Court Community Communication

Course Description:

This course helps students gain an understanding of the complexities of establishing effective public information and community outreach programs and provides a framework for making key decisions in court community communications. Increasingly, clerks of court, court administrators, and court staff have become involved in developing and implementing comprehensive public information and outreach efforts. Through this course, students will learn how to assess information needs by engaging in stakeholder analysis followed by outreach planning. Understanding the complexities of implementing a court-related public information and community outreach effort is an important subject area, and it should be no surprise that it has received increased emphasis.

Instructor Biography:

Mike Palus became the Jury Supervisor for the U.S. District Court for the Western District of Pennsylvania on January 1, 2018. In this capacity, he oversees the entire district's jury system for both petit and grand juries, and is responsible for the system's efficient operation. Prior to taking this position, he was employed by the Court in a variety of roles, most notably as the Courtroom Deputy Clerk to the late Chief Judge Gary L. Lancaster from October 1988 to April 2013. He is currently a member of both the Court's Case Management/Alternate Dispute Resolution (ADR) and the Community Outreach Committees. As a member of the latter, he has been instrumental in the development of the Court's varied outreach initiatives, which include the "Open Doors to Federal Courts" program, that brings middle- and high-school students into the Courthouse for a day of instruction on the inner workings of federal court, as well as the Court's rotating Art Display program, which invites local artists and groups into the District's Federal Courthouse in Pittsburgh to display their talent for a period of time in a secure setting to a diverse and ever-changing audience. As a member of the Federal Court Clerks Association (FCCA), he is a member of both the Education and Legislative Affairs Committees and serves as our organization's academic liaison to Michigan State University, where he received a certificate in Judicial Administration. He is a past Chair of both the FCCA's Education Committee and the Deputy Clerks' Council and served two terms as the Third Circuit's representative on the FCCA's Board of Directors.

Learning Objectives:

- *After taking this course, participants will better understand how public information programs and community outreach activities can support the court's mission and objectives.*
- *After taking this course, participants will be able to identify stakeholders and court-related issues that can be addressed with public information and outreach.*
- *After taking this course, participants will be able to determine the types of programs that match stakeholders' interests with the court's needs, and will become familiar with essential court-related communication resources and strategies already in existence.*
- *After taking this course, participants will become familiar with the skills necessary to effectively prioritize, plan, implement, evaluate, and manage public information and community outreach programs.*
- *After taking this course, participants will be able to develop a workable and adaptable strategy for interacting effectively with the media.*

Course Outline:

Section 1: INTRODUCTION

Who are we?

1. *Introduction*
    - *1.1. Intros and Icebreaker*
    - *1.2. Course Summary and MSU Objectives*
    - *1.3. NACM Court Community Communication Competency*
    - *1.4. Syllabus*
    - *1.5. Materials*

Section 2: MISSION AND OBJECTIVES

What is our purpose?

Objective: After taking this course, participants will better understand how public information programs and community outreach activities can support the court's mission and objectives.

2. *Mission and Objectives*
    - *2.1. Purposes and Responsibilities of Courts (NACM Core Competency)*
    - *2.2. Performance Standards (NCSC Trial Court Performance Measures)*
    - *2.3. Public Perception (Roscoe Pound, and various studies and surveys)*
    - *2.4. Public Trust and Confidence Standard (NCSC Trial Court Performance Measures)*
    - *2.5. Public Information and Community Outreach*
    - *2.6. ACTIVITY: If you could only communicate one message, what would it be?*

Section 3: STAKEHOLDERS AND ISSUES

Who is our audience, and what do they need to know?

Objective: After taking this course, participants will be able to identify stakeholders and court-related issues that can be addressed with public information and outreach.

3. *Stakeholders and Issues*
    - *3.1. External and Internal Audiences*
    - *3.2. Identifying Needs and Issues*
    - *3.3. Reaching Out Through Community Outreach*
    - *3.4. ACTIVITY: Design a simple community outreach plan to collect data on a potential audience and/or issue.*

Section 4: PUBLIC INFORMATION STRATEGIES

How do we share information with the public?

Objective: After taking this course, participants will be able to determine the types of programs that match stakeholders' interests with the court's needs, and will become familiar with essential court-related communication resources and strategies already in existence.

4. *Public Information Strategies*
   - 4.1. *Essential Court-Related Communication*
   - 4.2. *Innovative Public Information Examples*
   - 4.3. *Communication Fundamentals*
   - 4.4. *Know Your Audience*
   - 4.5. *ACTIVITY: Create an innovative solution for a public information need/issue and audience.*

Section 5: PLANNING AND MANAGING

What is necessary to implement and maintain our ideas?

Objective: After taking this course, participants will become familiar with the skills necessary to effectively prioritize, plan, implement, evaluate, and manage public information and community outreach programs.

5. *Planning and Managing*
   - 5.1. *Decision Making*
   - 5.2. *ACTIVITY: Decide whether or not a program idea should be undertaken*
   - 5.3. *Planning and Coordinating*
   - 5.4. *Reflect, Evaluate, and Repeat*
   - 5.5. *ACTIVITY: Plan to evaluate a program's effectiveness.*

Section 6: THE MEDIA

How can communicating with the media contribute to our efforts?

Objective: After taking this course, participants will be able to develop a workable and adaptable strategy for interacting effectively with the media.

6. *The Media*
   - 6.1. *Old Media*
   - 6.2. *New Media*
   - 6.3. *The Media Plan*
   - 6.4. *Using the Media to Engage the Public*
   - 6.5. *ACTIVITY: Draft a plan to utilize different types of media as part of a single public information campaign.*

Section 7: CONCLUSION

How can we apply these concepts at our court?

7. *Conclusion*
    - 7.1. *Summarize and Discuss*
    - 7.2. *Share Final Thoughts*
    - 7.3. *Course Evaluation*

PROGRAM PLANNING
DECISION MAKING FLOW CHART

→WHAT IS THE IDEA?

What is the idea and where did it come from?

a. Audience:

b. Issue/topic:

c. Originator:

→WHAT IS THE GOAL?

Does it align with the purposes and responsibilities of courts, and does it meet the standards of performance?

a. What is the GOAL? (Ask yourself - What is the desired end product?)

b. How does this align to the mission of the court? List:

c. Is this a good fit for a public information/community outreach activity, or it a better fit for someone else?

→WHO ARE INTERNAL STAKEHOLDERS?

Stakeholders are those who may be affected by or have an effect on your programs.

a. Who are your internal stakeholders?

b. Can you get BUY IN? Who are your supporters? Explain:

c. Can you work around BARRIERS? List and explain:

→WHO ARE EXTERNAL STAKHOLDERS?

