



**THE NATIONAL JUDICIAL COLLEGE/
REYNOLDS NATIONAL CENTER FOR COURTS AND MEDIA**

INITIATING AND MAINTAINING A CONSTRUCTIVE DIALOGUE

A Workbook for Judges & Journalists



The National Judicial College gratefully acknowledges the contributions
of The Reynolds National Center for Courts and Media,
the Reynolds School of Journalism at the University of Nevada, Reno,
and the Conference of Court Public Information Officers.
The NJC also acknowledges the following donors who made this project possible:



Donald W. Reynolds Foundation

William Randolph Hearst Foundation



*This document was developed under grant number SJI-07-N-055 from the State Justice Institute.
The points of view expressed are those of the authors and do not necessarily represent the
official position or policies of the State Justice Institute.*

During 2005 and 2006, The National Judicial College's Donald W. Reynolds National Center for Courts and Media (RNCCM) conducted a series of state workshops bringing together judges, journalists, and court personnel to discuss areas of mutual interest and concern.

The workshops successfully fostered dialogue between the courts and media as envisioned when the Reynolds Center was created as a collaborative partnership by The National Judicial College (NJC) and the Reynolds School of Journalism (RSJ) at the University of Nevada, Reno (UNR). In 2007 and 2008, NJC/RNCCM followed up with a series of regional workshops. These workshops focused on ways in which states and communities could create mechanisms by which discussions over tensions and issues between court personnel and the media not only could be initiated, but instituted on an ongoing basis.

The materials in this workbook are the product of those workshops, designed to help both the courts and media work more harmoniously. In so doing, both should recognize that each has a vital public service role to play in our democracy and that sometimes the situation may result only in an agreement to disagree.

The National Judicial College wishes to acknowledge the Donald W. Reynolds Foundation for its commitment to advancing justice through education by supporting the creation and work of RNCCM. The NJC is proud of the RNCCM and its continual service to the two pillars of democracy: *Courts and the Media*. Both NJC and the RNCCM remain committed to assisting with important court and media initiatives.



William F. Dressel
President, NJC



Gary Hengstler
RNCCM Director



TABLE OF CONTENTS

Fostering Dialogue Between the Courts and Media.....	5
Bench-Bar-Press Committee of Washington	6
Carrying Water to an Undying Blaze.....	7
Broadcast Journalists Contact on Fire Brigade	10
Bench-Bar-Press Committee of Washington	
Statement of Principles and Considerations.....	11
Washington Bench-Bar-Press Committee Structure	15
WSBA Plan to Respond to Unjust Criticism of Judges (Example)	16
Maryland Bench-Bar-Press Advisory Group Mission Statement.....	21
Preparing for the First Meeting.....	22
Sample Initial Meeting Agenda.....	22
Breaking the Ice – Role Reversal Session for Judges and Journalists	23
Role Reversal – What Sentence Will You Impose?	25
“Trying” to Be a Judge: Role Reversal Instructions	28
Other Items of Interest for Judges and Journalists.....	29
Some Thoughts to Ponder.....	30
The First and Sixth Amendments.....	32
Top 10 Issues on Court-Media Issues and	
Relationships for Judges, Journalists and Lawyers.....	33
Websites Worth Visiting	34
Useful Sources for Both Courts and Media	36
Points to Consider for Judges	38
Judicial Ethical Rules.....	38
First Amendment and Media Issues for Judges	39
Ten Tips on Dealing with the Media	42
Some General Guidelines for Media Interviews	44
Points to Consider for Journalists	45
Society of Professional Journalists Code of Ethics.....	45
The First Amendment Handbook	48
Gannett Cards Carried by Some Journalists	50
Where to Find Stories/News When Covering the Courts.....	51
American Bar Association Online Information for Journalists	52
Judicial Outreach Programs	53
Law School for Journalists Checklist.....	53
Schools in the Courts Program	57
Sample of Outreach Programs.....	60
Bill of Rights & Legal Technicalities	61
Bill of Rights & Legal Technicalities – Constitution of the United States	62



FOSTERING DIALOGUE BETWEEN THE COURTS AND MEDIA

It may seem peculiar, but one of the most important, and sometimes difficult, steps in promoting discussions between journalists and judges is the first step—creating the mechanism through which discussions are facilitated.

This is because judges don't make a habit of initiating contact with the media, and many journalists are hesitant to talk to judges because of judicial ethical rules that often prevent a judge from responding. Still, with the changes occurring in both the courts and media, there are benefits – indeed, some would argue necessities – in promoting discussions over mutual concerns between the two.

One of the most successful mechanisms for facilitating such dialogue is the bench-bar-press committee. Perhaps no state illustrates the value and success of this kind of committee better than the State of Washington. Washington's committee includes representatives from the media, the judiciary and the state bar association. <http://wsba.org/media/benchbar/default1.htm>

Ideally, journalists already have relationships with jurists and bar leaders so the three of them could initiate the project and bring others into the mix. It really doesn't matter, however, who initiates the effort. In many cases, it is a judge who feels concerned about the relationship between the court and media who will take the lead.

Once in place, the committee can address First and Sixth Amendment issues such as accuracy in reporting, access to information, response to criticism and a whole host of other related areas of concern.

The following pages include information about successful bench-bar-press committees.

Bench Bar Press Committee of Washington

The Bench-Bar-Press Committee of Washington (BBP) was formed in 1963 to foster better understanding and working relationships between judges, lawyers and journalists who cover legal issues and courtroom stories. The mission of the Committee is to seek to accommodate, as much as possible, the tensions between the constitutional values of “free press” and “fair trial” through educational events and relationship building.

The BBP Committee is chaired by the chief justice of the Washington State Supreme Court and includes representatives from the legal profession, judiciary, law enforcement and the news media. The committee meets as a whole once or twice each year to review the state of relations between the various interested groups and to plan educational and other activities. Subcommittees of volunteers are organized on an ad hoc basis to plan and execute the educational and other events.

Since its creation in 1963, the BBP Committee has undertaken several important projects. It was the catalyst in opening up courtrooms to broadcast and still camera coverage in 1976. The Committee conducted a lengthy study and camera coverage of an actual criminal trial that was produced as though it were a television news story. The Washington State Supreme Court was so impressed with the result that it unanimously adopted a rule allowing cameras in all Washington state courtrooms on a permanent basis. At the time, Washington was only the second state in the nation to allow cameras in the courtroom.

The Committee has developed a “Bench-Bar-Press Statement of Principles” which is not binding, but provides practical guidance on the relationships between judges, lawyers and the press. It is intended to promote a better working relationship between the bench, bar and news media.

A special subcommittee of the Bench-Bar-Press Committee, the Liaison Committee (“Fire Brigade”), was created to help sort out conflicts arising from courtroom coverage. The Fire Brigade can speak with, or mediate on behalf of, any lawyer, judge or journalist facing a “free press/fair trial” issue. The Fire Brigade has a strong record of successfully suggesting ways that fair trial concerns can be resolved while preserving free press rights and public access to the judicial process.

The Committee also has presented educational seminars and open discussion sessions from time to time, focusing on court coverage issues, which give judges, lawyers and journalists the opportunity to share views and develop open communication with each other.

Carrying Water to an Undying Blaze

by Robert M. Henderson, APR

The Liaison Committee shall exist to provide assistance in the resolution of disputes which may, in the course of a legal proceeding, arise from conflicts between a litigant's right to a fair trial and the news media's right to observe and report that proceeding. It shall be commonly known as the "Fire Brigade." –[By-laws of the Bench-Bar-Press Committee of Washington]

It is said that media types were behind the bench-bar-press "movement" of the early 1960's. Never a wholly popular institution in the United States, The Fourth Estate had, by post-WW II days, pretty much worn out its welcome in American halls of justice. Media behavior in major, high profile cases such as Sacco and Vanzetti, the Tennessee Scopes "Monkey" Trial, and the infamous Lindbergh baby murder, had led many to seriously question the right of news organizations to cover court proceedings.

Anti-media sentiment was building. New technology did not help. There was an electronic marvel called "radio" with its attendant wires, microphones and amplifiers. TV cameras began to come on the scene. Print photographers carried large, heavy still cameras with dishpan-sized flash reflectors that shot flashbulbs the size of pullet eggs. After the Lindbergh case, it would be 50 years before New York's total stricture on cameras in courts would be relaxed.

Then came the Sheppard case. A focal point of local, Cleveland society, Dr. Samuel Sheppard – "Dr. Sam" to the press – was young, good-looking and accused of murdering his wife. Convicted by an Ohio trial court, his case worked its way to the U.S. Supreme Court during the early 60's until, in 1966, the high court overturned the conviction, calling news coverage of the original proceeding a major threat to the doctor's right to a fair trial. "Legal rights," the court said in Sheppard v. Maxwell, "are not like elections, to be won through the use of the meeting hall, the radio and the newspaper."

In January of 1964, two years before the final word on Sheppard, a couple of carloads of Seattle-area judges, lawyers and news media people made a Saturday trip to Portland. Their purpose: To witness a meeting of Oregon's "bench-bar-press" committee.

Oregon was one of a number of states to organize groups of attorneys, judges, editors and reporters to work out First versus Sixth Amendment problems during the late 1950's and early 60's. Some feel much of the impetus for these committees came from media leaders who, in the wake of Sheppard and other "circus" cases, feared the legal establishment would shut news organizations out of the courtrooms, thus denying them a major source of grist for their editorial mills.

In Washington's case, there seems to have been no single event or case that led to the organization of the Bench-Bar-Press Committee of Washington. Early committee minutes credit the state "Judicial Conference" [probably the

group that is known today as the Washington State Judicial Council] as urging then-Chief Justice Richard Ott [who probably chaired the committee] to develop a bench-bar-press group in 1964.

At the time, “those...who have the privilege of representing the daily newspapers approach the work of this committee with enthusiasm,” apparently had no negative briefs to file regarding relations with the bench and bar. At the state of a long career as executive director of the Allied Daily Newspaper Association, newsman/lawyer Paul Conrad noted in the same February ‘64 statement, “From the viewpoint of our Association and its member newspapers, our relations with Washington’s courts and with the legal profession in general have been excellent. We take some pride, and hope our friends on the bench and within bar do too, in the atmosphere of mutual respect that sustains this relationship.”

Its first secretary-treasurer, Conrad’s minutes of the organization’s annual Fall meetings detail the progress of the completely unofficial, ad hoc, parlor discussion group: development of bylaws, including Rotarian-like criteria for membership [anybody can show up and be heard, but only a specified number from each or the organization’s 19 member groups can vote] and, in 1966, promulgation of “guidelines” for press behavior during trials.

A decade-and-a-half later, those guidelines threatened the very existence of the committee after a trial court judge attempted to use them as a contract with news reporters who were covering a high-visibility trial in his court. In an appeal by a reporter’s newspaper, the judge’s position was affirmed 5-4 by the Washington Supreme Court. Later, the U.S. Supreme Court refused to hear the case.

