



FOURTH ANNUAL SYMPOSIUM ON FAIRNESS & EQUITY ISSUES IN CHILD WELFARE TRAINING

Panel:

Bridging Professional Cultures to Address Family & Community Needs

Michael Roosevelt, Shannan Wilber, & Oscar Haynes

Summary of Presentation

April 27, 2006

Michael Roosevelt, Education Specialist, Administrative Office of the Courts (AOC)

Michael Roosevelt provided an overview of initial and continuing education provided by AOC to California judges. Mr. Roosevelt has served the Judicial Education Division since Chief Justice of the California Courts Ronald George implemented the training requirement for judges in fairness education, covering a wide range of issues pertaining to bias. Mr. Roosevelt also wrote the curriculum *Beyond Bias* to make court employees more aware of the manner in which they relate to litigants, attorneys and people in the courtroom in general.

Mr. Roosevelt discussed the importance of including issues of bias in training objectives in an attempt to increase awareness and dialogue about unconscious, implicit bias and ways to unlearn or mediate that bias in decision making. AOC uses the Implicit Associations Test and experiential education to help make issues of bias more salient for judicial officers.

Mr. Roosevelt also made several recommendations about training social workers for the courtroom and for writing court reports. It is important to remember that judges are practical people, concerned about time and efficiency. Therefore, it is important to communicate effectively the facts of the case, while at the same time educating judicial officers to assist them in their decision-making process. One important strategy is to provide a concise statement of the facts in the first paragraph that lets the judge know up front where the report is headed. It is also important to remember that while judicial officers are often empathetic and sympathetic individuals, reports that focus too much on the “touchy-feely” can hinder the judges’ decision-making process.

Shannan Wilber, Director, Legal Services for Children

Shannan Wilber discussed some of the differences between the ways that social workers and lawyers are trained and how these differences can be important when thinking about issues of discrimination and bias.

Lawyers are trained in an adversarial process to be loyal to the client above anyone else and to focus solely on advancing the client's position and interests, not what the lawyer thinks is the right or correct position. In a child welfare case when the client is a child, it is the lawyer's job to identify both the substantive rights, which in the case of a child includes the right to a secure, safe, permanent environment free from abuse or neglect, as well as due process rights.

Lawyers are trained to analyze while social workers are trained to assess. The emphasis on lawyers as objective advocates, however, leaves a huge gap existing in the training of lawyers. Lawyers are not trained to think about bias and how personal bias might influence the way that lawyers do their jobs. Lawyers make many decisions in which bias can make a difference, from the way in which clients are approached, to how the family is perceived, to the options that the lawyer thinks are available, to the remedies suggested to the judge. Personal bias, both positive and negative, may have a large impact on the way that clients are counseled.

Oscar Haynes, Community Representative

Oscar Haynes discussed the importance of understanding how our perceptions and our unconscious bias affect our actions. Using a scenario to illustrate his point, Mr. Haynes asked the audience to think about the way that our own personal experiences influence the way that we interpret events and the actions of others. Each person involved brings with him or her a reference from the past to situations in the present. Mr. Haynes used as an example the tendency to treat a person of color as a representative of his or her entire culture versus treating a white person as an individual. An unconscious bias against the speech, appearance, or dress of a person of color can increase the communication gap and may lead to snap judgments by lawyers and social workers. Parents may have mistrust because of past run-ins with child protective services. Thinking about the roles of different parties involved, Mr. Haynes offered the following suggestions:

- To lawyers who represent parents: "Work to represent me and help me to keep my emotions in check. Look at me as a person with value and respect."
- To judges: "Ask the right questions. Let me speak about my children before rendering a verdict."
- To social workers: "Listen and remember that you have just taken away a parent's child(ren), put their kid(s) into a system, and that they have no say in it."

Discussion:

How are judges prepared to work with translation in court, especially for cultures for which there is no translation service for social workers, juvenile hall or the child welfare system?

One of the major issues in California is that in some parts of the state, over 40% of the population speaks Spanish at home. Another is that there is a significant shortage of court interpreters. While there are more than 240 languages spoken in the state of California, there are trained court interpreters for approximately only 12 of those languages. One way that this issue is being addressed is through new proposed legislation to increase the number of court

interpreters in areas of civil law. One court has responded to the Hmong community by creating an educational videotape called *In the Interests of Justice*, which expressly addresses differences in culture, language, values, and perceptions of justice. The state has a long way to go to address language and culture in the court system. In San Joaquin County, there is a Court Community Liaison program where community members can attend a 16-week seminar to learn about criminal, civil, and family law and to act as Community Liaisons to the court for community members. This program has been very successful and is going to be replicated.

It is also important in our training of social workers to consider how important it is to teach others about how the court system works and the role of the social worker as a broker for the whole system.

As a community member, if we are going to be invited in, it is important to have our role in the process validated.

It's important for child welfare professionals to remember that community partners who are now participating in the child welfare process are the ones who are active in the community and that they are putting their credibility with community members on the line.

What training is provided for judicial officers who are repeat offenders and what is the standard number of units or classes per year that judicial officers have to complete?

Though in judicial education judges are not necessarily referred to as "repeat offenders", some judges have been required by their supervising or presiding judge to take a course because there have been complaints or because they have had an infraction. That is the first, lowest level of reprimand. After that, a judge may be brought before the Commission on Judicial Performance. First, the Commission might place a stinger letter in the judge's personnel file that states the complaint or infraction. Then, the Commission might issue a public admonishment in the legal papers and the final level of reprimand is removal from the bench.

There is a new rule mandating continuing education hours for judicial officers. Also, a training requirement exists to address the more than 16,000 temporary judges that serve in California. Temporary judges are now required to complete a certain number of hours of training before they can become a pro tem judge, including training on fairness, persons with disability, and self-represented litigants. These are in addition to State Bar requirements.

There is also a system for mandatory continuing education for lawyers. Every three years lawyers are required to submit documentation to the State Bar showing completion of hours of training in each training category. There is a category for ethics and bias; however, lawyers do have discretion to determine how to meet the training obligation. Although training is required, the system of accountability for lawyers is primarily concerned with ensuring that lawyers are meeting professional obligations in the code in interactions with clients. As a practical matter, a lawyer exhibiting bias in the courtroom may be more likely to be sanctioned by a judge formally or informally than through the disciplinary system of the State Bar.