Stakeholders are those who may be affected by or have an effect on your programs.

a. Who are your external stakeholders?

b. Who are the PARTICIPANTS? What do you already know about them and what do you need to know about them? (refer back to the needs assessment)

c. Are there possible PARTNERSHIPS? List:

→DO YOUR RESEARCH

RESEARCH. What have others done? What can you learn, and what can you borrow?
Source 1:

Source 2:

→RETURN ON INVESTMENT?

What will be the return on investment?

a. How many will it reach? At what depth?

b. How many (people, dollars, hours, etc) will it require?

c. Is it low hanging fruit?

→MAKE THE DECISION:

a. Who makes the decision?

b. What is the decision?

National Association for Court Management

Court Community Communication

Core Competency Curriculum Guidelines

https://nacmnet.org/CCCG/court-community.html

INTRODUCTION: What This Core Competency Is and Why It Is Important

People do not trust what they do not understand. The **Trial Court Performance Standards** recognize Public Trust and Confidence as a critical area of court performance, equal in importance and related to Access to Justice; Expedition and Timeliness; Fairness, Equality, and Integrity; and Independence and Accountability. Accountability and Independence Standards require trial courts " … to inform and educate the public." Here we go further. This Guideline challenges court leaders to educate, inform, and teach the public about the courts, but also to be educated, informed, and taught by the community.

In his seminal 1906 speech to the American Bar Association, published in the first issue of *Judicature* in 1913, Roscoe Pound made a timeless observation in his first sentence: "Dissatisfaction with the administration of justice is as old as law." Survey results from more than 35 states over the past quarter century confirm Pound's insight. Most public surveys indicate that the public generally neither understands nor is satisfied with court performance.

The fact that the court cannot always be on the side of public opinion energizes effective court leaders. They work toward understandable courts and deserved public trust and confidence precisely because there is no guarantee that public perceptions will reflect even truly excellent court performance.

Court leadership is as critical here as it is with respect to caseflow management. Court Community Communication requires balance between maintaining judicial impartiality and independence and the adversarial process and ensuring that the court and its leaders communicate with and learn from diverse publics. Distance and reserve is critical to the judicial process, but it need not lead to judicial reserve or institutional isolation. Isolation is harmful to effective interaction with and understanding of the community and response to legitimate public questions, concerns, and insights about courts and court performance. With effective leadership, the local legal culture can advance rather than retard both the pace of litigation and court community communication.

Print and broadcast news are consistently the greatest sources of information about our courts and probably the most influential forces in formulating public understanding of and satisfaction with the courts. More Americans believe that cases are handled in a "poor manner" than in an "excellent manner."

Findings from more than 30 years of surveys indicate that the public thinks that cases are not decided in a timely fashion and that resolving a matter through the courts is too expensive. But the challenges go deeper. The prestigious 1999 National Center for State Courts survey (*How the Public Views the State Courts: Findings from a 1999 Survey*) also revealed that both Hispanics and African Americans feel that they are routinely treated "worse" in court than Caucasians. Significantly, Caucasians and Hispanics perceived that African Americans are not treated as well as others who come to court. While the public's view of judges is more positive than their view of courts generally, almost half of those polled in 1999 agreed that courts are "out- of-touch with what's going on in their communities." An overwhelming majority of those polled agree that, "Politics influence court decisions."

Competent court leaders understand that now as in Pound's day, there are perpetual causes of popular dissatisfaction with the administration of justice. In Pound's words, some causes are inherent to "any system of law" -- the application of general principles to particular cases -- and others are due to our "peculiar" Anglo-American system of law.

As effective court leaders educate themselves about the public's current understanding of and satisfaction with the courts, and work to remedy poor court performance and unfounded public perceptions, they understand that some popular dissatisfaction is inevitable. They work hard to remedy performance issues and unfounded public opinions knowing that courts neither can nor should be expected to always be popular.

Effective court leaders avoid and keep others from falling into the trap of believing that "they" cannot and never will understand "us." They communicate well with and through the media. Court community communication often goes through a reporter and the media as a filter and translator, but court leaders also must communicate without reporters from the print and broadcast media. Alternative methods include understandable courts, community outreach, public information, community education programs, and the Internet. Efforts to educate are always balanced and informed by community outreach.

Court executive leadership teams assisted at the state level and in some urban courts by professional public information officers (PIOs) can increase public understanding and ameliorate unduly negative public perceptions. But the basics are the same in courts with PIOs and the vast majority of jurisdictions without them. Communication is grounded in the purposes and responsibilities of courts. Positive, well-conceived, and accurate public information and media relations are bolstered by work toward understandable courts and community outreach. Whatever the size of the jurisdiction, court community communication is a court leader responsibility.

CURRICULUM GUIDELINES SUMMARY

What Court Leaders Need to Know and Be Able to Do

The Court Community Communication Competency includes six areas of competency:

- Purpose and Communication Fundamentals
- Understandable Courts
- Community Outreach
- Public Information
- The Media and Media Relations
- Leadership and Program Management

Dean Roscoe Pound:
A century ago, Pound's ABA speech created firestorm of controversy
University of Nebraska College of Law
The Nebraska Transcript
Fall 2008

http://law.unl.edu/alumni/transcript/issues/2008_fall_4_deanroscoepound.pdf

Dean Roscoe Pound:

A century ago, Pound's ABA speech created firestorm of controversy

On August 29, 1906, Roscoe Pound, the dean of the University of Nebraska College of Law delivered a speech to the convention of the American Bar Association in St. Paul, Minn., "The Causes of Popular Dissatisfaction with the Administration of Justice," a speech that John Wigmore would later describe as "the spark that kindled the white flame of progress."

Pound was 36 years old in 1906, a Lincoln native with two degrees in Botany and one year of attendance at Harvard Law School where he was exposed to the Socratic and case law methods, which he brought to the Law College. He was invited to speak at the ABA convention by the association's president who had heard him deliver a paper at a Nebraska State Bar Association meeting.

In his article in a symposium on the centennial of Pound's address in the *South Texas Law Review*, Professor James J. Alfini described the reaction to Pound's speech:

> A prominent New York attorney said of the speech: "A more drastic attack . . . upon the system of procedure employed by the courts in the United States, as a whole or in toto, could scarcely be devised." Other ABA delegates wanted to suppress the speech and eliminated it from the ABA's forthcoming annual report.
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> Two days after the speech, Pound attended the ABA's business meeting and again found himself under attack . . . . When Pound attempted to defend himself, the chairman of the meeting refused to allow him to speak. Another delegate condemned the Pound speech as "an attack upon the entire remedial jurisprudence of America . . . . It is the old effort of seeking to destroy rather than to build up."
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> It was not long after the speech, however, that Pound felt some degree of vindication. John Henry Wigmore, the dean of the Northwestern Law School, sent Pound a letter offering him encouragement and support. Wigmore later followed up with an offer to teach at Northwestern, which Pound accepted.