At an unprecedented two meetings in one year, Robert F. Brachtenbach, committee chair and then-chief justice, hoped the case wouldn’t “rent the fabric” of the organization. It was reported that similar committees in other states had disbanded in protest of the Washington situation. But judicial calm prevailed. Under Brachtenbach’s leadership, the committee rewrote its guidelines, tabbing them “principles and considerations.” Now with decades of history behind it, Washington’s bench-bar-press committee – probably the nation’s oldest – lives on.

Sometime in the 1970’s, Conrad’s carefully typed minutes began to mention something called a “fire brigade.” Annual, state-level ventings of frustrations about fair trial/free press problems apparently were not getting the job done at the local level. Committee members decided local fair trial/free press disputes should be resolved as each arose, before they had a chance to burgeon, delay proceedings, and become a “trial within a trial.” After some discussion, but without formal vote, the committee of the whole appears to have blessed the creation of a volunteer “Liaison Committee.” Its job: to assist in the resolution [but only if asked] of conflicts between a defendant’s Sixth Amendment right to a fair trial and the press’ First Amendment right to unfettered reporting.

Composed more or less equally of representatives of bench, bar and press, the half-dozen member committee began to take requests for help. If a reporter got shut out of a pretrial hearing, the group got a call. A judge who was worried that media reporting would poison his jury pool might also call for advice. Because it usually responded to last-minute, emergency pleas for help, the group was quickly nicknamed, “The Fire Brigade.”

For many years, that term was synonymous with the name of the late Frank Roberts, a long-time judge of the King County Superior Court. In annual, verbal reports delivered to the parent committee, the judge would describe the half-dozen or more incidents handled during the year.

A few years ago, the Fire Brigade was given a more official status, and a stated purpose, when it was included in the by-laws of the parent committee.

Liaison Committee assistance may be provided to any lawyer, judge or media professional requesting it. Assistance shall be limited to those involved in disputes resulting from conflicts between rights of fair trial and free press. Assistance may consist of consultation, mediation and/or the provision of information to requesting parties. [ART. IV, Sec. 3, of the Bylaws of the Bench-Bar-Press Committee of Washington]

For several years, the Liaison Committee was chaired by the Honorable Gerry Alexander, then a judge of the Washington State Court of Appeals, Division Two. Using a somewhat different style than his predecessor, Judge Alexander polled his small delegation by phone or held committee brainstorm sessions via conference calls when asked to consult on a problem.

The latter method was employed when the judge in the trial of accused child molester and murderer Westley Allan Dodd, saw a potential free press/fair trial problem. The judge had learned that Dodd had volunteered to meet in his cell with a reporter and give her his own special, artistic creation: a “coloring book” designed to warn kids away from child molesters, like himself. Worried that this apparent public admission of guilt would taint the jury pool, the trial judge contacted Judge Alexander for advice.

By conference call, Alexander called a meeting of most of his eight brigadiers, tracking down at least one participant at an out-of-state location. Together, group members came up with options that could be presented to the newspaper editor, options that would give the defendant the fair trial he was due, while maintaining the paper’s right to publish the material it had received from Dodd.

None of the Fire Brigade’s options were accepted by the editor and the story ran, with illustrations from Dodd’s coloring book, as scheduled. But in an interesting acquiescence to accountability, the editor took space in his own column to tell readers his reasons for running the piece, the options offered to him by the Fire Brigade, and his reasons for not accepting them. Later, Quill, the journal of Society of Professional Journalists, also printed a commentary on the situation.

In the years since its first informal state, the Fire Brigade has never been asked to handle a great number of problems, a half-dozen a year at most. But there will probably always be a need for its help. The constitutionally built-in friction between the rights of a free press and a litigant’s right to a fair trial will, at least occasionally, kindle a blaze that requires the volunteer services of the “Fire Brigade.”

Bob Henderson retired in 2000 as the public information officer for the state Office of the Administrator for the Courts. An accredited public relations professional, he served as the secretary-treasurer of the Bench-Bar-Press Committee of Washington for many years.

Broadcast Journalist Contact on Fire Brigade Journalist Representing Broadcasters on Fire Brigade:

Deborah Horne
KIRO-TV 2807
Third Avenue
Seattle, WA 98121
Phone: (206) 728-777
Fax: (206) 441-4840

WSAB (Member of BBP Steering Committee)

Mark Allen, President & CEO
Washington State Association of Broadcasters
724 Columbia Street N.W., Suite 310
Olympia, WA 98501
Phone: (360) 705-0774
FAX: (360) 705-0873

Television

Deborah Horne
KIRO-TV
2807 Third Avenue
Seattle, WA 98121
Phone: (206) 728-7777

Ed White
KING-TV
333 Dexter Avenue N.
Seattle, WA 98101
Phone: (206) 448-5555

Radio

Ursula Reutin
KIRO Radio
1820 Eastlake Ave. E.
Seattle, WA 98102
Phone: (206) 726-5457

Darren Reynolds
KOMO Radio
140 Fourth Avenue North, Suite 340
Seattle, WA 98100
Phone: (206) 404-4000

Bench-Bar-Press Committee of Washington Statement of Principles & Considerations

PREAMBLE

The Bench, Bar and Press (comprising all media of mass communication) of Washington:

- (a) Recognize that the reporting by the news media of governmental action, including the administration of justice, is vital to our form of government and protected by the Constitutions of the United States and the State of Washington.
- (b) Seek to preserve the constitutionally protected presumption of innocence for those accused of a crime until there has been a finding of guilt in the appropriate court of justice.
- (c) Believe both constitutional rights can be accommodated without conflict by careful judicial craftsmanship and careful exercise of discretion by the bench, the bar and the news media.

PRINCIPLES

To promote a better working relationship between the bench, bar and news media of Washington, particularly in their effort to protect both the constitutional guarantees of freedom of the press and of the right to a fair and impartial trial, the following statement of principles is suggested for voluntary consideration to all members of these professions in Washington. Any attempt to impose these Principles and Considerations as mandatory is contrary to the intent of the Bench-Bar-Press Committee and contrary to the stated goals of these Principles and Considerations.

- 1) Accurate and responsible reporting of the news media about crime, law enforcement, and the criminal justice system enhances the administration of justice. Members of the bench and bar should make available information concerning that process to the fullest extent possible under their codes of conduct and professional responsibility.
- 2) Parties to litigation have the right to have their causes tried by an impartial tribunal. Defendants in criminal cases are guaranteed this right by the Constitutions of the United States and the State of Washington.
- 3) Lawyers and journalists should fulfill their functions in such a manner that cases are tried on the merits, free from undue influence by the pressures of news media reports. To that end, the timing and nature of media news reports should be carefully considered. It is recognized that the existence of news coverage cannot be equated with prejudice to a fair trial.

- 4) The news media recognize the responsibility of the judge to preserve courtroom decorum and to seek to ensure both the open administration of justice and a fair trial through careful management.
- 5) A free press requires that journalists decide the content of news. Journalists in the exercise of their discretion should remember that readers, listeners and viewers are potential jurors.
- 6) The public is entitled to know how justice is being administered. However, lawyers should be aware that the timing and nature of publicity they create may affect the right to a fair trial. Public prosecutors should avoid taking unfair advantage of their positions as important sources for news, even though they should release information about the administration of justice at the earliest appropriate times.

CONSIDERATIONS IN THE REPORTING OF CRIMINAL PROCEEDINGS

The Bench-Bar-Press Committee offers the following recommendations for voluntary consideration of all parties. They may be of assistance in educating law enforcement, the press, bar and bench concerning the exercise of rights, duties and obligations outlined in the Statement of Principles.

The bench, bar, press and law enforcement officials share in the responsibility for the administration of an open and fair system of justice. Each has a special role which the others should respect and none should try to regulate the judgment of the others.

Public interest in the administration of justice may be particularly great at times prior to trial. Pretrial proceedings often are as important to the open administration of justice as the actual trial. The bench should help ensure both openness and fairness through commonly accepted judicial procedures consistent with these Principles. The bar should carefully consider the timing and nature of the publicity it creates. The media should contribute to openness and fairness by careful evaluation of information that may be kept from the jury at trial and by exercise of restraint in reporting that information.

- 1) It is appropriate to make public the following information concerning the defendant:
 - a) The defendant's name, age, residence, employment, marital status, and similar background information. There should be no restraint on biological facts other than accuracy, good taste, and judgment.
 - b) The substance or text of the charge, such as complaint, indictment, information and where appropriate, the identity of the complaining party.
 - c) The identity of the investigating and arresting agency and the length of the investigation.

d) The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of items seized at the time of arrest.

2) The release of certain types of information by law enforcement personnel, the bench and the bar and the publication thereof by news media generally tends to create dangers of prejudice without serving a significant law enforcement or public interest function. Therefore, all concerned should be aware of the dangers of prejudice in making pretrial disclosures of the following:

- a) Opinions about a defendant's character, his guilt or innocence.
- b) Admissions, confessions or the contents of a statement or alibis attributable to a defendant.
- c) References to the results of investigative procedures, such as fingerprints, polygraph examinations, ballistic tests or laboratory test.
- d) Statements concerning the credibility or anticipated testimony of prospective witnesses.
- e) Opinions concerning evidence or arguments in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

Exceptions may be in order if information to the public is essential to the apprehension of a suspect or where other public interests will be served.

3) Prior criminal convictions are matters of public record and are available to the news media through police agencies or court clerks; law enforcement agencies should, if requested, make such information available to the news media. The public disclosure of this information by the news media may be highly prejudicial without any significant addition to the public's need to be informed. The publication of such information should be carefully considered.

4) Law enforcement and court personnel should not prevent the photographing of defendants when they are in public places outside the courtroom. They should not encourage pictures or televising, nor should they pose the defendant. The media should recognize that broadcasting, televising, recording and taking photographs in the courtroom is governed by GR 16.

Artist's renditions sketched in the courtroom are not covered by GR 16 and should not be curtailed unless such actions distract participants or impair the dignity of the proceedings.

5) Photographs of a suspect may be released by law enforcement personnel provided a valid law enforcement function is served thereby. It is proper to disclose such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

6) The media are free to report what occurs in the course of judicial proceedings. All participants in the administration of justice should work to keep the entire course of judicial proceedings, including pretrial hearings, open to public scrutiny. The bench should consider using all means available to ensure protection of a defendant's constitutional rights without interference with the public's scrutiny of the criminal justice system. The closure of a judicial proceeding should be used only as a last resort.

7) The bar and law enforcement officials should expect that their statements about a case will be reported in the media. Such statements should be made in a time and manner contributing to public understanding of law enforcement and the criminal justice system, rather than influencing the outcome of a criminal trial.

