



Emerging Trends in the Courts

Judicial District Executive Seminar
Institute of Government
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“The juvenile court is the product of the illicit relationship between the law and social work, and now no one wants to claim the little bastard”

Roscoe Pound



Change happens:

- Because of us
- To us
- Despite us



Changing Role of the Courts

Court Process

Civil
Criminal
Sentencing Objectives

Stakeholders
Relationship to courts

Traditional

Adjudication
Judgmental
Deterrence
Rehabilitation
Incarceration

Attorneys, Litigants
Independent

Emerging

Mediation
Coaching
Restorative Justice
Retribution

Community, Victim
Collaborative

Roger K. Warren

Implication:

- Legitimacy is drawn from community confidence and trust
- Court leaders must be responsible for networking with larger community
- Must preserve “core values” while we take advantage of emerging technologies and alternative methods



Random Thoughts on our Changing Environment

- We are getting much older
 - 2000 12% of population over 65
 - 2050 20% of population over 65
- In 2007 there are as many teens as at the end of the baby boom
- By 2050 minorities will make up half of the US population
- Hispanics are the fastest growing minority
 - 35,000,000 in 2000
 - 100,000,000 in 2050
- 18% speak a language other than English in the home
 - 5% speak no English
- Growing cost of judicial election campaigns will expose judicial candidates to greater pressure from special interest groups



Random Thoughts on our Changing Environment

- Corrections spending is outpaced only by health care spending
 - 1982 \$9,000,000,000
 - 2002 \$60,000,000,000
- 2 out of every 3 people released from prison are rearrested within 3 years (fastest growing category of admissions)
- The risk of incarceration for a black male is 7 times greater than for a white male
- Jury Trials are vanishing
 - 44% reduction in civil jury trials between 1992 and 2002 (10 state survey)
- Traditional lawyers are vanishing
 - law school curricula moving away from trial advocacy in favor of theory, client-centered law, and ADR



Random Thoughts on our Changing Environment

- Self represented parties are becoming the norm
49% of petitioners and 81% of respondents in domestic cases self-represented (Utah)
- Multi-media is defining public perception of justice system
49% say their primary source of information on courts are TV dramas
- Technology is outpacing legislative regulation (nanotechnology)
- Between 2002 and 2005 Federal policies have cost state and local government more than \$175,000,000,000



What are the Trends?

Conference of State Court Administrators

“White Papers”

Future Trends in State Courts 2006

National Center for State Courts

Personal Experience



Conference of State Court Administrators “White Papers”

- | | |
|------|---|
| 1999 | Problem Solving Courts |
| 2000 | Access to Court Records |
| 2000 | Self Represented Litigation |
| 2001 | Racial and Ethnic Fairness |
| 2001 | Effective Governance and Accountability |
| 2002 | Justice Information Sharing |
| 2003 | Court Budgets in Times of Crisis |
| 2004 | State Courts and Domestic Violence |
| 2005 | The Emergence of e-everything |
| 2006 | Emergency Preparedness in State Courts |
| 2007 | Court Interpretation |



Future Trends in State Courts 2006

- Emergency Preparedness in the State Courts
- The Impact of Technology
- Cultural Diversity: the use of Court Interpreters
- The Impact of an Aging Population
- Privacy and Public Access to Court Records
- Judicial Independence and Selection
- State Courts and Budget Challenges
- Problem Solving Courts
- Access to Justice: The Self Represented Litigant
- Measuring Court Performance

Personal Experience

- Problem Solving Courts
- Immigration
- Changes in the Practice of Law
- Challenges to Judicial Independence
- Accountability: System – Individual
- Technology
- Employment: Changing Workforce
- Limited Jurisdiction Court Reform



One Person's View

The Future:

1. Increasingly tight resources with more strings attached and demands for increased accountability for outcomes
2. Increasing challenges to judicial independence and demands for more information on judicial performance
3. More and more complex social problems working their way into the courts; juvenile and family law issues overshadowing civil litigation
4. Technology advances improving access, but posing significant workforce challenges
5. Significantly greater challenges in responding to racial and ethnic minorities and the self represented

Objectives:

1. Open, fair, timely, and responsive justice
2. A court environment concerned with outcomes
3. Enhanced public confidence



Where to put your energy:

1. Diversify/partner at the local level
 - ride the problem solving court movement
 - outreach to the community
 - generate resources indirectly
2. Get creative in spending existing dollars and justifying new dollars
 - make the difficult decisions
 - prioritize programs based on outcomes
 - market new programs with measurable outcomes



Where to put your energy:

3. Organize for effective decision making

- climate for innovation/change
- measure what you say is important
- foster a growing organization – invest in education
- to the extent possible, speak with a single voice

4. Exercise Leadership

“A leader is someone who takes others to a place they wouldn’t go by themselves”