

State—Federal Judicial Observer

NEWS AND COMMENTARY OF INTEREST TO THE STATE AND FEDERAL JUDICIARY

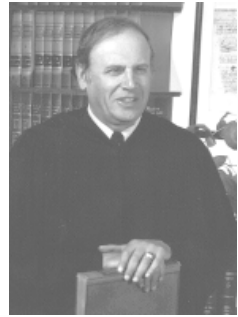
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Samuel E. Zoll: Profile of a True Judicial Leader

by Robert P. Clayman
Judicial Fellow 1997–1998
Federal Judicial Center

“Law and literature” is now a recognized component of many judicial education programs for state and federal judges.

This method of using classical literature to study issues in human conflict and moral dilemmas, allowing judges to become more skilled in the judicial craft, has been adapted for education programs in other fields, such as medicine and management.



Massachusetts
District Court Chief
Justice Samuel E.
Zoll

The law and literature movement was founded by a judge.

The story of the origins of the movement is the story of the vision and leadership skills of Judge Samuel E. Zoll, chief justice of the Massachusetts district courts.

Prior to becoming the chief justice in
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Chief Justice William Howard Taft and the Invention of Federal Judicial Management: A Study in Judicial Leadership

by Robert C. Post
Professor of Law
University of California at Berkeley

In a recent annual report on “the state of the judiciary,” Chief Justice William H. Rehnquist stressed that the federal courts and Congress “must work together if feasible solutions are to be found to the practical problems that confront today’s federal judiciary.” His theme was not unusual or unique, nor was the fact that a sitting Chief Justice would seek to assess the state of the federal judiciary and to urge cooperation with Congress to fashion the legislative means for more efficient judicial service.

Yet these prerogatives of the Chief Justiceship did not exist 100 years ago. In fact a report like Chief Justice Rehnquist’s would have been inconceivable before William Howard Taft became Chief Justice in 1921. Taft, who had been President from 1909–1913, decisively transformed the role of Chief Justice by infusing it for the first time with perspectives he had acquired as Chief Executive. He not only saw federal courts as a branch of the federal government to be managed, but he also saw the position of Chief Justice as responsible for the effective supervision of this “third branch.”

This perspective was entirely new to the federal system. Before Taft, as Felix Frankfurter has observed, “federal judges throughout the country were entirely autonomous, little independent sovereigns. Every judge had his own little principality. He was the



U.S. Supreme Court Chief Justice
William Howard Taft, who served on the
Court from 1921–1930

boss within his district, and his district was his only concern.”

Taft, by contrast, viewed federal courts as bound together into an integrated organization designed to dispense justice. Just as he had sought as President to manage the executive branch officials and agencies, so he sought as Chief Justice to supervise federal judges.

This ambition can most plainly be seen in the Act of September 14, 1922, for which Taft was largely responsible. The Act has accurately been characterized as marking

“the beginning of a new chapter in the administration of the federal courts.” It not only authorized the Chief Justice to assign district court judges temporarily to sit wherever in the country the needs of the docket were greatest, but it also created a Conference of Senior Circuit Judges, which is the ancestor of today’s Judicial Conference of the United States. The effect of the Act, as Taft observed, was to introduce “into our judicial system . . . an executive principle to secure effective teamwork,” so that “judicial force” could be deployed “economically and at the points where most needed.”

Judges Subject to Council

The 1922 conference was sometimes called “the federal judicial council.” While Taft agreed that “in the judicial work a judge does on the bench, he must be independent,” he also insisted that “in the disposition of his time and the cases he is to hear, [a judge] should be subject to a judicial council that makes him a cog in the machine and makes him work with all the others to dispose of the business which courts are organized to do.” Implicit in Taft’s vision was the necessity of subordinating the “machine” to “the executive management” of “a head charged with the responsibility of the use of the judicial force at places and under conditions where judicial force is needed.”

Taft conceived the Chief Justice as the “head” of the Judicial Branch. He did not believe that the responsibilities of the Chief Justice were exhausted by the obligations of the 1922 Act. Supervisory responsibility extended instead to the whole functioning of the federal judiciary. As Chief Justice, Taft sought assiduously to exercise administrative leadership. He was thus always “glad to keep in touch with the District Judges,” because “they are the wheel horses of our system, and I want them to know that they have the deepest sympathy in their efforts in the dispatch of business.” As a good executive, Taft wished “to have all the members of the Federal Judiciary realize that we are remanded to the top, and that whatever we can do here in Washington to help, we will do.”

