



FROM THE BENCHES AND TRENCHES

JUDICIAL FORMATION: A STEP BEYOND EDUCATION OR TRAINING FOR NEW JUDGES

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Statewide administrative offices for courts routinely develop, revise, and repeat elaborate training and education programs to assist new judges in their unfamiliar role on the bench. Such programs can be several weeks long and cover topics ranging from caseload management to substantive law to judicial canons to hiring and employment practices.

After all is said and done, the new judge has a toolbox filled with dos and don'ts about legal processes and judicial skills. What the new judge does not generally have, however, is a deepened understanding of the challenge to personal development that judges face and of how to sustain commitment to the judicial career through times of drudgery, difficulty, disappointment, and disillusionment that are almost universally part of the job.

One antidote that will support a judge through these moments is the awareness and certainty that service in the judiciary is more than a career or profession; it is a call that can best be described as a vocation. Vocation requires commitment and constancy, even when the demands of service seem to be too much or too hard. And vocation cannot be taken for granted; rather, it must be continually cultivated through a personal transformation that is called formation.

We can look at the concepts of vocation and formation in more depth to see how they work together and how they affect the court, particularly the new judge.

WHAT IS A JUDICIAL VOCATION?

Here is the situation with which we are all most familiar: a lawyer who is experienced, competent, ethical, and hardworking is appointed or elected to the judiciary. This change of career is frequently marked by excitement and humility as the new judge, skilled in understanding and applying substantive and procedural law, is poised to determine individual justice in individual cases. However, nothing in the practice of law, or in most new judge orientation programs, prepares the new judge for a larger role—guarding and growing the trust and confidence of the public in the court as an institution and as a branch of government.

The challenge to the new judge is not only to master the skills to handle cases but also to develop the insight to steward and protect this branch of government. No one judge can do this alone, and no one group of judges owns this responsibility; all judges play a part.

This is where the profession and the vocation of judging intersect. Vocation inspires passion and willingness to go on even in the face of fatigue or futility. It is more than visceral responses to current issues, such as attacks on judicial independence. Vocation is, at the core, the certainty and humility of knowing that one does not merely perform a job but also provides a service for the common good. A judicial vocation calls for excellence both as a judge and as a human being who continues to mature and grow throughout life.

WHAT IS FORMATION?

“Formation” is simply preparation for, or the molding of, vocation. It is a method of immersion in values so as to inspire action consistent with mission. Formation can help clarify the differences between a career and a vocation and provide tools for a candidate to develop in vocation throughout life. It is primarily an internal and private process that refers to the core being of a person and to how one learns to understand, love, and give of self. The result of personal formation is the human being who identifies with his or her vocation and ultimately the belief in service above self.

We may think of formation as more aligned with religious development than with a judicial career. The same principles are at work, whether the fresh face is a new judge or any other human being committed to finding and following a new value or truth. So a program of new judge formation is a gradual process of personal and professional development, during which the judge develops not only traditional judicial skills but also the character and personal insight to be able to serve the public as a jurist.

THE JUDICIAL FORMATION PROGRAM

Currently, the superior court in Maricopa County, a general-jurisdiction court, consists of almost one hundred judges who are merit-selected by the governor and retained by noncontested election every four years. Additionally, more than fifty commissioners serve as judicial officers, not only handling high-volume calendars in each department but also acting as judges pro tempore when the court workload exceeds judicial resources. Approximately 30 percent of the judges and 50 percent of the commissioners have served fewer than five years. Due to new judicial retirement legislation and resulting judicial resignations, at least ten more judges will be appointed this year. Furthermore, the court anticipates increasing the pace of adding new judges because of rapid population growth.

It is fortunate that the challenge of orienting large numbers of new judges was foreseen by court leadership several years ago. In 2004 Presiding Judge Colin F. Campbell considered a host of questions about the role of new judges, now and as they season into veteran jurists. The questions included:

- How might the court acquaint new judges with the various legal, financial, judicial, and political realities facing the court?

- How could the court introduce new judges to the concept of judicial leadership and plant small seeds of interest in this particular service?
- How can the court help new judges as they face burn out, isolation, overwork, and a variety of similar debilitating problems?
- How could the court enhance collegiality among new judges and between new judges and their more experienced colleagues?