Pound would go on to be dean at Harvard Law School for 20 years and to author such renowned books as *The Spirit of the Common Law*. He was a leader of the sociological jurisprudence and legal realism movements and was one of the founders of the American Judicature Association. Harvard Law School Dean Erwin Griswold called him "the preeminent legal scholar of his time."

It all started in Nebraska. The Nebraska Transcript thought its readers would appreciate being able to read this condensed version of Pound's historic address and perhaps contemplate to what extent his remarks still resonate today.

The Causes of Popular Dissatisfaction with the Administration of Justice

By Roscoe Pound

Dissatisfaction with the administration of justice is as old as law. Not to go outside of our own legal system, discontent has an ancient and unbroken pedigree . . . . [A]s long as there have been laws and lawyers, conscientious and well-meaning men have believed that laws were mere arbitrary technicalities, and that the attempt to regulate the relations of mankind in accordance with them resulted largely in injustice. But we must not be deceived by this innocuous and inevitable discontent with all law into overlooking or underrating the real and serious dissatisfaction with courts and lack of respect for law which exists in the United States today . . . .

Courts are distrusted, and executive boards and commissions with summary and plenary powers, freed, so far as constitutions will permit, from judicial review, have become the fashion. It will be assumed, then, that there is more than the normal amount of dissatisfaction with the present-day administration of justice in America. Assuming this, the first step must be diagnosis; and diagnosis will be the sole purpose of this paper. It will attempt only to discover and to point out the causes of current popular dissatisfaction. The inquiry will be limited, moreover, to civil justice . . . . The rules which define those invisible boundaries within which each may act without conflict with the activities of his fellows in a busy and crowded world, upon which investor, promoter, buyer, seller, employer and employee must rely consciously or subconsciously in their every-day transactions, are conditions precedent of modern social and industrial organization.

With the scope of inquiry so limited, the causes of dissatisfaction with the administration of justice may be grouped under four main heads: (1) Causes for dissatisfaction with any legal system, (2) causes lying in the peculiarities of our Anglo-American legal system, (3) causes lying in our American judicial organization and procedure and (4) causes lying in the environment of our judicial administration.

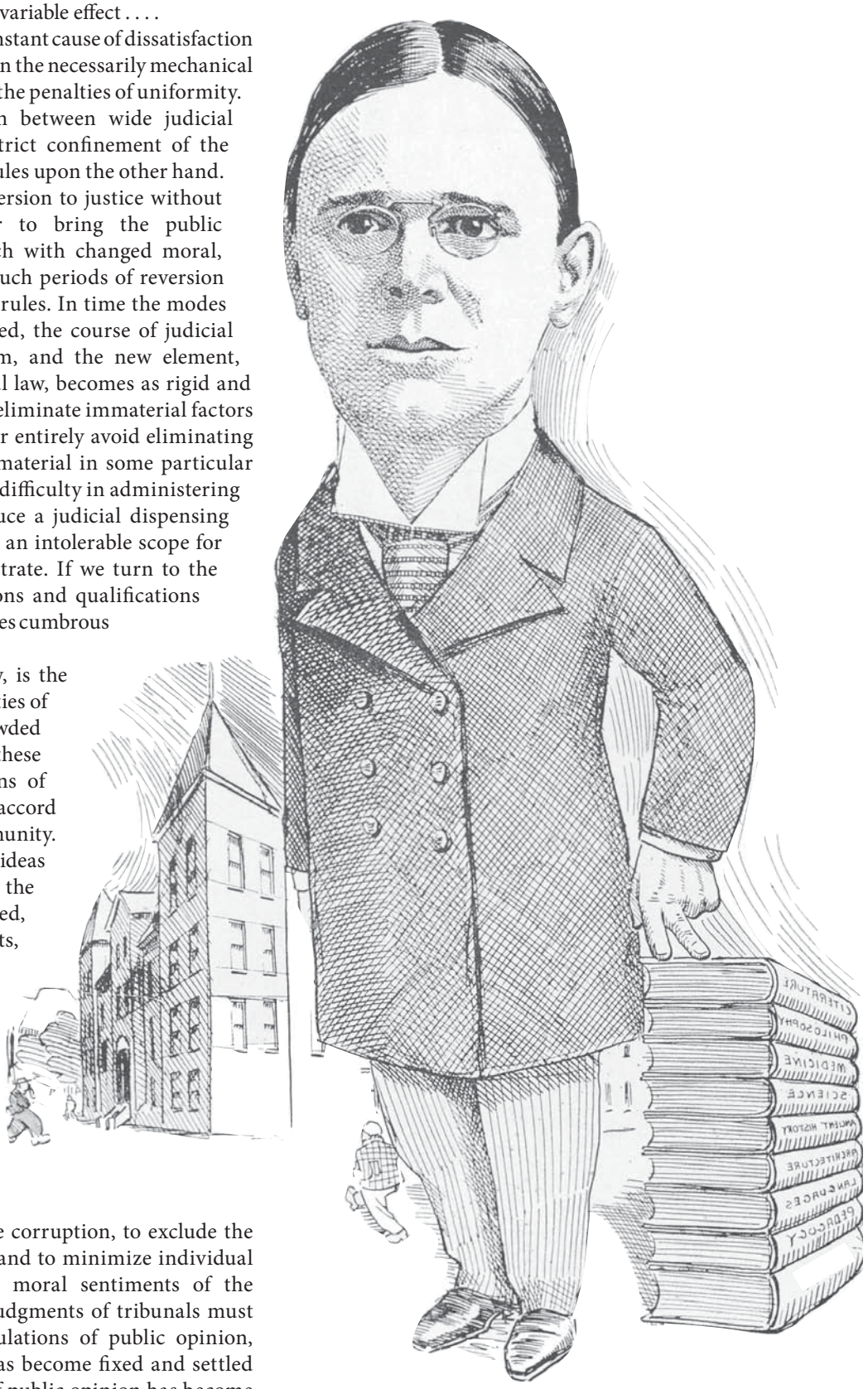
It needs but a superficial acquaintance with literature to show that all legal systems among all peoples have given rise to the

same complaints . . . . It is obvious, therefore, that there must be some cause or causes inherent in all law and in all legal systems in order to produce this universal and invariable effect . . . .

The most important and most constant cause of dissatisfaction with all law at all times is to be found in the necessarily mechanical operation of legal rules. This is one of the penalties of uniformity. Legal history shows an oscillation between wide judicial discretion on the one hand and strict confinement of the magistrate by minute and detailed rules upon the other hand. From time to time more or less reversion to justice without law becomes necessary in order to bring the public administration of justice into touch with changed moral, social, or political conditions. But such periods of reversion result only in new rules or changed rules. In time the modes of exercising discretion become fixed, the course of judicial action becomes stable and uniform, and the new element, whether custom or equity or natural law, becomes as rigid and mechanical as the old . . . . When we eliminate immaterial factors to reach a general rule, we can never entirely avoid eliminating factors which will be more or less material in some particular controversy. If to meet this inherent difficulty in administering justice according to law we introduce a judicial dispensing power, the result is uncertainty and an intolerable scope for the personal equation of the magistrate. If we turn to the other extreme and pile up exceptions and qualifications and provisos, the legal system becomes cumbrous and unworkable . . . .

