

The Role of Judges and Courts in Family Justice Center Service Delivery Models

Presentation to the
California Family Justice Initiative Statewide
Conference

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by

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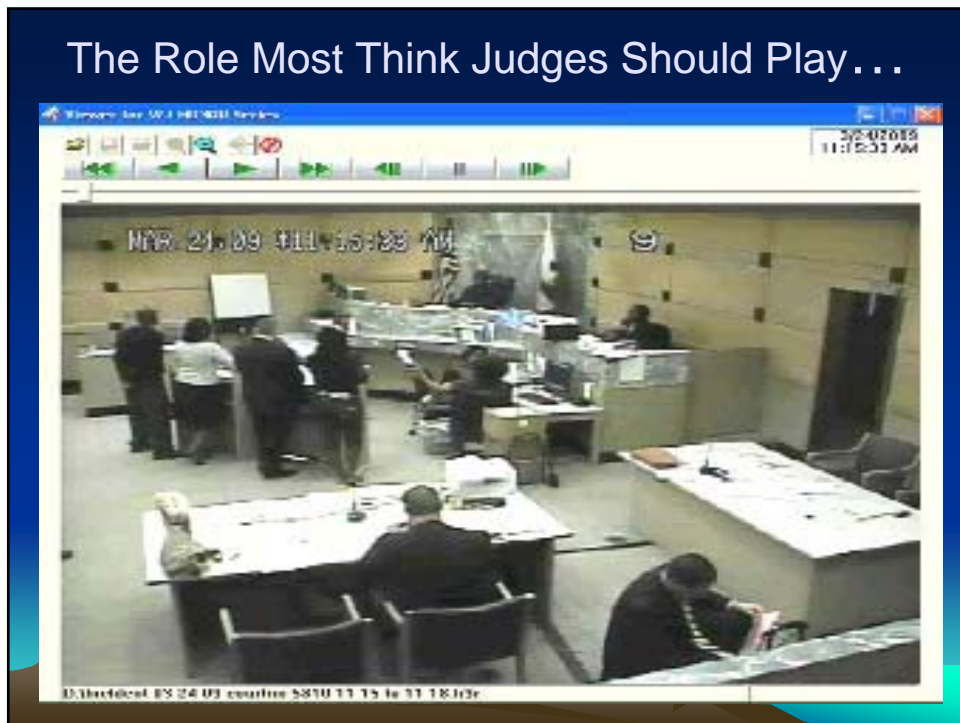
Administrative & Presiding Judge, Cleveland Municipal Court

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- After nearly 30 years, when it comes to ending intimate partner violence, the judiciary is still seen to be as much a part of the problem as it is as part of the solution

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In a Perfect World!



Domestic Violence and the Judiciary: A Little History

- Prior to 1990
- Civil and Criminal Curriculums developed by the Family Violence Prevention Fund
- VAWA and the USDOJ's OVW
- National Judicial Institute on Domestic Violence

Why get involved?

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- Public Expectations of the Judiciary

Why get involved?

- Concern for the provision of appropriate and effective interventions for battered women and their children.

Why get involved?

- The need to exercise leadership and promote cooperation among the various systems community-wide that are involved in the effort to combat family violence.



Why are some court's uncomfortable with participation in a coordinated community response?

- Sworn to be impartial
- See no appropriate judicial role
- Fear of ethical violations
- Fear of political repercussions
- Already overworked
- Dislike the issue or the advocates
- Personal Baggage
- Take a look at the Public Defender's Letter & NYT Article, "Fierce Entanglements"

Why worry about the court's participation anyway?

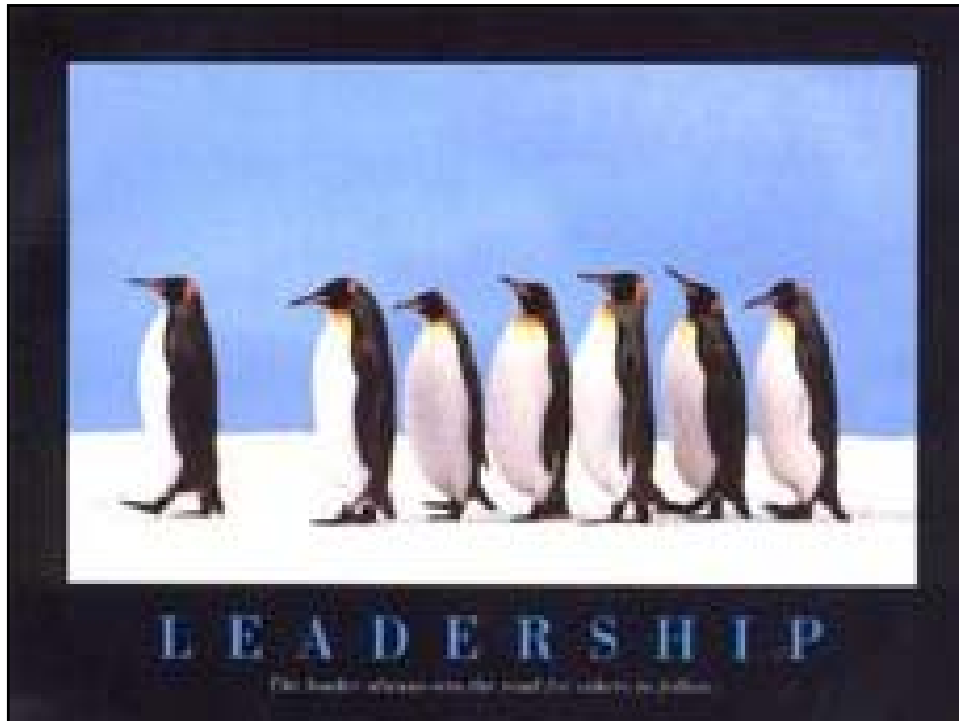
- The top of the Justice system "food chain"
- The perfect catalyst for change
- Brings credibility to the effort