Once it became apparent that root questions about the judiciary in Maricopa County did not deal only with skills and knowledge but also with attitude and service, consideration of these questions led to the development of a New Judge Formation Program. The formation program began simply: those judges who had served three years or less were asked to participate in a group formation session one morning each month. The content was developed as the year progressed. That content dealt with a number of areas. They were:

- *Personal Growth*: Judges were familiarized with the Enneagram, an ancient system of personality analysis that helps a person understand self and others, which leads to a more compassionate and fulfilling life. Enneagram focuses on what motivates a person's actions, which obviously can help a judge understand litigants and courtroom situations more fully.
- *Inspiration*: Judge Kevin Burke of Hennepin County, Minnesota, addressed the new judges on how to become the best judge in Arizona. He began with a dissection of various studies conducted in the Hennepin County Court as to what litigants believe is fair. He warned the new judges about the fatal disease of "robitis" and how to avoid it. Finally, he encouraged them to spend time together and with other colleagues on the bench to avoid isolation and burnout.
- *Cultural Competency*: Like so many other areas of this country, Maricopa County is dramatically changing in racial and ethnic composition, yet the court continues to do business as though all litigants shared the same Anglo-European culture, attitudes, and values. One leg of the program works to increase awareness of cultural differences and how those differences affect court operations and mission.
- *Listening and Emotional Intelligence*: Every lawyer, and therefore every judge, is taught and learns how to speak; only the rare lawyer or judge is taught how to listen. Listening involves not only attention but is itself a form of communication. Further, we listen as the person we are; a more-developed person with greater insight into self and others is ultimately a better listener.
- *The View from the Eyes of the Presiding Judge*: Although judges might cross paths throughout the day, they do not often take time to look into each other's world. Many of the decisions of the presiding judge can be controversial in the court as a whole and unacceptable to an individual judge. However, the more new judges know about the financial, political, and

practical duties of the presiding judge, the more they understand how and why at least some decisions are made. This understanding in turn helps build collegiality and unity within the bench.

- *Wisdom from Retiring Judges:* With so many senior judges leaving this court, it became apparent that some of their wisdom and experience should be shared, not on caseflow management or legal skills, but particularly as to how the judge held together self, family, and integrity during years of service.

In the first year of the program the great majority of the twenty-two judges invited did participate. The second year of the program was comparable to the first, but all commissioners were invited to participate as well. By then, most veteran judges in the court had heard something about the formation program. Perhaps because most of the first participants agreed that simply the opportunity to meet each month, share light refreshment, and discuss these topics of import to the court made the program worthwhile, some of the veteran judges even complained good-naturedly that they were not invited to participate. The second year added confidential, individual, voluntary “coaching” sessions, during which, with the help of the coach, judges and commissioners could develop insights about personality, motivation, behaviors, and adjustments that might be necessary to improve service to the public.

Evaluations, positive in the first year, continued to be positive in the second. A charismatic speaker from the community on the topic of diversity drew rave reviews; one judge only half-jokingly asked that the speaker stay in his courtroom to coach him day-to-day on handling a culturally diverse juvenile calendar. A number of judges confessed that they had discussed the Enneagram philosophy with their spouses, their office staffs, or both. The judges overwhelmingly asked for more sessions and sharing on Enneagram principles, to the point that Enneagram has become the cornerstone of the court’s judicial formation program.

In 2007 Maricopa County Superior Court was in the third year of this program. Because a large group of new judges was not expected to arrive until summer 2007 it was possible to increase both creativity and inclusiveness. The court has now made the Enneagram sessions available to all judges or commissioners and has scheduled the sessions during lunch hours at various court locations to maximize the numbers of judicial officers able to participate. During the year, the court also introduced a pilot program on judicial observation that was concluded in early 2007. In this program, judges in the courtroom are recorded by DVD or video camera, the record is reviewed by the Enneagram coach, and the judge and coach discuss how the judge’s habits of personality affect actions in the courtroom. The judge can arrange for as many observation sessions as are necessary, particularly if there is a courtroom behavior that should be adjusted.

The New Judge Formation Program has thus far been a success. There is no doubt that the superior court in Maricopa County will continue its program of New Judge Formation, which has developed into the program of Ongoing Judicial Formation described here.

Judges hold tremendous responsibility in their hands. The balance between adjudicating individual disputes and keeping public trust and confidence intact is not for the fainthearted. Only those who subscribe to the mission of the court, a mission of service, stewardship, and justice, can even hope to achieve this balance. This in turn requires a judge who does not merely do a job, but who lives a vocation as a committed public servant. The court and the public deserve no less. **jsj**