Justice, which is the end of law, is the ideal compromise between the activities of each and the activities of all in a crowded world. The law seeks to harmonize these activities and to adjust the relations of every man with his fellows so as to accord with the moral sense of the community. When the community is at one in its ideas of justice, this is possible. When the community is divided and diversified, and groups and classes and interests, understanding each other none too well, have conflicting ideas of justice, the task is extremely difficult . . . .

A closely related cause of dissatisfaction with the administration of justice according to law is to be found in the inevitable difference in rate of progress between law and public opinion. In order to preclude corruption, to exclude the personal prejudices of magistrates, and to minimize individual incompetency, law formulates the moral sentiments of the community in rules to which the judgments of tribunals must conform. These rules, being formulations of public opinion, cannot exist until public opinion has become fixed and settled and cannot change until a change of public opinion has become complete . . . . Public opinion must affect the administration of justice through the rules by which justice is administered rather than the direct administration. All interference with the uniform and automatic application of these rules, when actual controversies arise, introduces an anti-legal element which becomes



intolerable. But, as public opinion affects tribunals through the rules by which they decide and these rules, once made, stand till abrogated or altered, any system of law will be made up of successive strata of rules and doctrines representing successive and often widely divergent periods of public opinion. In this sense, law is often in very truth a government of the living by the dead . . . . The law does not respond quickly to new conditions. It does not change until ill effects are felt; often not until they are felt acutely. The moral or intellectual or economic change must come first. While it is coming, and until it is so complete as to affect the law and formulate itself therein, friction must ensue. In an age of rapid moral, intellectual and economic changes, often crossing one another and producing numerous minor resultants, this friction cannot fail to be in excess.

A third perennial source of popular dissatisfaction with the administration of justice according to law may be found in the popular assumption that the administration of justice is an easy task to which any one is competent. Laws may be compared to the formulas of engineers. They sum up the experience of many courts with many cases and enable the magistrate to apply that experience subconsciously. So, the formula enables the engineer to make use of the accumulated experience of past builders, even though he could not work out a step in its evolution by himself. A layman is no more competent to construct or to apply the one formula than the other. Each requires special knowledge and special preparation. None the less, the notion that anyone is competent to adjudicate the intricate controversies of a modern community contributes to the unsatisfactory administration of justice in many parts of the United States . . . . The public seldom realizes how much it is interested in maintaining the highest scientific standard in the administration of justice . . . . But the daily criticism of trained minds, the knowledge that nothing which does not conform to the principles and received doctrines of scientific jurisprudence will escape notice, does more than any other agency for the every-day purity and efficiency of courts of justice.

Another necessary source of dissatisfaction with judicial administration of justice is to be found in popular impatience of restraint. Law involves restraint and regulation, with the sheriff and his posse in the background to enforce it. But, however necessary and salutary this restraint, men have never been reconciled to it entirely. The very fact that it is a compromise between the individual and his fellows makes the individual, who must abate some part of his activities in the interest of his fellows, more or less restive . . . . [T]he feeling that each individual, as an organ of the sovereign democracy, is above the law he helps to make, fosters everywhere a disrespect for legal methods and institutions and a spirit of resistance to them . . . .

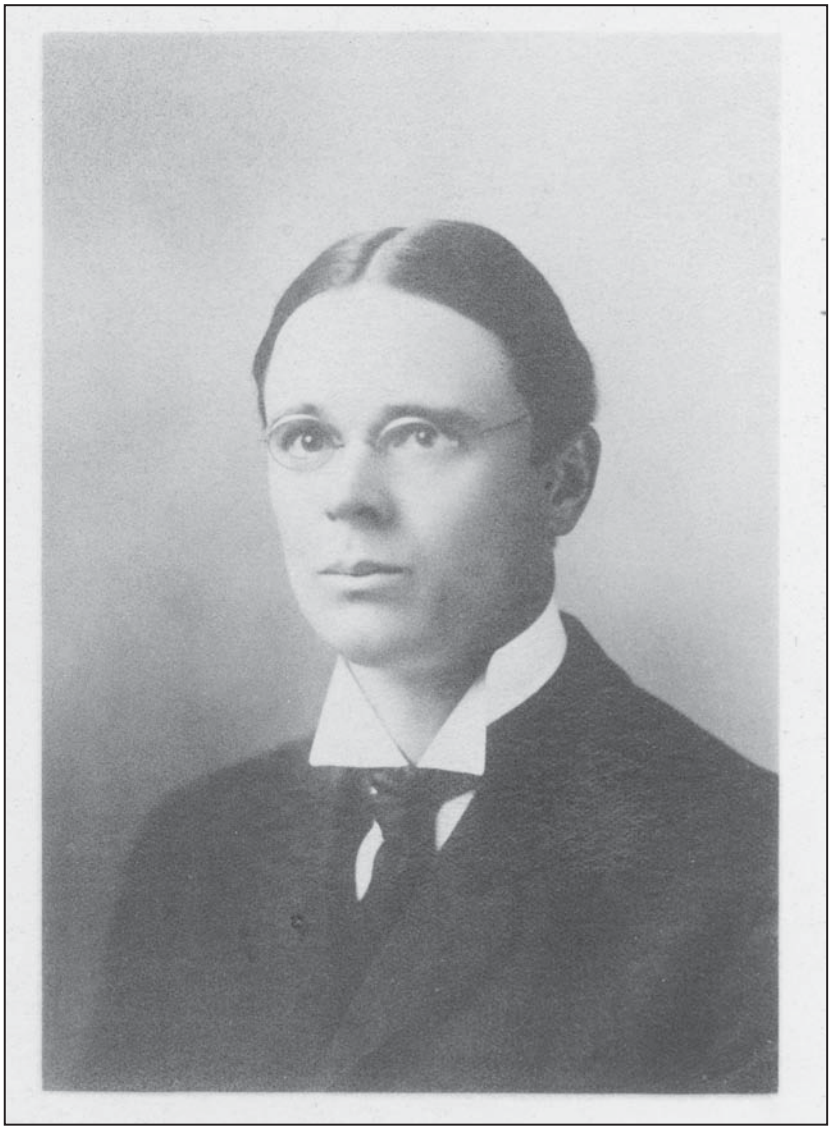
A considerable portion of current dissatisfaction with the administration of justice must be attributed to the universal causes just considered. Conceding this, we have next to recognize that there are potent causes in operation of a character entirely different[,] . . . causes lying in our particular legal system.

