

State courts & judicial outreach

State-court judges are no strangers to community outreach.¹ Because most come from and remain an integral part of the communities in which they sit, state-court judges have long played an active role in interacting with those whom they serve. During the last decade, however, state courts have redefined their role in reaching out to communities and, almost without exception, have significantly expanded their outreach efforts.

The increased attention to community outreach programs parallels, and no doubt largely resulted from, attacks on judicial independence that developed during the last ten years. For better or worse, we have a “long and distinguished” tradition of “[b]ashing judges” in the United States.² Our history is filled with attacks that have threatened both decisional and institutional judicial independence.³ The most recent sequence of attacks seems to have begun with a series of events that occurred in the mid-1990s. In 1996, three in-

cidents arguably signified the beginning of a new era of judicial criticism. First, congressional leaders and the president harshly criticized U.S. District Court Judge Harold Baer for granting a suppression motion in a politically charged drug case, eventually urging his resignation and threatening impeachment.⁴ Shortly thereafter, Tennessee Supreme Court Justice Penny White was defeated in a retention election that centered around her concurrence in an opinion that remanded a death penalty case for resentencing.⁵ And on June 4, 1996, U.S. Circuit Court of Appeals Judge H.

1 The ideas in this essay were first presented at the 2007 conference on The Debate over Judicial Elections and State Court Judicial Selection, convened by the Sandra Day O'Connor Project on the State of the Judiciary at Georgetown University Law Center. A modified version of this essay appears in *The Georgetown Journal of Legal Ethics* 21 (4) (Fall 2008).

2 Archibald Cox, “The Independence of the Judiciary: History and Purposes,” *University of Dayton Law Review* 21 (1996): 574.

3 *Ibid.*, 574 – 575.

4 Kahn Zemans, “The Accountable Judge: Guardian of Judicial Independence,” *Southern California Law Review* 72 (1999): 626 – 627.

5 *Ibid.*, 627.

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Lee Sarokin retired because he found himself contemplating whether and how opinions he was preparing would be used politically in light of persistent political criticism aimed at his work on the bench.⁶

These and similar incidents, followed by broad, general criticisms of judges and the judicial system, triggered a torrent of responses from the academy, the bar, and the bench. Several law reviews held symposia on judicial independence in the late 1990s, and on July 4, 1997, the ABA Commission on the Separation of Powers and Judicial Independence, formed in part as a response to these attacks, released its final report, which provided a historical overview of judicial independence and outlined several recommendations designed to ensure its preservation.⁷

State-court judges quickly put aside their frustration at being the target of attacks many perceived as unfounded and unfair and began developing initiatives designed to bolster judicial independence, foster a better public understanding of the judiciary, and identify areas in which the courts need to improve. The courts received direction and assistance from organizations such as the National Center for State Courts,

6 Louis H. Pollak, "Criticizing Judges," *Judicature* 79 (1996): 301–302.

7 Zemans, "The Accountable Judge," 627. Memorandum from Colleen P. Danos to the National Center for State Courts, Re: Fostering Judicial Independence in State and Federal Courts, February 27, 1998, 5; at http://www.ncsconline.org/WC/Publications/KIS_JudInd_S98-0281_Pub.pdf. See also Memorandum from Colleen P. Danos to the National Center for State Courts, Re: Responding to the Unwarranted Criticism of Judges, May 19, 1997, 2–4; at http://www.ncsconline.org/WC/Publications/KIS_JudInd_S97-0693_Pub.pdf. This memo discusses the various responses of numerous state bar associations.

the American Judicature Society, Justice at Stake, the American Bar Association, the Committee for Economic Development, and the Denver Institute for the Advancement of the American Legal System.

