders. *Criminal Justice and Behavior*, 43(1), 102-118. <https://doi.org/10.1177/0093854815611166>
- Nasir, N. F. M., Dahlan, N. K., Rahman, M. R. A., & Saifuddin, S. (2025). Active listening, procedural fairness and the legitimacy of community mediation. *International Journal of Research and Innovation in Social Science*, 9(10), 8573. <https://doi.org/10.47772/ijriss.2025.910000697>
- Ohbuchi, K., Teshigahara, K., Sugawara, I., & Imazai, K. (2005). Procedural justice and the assessment of civil justice in japan. *Law & Society Review*, 39(4), 875-892. <https://doi.org/10.1111/j.1540-5893.2005.00247.x>
- Palinkas, L. A., Horwitz, S. M., Green, C. A., Wisdom, J. P., Duan, N., & Hoagwood, K. (2013). purposeful sampling for qualitative data collection and analysis in mixed method implementation research [Review of *Purposeful Sampling for Qualitative Data Collection and Analysis in Mixed Method Implementation Research*]. *Administration and Policy in Mental Health and Mental Health Services Research*, 42(5), 533. Springer Science+Business Media. <https://doi.org/10.1007/s10488-013-0528-y>
- Parret, H. (2012). *The aesthetics of communication: pragmatics and beyond*. Springer Science & Business Media.
- Pulido, C. B. (2007). A speech act analysis of judicial decisions. *European Journal of Legal Studies*, 1(2), 1. Retrieved from https://cadmus.eui.eu/bitstream/handle/1814/7716/EJLS_2007_1_2_15_BER_EN.pdf?sequence=3
- Roberts, F. (2004). Interobserver agreement on first-stage conversation analytic transcription. *Human Communication Research*, 30(3), 376. <https://doi.org/10.1111/j.1468-2958.2004.tb00737.x>
- Rodat, S. (2019). Listening in verbal communication: aspects regarding active listening in theoretical models of social work. *Annals of the University of Craiova for Journalism, Communication and Management*, 5(1), 139-158.
- Romero-Trillo, J. (2008). *Pragmatics and Corpus Linguistics: A Mutualistic Entente*. Walter de Gruyter. <https://doi.org/10.1515/9783110199024>
- Rost, M., & Wilson, J. J. (2013). *Active Listening*. Routledge. <https://doi.org/10.4324/9781315832920>
- Sellnow, D. D., Verderber, K. S., & Verderber, R. F. (2018). COMM5. Cengage Learning.
- Seuren, L. (2018). Questioning in court: the construction of direct examinations. *Discourse Studies*, 21(3), 340-357. <https://doi.org/10.1177/1461445618770483>
- Shuy, R. W. (2015). discourse analysis in the legal context. In *The Handbook of Discourse Analysis* (pp. 822–840). John Wiley & Sons, Ltd. <https://doi.org/10.1002/9781118584194.ch38>
- Simon, C. (2018). The functions of active listening responses. *Behavioural Processes*, 157, 47-53. <https://doi.org/10.1016/j.beproc.2018.08.013>
- Skillman, M., Cross-Barnet, C., Singer, R., Rotondo, C., Ruiz, S., & Moiduddin, A. (2018). A framework for rigorous qualitative research as a component of mixed method rapid-cycle evaluation. *Qualitative Health Research*, 29(2), 279. <https://doi.org/10.1177/1049732318795675>
- Sullivan, B. (2016). Just Listening: The equal hearing principle and the moral life of judges. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2918414>
- Tustonja, M., Stipić, D. T., Skoko, I., Čuljak, A., & Vegar, A. (2024). Active listening – a model of empathetic communication in the helping professions. *Medicina Academica Integrativa*, 1(1), 42-47. <https://doi.org/10.47960/3029-3316.2024.1.1.42>
- Tyler, T., Schulhofer, S., & Huq, A. (2010). Legitimacy and deterrence effects in counterterrorism policing: a study of muslim americans. *Law & Society Review*, 44(2), 365-402. <https://doi.org/10.1111/j.1540-5893.2010.00405.x>
- Unuabonah, F. O. (2017). “Are you saying ...?”: Metapragmatic comments in Nigerian quasi-judicial public hearings. *Pragmatics*, 27(1), 115-143. <https://doi.org/10.1075/prag.27.1.05unu>
- Verschueren, J., & Östman, J. O. (2009). *Key Notions for Pragmatics*. John Benjamins Publishing. <https://doi.org/10.1075/hoph.1>
- Vickery, A. J. (2017). Active listening observation scale (ALOS). In *The Sourcebook of Listening Research* (pp. 174-179). John Wiley & Sons, Ltd. <https://doi.org/10.1002/9781119102991.ch10>
- Wathen, D. E. (2005). When the court speaks: effective communication as part of judging. *Maine Law Review*, 57, 449.
- Watzlawick, P., Bavelas, J. B., & Jackson, D. D. (2011). *Pragmatics of human communication*. W. W. Norton & Company.
- White, R., Johnson, E., & Bornman, J. (2021). Investigating court accommodations for persons with severe communication disabilities: perspectives of international legal experts. *Scandinavian Journal of Disability Research*, 23(1), 224-235. <https://doi.org/10.16993/sjdr.779>
- Widodo, A. (2025). Courtroom communication: identification of the communication characteristics of criminal trials in Indonesian courts. *Frontiers in Communication*, 10. <https://doi.org/10.3389/fcomm.2025.1623307>

- Wierzbicka, A. (2006). Intercultural pragmatics and communication. In *Encyclopedia of Language & Linguistics* (pp. 735-742). Elsevier Ltd. <https://doi.org/10.1016/B0-08-044854-2/00320-5>
- Winczewski, L., Bowen, J., & Collins, N. (2016). Is empathic accuracy enough to facilitate responsive behavior in dyadic interaction? distinguishing ability from motivation. *Psychological Science*, 27(3), 394-404. <https://doi.org/10.1177/0956797615624491>
- Winiecki, D. (2008). The expert witnesses and courtroom discourse: Applying micro and macro forms of discourse analysis to study process and the “doings of doings” for individuals and for society. *Discourse & Society*, 19(6), 765-781. <https://doi.org/10.1177/0957926508095892>
- Ying, T., Liu, S., & Wang, J. (2023). A corpus study on the difference of turn-taking in online audio, online video, and face-to-face conversation. *Language and Speech*, 67(3), 593-616. <https://doi.org/10.1177/00238309231176768>