The first of these [is] conflict between the individualist spirit of the common law and the collectivist spirit of the present age . . . . From the beginning, the main reliance of our common-law system has been individual initiative. The main security for the peace at common law is private prosecution of offenders . . . . [T]he individual is supposed at common law to be able to look out for himself and to need no administrative protection. If he is injured through contributory negligence, no theory of comparative negligence comes to his relief; if he hires as an employee, he assumes the risk of the employment; if he buys goods, the rule is caveat emptor. In our modern industrial society, this whole scheme of individual initiative is breaking down . . . . Private suits against carriers for damages have proved no preventive of discrimination and extortionate rates. The doctrine of assumption of risk becomes brutal under modern conditions of employment. An action for damages is no comfort to us when we are sold diseased beef or poisonous canned goods. At all these points, and they are points of every-day

> ‘Justice, which is the end of law, is the ideal compromise between the activities of each and the activities of all in a crowded world.’
>
> Roscoe Pound

contact with the most vital public interests, common-law methods of relief have failed. The courts have not been able to do the work which the common-law doctrine of supremacy of law imposed on them. A wide-spread feeling that the courts are inefficient has been a necessary result. But, along with this, another phase of the individualism of the common law has served to increase public irritation. At the very time the courts have appeared powerless themselves to give relief, they have seemed to obstruct public efforts to get relief by legislation . . . . Today we look to society for protection against individuals, natural or artificial, and we resent doctrines that protect these individuals against society for fear society will oppress us. But the common-law guaranties of individual rights are established in our constitutions, state and federal. So that, while in England these common-law dogmas have had to give way to modern legislation, in America they stand continually between the people, or large classes of the people, and legislation they desire. In consequence, the courts have been put in a false position of doing nothing and obstructing everything, which it is impossible for the layman to interpret aright.

A no less potent source of irritation lies in our American exaggerations of the common-law contentious procedure. The sporting theory of justice, the "instinct of giving the game fair play," as Professor Wigmore has put it, is so rooted in the profession in America that most of us take it for a fundamental legal tenet . . . . So far from being a fundamental fact of jurisprudence, it is peculiar to Anglo-American law; and it has been strongly curbed in modern English practice. With us, it is not merely in full acceptance, it has been developed and its collateral possibilities have been cultivated to the furthest extent. Hence in America we take it as a matter of course that a judge should be a mere umpire, to pass upon objections and hold counsel to the rules of the game, and that the parties should fight out their own game in their own way without judicial interference. We resent such interference as unfair, even when in the interests of justice. The idea that procedure must of necessity be wholly contentious disfigures our judicial administration at every point. It leads the most conscientious judge to feel that he is merely to decide the contest, as counsel present it, according to the rules of the game, not to search independently for truth and justice. It leads counsel to forget that they are officers of the court and to deal with the rules of law and procedure exactly as the professional foot-ball coach with the rules of the sport. It leads to exertion to "get error into the record," rather than to dispose of the controversy finally and upon its merits. It turns witnesses, and especially expert witnesses, into partisans pure and simple. It leads to sensational cross-examinations "to affect credit," which have made the witness stand "the slaughter house of reputations" . . . . It creates vested rights in errors of procedure, of the benefit whereof parties are not to be deprived. The inquiry is not, what do substantive law and justice require? Instead, the inquiry is, have the rules of the game been carried out strictly? If any material infraction is discovered, just as the foot-ball rules put back the offending team five or ten or fifteen yards, as the case may be, our sporting theory of justice awards new trials, or reverses judgments, or sustains demurrers in the interest of regular play.



Roscoe Pound, as pictured in the 1906 College of Law Yearbook.

The effect of our exaggerated contentious procedure is not only to irritate parties, witnesses and jurors, in particular cases, but to give to the whole community a false notion of the purpose and end of law. Hence comes, in large measure, the modern American race to beat the law. If the law is a mere game, neither the players who take part in it nor the public who witness it can be expected to yield to its spirit when their interests are served by evading it . . . .

Another source of irritation at our American courts is political jealousy due

to the strain put upon our legal system by the doctrine of the supremacy of law. By virtue of this doctrine, which has become fundamental in our polity, the law restrains, not individuals alone, but a whole people. The people so restrained would be likely in any event to be jealous of the visible agents of restraint. Even more is this true in that the subjects which our constitutional polity commits to the courts are largely matters of economics, politics, and sociology, upon which a democracy is peculiarly sensitive. Not only are these matters made into legal questions, but they are tried as incidents of private litigation . . . .

There is a strong aversion to straightforward change of any important legal doctrine. The cry is, interpret it. But such interpretation is spurious. It is legislation. And to interpret an obnoxious rule out of existence rather than to meet it fairly and squarely by legislation is a fruitful source of confusion. Yet the bar are trained to it as an ancient common-law doctrine, and it has a great hold upon the public. Hence if the law does not work well, says Bentham, with fine sarcasm, "it is never the law itself that is in the wrong; it is always some wicked interpreter of the law that has corrupted and abused it." Thus another unnecessary strain is imposed upon our judicial system, and courts are held for what should be the work of the legislature.

The defects of form inherent in our system of case-law have been the subject of discussion and controversy . . . . Suffice it to say that the want of certainty, confusion, and incompleteness inherent in all case-law, and the waste of labor entailed by the prodigious bulk to which ours has attained, appeal strongly to the layman. The compensating advantages of this system, as seen by the lawyer and by the scientific investigator, are not apparent to him. What he sees is another phase of the great game; a citation match between counsel, with a certainty that diligence can rake up a decision somewhere in support of any conceivable proposition.

Passing to the third head, causes lying in our judicial organization and procedure, we come upon the most efficient causes of dissatisfaction with the present administration of justice in America. For I venture to say that our system of courts is archaic and our procedure behind the times. Uncertainty, delay and expense, and above all the injustice of deciding cases upon points of practice, which are the mere etiquette of justice, direct results of the organization of our courts and the backwardness of our procedure, have created a deep-seated desire to keep out of court, right or wrong, on the part of every sensible business man in the community.