In order to identify and discuss contemporary trends in court-community outreach programs, however briefly, in this paper, I contacted the chief justice of each state and asked the justice to describe the two or three community outreach programs that have proved most effective in that state.⁸ The diversity of programs developed in the various states, some of which are described below, reflects the unique challenges facing each state and the considerable disparity of resources available for outreach programs. Despite those differences, the programs share many similarities. Perhaps most striking is the degree to which the programs reflect a new approach to community outreach; these programs are not just more of the same. Instead, state courts have fundamentally changed their approach to developing outreach efforts. The information I received reveals several clear trends in the efforts undertaken by state-court systems.

Most of the programs the chief justices identified as successful began after 2000, although some of these programs built upon prior experience. That fact, I think, emphasizes that the courts recognized the serious nature of the attacks on the justice system and took seriously the need to respond effectively. Another major change between these new programs and prior programs involves the degree to which the new programs resulted from central planning efforts, which

8 I express my thanks to my colleagues for their assistance in preparing this paper. Although I have drawn heavily from the information they sent, any errors in description are, of course, mine alone.

usually included public input and encouraged a responsive and interactive discussion between courts and the public. The programs also often involve collaborations with community, education, and justice partner groups. As a result of planning and collaborative efforts, the programs tend to focus on specific areas of need rather than on general goals, upon which earlier programs relied. This planning and collaboration also tended to result in approaches that increase educational opportunities for community partners and encourage ongoing participation by the groups involved. Many of the outreach programs make full use of the expanded technology available to our courts. And, finally, state courts have recognized the need to adopt more robust public information programs, often headed by professional communications directors.⁹

State-court outreach programs no longer depend upon isolated efforts by individual judges, unrelated to the efforts of other justice-system participants. Instead, state courts increasingly rely upon organized planning, characterized by efforts to define specific problems to be addressed, to focus attention on defined goals, and to encourage public participation.

These central planning efforts rely upon various groups to assure that community outreach takes place. Some courts designate community outreach as a goal of a strategic agenda or plan and identify initiatives to be completed. Other courts have established task forces, centers, or committees charged with express responsibility for enhancing community

outreach. In 2006, for example, New York established the Center for Courts and the Community and directed the Center to enhance court involvement in community outreach and engagement; to build upon efforts and develop and implement community outreach, education, and engagement programs across the state; and to develop new programs, tools, and resources for youth education. Utah's Standing Committee on Judicial Outreach, acting through its Education Subcommittee, oversees the courts' outreach activities and plans programs designed to educate students and teachers.

Planning efforts often begin with public surveys designed to define those areas in which our courts do well and those in which we must improve. In addition to surveys developed by individual states, courts use assessments such as CourTools, developed by the National Center for State Courts, to identify issues that should be addressed by judges and other court staff.

A number of courts use not only surveys but also community forums to identify areas of greatest interest to members of the public. Alaska, for instance, instituted its OPEN COURT program in February 2007. The goal of OPEN COURT is twofold: to identify practical solutions to the challenges facing the justice system by providing a forum for discussion and consensus-building and to foster greater public understanding of the justice system and the role of courts in addressing community problems. Discussions, scheduled in four Alaskan cities, involve justice professionals, policy-makers, and public representatives, who jointly define the best practices to follow in resolving problems. Other courts also use community forums to define and address specific issues. In Montgomery County, Maryland, public fo-

9 More information about state-court outreach programs is available from the National Center for State Courts at its website, <http://www.ncsconline.org>.

rum held in local high schools drew more than five hundred people to focus on issues related to domestic violence. The court used information gained there, coupled with input from other justice-system sources, to develop a film about domestic violence for broadcast on cable television.

Citizen groups convened by the courts to assess judicial systems have provided some states the information needed to develop an outreach plan. In 2005, the New Hampshire Supreme Court convened the Citizens Commission on the State Courts, made up of one hundred volunteer citizens, which assessed the state judicial system and adopted recommendations for improving its operations.¹⁰ The Court used the recommendations to establish priorities in its budget request.

State courts, not surprisingly, also have drawn on the expertise of judicial leaders to plan outreach programs. California convened a summit of judicial leaders in 2006 to consider how best to safeguard the right of Californians to a highly qualified, impartial, and accountable judiciary.¹¹ The judicial leaders considered, among other topics, how best to improve public understanding of the role and decision-making process of the judiciary.