Learned Hand Approves

District judges throughout the nation deeply appreciated this attention. Learned Hand, for example, wrote to Taft that “as I have had occasion to tell you before, I feel I have a vested interest in your being Chief Justice, because you are the first Chief Justice that ever recognized such things as District Courts except when they were officially brought to their attention to reverse.” Most importantly, Taft realized that the effective functioning of the federal judiciary required appropriate legislative tools. He therefore “thought that it was part of my duty . . . to suggest needed reforms, and to

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Presiding Judges in State, Federal Courts Need Leadership Skills

by Dr. Isaiah M. Zimmerman
Clinical Psychologist, Washington, D.C.

The chief judges or justices of state and federal courts often operate in an environment where they must deal with too much work, too few staff, and too little funding. In addition, heavy and often inappropriate demands are placed on them by the public, the media, and other branches of government. The almost total emphasis on productivity makes many judges feel they have to grind out decisions regardless of quality.

Former Chief Justice of California Malcolm Lucas, in an article in the April–May 1991 issue of *Judicature* magazine, made an observation about one stressful aspect of judicial leadership—funding—that has changed little in seven years: “We cannot wait for news from the Governor or legislature that we must cut back ‘just like every other state agency.’ If we do so, we not only risk losing money we need, but we also risk undermining the stature of the courts as an independent branch of government, and our ability to perform the very functions for which we are designed.”

The A.B.A. Special Committee on Funding the Justice System commented in a report issued after its creation in 1990 that “the American justice system is under siege and its very existence is threatened as never before.”

In a war or siege, leadership is absolutely essential to survive and recover: leadership to raise morale and to give purpose and energy under prolonged, discouraging conditions. Today’s chief and presiding judges, at each level or court, must see themselves as leaders. They have to be trained and oriented to provide leadership. It is no longer adequate for them to decide cases and generally oversee the work of

court administrators and committees.

In working for over a decade as a morale and organizational consultant to many chief and presiding judges at the trial, appellate, and supreme court levels, I have found much commonality among the most successful ones concerning their goals and methods. Their long-range goals, with remarkable similarity, include:

- establishing the judiciary as a fully co-equal branch of government, with substantial control over the budget for the courts;
- gaining more freedom to redesign court structures and procedures to heighten efficacy and efficiency;
- transferring expeditiously cases that should be handled by other tribunals and trying more efficient methods of dispute resolution, including ADR; and
- early identification and disposition of filings, motions, and appeals that have little or no merit.

Effective methods chief judges have employed include the following:

- preparation and wide distribution of a statement of the particular court’s mission and place within the larger court system, the judicial branch, and within the community;
- publication of a statement or declaration about the standards, ethics, and values to which the judges and employees of the court can adhere;
- the involvement of each judge on an active task force to work toward one of the primary goals of the court, and rotation of service on a judicial council of the particular court;
- a comprehensive outreach program for the public, the schools, and the media, to encourage understanding and support for the court and judges;

• the creation of incentives and recognition programs for employees to learn and grow through their jobs and to contribute new ideas;

• planned visits to all parts of the court system at convenient hours, combined with media and educational events; and

• programs to reduce strain on individuals and families through mentoring, counseling, crisis help, recreation and support networks.

The judicial leaders whose goals and methods have been summarized above also had an excellent working relationship with their team of court administrators and clerks. But “the buck” always stopped with each chief judge.

Leadership is the frequently neglected factor in guiding judicial administration. It has been viewed as a gift of personality or a natural aptitude. The mystique of leadership can be dispelled and replaced by training and orientation in group psychology, media relations, organization theory, and other core subjects.

Without leadership skills, the judicial leaders of today’s courts are not likely to weather the forces that threaten their quality and independence. Only chief judges can inspire, direct, energize and impart a sense of mission to the judges and employees who work with and for them.