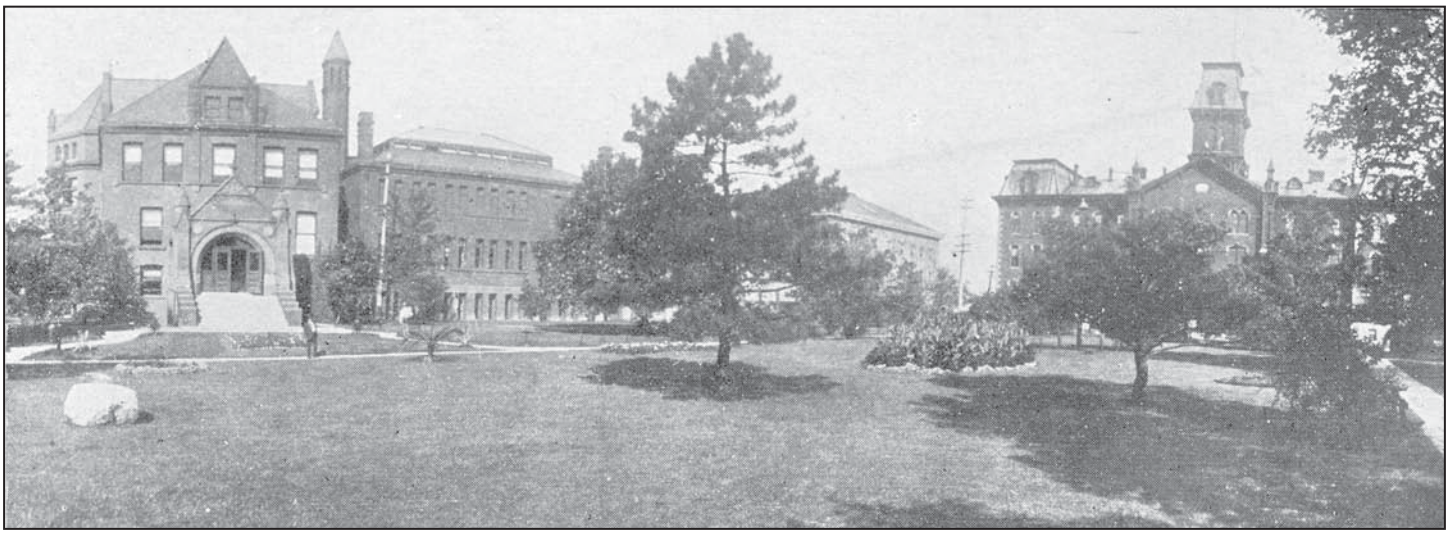
Our system of courts is archaic in three respects: (1) in its multiplicity of courts, (2) in preserving concurrent jurisdictions, (3) in the waste of judicial power which it involves . . . . [O]ur American reports bristle with fine points of appellate procedure. More than four per cent of the digest paragraphs of the last ten volumes of the American Digest have to do with Appeal and Error . . . . All of this is sheer waste which a modern judicial organization would obviate.

Even more archaic is our system of concurrent jurisdiction of state and federal courts in cases involving diversity of citizenship; a system by virtue of which causes continually hand in the air between two courts, or, if they do stick in one court or the other, are liable to ultimate overturning because they stuck in the wrong court . . . . A system that permits this and reverses four judgments a year because the cause was brought in or removed to the wrong tribunal, is out of place in a modern business community . . . .

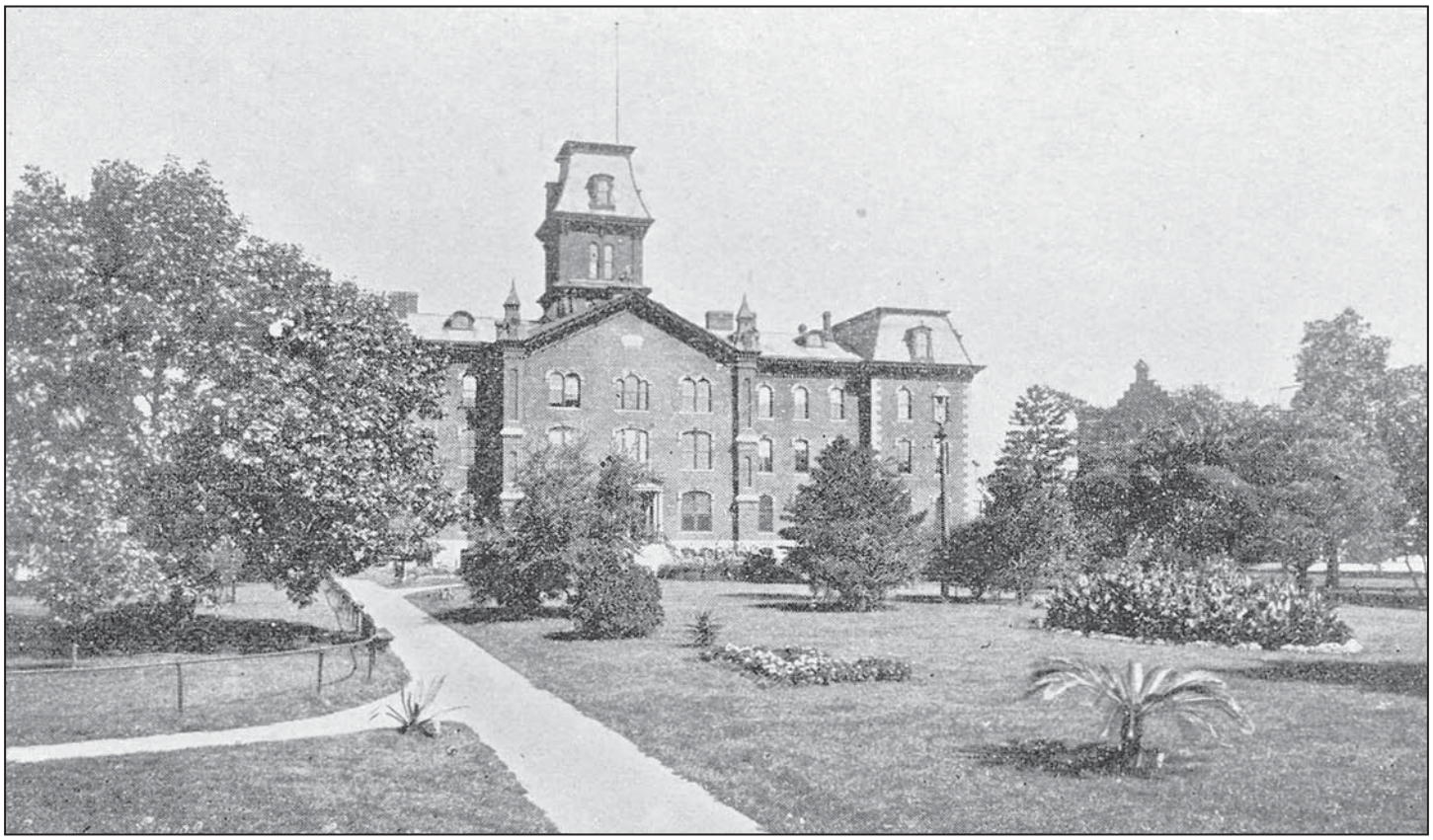
Judicial power may be wasted in three ways: (1) by rigid districts or courts or jurisdictions, so that business may be congested in one court while judges in another are idle, (2) by consuming the time of courts with points of pure practice, when they ought to be investigating substantial controversies, and (3) by nullifying the results of judicial action by unnecessary retrials. American judicial systems are defective in all three respects . . . .