These few examples of planning programs demonstrate the degree to which state courts have accepted responsibility for developing and implementing effective community outreach programs. The

planning process also has made it clear that courts can implement outreach programs more effectively if they collaborate with other interested groups.

Court-operated outreach programs from ten years ago not only reflected less planning than do those in effect today but also relied almost entirely upon court resources and ideas. One of the noticeable changes in today's outreach programs is their reliance on collaborative efforts with other groups.

Several state courts have instituted educational programs that involve members of the educational community and the broader community. Utah formed the Coalition for Civic, Character and Academic Service Learning, which is chaired by Chief Justice Christine Durham. The Coalition brings together participants from all three branches of government to work with students and teachers to improve civic education in the classroom.¹² Through the work of the Coalition, thirty-five secondary school teachers participated in a three-day civics workshop, with one day devoted to learning about each branch of government. The Superior Court of California, San Joaquin County, has sponsored a similar institute since 2000. The Court-Community Leadership and Liaison Academy,¹³ which itself resulted from lessons learned from court-community focus groups, invites participants from community-based organizations that serve ethnic, immigrant, and disabled communities to take part in a

10 New Hampshire Citizens Commission on the State Courts home page, <http://www.courts.state.nh.us/aoc/budget0809/citcom072507.htm>.

11 *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006 - 2012* (The Judicial Council of California, 2007); at http://fetcher.fw-notify.net/00000001871715364160/strategic_plan_2006-2012-full.pdf.

12 Utah Coalition for Civic, Character and Academic Service Learning home page, <http://www.schools.utah.gov/curr/lifeskills/uccsl/uccsl.htm>.

13 Court-Community Leadership and Liaison Program, <http://www.stocktoncourt.org/courts/comfocus5.htm>.

twenty-one-week program that allows them to gain the knowledge and skills needed to serve as court liaisons. Graduates receive accurate information about the justice system and, in turn, serve as an informational resource to their communities and to the court system. Massachusetts also provides training to members of the public through the Norfolk County Criminal Justice Citizens Academy.¹⁴ There instructors, including judges and justice-system partners, educate participants about the criminal justice system and the operations of Massachusetts courts during an eight-week course. More than two hundred people have completed the course since it began in 1997.

The Arizona Supreme Court, partnering with the Arizona Foundation for Legal Services & Education and the Center for Civic Education, supports an annual We the People Summer Institute for teachers in upper-elementary through high-school grade levels.¹⁵ During this weeklong training session, teachers work with constitutional scholars as they learn to implement the We the People curriculum in their classrooms. In a similar vein, the North Dakota Supreme Court partners with the North Dakota Division of Independent Study to present the Justices' Teaching Institute.¹⁶

14 Press Release from the Massachusetts Court System, Re: Public Invited to Attend Norfolk County Criminal Justice Citizens Academy in Dedham, August 6, 2000; at <http://www.mass.gov/courts/press/pro80601.html>.

15 Arizona Foundation for Legal Services & Education home page, We the People Summer Institute, <http://www.azflse.org/wethepeople/professionaldev.cfm>.

16 Press Release from the North Dakota Court System, Re: Justices' Teaching Institute, October 11, 2006; at <http://www.court.state.nd.us/court/news/institute.htm>.

Participating high school teachers, in classes taught by justices, study the nature, history, structure, function, and processes of federal and state courts. When classes end, each teacher is assigned a lawyer-mentor who has agreed to assist in the classroom. Collectively, the eighteen teachers who take part in the Institute each year reach 2,500 students.

Many courts collaborate with local schools to provide civic education to students. The Puerto Rico Supreme Court, for example, has joined in a cooperative effort with schools that brings fourth to ninth graders to the court to attend a drug-court orientation program.¹⁷ Students and teachers observe the court and receive educational materials about the justice system.