The chief judge also has to represent capably the courts and judges to the public and the other branches of government. It is as inconceivable that a person could head a level of court without leadership training as it would be to practice court administration without managerial training. Given that the judicial system will, for the foreseeable future, be in a constant flux of high demand and low support, trained leadership for all courts is indispensable. □

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FJC Videoseminar on Leadership in Courts Offers New Perspectives

The Federal Judicial Center has recently produced and released a videotape of a videobroadcast on "Leadership in the Courts." The focus of the two-hour program, conducted in August 1997, was leadership through collaboration and the development of leaders at all levels of court organization.

The videotape of the broadcast and the participant guide are available to court employees in the federal courts and are part of the FJC's long-term commitment to distance learning.

The seminar has three distinct parts, with a special presentation by James M. Kouzes, an award-winning author and nationally recognized executive-education provider.

The program begins with a succinct overview of traditional perceptions of leaders, their development, and their roles—the overview is conducted by Center staff members Marilyn Vernon, Fran Toler, and Michael Siegel. Kouzes then provides a modern definition of leadership with a discussion of the desirable qualities of modern leaders. The program concludes with a panel discussion among judges and administrators from the federal courts. During the program employees from around the country faxed or called in their questions, creating a lively atmosphere for the discussion.

Kouzes and the panelists talk specifically about leadership in the courts within

the context of their observations about good leadership: "good leadership is a dialogue, not a monologue."

They focus on how leaders earn credibility, consisting of five parts: challenge the process, inspire a shared vision, enable others to act, model the way, and encourage the heart.

Kouzes particularly focuses on vision as an important and indispensable ingredient of leadership and its value to an organization. He commented, "If you have vision of the future you must communicate it to your would-be constituents in such a way that they see what you see, because when visions are clear, when managers effectively communicate their vision to others, people [employees] report that they are significantly more satisfied with their jobs, or committed to the organization's goals and objectives, more personally motivated."

For more information or a copy of the program materials, contact Information Services, Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20002-8003, phone 202-273-4153, fax 202-273-4140. For information about additional leadership training offered by the FJC, contact Emily Z. Huebner, director, Court Education Division, Federal Judicial Center, at the above address, phone 202-273-4110, fax 202-273-4020. □

National Judicial College Plans October Course on Leadership

"Leadership is about learning" is one phrase used by National Judicial College officials to describe their plans for a new course on leadership for its 1998 curriculum.

The course, titled "Learning to Lead: Leadership for the 21st Century," is being developed by NJC Dean Kenneth A. Rohrs.

The week-long course, to be held October 25-30, 1998, in Reno, Nevada, will be conducted at the college, located on the campus of the University of Nevada-Reno.

The course is for "judges and senior court administrators who want to make a difference . . . who share a desire to be leaders in their courts and their communities." Faculty for the course will include not only judges but leadership-development professionals.

The course "will examine all aspects of leadership, especially in the context of courts as learning organizations." A central question that will be raised and discussed is "Why should judges and court administrators be leaders?"

Qualities of a leader, leadership skills and styles, team building, and collaborative learning are topics that will be covered in the course. The course format will be interactive and discussion based, rather than lecture oriented.

For more information about this course, contact Dean Kenneth A. Rohrs, National Judicial College, Judicial College Building (358), University of Nevada-Reno, Reno, NV 89557, phone: 800-25-JUDGE or 702-784-6747, fax: 702-784-1269. □

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A note to our readers

The *State-Federal Judicial Observer* welcomes comments on articles appearing in it and ideas for topics for future issues. The *Observer* will consider for publication short articles and manuscripts on subjects of interest to state and federal judges. Letters, comments, and articles should be submitted to Interjudicial Affairs Office, Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20002-8003.

OBITER DICTUM

Leadership: A Necessary Part of An Independent Judiciary

by James G. Apple & Sonnie S. Sussillo

An independent judiciary is one of the foundations of American democracy. However, both state and federal judges are, with ever-increasing frequency, complaining about potential threats and compromises to their independence. These threats are evidenced by criticism of individual judges, decisions, and the judiciary in general by legislators, the media, and the public; by the absence of strong support for judicial branch budgets and judicial salaries; and by the unsavory influences created by the unwanted but increasingly necessary financial requirements for judicial elections in many state legal systems.