Washington Bench-Bar-Press Committee Structure

The Bench-Bar-Press Committee of Washington was formed in 1963 to foster better understanding among lawyers, judges, law-enforcement officers, and representatives of the news media, and to seek accommodations between the constitutional rights of fair trial and free press. Committee membership includes representatives of:

- Washington State Supreme Court
- Washington State Court of Appeals
- The Federal Judiciary in Washington
- Superior Court Judges Association
- Washington State Magistrates Association
- Washington State Bar Association
- Allied Daily Newspapers of Washington
- Washington Newspaper Publishers Association
- Washington State Association of Broadcasters
- The Associated Press
- United Press-International
- U. of Wash. School of Communications
- Washington State Prosecuting Attorneys Assn.
- Washington Assn. of Sheriffs and Chiefs of Police
- Washington State Board of Prison Terms and Paroles

The committee has drafted and approved the following Statement of Principles and Considerations for the Reporting of Criminal Proceedings.

In the drafting process, the committee proceeded on the premise that any effort to make the principles or considerations mandatory on the news media would destroy the bench-bar-press program and seriously jeopardize the continuation of any collegial fair-trial/free-press efforts in Washington. Committee members in approving the draft were acting in their individual capacities as committee members and not as the authorized representatives of bench, bar or press organizations.

An important adjunct to the Bench-Bar-Press Committee program is the Liaison Subcommittee ("Fire Brigade"), which stands ready at all times to counsel with any individual or group facing a fair-trial/free-press issue. The Fire Brigade has a record of success in suggesting ways that fair trial concerns can be resolved while yet preserving open press and public access to law-enforcement processes and the judicial system.

Judicial members of the Fire Brigade are Judge Kip Stilz of the Thurston County District Court, who can be reached at 360-786-5149 or kip.stilz@courts.wa.gov, and Judge Bill Downing of the King County Superior Court, who can be reached at 206-296-9362 or william.downing@metrokc.gov.

WSBA Plan to Respond to Unjust Criticism of Judges (Example)

I. Introduction

To ensure that the public confidence is preserved in the judiciary and the courts, the WSBA shall maintain a policy and program to provide appropriate and timely responses to unjust criticism of judges and courts. This program will apply when there has been an unwarranted or unjust attack, or series of attacks, on a judge or court which may cause significant harm to a judge or adversely affect the administration of justice.

Implementation of this plan is selective. This plan is designed to effect a response on behalf of the judiciary and courts to criticism of the judiciary and courts that is serious, as well as inaccurate or unjustified.

There should be no attempt to infringe on freedom of expression or prevent criticism, but inaccurate or unjust criticism should be answered through an organized public-information program. Such criticism typically results from a lack of understanding of the system the reason for a decision, a sentence or a courtroom action.

II. Policy

Judges may be precluded from responding to individual attacks or criticism upon them.

Therefore, the WSBA should, when appropriate, respond to such criticism of judges and the courts. This response would be in such a form as:

1. To correct erroneous, inaccurate or misleading public communication involving criticism of judges, courts and/or the administration of justice, as further provided in this policy statement;
2. To be available to the news media as a resource for obtaining information concerning judicial activities, court process, or other technical or legal information about the administration of justice;
3. To encourage broad dissemination of information to the public about noteworthy achievements and improvements within the justice system;
4. To suggest means by which judges and lawyers can improve the public image of the legal system; and
5. To generally seek a better understanding within the community of the legal system and the role of lawyers and judges.

III. Definition

An actionable unjust criticism of a judge in relationship to a specific case is a public communication that:

1. Attacks a judge's conduct, ruling or decision in a specific case; and
2. Is inaccurate or misleading; and
3. May cause significant harm to a judge or may adversely affect the administration of justice.

An actionable unjust criticism of a judge or court is a public communication that:

1. Attacks a judge or court; and
2. Is inaccurate or misleading; and
3. May adversely affect the administration of justice.

IV. Guidelines to Determine When the Bar Should Respond

A. Kinds of Cases

The following are the kinds of cases in which responding to criticism is appropriate, except in unusual circumstances:

1. When the criticism is serious and will most likely have a significant negative effect in the community;
2. When the criticism displays a lack of understanding of the legal system or the role of the judge, and is based at least partially on such misunderstanding; and
3. When the criticism is materially inaccurate or misleading. The inaccurate or misleading statement should be a substantial part of the criticism so that the response does not appear to be insignificant.

B. Factors

The following factors should be considered in determining whether a response should be made in a close case and considered in every case in determining the type of response:

1. Whether a response would serve a public-information purpose and not appear insignificant.
2. Whether the criticism adequately will be met by a response from some other appropriate source.
3. Whether the criticism substantially and negatively affects the judiciary or other parts of the legal system.
4. Whether the criticism is directed at a particular judge but unjustly reflects on the judiciary generally, the court, or another element of the judicial system (e.g., grand jury, lawyers, probation, bail, etc.).
5. Whether a response provides the opportunity to inform the public about an important aspect of the administration of justice (e.g., sentencing, bail, evidence rules, due process, fundamental rights, etc.).
6. Whether a response would appear self-serving.
7. Whether the critic is so obviously uninformed about the judicial system that a response can be made on a factual basis.
8. Whether the criticism or report, although generally accurate, does not contain all or enough of the facts of the event or procedure reported to be fair to the judge or matter being criticized.
9. Whether the overall criticism is not justified or fair.
10. Whether the criticism, while not appearing in the local press, pertains to a local judge or a local matter.
11. Whether the timing of the response is especially important and can be best met by the committee.

The following are the kinds of cases in which response to criticism is not appropriate, except in unusual circumstances:

1. When the criticism is a fair comment or opinion.
2. When the judge and the critic are engaged in a personal dispute.
3. When the criticism is vague or the product of innuendo, except when the innuendo is clear.
4. Where criticism raises issues of judicial ethics appropriate for presentation to the Commission on Judicial Conduct.
5. When a lengthy investigation to develop the true facts is necessary.
6. When the response would prejudice a matter at issue in a pending proceeding.
7. When the controversy is insignificant.
8. When the criticism arises during a political campaign and the bar's response may be construed as an endorsement of a particular candidate for judicial office.

V. Procedures

1. A WSBA staff member (the director of member and community relations or his/her designee) is designated as the administrator of the program ("administrator").
2. The primary method of monitoring media coverage is through "Judicial News,"¹ which the administrator reads daily. Additionally, any member of the bench or bar who believes there has been unjust judicial criticism should direct his/her concern to the administrator.
3. If it appears there may have been unfair judicial criticism, the administrator contacts the "Ready-Response Team"² as soon as possible. Using the established guidelines as criteria, they make an initial determination: (1) whether this is unjust judicial criticism, and (2) whether a response from the WSBA is appropriate. The administrator e-mails the WSBA president (or in the absence of the president, his or her designee), executive director and general counsel, bringing the article(s) to their attention and outlining the reasons why it is recommended that the WSBA respond, or not respond.
4. If the Ready-Response Team and administrator recommend a response, and the president (or in the absence of the president, his or her designee), executive director and general counsel agree, the administrator contacts the Administrative Office of the Courts (AOC) communications manager and the criticized judge or court. No response will be made without first contacting the criticized judge or court.

1 This is an electronic clipping service e-mailed by AOC each workday. These clippings cover the entire state and include all newspaper articles, op-ed pieces, and letters to the editor about judges or the courts.

2 The "Ready-Response Team," a small group of lawyers "on call," is composed of the chair of the Public Information and Media Relations Committee, Board of Governors liaison to the committee, plus several designated committee members.

5. The administrator is responsible for coordinating the drafting of a response, working with the Ready-Response Team and ensuring good communication among all involved parties.

Background information and facts are gathered as quickly as possible. Assistance from members of the Board of Governors or other lawyers may be requested.

6. Listed in order of anticipated frequency of use (highest usage listed first), the response may take the form(s) of:

- Phone call to the reporter or editor
- Letter to the editor
- News release
- Op-ed piece
- Press conference

7. The response will come from the WSBA president or the president's designee.

8. The administrator is responsible for circulating the draft response; incorporating edits; and obtaining approvals from the WSBA president (or in the absence of the president, his or her designee), executive director and general counsel.

9. The administrator is responsible for making contact with the media to which the response is directed.

10. The administrator sends a final copy of the response to the judge or court; AOC communications manager; WSBA president, executive director and general counsel; and Public Information and Media Relations Committee members.

Guiding Principle

Although quick action is essential (the goal is to respond within 72 hours), thoughtfulness, accuracy, and good communication with involved parties are not to be sacrificed for speed.

Maryland Bench-Bar-Press Advisory Group Mission Statement

The Bench-Bar-Media Advisory Group is composed of representatives of the Maryland Judiciary, the Maryland State Bar Association, and the Maryland Pro Chapter, Society of Professional Journalists. Its purpose is to foster and facilitate dialogue and education among judges, attorneys and journalists on issues related to the news reporting of the Maryland courts. The group is not an adjudicatory body. It does not express opinions or pass judgment on the contents of news articles or broadcasts regarding judicial or legal processes. Nor does it express opinions or pass judgment on judicial or legal processes that affect news coverage of the courts. The group offers itself as a forum for the frank discussion of these issues by representatives of the professions involved. It is also prepared to provide its good offices for assistance in resolution of disagreements on these issues by the invitation of all of the parties involved.

Adopted 1/23/2002



PREPARING FOR THE FIRST MEETING

Now that the fundamentals of a bench-bar-press committee (or other such mechanism for dialogue) has been put in place, it is time to think of that first meeting. Our recommendation is not to dive right into problems or conflicts that could engender animosity, but to use the time to acquaint each side with how the other side works and why it is important. Here is a sample agenda for such a first meeting:

Sample Initial Meeting Agenda

8-8:30 a.m.	Coffee, rolls
8:30 a.m.-8:45 a.m.	Welcome and session orientation for the day <ul style="list-style-type: none">– Judicial welcome– Journalism welcome
8:45-10:00 a.m.	Role reversal in a mock court trial. <ul style="list-style-type: none">– Presenters: Judge and Journalist coordinate facilitation of exercise
10:00-10:30 a.m.	Break-out groups <ul style="list-style-type: none">– Judge works with the journalists to analyze and understand court trial process.– Journalist works with the judges to write a news story about the role reversal mock court trial.
10:30-10:45 a.m.	Break
10:45-Noon	Discussion of roles during role reversal court trial <ul style="list-style-type: none">– Participants will study the stories written by judges, discussing content and information priority.– Sentences will be discussed, including consideration given to the defendant's existing situation.
Noon – 1:15 p.m.	Lunch <ul style="list-style-type: none">– Speaker: Media lawyer presents court/media issues in the state
1:15-2:15 p.m.	Discussion of real life issues in the courts. A discussion of issues that have caused concern in the past locally.
2:15-2:30 p.m.	Break
2:30-3:15 p.m.	Potpourri of hot topics – Presenters: Judge and Journalist
3:15-3:45 p.m.	Recap of the day

Breaking the Ice – Role Reversal Session for Judges and Journalists

In conducting our first rounds of workshops to promote discussions between judges and journalists, we at the Reynolds National Center for Courts and Media determined that some device to create the proper environment would be beneficial. Rather than plunge right into what concerns each side had concerning the relationship, we sought to create a scenario that would help each side gain a perception of how the other operates and in a way that lent itself to humor and fun.