Collaboration involves organizations other than educational bodies. Aided by the Indiana Historical Bureau, the Indiana State Archives, the Leora Brown School, and the Indiana State Bar Foundation, the Indiana Supreme Court's Courts in the Classroom project¹⁸ created curriculum materials and now hosts courtroom events related to a series of slavery-related decisions handed down by the Indiana Supreme Court from 1820 to 1860. And, partnering with the Historic Landmarks Foundation of Indiana, the Court made available from its website virtual tours of all ninety-two county courthouses in Indiana. The Massachusetts Supreme Judicial Court also entered into a partnership to expand its ability to provide civic education. Working with Discovering Justice, a nonprofit organization dedicated to education about the role of the justice system in

17 Puerto Rico Drug Court home page, <http://www.tribunalpr.org/drugcourt/index-2.htm>.

18 Courts in the Classroom Project, <http://www.in.gov/judiciary/citc>.

American democracy, the Court created interactive education programs that include mock trials, historic performances, and courthouse tours in the newly renovated John Adams courthouse.

State courts also rely on collaborative efforts to provide information to the public about the importance of judicial impartiality and independence. Community and service organizations, bar associations, and justice partners joined with the Arizona Supreme Court under an umbrella organization, Justice for All, to respond to attacks on the independence of the judiciary.

As evidenced by these and similar activities, state courts have learned that we can more effectively reach our communities by partnering with other organizations that share our interest in and concerns about the need to retain a fair and impartial justice system. Through these collaborations, the courts have learned at least as much as we have taught about serving our constituencies well.

In addition to collaborative projects, state courts have initiated many civic education projects designed to inform young people about the importance of the justice system in our system of government. State courts have made effective use of court facilities and state history to encourage civic education. Ohio completed its Visitor Education Center, located in the Ohio Judicial Center, in 2005. The Center, designed to appeal to both children and adults, includes interactive exhibits and other displays that foster an understanding and appreciation of the history, role, and responsibilities of the Ohio court system.¹⁹ Utah

19 The Ohio Judicial Center home page, Visitor Education Center, http://www.ohiojudicialcenter.gov/visitor_ed_center.asp.

also encourages students to come to the court, where they can tour the facility and observe a court proceeding.²⁰ During a break in the proceeding, the judge talks with the students and answers their questions. Young students visiting courts in Maryland leave with a coloring book featuring a friendly crab, Chester, that helps them learn about the law and the state justice system.²¹ Older students can attend traffic offense trials, where they learn about the consequences of drunk driving.²²

Wisconsin goes a step further, taking exhibits to the community. In 2003, to celebrate the Wisconsin Supreme Court's sesquicentennial, the Court developed a traveling exhibit about the Court's history, based upon five cases of importance. Since that time, the Court has taken the exhibit to ten counties, where a member of the Court speaks about the exhibit at a local event.²³

Supreme courts in several states have adopted programs under which the court leaves the confines of its own courtroom and travels to other parts of the state to hear oral arguments. Given various titles such as "On the Road,"

20 Utah State Courts, Education Resources: Request a Tour, <http://www.utcourts.gov/general/edresources/>.

21 Press Release from the Maryland Court System, Re: New Coloring Book Helps Children with Learning the Law, November 18, 2005; at <http://www.courts.state.md.us/press/2005/pr11-18-05a.html>.

22 Educational Outreach: Schools in the Courts Program, <http://www.courts.state.md.us/education.html>.

23 Press Release from the Wisconsin Court System, Re: Exhibit to be Unveiled in Winnebago County Courthouse, May 30, 2003; at <http://www.wicourts.gov/news/archives/2003/exhibito53003.htm>.

“Off-Site Court Program,” or “Justice on Wheels,” the programs share several characteristics.²⁴ The goal of these programs is to interact with people in communities throughout the state and to provide an opportunity to explain the role and responsibilities of the courts. The local bench and bar usually work with the courts to plan events surrounding oral arguments, which may include meetings with community leaders and with justice partners. All the programs urge high school students to attend, and many courts send synopses of the factual background and legal issues raised in the cases that will be argued. Before arguments, a judge or lawyer explains the procedure the court will follow and, often, describes how the justice system works. After arguments, the justices typically conduct a question-and-answer session, open to all questions unrelated to pending cases. Cumulatively, “on the road” programs have reached hundreds of thousands of students and adults and, by all reports, have significantly improved court relationships with the communities visited.