Judicial Errors of the Past

- **Victim-focused**
- **Id-Driven**
- **Domestic violence was seen as only a justice system problem**
- **Neither we nor the community fully understood what we were dealing with**
- **We didn't think outside of the box and, therefore, limited our creativity**

The Court's Dilemma

Is it possible to be an activist
without being
(or appearing to be)
an advocate?



RESOLUTION 22, CONFERENCE OF CHIEF JUDGES

Problem Solving Courts: are recognized as an effective and necessary way to address complex social problems in a way that differs from traditional civil and criminal adjudication, focusing on remedies grounded in therapeutic jurisprudence, and best accomplished by the establishment of dedicated courts and calendars.

The Judicial Responsibility For Neutrality Does Not Preclude A Judge From Providing Community Leadership

- Judges should provide leadership, within the bounds of our Canons of Ethics, in determining needs and obtaining and developing resources and services for families involved with and exposed to family violence.





From the Bench, what are the court's primary goals in domestic violence cases?

- **Ensuring fairness, but avoiding re-traumatizing the victim in the courthouse.**
- **Seeking enhancement of victim safety as a top priority.**
- **Holding convicted abusers accountable**

What is the Appropriate Role of the Judge, Off of the Bench?

- **Catalyst?**
- **Convener?**
- **Task Force Member? Chair?**
- **Resource?**
- **Educator?**
- **Trainer?**
- **Leader?**

Challenges to Judicial Involvement

- All this must be done in a neutral, appropriate manner so as not to cast doubt on the impartiality of the tribunal to hear matters which come before it.

Challenges to Judicial Involvement

- Accusations that the judge is overstepping his or her authority and practicing social work.
- Requests/ demands for recusals/ disqualifications on ethical grounds
- Concerns about challenges at election time

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- **Promote the creation of FJC's as an improvement to the administration of justice**

As Promoters, Judges...

- **Seek to ensure the fair, equitable and timely administration of justice for all**
- **Expand the pool of available services for victims and offenders**

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- **Participate in the planning for FJC's to provide coordinated service delivery**

As Planners, Judges...

- **Bring a wealth of experience to the effort**
- **Assist in diagramming the facilitation and impediments of the case-flow process for all other partners**
- **Convene FJC planning processes**

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- Participate in the development of Electronic and Audiovisual-based court processes for protection order and other related hearings

As Tech Leaders, Judges...

- Assist in creating electronic rules to facilitate PO filings and hearings in DV cases
- Support the use of audiovisual interfaces between victims and remote courthouses

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- Refer those in abusive relationships who come to the courts to FJC's, who can appropriately assist them and advocate on their behalf

As Referrers, Judges...

- Partner with a diverse team of justice system, social service, medical, spiritual and other professionals to assist often terrified, traumatized victims of abuse
- Obtain useful feedback for rendering just results

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- **Maintain the status quo while the court resolves the equities of the underlying situation**

Judges can...

- **By providing victims with access to wraparound services, courts empower them to safely and independently work through the decision making process following an abusive event**

Ethically, What can courts do to partner with Family Justice Centers?

- **They can:**

- **Direct those in abusive relationships to the means of engaging in effective safety planning**

Judges can...

- Find ways to begin the rehabilitation of abusive offenders

What Crosses The Line?

Judicial Advocacy vs. Judicial Involvement

- Working to increase convictions, while ignoring or working against measures that protect the rights of those who are accused

Judicial Inaction vs. Judicial Impartiality

- Impartiality is not an excuse for inaction. It's the court's job to see to it that cases end in a just result. If there are impediments to that goal, courts should act to remove them!

What Else Is A Judge Allowed To Do?

- Engage in efforts to educate the general public:
 - About the law
 - About the empirical research
 - About the limits of justice system response
 - About the role of society in bringing change
 - Engage in efforts to educate colleagues, the Bar and Court staff

Conclusion

- **The judicial oath of office and the Canons not only anticipate, but rather encourage a degree of activism on the part of judicial officers on matters dealing with the law, the legal system and the administration of justice. The extent to which an individual jurist chooses to exercise that latitude is a matter of personal conviction and comfort.**