Each state has to a great extent its own procedure. But it is not too much to say that all of them are behind the times. We struck one great stroke in 1848 and have rested complacently or contented ourselves with patchwork amendment ever since. The leading ideas of the New York Code of Civil Procedure marked a long step forward. But the work was done too hurriedly and the plan of a rigid code, going into minute detail, was clearly wrong . . . . We still try the record, not the case. We are still reversing judgments for nonjoinder and misjoinder . . . .

But the worst feature of American procedure is the lavish granting of new



The Law College at its former location on the University of Nebraska City Campus, as photographed in the 1906 College of Law Yearbook.



The Law College at its former location on the University of Nebraska City Campus, as photographed in the 1906 College of Law Yearbook.

trials . . . . In Nebraska there are 28 district judges, who have no original probate jurisdiction and no jurisdiction in bankruptcy or admiralty, and they had upon their dockets last year 4,320 cases, of which they disposed of about seventy per cent. England and Wales, with a population in 1900 of 32,000,000 employ for their whole civil litigation 95 judges . . . . Nebraska, with a population in 1900 of 1,066,000, employs for the same purpose 129. But these 129 are organized on an antiquated system and their time is frittered away on mere points of legal etiquette.

Finally, under the fourth and last head, causes lying in the environment of our judicial administration, we may distinguish six: (1) popular lack of interest in justice, which makes jury service a bore and the vindication of right and law secondary to the trouble and expense involved, (2) the strain put upon law in that it has today to do the work of morals also, (3) the effect of transition to a period of legislation, (4) the putting of our courts into politics, (5) the making the legal profession into a trade, and (6) public ignorance of the real workings of courts due to ignorant and sensational reports in the press. Each of these deserves consideration, but a few points only may be noticed. Law is the skeleton of social order. It must be "clothed upon by the flesh and blood of morality." The present is a time of transition in the very foundations of belief and of conduct. Absolute theories of morals and supernatural sanctions have lost their hold. Conscience and individual responsibility are relaxed. In other words the law is strained to do double duty, and more is expected of it than in a time when morals as a regulating agency are more efficacious. Another strain upon our judicial system results from the crude and unorganized character of American legislation in a period when the growing point of law has drifted to legislation. When, in consequence, laws fail to produce the anticipated effects, judicial administration shares the blame. Worse than this is the effect of laws not intended to be enforced. These parodies, like the common-law branding of felons, in which a piece of bacon used to be interposed between the branding iron and the criminal's skin, breed disrespect for law. Putting courts into politics and compelling judges to become politicians, in many jurisdictions has almost destroyed the traditional respect for the bench. Finally, the ignorant and sensational reports of judicial proceedings, from which alone a great part of the public may judge of the daily work of the courts, completes the impression that the administration of justice is but a game . . . .

Our administration of justice is not decadent. It is simply behind the times . . . . With law schools that are rivaling the achievements of Bologna and of Bourges to promote scientific study of the law, with active bar associations in every state to revive professional feeling and throw off the yoke of commercialism, with the passing of the doctrine that politics too is a mere game to be played for its own sake, we may look forward confidently to deliverance from the sporting theory of justice; we may look forward to a near future when our courts will be swift and certain agents of justice, whose decisions will be acquiesced in and respected by all.

Purpose and Communication Fundamentals

Effective court executive leadership teams develop and improve communication channels between the courts and the public to advance court purposes and responsibilities. They engender accurate understandings and positive perceptions about the courts. If this goal is accomplished, public trust and confidence will improve and, very importantly, court operations will improve.

To achieve this, court leaders must master six communication fundamentals essential to effective communication -- both verbally and in writing. The six fundamentals that enable court leaders to construct and carry out effective court community communication are: 1) positive messages, 2) credibility, 3) honesty, 4) accessibility, 5) openness, and 6) understandability.

Understandable Courts

Although most of the population never has personal contact with the court system, most, but not all, national and state surveys indicate that more citizens who have been to court have more negative opinions of courts and the judicial process than those who have not actually been to court as litigants, witnesses, or jurors.

Courts have not historically been user-friendly and are still too often cloaked in mystery for the average person. Unduly complicated courts confound the public. Mysterious court processes and terminology make courts difficult to understand and to access, use, and navigate.

Court leaders must assess their courts and ensure that processes are understandable and useable for the public from the self-represented to witnesses and jurors, to court watchers, and to represented parties. Beyond common courtesy and good customer service, tools include technology and modern multimedia techniques to make the courts more understandable, accessible, and easy to use. With the growth of self-represented litigants, particularly, but not exclusively, in family law matters, these tools help both litigants and the court.

Community Outreach

Community outreach allows court leaders to understand the needs and perceptions of the communities they serve. Courts need community outreach programs to learn how courts can better serve their communities and to reach distinct segments of the public. Public input is vital to effective community outreach. Communication must be two-way.

Good community outreach educates the public and informs the court about community concerns and insights into how the court can be improved. It takes both good teaching and listening skills to make community outreach programming into the two-way communications' street that it must be.

Public Information

Court public information is the amalgamation of various communication skills such as media relations, public relations, legislative relations, and overall community education. This is more than "media relations." Courts must formulate and deliver positive information about courts.

Court leaders, who are successful communicators with various public audiences, have the ability to assess what information needs to be conveyed to what specific audience(s) and how it can be delivered. This information may take a general public education format or be tailored to advance legislative and other purposes.

Effective public information managers are masters at multi-tasking and able to communicate with diverse audiences. They respond to crises and plan and communicate proactively.

The Media and Media Relations

Court leaders must understand the news media and have productive relationships with reporters, editors, and news officials. They must respond appropriately to news inquires, generate constructive news coverage, use the media as an educational tool, and communicate with and without reporters through the print and broadcast media

Effective court leaders neither fear the media nor take a reactive posture. Instead, they plan and are skilled and confident in their media relation's abilities. They develop and effectuate proactive media relations plans. Court messages must be informative, accurate, and consistent, as well as positive.

Leadership and Program Management

Effective court community communications is much more likely in a well-managed than a poorly managed or mediocre court. When affordable in large courts, public information professionals are invaluable. However, court leaders or staff they assign who have other responsibilities must lead, oversee, and deliver community communication in most jurisdictions. Those in charge ensure that their own and others roles as spokespersons for the court are clearly defined. Within a cohesive, well-managed court, court leaders aided by staff assess court community communication needs and prioritize and organize programs to meet general and specific needs. Needs include information related to domestic violence, divorce, and landlord tenant cases.

Court executive leadership teams evaluate court community communication against clear objectives. With the help of court staff, other justice system leaders, and the public, they determine if their messages are reaching the desired audiences. Changes to the message and who delivers it are made when necessary.

Activity Workbook

Activity 1: Icebreaker

- Meet with a group of 4-5 people sitting near you.
- Introduce yourselves. Include name, court location, and job title.
- Together, come up with a list of the top 3 misconceptions people have about the federal courts.
- Share your responses with the class if asked.

1.

2.

3.