Ten years ago, state courts made relatively limited use of the Internet and varying media to convey their message. Courts conveyed information about the justice system primarily through written

documents. Judges’ teaching attempts, whether to adults or to children, tended to rely primarily upon lectures. If programs were recorded at all for later distribution, the recording often used audio only or, at most, videotape. Today, state courts use court websites, Internet-based programs, streaming video, televised court proceedings, DVDs, and radio and cable television shows to augment or replace written materials. Without advances like these, many of the courts’ current outreach programs simply would not be possible.

Judicial websites provide a rich source of information about the courts. Throughout this paper, I have referred to various court websites. A visit to any of them, or to the hundreds of other websites maintained by state courts, makes evident the time and effort taken by courts to make their sites valuable to court users. Through websites, courts make available a host of information, ranging from teaching units for civic education to theatrical performances involving famous cases; from information about pending and past cases to an opportunity to schedule jury service; from forms for pro per litigants to tapes or live broadcasts of courts in action.

State courts have proved themselves willing to explore the use of technology and to expand programs as new technology – or receiving funds sufficient to use existing technology – makes more activities possible. Indiana has seen growing interest that began with a decision in 2001 to launch Courts in the Classroom by webcasting supreme court oral arguments live on the Internet. It quickly became apparent to the Indiana Supreme Court that students’ experience would be enriched if the webcasts were accompanied by online lesson plans, scripted trials, museum exhibits, searchable databases, virtual tours of courthouses, and

24 For examples, see Supreme Court of Arizona home page, Oral Arguments Calendar, <http://www.supreme.state.az.us/clerk/calendar.htm>; Supreme Court of California home page, Locations and Contact Information, <http://www.courtinfo.ca.gov/courts/supreme/branch.htm>; New Hampshire Judicial Branch home page, Supreme Court on the Road, <http://www.nh.gov/judiciary/student/ontheroad.htm>; Off-Site Court Program home page, http://www.sconet.state.oh.us/introduction/offsite_court/default.asp; Justice on Wheels, <http://www.wicourts.gov/news/archives/2004/justwheels032504.htm>.

other resources for teachers.²⁵ This outreach programming permits the Court to play a key role in educating its citizens, both children and adults.

Courts also have combined existing technology with new technology. Wisconsin, like many states, had produced a videotape to orient jurors. The tape, while serviceable, did not fully convey the message the courts wanted to send the jurors. So, two years ago, Wisconsin not only produced a new video that features actual jurors and emphasizes the diversity of those who serve, but also made the video available online. As a result, the tape informs not only those who come to the court as jurors but also those who watch the tape online.²⁶

State courts are keenly aware that students expect educational programs to involve more than printed materials. To meet that need, courts have reached out to students through Internet-based programs. Arizona, for example, provides its LawforKids website to answer juveniles' questions about their rights and responsibilities under the law. Those visiting online have access to videos, interactive experiences, teaching tools, and a site for submitting questions that volunteer lawyers answer. The success of the website, which receives more than one million hits each month, led Arizona to develop a similar site for its senior citizens. LawforSeniors answers questions faced by mature citizens and provides links to additional community, state, and federal resources.²⁷ It, too, allows visitors to

25 Courts in the Classroom home page, <http://www.in.gov/judiciary/citc/>.

26 Wisconsin Court System home page, Jury Service in Wisconsin Video, <http://www.wicourts.gov/services/juror/index.htm>.

27 LawforKids home page, <http://www.lawforkids.org/>; LawforSeniors home page, <http://www.lawforseniors.org>.

ask questions to which volunteer lawyers post answers. Perhaps indicating the need to adapt the medium to the audience, Arizona has found that its seniors are more comfortable using its LawforSeniors written publication, while its young people prefer using the website.