Our solution was to begin the session with a role reversal exercise – journalists taking the role of lawyers and judges and judges becoming reporters. This exercise will work with any number of participants, but for our outline purpose, we will pick the arbitrary number of 10 journalists and 10 judges. Two faculty members are needed – a judge to help the journalists in their role playing and a journalist to help the judges.

The room is configured as a courtroom where a sentencing hearing will be held. The defendant is the son of a prominent county commissioner and is being sentenced for spousal abuse. This is not the defendant's first time to face such charges. He has had drug, alcohol and anger management issues before and was placed on probation.

In the scenario, three journalists will be selected as judges, two will be prosecutors, two will be defense counsel, one will be the defendant, one will be the defendant's wife and the last will be a victim's rights advocate.

The pages that follow this explanation are the background pages that are given to those in their respective roles. The wife may want to plead for leniency because the defendant is the breadwinner and because she has had a change of heart after calling the police the led to his arrest. The victim's rights advocate likely will testify as to the need for a sentence to jail this time. The defense basically will argue for leniency and the prosecution will select from a range of penalties.

The faculty judge will guide each group at the beginning of the session as to their duties. The three judges will hear the arguments and guide the hearing. At the conclusion, they each will determine separate sentences and give their reasons for their sentences. (The judges playing the role of journalists may choose which sentence and which judge they want to base their stories on.)

Obviously, the newsworthiness of this hearing is based on the fact that it is the commissioner's son. Therefore, the political overtones are present. If the prosecutor and/or judge opt for leniency, is it because of political ties to the commissioner? Or if the book is thrown at the defendant, is it because they are making an example of the commissioner's son? There is a damned if you do, damned if you don't aspect to this for journalists.

While the journalists are being prepared for their court roles, the journalist faculty member meets with the judges. Judges are seated at the back of the courtroom and are given nothing but a notepad and pen with which to take notes. (In some cases, it makes it difficult to hear the proceedings, which is another aspect journalists sometimes face and which judges aren't necessarily aware of.) Each will be assigned a specific role – basic reporter, sensationalist tabloid reporter, newspaper editorial writer, columnist, TV news anchor, news teaser writer, blogger etc. If someone can get one of the prosecutors or defense counsel to leak the probation report, that is fair game in the competitive field.

The faculty member briefly explains how to cover the hearing and how such reports are written – the who, what, when, where and how inverted pyramid approach and variations of that structure.

The hearing begins with the prosecution arguing for a particular sentence and the defense responding. The defendant's wife, the victim's advocate and the defendant all may testify. And when the court concludes the hearing that usually lasts from 20-30 minutes, the judges briefly retire to render their decisions.

After the judges announce their sentences, the judge-journalists have about 10 minutes to try to get any of the lawyers or judges to talk to them (remember the ethical rules, judges). The judge-journalists then retire to another room to write their stories. While they are working on them, the judge faculty member meets with the journalists to answer their questions about issues that surface for reporters covering the courts.

After about 30 minutes, the group reconvenes to have the judge-journalists read their stories, columns etc. As this is done, each side critiques the other as to how the jobs were handled and how things would play out in real life.

Invariably, our experience shows that some stories are inaccurate, others funny and the interaction lively and enjoyable. Most important, judges realize that taking notes and writing accurate stories under deadline isn't easy. Journalists gain a sense of how difficult and important it is to hold one's fate in their hands and that their decisions are subject to criticism no matter how they decide.

From this exercise, both sides are better positioned to shift to discussions of real court/media issues that have surfaced in the past in their jurisdictions and to approach the discussions in a more tolerant atmosphere.

If you have any questions about this role-playing exercise, please contact Gary A. Hengstler at the Reynolds National Center for Courts and Media.

Role Reversal

What Sentence Will You Impose?

Mr. Clarence Jones stands before you on September 9, 2005 for sentencing.

A police report states that on June 1, 2005, Mr. Clarence Jones and his wife, Sara, had a verbal argument. According to the report, Mr. Jones grabbed his wife by the arms, spun her around and choked her. He also picked her up off the ground by her neck, according to a neighbor who witnessed the incident. Mrs. Jones had red marks and scratches on her face and neck and was hysterical when police arrived. Mr. Jones resisted arrest and was injured, sustaining a broken finger, leg bruises, and seven stitches on his lower leg after he attempted to flee by jumping through a window.

Mr. Jones is 35-years-old. He is the son of a long-time county commissioner and was released from jail after serving 5 days on bail posted by the county commissioner.

Mr. Jones pleaded guilty August 1 to DOMESTIC VIOLENCE, SECOND OFFENSE. This is a misdemeanor requiring a minimum of 10 days in jail, level-2 domestic violence counseling for one year, \$500 fine plus \$167 in costs, and 100 hours of community service. As part of the plea bargain, the district attorney dismissed the second charge of resisting arrest.

Mr. Jones is a construction worker, employed by a developer with loose ties to the county commissioner. Mr. Jones has been employed in his current job for the last six months. He nets about \$1800 per month after taxes. He has been married for six years and has two children from the marriage.

During the sentencing hearing, Mr. Jones admits he grabbed his wife when she tried to leave during the argument, but he states he never choked her. He says he was somewhat intoxicated and was under the influence of speed when this happened. His wife denies she was choked. Mrs. Jones states the marks around her throat were from a rash. She states that Mr. Jones is a good provider and a loving father. She brought their children to court. Mrs. Jones emotionally states that she does not work outside the home and if Mr. Jones is jailed for an extended period, she will have no way to pay bills and care for her children. She cries that the family likely will be evicted and living on the streets.

Mr. Jones' employer recommends him as being "a reliable worker with strong religious values," but says that he will have to terminate Mr. Jones if an extended jail sentence is given.

The defendant's father is in the audience, but he does not speak.

The probation report reads as follows:

In November, 2004, Mr. Jones was placed on one year's probation for a September, 2004, domestic violence incident. In that incident he slapped his wife twice and shook her, according to police reports. He was sentenced to a suspended six-month jail sentence on the condition that he serve 48 hours in jail, attend domestic violence counseling, refrain from using alcohol or drugs, and commit no new offenses. He served the 48 hours in jail, but attended domestic violence counseling only on rare occasions. Mr. Jones faces probation revocation for the prior domestic violence incident, which can result in the original six-month jail term being imposed, although reinstatement on probation is also allowed. (Since the judge in the June, 2005 case is the same judge who presided over the September, 2004 case, that judge can decide both cases.)

Since the June arrest, Mr. Jones began taking domestic violence prevention classes and is attending regularly. He also is involved in alcohol/drug treatment and is undergoing random urine screens to prove he is not consuming drugs. Mr. Jones has been cooperative with this treatment program. This is the first domestic violence treatment with which he has been regularly involved. Past convictions include driving under the influence (1994), trespassing (1990, 1992), and possession of stolen property (1995), all misdemeanors.

Mr. Jones reports he started drinking when he was 13, used marijuana frequently into his 20s and amphetamines and cocaine occasionally until his June arrest. Mr. Jones states he has been "clean and sober" since the June incident. In the past he has had some minimal treatment for alcohol and drug problems, but never anything as extensive as his current program. Mr. Jones states he is learning ways to divert his anger and is making progress in controlling it. His wife agrees. A couple of years ago, he learned his health was compromised due to an enlarged liver from past substance abuse. Mr. Jones states he has never before been sentenced to jail and that he will lose his job if he goes to jail.

SPECIAL NOTE: Members of the media are in the audience at the sentencing hearing.

Here are your sentencing options:

(You may impose any combination of these options, or you may create other reasonable options that you believe are warranted by the case.)

- ☐ You may impose a jail sentence of up to six months for the June case and six months for the probation violation in the prior case. The jail has 1,985 people in it. Its capacity is 1,350. The cost of keeping a person in jail is \$70.00 per day.
- ☐ You may impose jail sentences but permit time to be served on "work release." A person on work release may leave the jail to work but must return to the jail during all non-working hours to serve his or her sentence, or serve any sentence on weekends according to the judge's order.

- ☐ You may order probation, including probation conditions beyond the mandatory minimums of one-year level-2 domestic violence counseling and 100 hours of community service. Probation will include status checks in court during which you will review reports from treatment agencies.
- ☐ You may reinstate probation in the probation revocation case.
- ☐ You may fine the defendant up to \$1,000.
- ☐ You may impose community service beyond the 100 hours mandatory for a second offense domestic violence case.
- ☐ Domestic violence counseling programs are required by law for those convicted of offenses involving domestic violence. You may order drug/alcohol abuse counseling for a set period of time (specify if chosen) at the defendant's expense, including testing.

“Trying” to Be a Judge: Role Reversal Instructions

- Read through the case.
- Read the Probation Report.
- Read the Sentencing Options.
- Consider the defendant’s history, family needs, and existing conditions in the city’s jail.
- Determine whether the defendant is a threat to society and what it would take for him to learn from his mistakes.



OTHER ITEMS OF INTEREST FOR JUDGES AND JOURNALISTS

The following pages are included from our workshop workbooks because they contain information you may wish to include in your materials as you begin to strengthen the dialogue between the journalistic and legal communities. For example, you may want to include a listing of state resources deemed helpful to both courts and media, including:

- Judicial ethical rules
- Journalism ethical rules
- Cameras in the courtroom rules
- Key state statutes
- Other court rules

Some Thoughts to Ponder

"Judges are the arbiters of order and common sense. They are the protectors of fairness and that elusive quality known as justice. Without reporters, the important messages they send would be heard by no one."

-- Linda Deutsch, *Associated Press Correspondent, Freedom Forum Calendar, 1997.*

"The hand that rules the press, the radio, the screen and the far-spread magazine, rules the country."

-- Judge Learned Hand at the memorial service of Justice Louis Brandeis, Dec. 12, 1942.

"You'd think judges and journalists would be best friends.... That's why we need to talk."

-- Michael Gartner, *newspaper publisher and former president of NBC News.*

"A responsible press is an undoubtedly desirable goal, but press responsibility is not mandated by the Constitution and like many other virtues, it cannot be legislated."

--Chief Justice Warren Burger, *Miami Herald Publishing Co. v. Tornillo, (1974).*

"And to cover a trial correctly, you must have capable editors who can handle the vagaries and unpredictabilities of a trial, with leads sometimes changing three or four times within one session. Trial coverage and trial editing are not for the slow or lazy."