Judges must recognize that an essential ingredient of an independent judiciary is judicial leadership. An independent judiciary does not just happen. It occurs when judges, judicial branch employees, and those involved in the administration of justice assume leadership roles to accomplish the following:

- plan for specific legislative or statutory provisions and administrative structures that will help ensure that the judiciary is independent;
- provide the necessary leadership for those plans to be adopted, implemented, and continually supported; and
- nurture and maintain the necessary relationships with other branches of government and the public that will ensure understanding of the role of an independent judiciary in a democracy and support for the judiciary.

Judicial Leadership Not Often Studied

Judicial leadership is not a subject that has drawn the attention of scholars, or even professional writers on the subject of leadership generally. Perhaps the reason is that scholars and writers, as well as citizens, think of the judicial role and judicial work as essentially passive. Judges react to cases presented to them, and rarely do they engage in the kind of public activism that characterizes public officers in the other two branches of government.

There is, however, a role for judicial leadership, which can take place at four levels. It can be leadership in the judicial process, in the manner of judging and decision making. It can be leadership in chambers, in the organization and functioning of the particular court of which the judge is a part. It can be leadership in the profession—leadership in the efficient and effective administration of justice beyond chambers, in the operations of the judicial branch as a whole. And finally it can be leadership in the wider world, among the other branches of government and the citizenry of a country, on behalf of the rule of law and respect for law and legal institutions.

Leadership Types

The first type of leadership referred to above (judging and decision making) is largely confined to the role of a judge as a judge and his or her knowledge of the law and its application. The third and fourth types (within the profession and outside the profession, respectively) are probably reserved for those judges who achieve, in one way or another, regional or national stature and who can by their speeches and discussions with domestic and foreign political leaders, influence others to support the rule of law and the role of judicial institutions in a democracy.

Many judges in the United States must ultimately contend with the second type of leadership. A judge assuming responsibility for supervising employees in a local court assumes a second career. It is a career for which many judges are often little prepared, or not prepared at all.

When sociologists interview a group of

employees and ask them to identify the characteristics of the best bosses in their experience, technical expertise is usually way down the list. Technical in the context of courts refers to the legal knowledge and decisions required of a judge in fulfilling judicial responsibilities.

In court operations the technical expertise of the judge in the law and in the conduct of trials is not a significant requirement for a judicial leader in chambers and among associates and colleagues. A judge in a leadership role in chambers, or in a local or regional court, cannot treat judicial colleagues or subordinate employees the same as lawyers and parties in the courtroom and still expect highly motivated, productive judges or employees. The set of skills required of a judge in the supervision of other judges and employees is dramatically different from those required of a technically proficient judge.

Competencies Identified

Several major public-sector research efforts were conducted between 1985 and 1997 to identify the competencies necessary for leadership in the public sector. Competencies in these studies were defined as the skills, knowledge, abilities, attitudes, and behaviors required to be successful in meeting the mission of the organization.

Although the language and to some degree the emphasis changed from study to study, the results consistently indicated that leading employees to be productive, motivated and effective requires competencies not always valued and taught in technical or academic preparation. The more specific competencies identified in the studies as necessary for leadership included interpersonal skills, conflict management, team building, flexibility and resilience, providing motivation and empowerment, human resources management, vision, and organizational skills.

To further clarify the importance of these skills and their role in supervising and leading subordinate employees, current practitioners writing leadership literature distinguish between leading and managing. For example, one writer about leadership describes the differences between managers and leaders this way: managers manage systems and structure—they are concerned with efficiency, timeliness, and organization; leaders focus on people—leaders coach, provide a role model, guide, advocate for, nurture, and support employees in order to meet the mission of the organization.

Leadership Characteristics

Other writers on leadership speak of leadership characteristics in terms of compassion, continual learning, healthy relationships, commitment to mission and customers (including employees), and service orientation. Leaders delegate power and authority, take a learning attitude, communicate openly and extensively, listen and respond, and believe in and advocate for their employees.

The conclusion of most current writers on leadership, and self-reported by most supervisors in public sector organizations, is that both sets of competencies—those of a manager and those of a leader—are required to be a fully effective supervisor. These competencies are required as much for judicial leaders in their chambers and in their court organizations as they are required in corporate offices or a factory workplace.