Maryland has combined its use of films about the court system with television broadcasting. Under the auspices of the Maryland Court of Appeals, the court system produced a film about domestic violence to explain, to frightened and often poorly educated litigants, how cases go through the court system. The court then arranged to broadcast the film on cable television, assuring that it could reach a broad audience.²⁸

Our state-court systems provide numerous other examples of the use of technology to improve outreach programs. The increased use of technology by the courts provides ample evidence of the courts' commitment to fulfilling their obligation to find the most effective means to reach out to all those who use or have an interest in the judicial system.

Another trend among state courts reflects the courts' determination to find better ways to reach the public. A decade ago, few courts assigned an organization or person primary responsibility for outreach programs or public communication generally. As state courts recognized the need for better and more frequent outreach, they also recognized the value that professional communication officers could bring. As a result, an increasing number of courts assign responsibility for education and outreach to desig-

28 Maryland Judiciary, Court Information Office, <http://www.courts.state.md.us/cio/mediaresource.html>.

nated committees or employees. At the same time, courts have accelerated efforts to establish relationships with and provide education for the journalists who cover the court system.

In 1995, Massachusetts established an early committee to strengthen communication between the judiciary and the media and to improve understanding and appreciation of one another's professional roles and functions.²⁹ The Supreme Judicial Court's Judiciary-Media Committee, cochaired by a justice and a major newspaper publisher, meets several times each year to discuss areas of interest and to resolve conflicts or tensions. The Committee established a Response Team, which is "on call" to help answer questions. The Committee also oversees the Law School for Journalists, organized to help journalists understand the system about which they write. New Hampshire followed a similar path, launching its Committee on the Judiciary and the Media in 2002,³⁰ to provide a forum for judges to meet with editors and reporters to discuss issues of mutual interest, including public access to the courts. The Committee also instituted a Law School for Journalists, which presents a daylong program designed to improve the media's understanding of the courts and the courts' understanding of the media. Other states, including Maryland, using the combined efforts of the bench, bar, and media, have prepared publications describing the legal system for journalists.

29 Massachusetts Supreme Judicial Court Judiciary-Media Committee, <http://www.mass.gov/courts/courtsandjudges/courts/supremecourt/judmeddescription.html>.

30 Judicial Branch, State of New Hampshire, Court Information Office, Committee on the Judiciary and the Media, <http://www.courts.state.nh.us/cio/specialevent.htm>.

State courts' increased attention to planning for outreach programs also is reflected in the courts' formation of entities charged with responsibility for education and outreach. New York's Center for Courts and the Community is charged with, among other responsibilities, communicating with the media and the public. Puerto Rico established its Office of Press and Community Relations of the Office of the Courts Administration to provide information about judicial proceedings and to offer and coordinate educational programs.

Most of these efforts had not been considered ten years ago. Responsibility for developing educational programs, for communicating with the media, and for reaching out to the public rested with individual judges. As a result, some groups were well-served by the court systems and some heard little from the courts.

The attacks on judicial independence have negatively impacted some areas of our judicial systems. Perhaps surprisingly, the attacks also have fostered positive results. The attacks on the courts, coupled with the lack of knowledge about the roles and responsibilities of judges and judicial systems that many attacks revealed, forced judges to take a fresh look at our contacts with and relationship to the communities and people we serve. When we took that fresh look, we discovered that we could and should do much more to listen to and speak with the communities. As a result, state courts developed new, exciting, effective plans for community outreach.

The outreach programs developed by state courts, only a few of which are referenced above, did not come about without much effort and commitment from all those involved in the judicial system. Although the programs have accom-

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plished much, much remains to be done. The programs developed to date thus represent not the end of the effort, but the beginning. The response made by state courts during the last ten years, however, makes it clear that courts and judges have accepted responsibility for increasing community outreach and are committed to ensuring that these efforts will continue, to the benefit of both the public and the courts.