-- Theo Wilson, *Headline Justice, Thunder's Mouth Press, NY, NY, 1996, p. 8.*

"Where do you journalists think you get your rights?"

--Justice Potter Stewart, *quoted in "Journalism and the Judiciary," 1997.*

"The public's confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system."

-- Justice Felix Frankfurter, *quoted in "Journalism and the Judiciary," 1997.*

Percentage of U.S. citizens expressing a high degree of confidence in:

Judges: 33 percent

Lawyers: 19 percent

Journalists: 16 percent

-- Consumer Research Findings, American Bar Association, 2002.

"I should make clear that I am not contesting any citizen's right to criticize legal decisions or the judges who issue them. Nor am I disputing the media's right to report such criticisms – a free press is one of the great things about our system of government. But I am arguing there is a difference between thoughtful reporting and scapegoating by sound bite. And in the case of the Courts, that difference matters."

-- Chief Judge Judith Kaye, Media Studies Journal, Winter, 1998.

"As the jury system is under fire in this country, I felt it was important to try to give a little insight into the jury room, and how jurors really work.... I believe in the jury system. I wanted to bolster confidence in this way of doing things; I have faith in ordinary people using good sense and intelligence to address serious problems. Without that faith the idea of a democratic society is beyond hope...."

-- Frank Pierson, President, Academy of Motion Picture Arts & Sciences; Screenwriter and Director for Oscar-winning movie, "Dog Day Afternoon."

The First and Sixth Amendments

AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process

Top 10 Issues on Court-Media Issues and Relationships for Judges, Journalists and Lawyers

(These issues were the recurring themes stemming from the 1996, post-OJ Simpson trial, National Conference of the Media and the Courts)

1. Encourage and establish continuing interdisciplinary educational opportunities and dialogue among judges, journalists and lawyers to foster an understanding of each other's roles through journalism schools, law schools, and The National Judicial College.
2. Assume there is access to all court proceedings and records and place the burden of proof for closure on the entity seeking secrecy. Privacy issues may overcome the presumption in appropriate cases.
3. Refrain from imposing gag orders on the news media or attorneys. Courts should seek other remedies in lieu of gag orders except in extraordinary cases.
4. Establish and/or support bench/bar/media committees, which will meet regularly in every community to address issues of mutual concern.
5. Establish guidelines for trial-press management in high-profile cases. Court officials should confer and consult with media representatives to avoid unanticipated problems and understand each other's legal constraints.
6. Consider professional standards for journalists that are non-binding.
7. Assume that cameras should be allowed in the courtroom, including the federal court system, and that such access should be limited or excluded only for strong reasons.
8. Encourage judges to explain, on the record, the reasons for their rulings.
9. Determine when and if it is appropriate to compel reporters to testify or produce notes, tapes, etc., understanding that the media cannot serve as an arm of law enforcement.
10. Encourage media organizations to develop a system of legal representatives to hear recommendations from the courts and the public wherever feasible.

Websites Worth Visiting

Useful General Information

- Links to many state, federal, and international court web sites
http://www.ncsconline.org/D_KIS/info_court_web_sites.html
- A database with a brief bio of every federal judge who ever has served from 1789 – present
<http://www.fjc.gov/history/home.nsf>
- Information about the relationship between the courts and the media
<http://www.courtsandmedia.org>

How Courts Communicate with the Press

- Provides reporters with links to other sites they may find helpful, such as the Reporters' Committee for Freedom of the Press and the Radio Television News Directors' Association
<http://www.courtinfo.ca.gov/presscenter/presssites.htm>
- Articles written by judges for web or newspapers
http://www.courts.state.hi.us/page_server/News/InTheMedia/122518476B36226CEB576770DE.html
- Federal judiciary's "newsroom" presents latest news
<http://www.uscourts.gov/news.html>

How Courts Cope with High Profile Cases via the Internet

- Wisconsin is one of a growing number of courts which broadcasts proceedings live over the Internet
<http://www.courts.state.wi.us/media/press/Web-live.htm>
- Court judgments and news accounts relating to the Lockerbie trial
<http://www.ltb.org.uk>
- Filings in the case of alleged terrorist Zacarias Moussaoui
<http://notablecases.vaed.uscourts.gov/notablecases/Index.html>
<http://www.floridasupremecourt.org/courtpio/documents/LAMultiAgencyPlan.pdf>
<http://www.floridasupremecourt.org/courtpio/documents/usefultools.pdf>
<http://www.courts.state.co.us/exec/media/eagle/07-04/DecorumOrder.pdf>

- Top 10 Court Website Awards
<http://www.justiceserved.com/top10sites.cfm>

How Courts Communicate with the Public

- Public information desks in the courthouse
<http://www.jud.state.ct.us/directory/directory/infodesk.htm>
- Judges and others hold “Lunch ‘n’ Learn the Law” sessions for the public
http://www.courts.state.hi.us/page_server/Outreach/716492199131B9A5EC401AF3AE.html
- Making jury service painless
<http://www.superiorcourt.maricopa.gov/jury/index.asp>

Public Access to Electronic Court Records – Policies and Practices Summary of New Developments

- Privacy and Public Access to Court Records: State Links
http://www.ncsconline.org/WC/Publications/Tech_PriPubStatelinksPub.pdf
- Developing CCJ/COSCA Guidelines for Public Access to Court Records: A National Project to Assist State Courts
http://www.ncsconline.org/WC/Publications/Res_PriPub_GuidelinesPublicAccessPub.pdf
- Electronic Access to Court Records: Ensuring Access in the Public Interest
<http://www.rcfp.org/courtaccess/index.html>
- Public Access to Court Records
<http://www.courtaccess.org>
- A Quiet Revolution in the Courts: Electronic Access to State Court Records
<http://www.cdt.org/publications/020821courtrecords.shtml>
- (Federal) Electronic Access to Courts
<http://www.uscourts.gov/electaccrt.html>

*David Sellers, Director of Public Affairs
Administrative Office of the U.S. Courts, Office of Public Affairs*

Useful Sources for Both Courts and Media

The Reporters' Committee for Freedom of the Press

<http://www.rcfp.org>

Website contains a wealth of up-to-date information on court/media issues, including the status of access to electronic records, juvenile courts, cameras in the courtroom, gag orders, judicial speech, etc.

Lucy A. Dalglish, Executive Director

Reporters Committee for Freedom of the Press

1101 Wilson Blvd., Ste. 1100

Arlington, VA 22209

(703) 807-2100

(703) 807-2109 FAX

ldalglish@rcfp.org

Covering the Courts: a Handbook for Journalists, by S.L. Alexander, 2nd ed., 2003. This excellent book provides an overview of the judicial system, criminal trials and civil trials. It also discusses such issues as cameras in the courtroom and provides guidance to journalists on dealing with court personnel, etc. It includes a glossary of legal terms as well as ethics rules for both judges and journalists.

Covering the Courts: an Associated Press Manual for Reporters

<http://www.ncpress.com/LegalFiles/intro.html>

This manual was prepared by Linda Deutsch and Richard Carelli, two experienced reporters who cover the courts. It explains the basics of courtroom procedure and the courts.

Journalist's Guide to the Federal Courts

<http://www.uscourts.gov/journalistguide/welcome.html>

A manual similar to the above but providing guidance on the Federal courts.

The American Judicature Society

<http://www.ajs.org/>

"The American Judicature Society works to maintain the independence and integrity of the courts and increase public understanding of the justice system."

The American Bar Association

<http://www.abanet.org>

A comprehensive resource

Judicial Ethics

http://www.abanet.org/judicialethics/resources/resources_state.html

Resources for Journalists

<http://www.abanet.org/publiced/tools.html>

The Conference of Court Public Information Officers

<http://www.floridasupremecourt.org/courtpio/>

Of particular interest on this site is the list of state court PIOs.

National Center for State Courts

<http://www.ncsconline.org/>

A comprehensive resource for information on and for state courts. For information on Courts and the Media, see:

http://www.ncsconline.org/WCDS/Topics/topic1.asp?search_value=Courts%20and%20the%20Media

Managing Notorious Trials by Timothy R. Murphy, Paula L. Hannaford, Geneva Kay Loveland, G. Thomas Munsterman, National Center for State Courts, 2nd ed., 1998

This manual covers every aspect of high-profile trials, yet allows for the flexibility required to successfully manage a case and the non-legal challenges such cases present. It is an indispensable resource for every judge, court administrator and public information officer. It is also a helpful tool for news organizations preparing to cover high-profile trials.

*Jerianne Hayslett, Director of Public Information (Retired)
Superior Court, Los Angeles, CA*



POINTS TO CONSIDER FOR JUDGES

JUDICIAL ETHICAL RULES

Canon 3B(9) of the ABA Model Code of Judicial Conduct

“A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge’s direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.”

Canon 3A(6) of the Code of Conduct for United States Judges “A judge should avoid public comment on the merits of a pending or impending action, requiring similar restraint by court personnel subject to the judge’s direction and control. This proscription does not extend to public statements made in the course of the judge’s official duties, to the explanation of court procedures, or to a scholarly presentation made for purposes of legal education.”

COMMENTARY

Canon 3A(6) of the ABA Model Code of Judicial Conduct

“The admonition against public comment about the merits of a pending or impending action continues until completion of the appellate process. If the public comment involves a case from the judge’s own court, particular care should be taken that the comment does not denigrate public confidence in the integrity and impartiality of the judiciary in violation of Canon 2A. This provision does not restrict comments about proceedings in which the judge is a litigant in a personal capacity, but in mandamus proceedings when the judge is a litigant in an official capacity, the judge should not comment beyond the record.”

See http://www.abanet.org/judicialethics/ABA_MCJC_approved.pdf (for 2007 version of the ABA Model Code of Judicial Conduct)

First Amendment and Media Issues for Judges

Dealing with the Media

- Establish ground rules
- Be available and be accurate
- Be understanding and aware of media deadlines
- Be truthful and clear
- Always be on the record
- Use easily understood terms
- Be fair and behave professionally
- Understand and respect the media's competitiveness
- Be prepared to be interviewed

Be Aware of Deadlines

- Always ask a journalist who is requesting information what his or her deadline is.
- Respond as soon as possible to questions/requests for information.
- Stalling damages credibility. Make sure, if you must do any research to ensure the accuracy of your response, that the media don't think you are stalling for time.

Be Truthful and Clear

- Do not lie. Tell the truth or say nothing at all.
- Don't say anything you don't want in print or broadcast.
- Don't make flip statements.
- Don't express personal opinions. Even after the camera is stowed and the notebook is put away.
- Avoid appearing like you are covering something up or trying to hide something.
- Let journalists know when you think they have done a good job.

The Media Are Competitive

- Journalists are always looking for ways to get a story that other journalists don't have.
- Getting the story first is vitally important to every journalist and every news organization.
- Don't give information you have learned from one reporter to another reporter.