An activity often used in training individuals new to their supervisory and leadership roles is to invite them to "word associate." For instance, the questions might be asked: What are the images or ideas or activities associated with the verb "to judge"?; What associates with the verb "to

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FJC, Other Agencies Establish Leadership Programs for Courts

by James G. Apple

One new part of the curriculum of judicial branch education agencies relates to leadership development.

The Federal Judicial Center began a leadership development program for federal probation and parole officers in January 1992. That program has been so successful that the FJC inaugurated a second leadership program for court managers in 1994.

The National Center for State Courts, through its Institute for Court Management, offered in April and August of 1997 a "New Leaders" seminar for court managers. It will also offer another course in the coming months on "Women in Leadership."

And in October 1998, the National Judicial College in Reno, Nevada, will offer for the first time a course on judicial leadership, titled "Learning to Lead: Leadership for the 21st Century" (see related story, page 2).

The Federal Judicial Center's initial leadership program, developed for probation and pretrial service officers, grew out of a concern expressed by the Committee on Criminal Law and Probation Administration about the number of chiefs of that particular service who would be reaching retirement age in 10 years.

In addition, probation and pretrial services offices and the work of individual officers have become more complex. Finally, there was a general appreciation within the service of the need to meet the leadership challenges of the 21st century with employees specifically trained about and exposed to leadership skills.

Implicit in the entire program was the idea that leadership is a skill that can be learned and developed, rather than an innate characteristic of only a few people.

The FJC responded to the concern of the



Officials from the Federal Judicial Center present a graduation certificate to a participant in the FJC's leadership program for federal probation and parole officers, held at the FJC on August 7, 1997. From left: Val Simmons, Marilyn Vernon, Emily Huebner, David Leathery, the leadership program graduate, and Michael Siegel (behind podium).

Judicial Conference Committee by developing a three-year leadership training program. The program is designed so that probation and pretrial service officer candidates for the program apply for admission by reading one of several selected texts on leadership and management and submitting an essay that expresses their ideas about applying the principles in the text to their jobs.

The following are the requirements of the three-year course of study, according to an article prepared by FJC staff members:

- complete a 40-hour self-study supervisory skills course;
- read additional texts relating to leadership and management, interview three managers in the public or private sector, and prepare a report reflecting their observations and conclusions about the characteristics of effective leadership and management;

- submit the report to selected university professors or management consultants for assessment;

• identify an activity or policy in the participant's district that needs improvement, develop a plan for corrective action and lead the effort to implement the plan (after approval from the FJC faculty advisor and the participant's supervisor);

- complete a temporary duty experience outside the regular place of employment to observe leadership styles and patterns and prepare a report on the experience; and
- attend leadership development seminars with participants from other judicial districts.

Since its inception in 1992, the probation and pretrial services leadership program has attracted 380 applicants, including 85 for the current class (1997-1999). Two hundred and twenty-one participants have successfully completed the program.

The Federal Court Manager Leadership Program, aimed at mid-level and upper-level court staff to prepare them for leadership positions, was developed at the FJC in 1996. It consists of the following four phases, which must be completed over a period of 2-3 years:

- fundamentals of management and practical problem solving;
- intent and impact—building leadership skills;
- selection and completion of an independent study project; and
- sustaining professional and personal growth.

This leadership program enrolled 75 participants, and 62 are expected to successfully complete the program. A second class of 75 participants will begin this spring. The initial pilot program in 1994 enrolled 31 court staff, of whom 22 completed the course.

The "New Leaders" course of the Institute for Court Management, National Center for State Courts, started with a three-day program in April 1997 in Ocean City, Md. The course was designed to "introduce participants to the basic concepts, skills, and techniques of effective supervision and leadership in the courts."

Major topics covered at the seminar included:

- basic management functions;
- selecting appropriate management strategies;
- effective communication;
- leadership and learning styles;
- management and leadership roles and responsibilities; and
- action planning for personal and professional development.

A second course was given in August 1997 in Prince George's County, Md. Seventy-four state court managers completed the two courses. □

Judge George Nicola of New Jersey: Paradigm of Judicial Leadership

by James G. Apple

In a world where court reform is, in the words of one judge, "not a task to be undertaken by the faint hearted," the career of Judge George Nicola of New Jersey stands as a beacon for all judges who seek to lead and reform.

His judicial career spanned 35 years, first as a municipal court judge, then as a juvenile judge, and finally as a judge of the New Jersey Superior Court.