Activity 2: Messages

- Work independently at first. If you could communicate only one message about the courts, what would it be? Use the sentence starters below, or make up your own.
- Share your response with a partner when asked.
- Share your responses with the class if asked.

I want ____ to know ____ about the courts

I want ___ to understand _____

I want _____ to see the courts as _____

Other…..

Activity 3: Assessing Needs

- Work with your partner to come up with a simple "needs assessment" plan to collect information on your assigned audience/issue.
- Share with another group when asked.
- Share with the class if asked.

What is your audience/issue?:

Questions to consider when planning to assess needs:

Given your audience, how will you find out what they already know/think/want to know about your issue or topic?

To whom will it be distributed? Or from whom will you collect information?

How will you collect the information?

What will you ask? Or what information will you be seeking?

How will you use the data you collect?

AUDIENCE/ISSUE SCENARIOS FOR ACTIVITY 3 & 4

1. According to survey responses, juror satisfaction rates in your district are dropping. The number of complaints, excuses, late arrivals, and no-shows has increased dramatically.

2. This summer, the clerk's office received numerous phone calls from local Boy Scouts and Girl Scouts asking for individual tours of the courthouse to satisfy a badge requirement.

3. Court security officers report that, on a daily basis, several members of the public mistakenly enter the federal courthouse looking to pay non-federal traffic tickets and parking violations, file child custody papers, report for jury duty (for another court), or file probate forms.

4. The state department of education has released the results of the annual achievement test. Three out of four local school districts have scored very low in civics/government studies.

5. Lately, probation officers have noticed an increase in the number of offenders under supervision who are missing meetings, appointments, and drug tests. In most cases, the reason for missing was due to a child acting out at school, a spouse failing to return home with the car on time, lack of child care, or other family related issues.

6. Case managers have been noticing a large number of filing mistakes by local attorneys, and the case initiation team has reported an increase in attorney questions by phone and at the intake counter.

7. Judges are frequently approached by individual educators and/or students who ask them to host high school and undergraduate internships and job shadowing programs.

8. The state bar association journal published a study indicating that a huge discrepancy exists between the legal needs of low income state residents and the existing legal services and programs available to those residents.

9. A federal agency has moved into another federal building, leaving vacant a room and an open reception area in a heavily trafficked area of the courthouse. GSA has asked you if the court might have a use for the space.

10. While bankruptcy filing rates are dropping over most of the district, one particular geographic area has experienced a dramatic increase in filings over the last year.

11. The metropolitan area in which your court is located is the center of a large international refugee relocation effort. Over the last ten years, thousands of people have moved to the city to start a new life. The immigrants are distrustful of and confused by the legal processes, court services, and the entire justice system of their new homeland.

12. A very high profile fraud case is scheduled on next week's trial docket. The trial is expected to last 3 months. Calls from the public and the media are pouring into the Clerk's Office. Callers are requesting case information, hours and policies for observing, and an explanation of the very complicated issues in the case. The intake deputies cannot keep up with the number of calls.

13. Next year is the anniversary of a monumental decision in a very important, locally significant federal case. Think *Brown v. Board*, *Gideon v. Wainright*, etc. You've heard that a few local historical sites and societies are trying to organize a commemoration.

14. A local news channel recently aired an "exposé" on government waste featuring your courthouse. The story made claims that the courthouse was overbuilt, that time and money were wasted during construction, and that several areas within the courthouse are currently vacant or unused.

15. Next month, several term law clerks will begin their employment with the court. Traditionally, the incoming law clerks have been trained in their respective employing chambers, resulting in inconsistencies and duplicitous efforts.

16. Judges and case managers are frequently concerned about the quality, illegibility, untimeliness, and incorrectness of filings submitted by pro se litigants. Often, the proper responses or pleadings necessary for the case to proceed are never filed. It seems that many self-represented litigants are making the same mistakes repeatedly.

Activity 4: Program Ideas

- Work with your partner to come up with an innovative public information program idea, based on your assigned scenario.
- Share with another group when asked.
- Then, work individually to identify an audience/issue for which your court might need additional programming. Draft an innovative program idea.
- Share with your partner and with the class if asked.

What is your assigned audience/need?:

Given your audience and need/issue, come up with an innovative public information program idea.

What is your GOAL?

Summarize in a few sentences what you would like to do. Be creative!

What is the audience/need from your court?:

Given your audience and need/issue, come up with an innovative public information program idea.

What is your GOAL?

Summarize in a few sentences what you would like to do.

Activity 5A: Decision Making

- Assemble into "public information committees" of 2 or 3 partner groups.
- You will be given three project ideas. With your committee, work through the Decision Making Flow Chart to decide whether or not your court will take on any or all of the three project ideas.
- Share with the class if asked.

IDEA #1: A "request"

You recently received a phone call from SACA, the State Addiction Counselors Association. Their annual conference is being held in your city this fall. They would like to include a full-day visit to the courthouse for conference attendees. They hope for the visit to include a courtroom observation, and meetings with several key players, including judges and staff involved with your drug court program. In addition, they are requesting one or more speakers to give presentations at the conference itself. They would like to schedule the courthouse program on a Friday. The conference sessions are over the weekend at a local hotel. If your court accepts the invitation to participate, they will need basic descriptions of each, for inclusion in their program.

IDEA #2: A "suggestion"

Chief Judge Jones has included you on an email conversation with the Dean of Hometown University School of Law. Though individual Hometown students are regularly granted internships with the court, Judge Jones is suggesting a more in-depth partnership. Her ideas include a semester "clinic" that would be required for all law students. Each student would spend a certain number of hours at the courthouse during the semester, rotating through a variety of duty stations. Judges and staff from each station would be expected to instruct the students on specified topics, and assign work to be completed. Chief Judge Jones is a Hometown graduate, and currently teaches a course at the School of Law.

IDEA #3: An "identified need"

Decision Making	#1	#2	#3
WHAT IS THE IDEA?			
WHAT IS THE GOAL?			
WHO ARE INTERNAL STAKEHOLDERS?			
WHO ARE EXTERNAL STAKEHOLDERS?			
DO YOUR RESEARCH.			
RETURN ON INVESTMENT?			
MAKE THE DECISION.			
Notes:			

Activity 5B: Program Evaluation

- With your "committee," plan to evaluate the effectiveness of your priority program from Activity 5A.
- Design 3-5 evaluation questions for each category; self, participant/audience, and presenter.
- Share with the class if asked.

What is the program idea?:

What will you ask yourself?

What will you ask your participants/audience?

What will you ask your presenters (if applicable)?

Activity 6: Media

- Work independently at first. Draft a plan to utilize at least five forms of media as part of a single public information campaign or activity. Use the program idea from Activity 5A and B.
- Write a brief sample of the content you would submit or post for each of your five choices.
- Discuss with your committee when asked.
- Share with the class if asked.

1.

2.

3.

4.

5.