Developing Relationships with Members of the Media

- What is an appropriate relationship?
- Why is developing a relationship necessary?
- How members of the media try to manipulate or abuse the relationship.
- Establishing relationships is necessary. Appropriately handled, having relationships doesn't compromise the integrity of the court.
- Hold an orientation for members of the media:
 1. Give a tour of public areas of the court
 2. Give materials such as applicable laws or rules of court
 3. Discuss objectives/challenges of media
 4. Discuss objectives/challenges of the court/judiciary
- Schedule periodic, informal sessions with reporters who routinely cover the courts to discuss questions, issues, situations of mutual concern.
- Create a Bench-Bar-Media Committee

Use Easily Understood Terms

- Do not use legalese, bureaucratese or terms not commonly used or understood by members of the public.
- Remember that news stories are written or prepared for people with a ninth-grade education.
- Make your statement in 30 seconds or less for print journalists, 10 seconds or less for broadcast journalists.
- Create a glossary of legal terms commonly used in court parlance and have a copy available to give any journalist who contacts you for information or for an interview.

Correcting Errors and Responding to Criticism

For Criticism:

- Gather the facts
- Compile facts in writing in a fact sheet
- Discuss the criticism and possible options with Chief or Presiding Judge or other judicial colleagues

Possible Options:

1. Discuss the situation with the reporter or editor of the news organization that published or aired the critical story.
2. Write a Letter to the Editor of the newspaper that published the critical story.
3. Write and submit an op-ed piece to the news organization that reported the critical information.
4. Issue a news release.
5. Post everything you write on the court's website, if one exists. (Have a "News" category created on the website, if such a category doesn't already exist. Other news about the court can be posted there, as well).
6. Enlist the support of bar associations for leadership or for members to write letters to the editor of news organizations and/or write op-ed pieces for publication in news publications.

For an error, determine if it's important or serious enough to try to get a correction.

- If not, contact the reporter who wrote the story and give her or him the correct information in the hope that the error won't be repeated in future stories.
- If you think a correction is warranted, the following is a list of possible options:
 1. Ask the reporter who wrote the story to do a correction. If he or she declines to do one, ask for the name and phone number of his or her editor
 2. Ask the editor for a correction. If the editor declines, you can take some of the same actions as you would for unwarranted criticism, such as:
 - Write a letter to the editor of the news organization that reported the incorrect information.
 - Write and submit an op-ed piece to the news organization that reported the incorrect information.
 - Often other news organizations pick up stories reported by other news organizations without confirming the information or checking facts in them, thereby perpetuating incorrect information. If that happens, send a correcting news release to all news organizations that might pick up the erroneous story.
 - Post everything you write on your court's website.

Ten Tips for Dealing with the Media

1. Never lie or mislead a reporter. Like you, a veteran reporter has developed a strong sense of reading people. They generally know when someone is trying to use them or deflect them from the truth. Even if you succeed temporarily, the reporter, if the published story later proves to be flawed, will remember.
2. Appreciate and respect the reporter's deadlines. For journalists, no continuances exist. Editors don't want to hear excuses why the reporter failed to get the quote or story. A reporter will appreciate a judge who makes himself or herself available at the earliest possible time.
3. If you want to be quoted, make colorful statements. Besides getting it accurately, the reporter wants his or her story to be interesting. Writing style can only go so far. Quotable sources are the key. Use of analogies or appropriate quips help add color to a story. Conversely, if you don't want to be quoted but still want to appear cooperative, use the driest, blandest and most straightforward language you can.
4. Avoid legal terms in explaining complex issues. Unless you are a "techie" yourself, you know how frustrating and irritating it is when someone tries to talk to you about your computer and every other phrase is a technology term you cannot comprehend. The same is true with legal terminology. Draw a picture in layperson's terms to get your point across.
5. Set your own terms for the interview. Tell the reporter up front what can and can't be used for direct attribution. If you are asked to go "off the record," or "on background," make sure you and the reporter explicitly agree on what those terms mean and explicitly how the information will be used. As a source, you generally are able to set the ground rules. You can ask to see the story before it goes to print, but more often than not, a reporter won't agree to that condition. A reporter knows from experience that those who want to check "only for factual accuracy," generally shift over into nit-picking writing style.
6. Tape the interview. Especially if you are concerned about accuracy, make your own tape. Many reporters use tape recorders, so it is highly unlikely you will get resistance. If you do, it's probably not a good idea to be interviewed. If you use a tape recorder, however, be certain to tell the reporter and to make sure such use does not violate laws in your state because some states prohibit one-sided recordings.
7. Provide written materials where appropriate. If you have graphics or supporting material you can share appropriately with the reporter, make it available. He or she will appreciate your taking the matter seriously enough to want to assist.

8. Don't let a reporter put words in your mouth. One tactic that is frowned upon, but still used, is when the reporter asks, "Would you say that..." or "Would it be fair to say..." and then directly attributes his or her words to you in print. Sometimes the reporter's statement contains loaded language that gives a twist that you would not have said on your own but is close enough for you to agree that you are comfortable with the overall statement.
9. Remember, reporters rarely write headlines, especially on larger publications. Often the complaint from a source is not about the story, but about the headline. In fact, some of the strongest newsroom arguments can occur between the reporter and the copy desk over a reporter's belief that the headline inaccurately portrayed his or her story. If the headline is wrong, ask the reporter whom you should call to register a complaint. It does little good to berate the reporter, who probably agrees with you but can't do anything about it.
10. Give the reporter the benefit of the doubt. Unless you know from experience or have reason by reputation to distrust a reporter, don't assume the worst. If the reporter feels you genuinely respect his or her duties, generally things will go well. If asked about something you can't comment on, don't give a brusque "No comment." Be sincere and, if possible, provide some general explanation why you can't provide the information such as "the judicial ethics code prohibits me from providing that information."

*Making Work Work for You by Gary Hengstler
Director, Reynolds National Center for Courts and Media*

Some General Guidelines for Media Interviews

1. Respond promptly to any and all media inquiries.
2. Convey a genuine sense of understanding, appreciation and respect for the reporter's public service role.
3. Ask the reporter when the deadline is to show your concern for his or her schedule as well as providing you with some idea of how much time you have to prepare.
4. Be as cooperative as you can in terms of answering questions. If reporters feel you are trying to help them get it right, they will portray you more positively in their coverage. This may include referring them to other more appropriate sources.
5. When you can't answer due to ethical restrictions, take the time to explain why you can't answer directly instead of the flat, "No comment."
6. Answer all questions in terms of how the public is affected, not how you are affected.
7. Try to keep your answers concise. Lengthy responses increase the risk of the reporter not understanding the statement fully and make it more difficult to take accurate notes. Particularly with respect to electronic media, lengthy responses can be edited down in ways that distort or mislead what you were trying to say.
8. Try to avoid negative words in responding to a question.
9. Try to keep the interview focused on three or fewer points that you want to stress. All answers should circle back to those limited number of points. Repetition helps ensure the reporter gets them down and gets them right.
10. Maintain your composure no matter how provocative the question or the reporter's style.
11. Show your compassion as a human being by acknowledging the concerns of the average viewer and let them know that as you take your job seriously in providing public service, you also "feel the pain" of those affected.

Gary Hengstler
Director, Reynolds National Center for Courts and Media



POINTS TO CONSIDER FOR JOURNALISTS

Society of Professional Journalists Code of Ethics

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty. Professional integrity is the cornerstone of a journalist's credibility. Members of the Society share a dedication to ethical behavior and adopt this code to declare the Society's principles and standards of practice.

Seek Truth and Report It

Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.

Journalists should:

- Test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible.
- Diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing.
- Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.
- Always question sources' motives before promising anonymity. Clarify conditions attached to any promise made in exchange for information. Keep promises.

- Make certain that headlines, news teases and promotional material, photos, video, audio, graphics, sound bites and quotations do not misrepresent. They should not oversimplify or highlight incidents out of context.
- Never distort the content of news photos or video. Image enhancement for technical clarity is always permissible. Label montages and photo illustrations.
- Avoid misleading re-enactments or staged news events. If re-enactment is necessary to tell a story, label it.
- Avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public. Use of such methods should be explained as part of the story.
- Never plagiarize.
- Tell the story of the diversity and magnitude of the human experience boldly, even when it is unpopular to do so.
- Examine their own cultural values and avoid imposing those values on others.
- Avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance or social status.
- Support the open exchange of views, even views they find repugnant.
- Give voice to the voiceless; official and unofficial sources of information can be equally valid.
- Distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context.
- Distinguish news from advertising and shun hybrids that blur the lines between the two.
- Recognize a special obligation to ensure that the public's business is conducted in the open and that government records are open to inspection.

Minimize Harm

Ethical journalists treat sources, subjects and colleagues as human beings deserving of respect.

Journalists should:

- Show compassion for those who may be affected adversely by news coverage. Use special sensitivity when dealing with children and inexperienced sources or subjects.
- Be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief.
- Recognize that gathering and reporting information may cause harm or discomfort. Pursuit of the news is not a license for arrogance.
- Recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy.

Journalists should:

- Show good taste. Avoid pandering to lurid curiosity.
- Be cautious about identifying juvenile suspects or victims of sex crimes.
- Be judicious about naming criminal suspects before the formal filing of charges.
- Balance a criminal suspect's fair trial rights with the public's right to be informed.

Act Independently

Journalists should be free of obligation to any interest other than the public's right to know.

Journalists should:

- Avoid conflicts of interest, real or perceived.
- Remain free of associations and activities that may compromise integrity or damage credibility.
- Refuse gifts, favors, fees, free travel and special treatment, and shun secondary employment, political involvement, public office and service in community organizations if they compromise journalistic integrity.
- Disclose unavoidable conflicts.
- Be vigilant and courageous about holding those with power accountable.
- Deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage.
- Be wary of sources offering information for favors or money; avoid bidding for news.

Be Accountable

Journalists are accountable to their readers, listeners, viewers and each other.

Journalists should:

- Clarify and explain news coverage and invite dialogue with the public over journalistic conduct.
- Encourage the public to voice grievances against the news media.
- Admit mistakes and correct them promptly.
- Expose unethical practices of journalists and the news media.
- Abide by the same high standards to which they hold others.

Sigma Delta Chi's first Code of Ethics was borrowed from the American Society of Newspaper Editors in 1926. In 1973, Sigma Delta Chi wrote its own code, which was revised in 1984 and 1987. The present version of the Society of Professional Journalists' Code of Ethics was adopted in September 1996.

©1996-2002 Society of Professional Journalists. All Rights Reserved.

The First Amendment Handbook

The Reporters Committee for Freedom of the Press

View at www.rcfp.org/handbook

Chapter 1: Libel

- Introduction
- Defamatory communication
- Publication
- Falsity
- Identification
- Harm
- Fault
- Defenses
- Product libel
- Criminal libel
- Infliction of emotional distress
- Avoiding libel suits

Chapter 2: Invasion of Privacy

- Introduction
- Intrusion
- Publication of private facts
- False light
- Misappropriation
- Right of publicity
- Other newsgathering concerns
- Defenses
- Reporter's privacy checklist

Chapter 3: Surreptitious Recording

- Introduction
- State hidden camera statutes

Chapter 4: Confidential Sources and Information

- Introduction
- Legislative protection of news sources
- Constitutional privilege protects sources
- A reporter's obligation to a source
- What to do when you are subpoenaed
- Separation orders
- Sanctions
- Newsroom searches
- FISA warrants

Chapter 5: Prior Restraints

- Introduction
- National security
- Law enforcement investigations
- Privacy
- Information in the public sphere
- Corporate information
- Statutory restraints
- Obscenity
- Commercial speech
- Restrictions on compensation
- What to do if ordered not to publish

Chapter 6: Gag Orders

- Introduction
- What to do if a court issues a gag order

Chapter 7: Access to Courts

- Introduction
- Cameras and recording equipment
- You have a right to oppose secrecy
- What you should do

Chapter 8: Access to Places

- Introduction
- Journalists' right of access
- Access to prisons and prisoners
- Police/press guidelines
- Access to public buildings and schools
- Access to election polls
- Access to private property
- Access to shopping malls
- What to do if you are denied access
- Civil remedy for denied access

Chapter 9: Freedom of Information Acts

- Introduction
- Freedom of information laws
- Sunshine laws

Chapter 10: Copyright

- Introduction
- What can be copyrighted
- How to protect a copyrighted work
- Copyright ownership rights
- Who owns the work
- How to avoid copyright infringement
- Legal action to protect a copyright

Gannett Cards Carried By Some Journalists

Your Honor, I'd like to address the Court on the Motion to close the courtroom. My name is _____ and I am a reporter for _____. It is my understanding that a hearing must precede your decision to close this proceeding, and that I and the newspaper have the right to present arguments at that hearing. If you will grant a reasonable time, I'd like to contact my editor and the newspaper's lawyer, so that we may present our arguments properly. May I have that time, please, your Honor? Thank you very much. If the court denies the recess, continue as follows: If the court will not take a brief recess, then, on behalf of the (your newspaper), I request that my objection and a brief statement of the legal issues be made a part of the record in this case.

Where to Find Stories/News When Covering the Courts

Index in court clerk's office

- Names of companies, charities, prominent organizations and individuals with operations in local area
- Check number of cases and kinds of cases they might be involved in
- Identify types of activities that are occurring

Court staff: Talk to court staff, and get to know everybody

- Clerks
- Secretaries
- Judicial Assistants
- Supervisors
- Managers
- Ex-jurors
- Jury personnel
- Judges
- Bailiffs/security

Jury Commissioner: He or she can assist a journalist in finding information about:

- Problems with the jury system
- The percentage of jurors who show up for jury service as required
- How juries have changed over the past year, past five years, past 10 years
- Changes in the number of employers who pay employees while they are serving as jurors
- Efforts to improve the jury system
- Juror pay
- Facilities for jurors (e.g. jury room, parking, other amenities, etc.)

In covering the courts, the public is particularly interested in the following subjects:

- Animals
- Cruelty
- Lawsuits
- Children
- Adoption Days
- Juvenile Court (difficult to cover, but a good source particularly if you can develop a good relationship with, and win the confidence of, the presiding judge)

*Jerriane Hayslett, Court-Media Relations Consultant
South Milwaukee, WI*

American Bar Association Online Information for Journalists www.abanet.org

[LOGIN](#) | [Join ABA](#) | [Media](#) | [Contact](#)

**AMERICAN BAR ASSOCIATION**
Defending Liberty, Pursuing Justice

Search: [Go](#) [Advanced Search Topics A-Z](#)

[Home](#) | [Membership](#) | [Member Resources](#) | [Public Resources](#) | [Legal Education](#) | [CLE](#) | [Calendar](#) | [Store](#) | [Publications](#) | [About the ABA](#)

Dec 4, 2008 [Print This](#) | [E-mail This](#)

[Division Home](#)
[Consumers](#)
[Teachers & Students](#)
[Lawyers & Judges](#)
[Journalists](#)
[Law Day](#)
[Supreme Court Preview](#)
[Featured Programs](#)
[Awards](#)
[Publications](#)
[Products Catalog](#)
[Calendar](#)
[Resources](#)
[Contact](#)

**DIVISION FOR PUBLIC EDUCATION**
AMERICAN BAR ASSOCIATION

**PRODUCTS CATALOG**

For Journalists

These items for working journalists help a profession that must make sense of legal news, often under intense deadline pressure. At the same time, they're of use in libraries, journalism schools, and college courses in a wide variety of disciplines.

Store Menu: [GO](#)

Publications

- [Law and the Courts: Volume One—The Role of Courts](#)
- [Law and the Courts: Volume Two—Court Procedures](#)
- [Law and the Courts: Volume Three—Juries](#)
- [Preview of United States Supreme Court Cases](#); visit [Preview's website](#)
- [Preview of Supreme Court Cases Binder](#)

Videos

- [Following the Paper Trail: A Journalist's Guide to Locating Legal Documents](#)
- [A Journalist's Guide to Civil Procedure](#)
- [A Journalist's Guide to Federal Criminal Procedure](#)

Primers

- [A Journalist's Primer on Civil Procedure](#)
- [A Journalist's Primer on Federal Criminal Procedure](#)
- [A Journalist's Primer on Locating Legal Documents](#)

[Store Home](#)

[Back to Top](#)

Legal Professionals
Now Have a Place to

Connect
with your peers.

Share
your knowledge.

Speak
your mind.

legallyminded
Legal Professionals.
Your Community.
Your Network.

Provided by the

**AMERICAN BAR ASSOCIATION**
Defending Liberty
Pursuing Justice



JUDICIAL OUTREACH PROGRAMS

Law School for Journalists Checklist

- ☐ The first – and most important – step in beginning to plan a Law School for Journalists program is to solicit materials and suggestions from other public information officers (PIOs) who have conducted similar programs. There is a wealth of excellent material that can be modified for your individual state. Materials available from other PIOs include media handbooks; examples of letters and flyers sent to journalists and faculty members; agendas; curricula; and registration forms. The Conference of Court Public Information Officers (CCPIO) listserve is invaluable for this purpose.¹
- ☐ Identify and contact potential co-sponsors or underwriters. Examples of these might include bar or press associations, universities and, in some states, First Amendment Centers. Once a co-sponsor is found, meet with key people there and determine a location and a date for the law school. In choosing a date, consider conflicts such as legislative sessions, Supreme Court sessions, scheduled executions and other events that could affect attendance such as print and broadcast media schedules.
- ☐ Based on the location and budget, decide how many participants can be accommodated.
- ☐ Determine who is paying for what. Costs to be considered include printing materials and providing meals for participants. A good media guide can cost \$5 or more per copy and there are other handouts to be printed as well.

¹ Visit <http://www.ccpio.org> and click on *Become a Member*. You must be a member of the CCPIO to use the listserve.

- ❑ Decide on a curriculum and put together a tentative schedule for the day. Don't forget to schedule short breaks. To make the best use of limited time, provide box lunches and consider having a speaker during lunch. Preparation, especially the materials, requires at least four months.
- ❑ Contact prospective faculty members – the “A” list or first choices. Contacts should be made immediately by phone so they can mark their calendars. The phone contact should be followed by a detailed letter and a draft schedule sent to those who have agreed to serve on the faculty. Get email addresses and provide them with yours so that when (not if) questions arise, they can be answered quickly. Faculty members will be sent a final schedule when it is complete, along with a reminder/thank you letter. also should give them a deadline for submitting any materials they want included in folders for participants and ask them to let you know if they will need equipment for their presentations.
- ❑ Vary your sessions to include panels of judges, lawyers, journalists and legal scholars, as well as individuals or pairs of presenters. If your panel or presenters represent different viewpoints, caution them that their role is to inform rather than to engage in a debate. Use facilitators and ask them also to keep the session “on track.”
- ❑ Get the word out to print and broadcast media statewide. There are a number of ways to do this. If there is a press association meeting or conference, ask if you can do a very brief presentation. Distribute informational flyers and registration forms at the meeting. If the audience is comprised of editors/publishers, stress the word “free.” Ask the Associated Press (AP) to notify members – this is a great help. The AP may also be willing to electronically send registration forms to members. Post a registration form and copy of the curriculum and agenda on your website. Fax or email information and registration forms to your media lists. Place the same information in the press room at the Capitol. The information should include the deadline for registration.
- ❑ And now for the hard part. Take the materials you have obtained from other states and decide what your handouts will be. The handbook – or media guide – is a huge undertaking. It is best to take one from another state and ask different people to agree to rewrite chapters. Handbooks from other states should be used only as guides and models. Law firms or law schools might be willing to do chapters dealing with criminal and civil law processes and various media-related areas of the law, such as wiretapping, libel, public records and open meetings. The guide might include some or all of the following chapters:
 - Foreword
 - Covering the Courts
 - Overview of the Judicial System
 - The Criminal Law Process
 - The Civil Law Process
 - Office of the Attorney General
 - Office of the State Prosecutor

- Office of the U.S. Attorney
- Office of the Public Defender
- Office of the Federal Public Defender
- Open Meetings Act
- Public Records Act
- Wiretapping & Electronic Surveillance
- Libel Law Summary
- Media Shield Law
- Copyright Law
- Sources of Law
- Directory of Legal Resources
- Glossary of Legal Terms

It is important to have firm deadlines for chapters so they can be proofed for accuracy and typos. Also, factor in printing time. The handbook should include a disclaimer such as, "This material is being provided for informational purposes and as a general guide to (your state's) law. No information contained herein is intended as legal advice." If you include a letter from the chief justice or other individual, it dates the book.

- ☐ Send a letter about parking, lunch and other details, along with a final agenda, to the registrants. Ask those who cannot attend to let you know. Compile a list of those who will attend and who they represent.
- ☐ Prepare packets for the attendees. These may include a list of participants, bios of faculty, faculty handouts, the annual report for the court system and other court publications, a list of "useful" telephone numbers and addresses (such as court clerks, district attorneys, public defenders, the PIO for the attorney general, bar associations, law-related boards and commissions) and the media handbook. Prepare extras because faculty members and others will ask for them at the program.
- ☐ Make sure you have all audio-visual equipment available.
- ☐ Take the materials to the location early on the day of the program. The materials should be placed where participants will be seated to avoid having to hand them out or having a line while they are picked up.
- ☐ Have coffee, juice, water and pastries when participants arrive. They can eat and drink during welcoming remarks.
- ☐ After the program, send thank you letters from the chief justice to faculty, co-sponsors, attorneys and others who assisted with materials and the event.
- ☐ Start soliciting underwriters for reprints of the handbook. Revise the cover to include the underwriters.

Possible underwriters include press organizations, including the Associated Press, law firms, and universities.

Sue Allison, Public Information Officer, Tennessee

Joan Kenney, Public Information Officer, Massachusetts

Sally Rankin, Court Information Officer, Maryland Judiciary

Schools in the Courts Program

As part of the Maryland Judiciary's ongoing efforts to reach out to schools and the community, Anne Arundel District Court Judge Vincent A. Mulieri started a program in 2001 in which he invites 9th and 10th grade students from local high schools to visit his courtroom and watch real court cases. After the docket is completed, Judge Mulieri, along with the chief judge of the District Court, discusses with the attendees the cases that they just saw, and answers their questions. The theme for the half-day session is "The Consequences of Drunk Driving," and includes a presentation from the head of the Maryland Drinking Driver Monitoring Program (DDMP), followed by a roundtable discussion with a public defender, a prosecutor, a uniformed officer, a juvenile master, and a member from Mothers Against Drunk Driving (MADD). The program is highly successful, and receives very positive feedback from both the schools and the media. Since the initial program in April 2001, Judge Mulieri has held "Schools in the Courts" sessions in the spring and fall each year thereafter.

Judge Mulieri patterned the program after Troy, Michigan, Judge Michael A. Martone's "Critical Life Choices Program," which has many benefits for both the schools and the courts. Teachers insist that students can learn more about the court process by visiting a courthouse and sitting in on real cases. The program also helps students distinguish between actual courts and television court shows. "Schools in the Courts" provides students with the unique opportunity to talk informally with a judge and the lawyers trying the cases. This interaction helps promote the notion that the court is a system of the people. Finally, the theme for the half-day session, i.e., the consequences of drunk driving, sends an important message to a group of students who are at a very impressionable age. Below is a plan to assist judges who wish to hold similar programs in their courtrooms. Contact the Court Information Office at (410) 260-1488 if you have any questions.

The Process

- 1) Contact the Court Information Office (CIO) or analogous agency organization in your state and communicate your intentions to conduct a "Schools in the Courts" program in your courtroom. Discuss possible dates for the program, a theme for the program (drugs, drunk driving, theft, etc.), and the age group and number of students you wish to attend.
- 2) Get in touch with either the attorney for the superintendent of the county's public schools and/or the county's social studies supervisors (CIO has a list of supervisors for each county). Explain the elements of the program and inquire about participating. CIO can assist in coordinating a meeting with the schools to discuss the program.
- 3) Contact additional parties (other judges, juvenile masters, public defender, prosecutor, community leader, police, etc.) who will assist in the program. Assemble all involved parties into a planning committee and set up a date for the committee to meet to discuss the program date and time, an agenda, and the roles that each party will play. (See Judge Mulieri's process as an example).

4) Contact CIO after the meeting to verify the date and time and all participants. CIO staff will prepare a packet of informative materials for the teachers. With approval by you and the school representative, CIO staff will contact local media and invite them to attend the event.

5) After the event, contact CIO to discuss the positives and negatives of the program. CIO will write a letter to the participating teachers/principals thanking them for attending, and asking them to fill out a brief survey about the event.

Example of Schools in the Court Program

Anne Arundel County

To start the program, several judges and Anne Arundel Circuit Court Judge Mulieri met with the attorney for the Superintendent of the Anne Arundel County Public Schools and other school officials for the purpose of explaining the elements of the program and gaining the public schools' participation. The basic elements of the program are as follows:

- A special school docket is scheduled wherein three or four guilty pleas are tried in front of the students selected to attend.
- The cases are selected by the public defender and proceed upon an agreed statement of facts with the state's attorney.
- At least one of the cases is such that a jail sentence is appropriate.
- The public defender obtains the consent of his or her client to have his or her case tried at this special session of court and explains that the Defendant will receive the same sentence he or she otherwise would have received.
- Once the cases are selected by the public defender, the regular notices to all parties are sent out to appear for trial.

Prior to the trial date, an explanation of the court system is prepared and sent to the teachers of the students who have been selected to attend so that the teachers may go over this material with the students prior to the trial date. The most important thing to do after the school agrees to participate is to set up a planning committee. The committee who worked on the April 11, 2001 session was composed of the state's attorney—who acted as the prosecutor during the court session, the public defender—who selected the cases and who represented the defendants during the court session, the coordinator of the Social Studies Department of the Anne Arundel County Public Schools, the principal of the school from which the students were selected to attend, the teacher specialist—who is the head of student advocacy for the public schools, two members from MADD, the head of DDMP, and a representative from the Court Information Office.

Description of the Day: On April 11, 2001, four drunk driving cases were scheduled. About 100 9th graders from North County High School were bussed to Anne Arundel District Court and were seated by 9:00 a.m. in the courtroom. Three defendants failed to appear and the court issued bench warrants and explained the bench warrant process and how bail bonds work. The fourth defendant was a multiple offender who received a jail sentence. (From that experience, Judge Mulieri now sends out notices for eight cases, and consequently, at least four defendants have appeared each time.)

The court session was adjourned and the head of the Drinking Driver Monitor Program explained the requirements of probation and the various costs one can expect to pay. Thereafter, a question and answer period was conducted with the students in the courtroom concerning the cases just tried. After a short recess, the students were divided into four groups and in a round robin format were addressed by a member of Mothers Against Drunk Driving, the state's attorney and public defender working as a team, a police officer and a juvenile master. This format really sparked a brisk dialogue with the students. The program ended promptly at noon.

Judge Vincent A. Mulieri
Anne Arundel Circuit Court

Sample of Outreach Programs

About the MJSB

The Maryland Judicial Conference, made up of judges on all court levels across the state, has created a Speakers Bureau to allow community groups to hear directly from judges and other court officials.

The Speakers Bureau will match your request for a speaker with those judges and court officials who have joined the panel of available speakers. You may request a specific speaker, or designate a topic or area of interest to your audience. Simply submit a speaker request to us and the Speakers Bureau will coordinate the arrangements.

Judges are bound by the Code of Judicial Conduct, and therefore, are unable to address certain matters, such as pending litigation. The Speakers Bureau will take requests from most civic groups, social organizations, professional associations, schools, and other groups and organizations.


The Speakers Bureau looks forward to working with you in promoting a better understanding of Maryland's judicial system and its role in the community.

Speech Topic Ideas

- Alternative Dispute Resolution
- The Appeals Process
- Bail Review
- Domestic Violence
- Traffic Court
- Sentencing in Maryland
- Jury Trials
- Judge's Role in a Civil Case
- Judicial Independence
- Juveniles in Court


MARYLAND JUDICIARY


SPEAKERS BUREAU



MJSB

Court Information Office
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard Annapolis, MD 21401





Robert M. Bell
Chief Judge
Maryland Court of Appeals

Thank you for expressing interest in having a member of the Maryland Judiciary Speakers Bureau speak at your engagement or event. Our goal at the Speakers Bureau is to increase the public's knowledge and understanding of the judiciary through effective public communication.

The Speakers Bureau provides us with a vehicle to effectively keep the lines of communication open between the courts and the community. Our speakers stand ready to speak on a number of important and interesting subjects.

I sincerely hope that your group or organization takes advantage of this free service.


Robert M. Bell

Requesting a Speaker

The Maryland Judiciary Speakers Bureau (MJSB) can provide a judge or court official to speak at your engagement or event. Please call, write, email, or fax your request, along with the following information, to the MJSB (you can also call the MJSB and have a request form sent to you). Please submit requests no later than four weeks prior to the engagement or event. Thank you for your interest in the MJSB.

Please include the following with your request:

- Your name, address, and phone number
- Name, date, time, location, and brief description of the event
- Name, address, phone number, and brief description of the organization
- Audience profile and size of the audience expected
- Audio/visual equipment can/cannot be provided
- Will there be any political, commercial, or fundraising purpose or presentation? Yes No
- Speech topic(s) and length desired
- Request for a specific speaker



Court Information Office
Maryland Judiciary Speakers Bureau
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard Annapolis, MD 21401
410/260-1488 Fax 410/974-5291

Bill of Rights & Legal Technicalities

The following is a form letter that is used by the Kansas court public information officer in his campaign to eliminate the term “legal technicality” from the media. Whenever the term rears its ugly head (as in defendant X was let off on a “legal technicality”), the following letter is prepared and mailed together with the attachment. The letter attempts to keep it friendly, while making an important point for the journalist.

Date
State of Kansas
Office of Judicial Administration
Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

Dear Reporter,

I read (or saw) your story on *State v. Smith*, and appreciate your interest in covering the court system. I did note that you described the court’s decision as based on a “legal technicality.” Several years ago, former Kansas Chief Justice David Prager assembled the complete list of “legal technicalities” and urged me to send a copy to anyone who might appreciate the complete set.

In the Smith proceeding, I would point out that the particular “technicalities” involved were Numbers Four and Six and that the “technicality” that makes your job possible is Number One on the list!

Seriously, I have been a reader (viewer, listener) of your reporting for some time and commend you for much good work. Meanwhile, should you ever need further explanation regarding a Kansas court story, feel free to call on me.

Technically yours,

Ron Keefover
Education-Information Officer

enclosure

Bill of Rights & Legal Technicalities – Constitution of the United States

First Amendment.

Freedom of religion, speech, and press.

Second Amendment.

Right to bear arms.

Third Amendment.

Quartering soldiers in houses.

Fourth Amendment.

Searches and seizures.

- (1) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.
- (2) No warrants shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the persons to be searched or the things to be seized.

Fifth Amendment.

Criminal prosecutions; due process of law; eminent domain.

- (1) No person shall be subject to be twice put in jeopardy for the same offense.
- (2) No person shall be compelled in any criminal case to be a witness against himself.
- (3) No person shall be deprived of life, liberty, or property, without due process of law.
- (4) No property shall be taken for public use, without just compensation.

Sixth Amendment.

Further guaranties in criminal cases.

- (1) The accused shall enjoy the right to a speedy and public trial.
- (2) The accused shall be entitled to trial by an impartial jury of the state where the crime was committed.
- (3) The accused shall have the right to be informed of the nature and cause of the accusation against him.
- (4) The accused shall have the right to be confronted with the witnesses against him.
- (5) The accused shall have the right to compulsory process for obtaining witnesses in his favor.
- (6) The accused shall have the right of assistance of counsel for his defense.

Seventh Amendment.

Trial by jury in civil cases.

Eighth Amendment.

Bail and punishment.

- (1) Excessive bail shall not be required.
- (2) Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted.

Ninth Amendment.

The enumeration in the constitution of certain rights shall not be construed to deny other rights retained by the people.

Tenth Amendment.

Powers not delegated to the United States are reserved to the states or to the people.



Created by The National Judicial College/Reynolds National Center for Courts and Media

©2009