In every court in which Judge Nicola sat he was able to institute major reforms that dramatically improved the performance of the particular court.

His career as a judge and judicial leader is the subject of a biography by Paul B. Wice, *Court Reform and Judicial Leadership: Judge George Nicola and the New Jersey Justice System* (Praeger, Westport, Conn. 1995). The book examines Nicola's life, his leadership style, and his contributions to the courts on which he served.

Wice identifies the following innovations Judge Nicola introduced in the different courts in which he served:

- a juvenile offender awareness program, "scared straight," in which juvenile offenders were exposed to short-term prison visits and lectures by life inmates to shock juveniles into proper behavior and respect for the law;
- a "verticalized" case-management system using caseload managers to follow cases from initial court involvement to final disposition;
- a single data-collection form for fixing responsibility for different phases of the litigation process;
- simultaneous sentencing;
- jailhouse arraignments; and
- drug court and a dual track system for handling drug offender cases.

These innovations were the work of a

man intensely interested in the judicial profession and in finding solutions to myriad problems that were plaguing the various levels of the court system in which he served.

Judge Nicola's career is a judicial Horatio Alger story. He was born in 1931 of Lebanese parents, whose own parents had immigrated to the United States in the early part of the 20th Century. His father was a victim of the Great Depression, supporting his family with odd jobs at service stations in central New Jersey. George joined his father when his father had saved enough money to purchase his own service station in 1940 in New Brunswick, N.J.

His skills in football in high school resulted in a full scholarship to Villanova University. He later attended Seton Hall University, from which he graduated magna cum laude. He was the first person in his family to graduate from college.

Nicola Excelled in Law School

Under the influence and guidance of his father and his uncle, Judge Nicola attended first Seton Hall Law School and then Rutgers Law School, where he excelled in both the classroom and moot court competition.

He began his judicial career only five months after returning to New Brunswick, as the town's first municipal magistrate, in 1959, a position he held for 12 years. By 1972 he was the acting magistrate for 11 other municipalities, primarily handling misdemeanors, including traffic offenses.

Judge Nicola stepped down from the bench in 1972, but returned in 1974, when the Governor of New Jersey appointed him to the Juvenile and Domestic Relations Court. He served on this court for eight years, after which he was elevated to the Superior Court of Middlesex County. He soon became the presiding judge of that court, and remained there for over 20 years.

Some of the traits of Judge Nicola iden-

tified by his biographer as reasons for his success as a judicial leader include a high energy level, self-confidence, thoroughness, a caring attitude, creativity, effective communications, attention to detail, courage and boldness, delegating responsibility and ensuring accountability, prudent "tactics," and, last but not least, vision.

Unfortunate Conclusion

In evaluating Judge Nicola's life and contributions, Wice suggested one unfortunate conclusion—some of Judge Nicola's court reforms ended when he moved on to another position. This is not so much a testament to the lack of quality of the reforms he initiated as it is to the vision (or lack thereof) and perceptions of those who followed him in the various judicial positions he held—those individuals sometimes failed to see the merits in or need for the particular changes begun by Nicola. Some of his innovations did take hold and served as guides for other judges in handling similar problems, from which his biographer made other, more positive observations. These included the following:

- significant court reform can occur without the necessity of spending large amounts of money—Judge Nicola's innovations in juvenile court and his case-management practices cost little or no money, and even the drug court program was assisted by only a small, initial grant;
- if a reform program is to be effective, it must be the by-product of both strong leadership and intelligent planning: Judge Nicola offered both—he developed an idea, but before pushing it through to fruition, he created a plan of implementation; and
- despite many obstacles facing court reform, including the ingrained inertia of the American legal system, when good ideas combine with effective leadership important innovations can occur.

Judge Nicola's experiences in New Jer-

sey contain two messages for the future of all court systems in the United States. The first message is that the court systems must develop a way to attract leaders like Judge Nicola to the bench. The second message is that, because leadership is a trait that can be learned, court institutions must provide the education and training for leadership for both newly selected judges and those who have been called to leadership roles because of their seniority or other criteria. □

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coach"? The follow-up question—Which would make a better set of characteristics in a boss?—is inevitably answered, "The individual who coaches." The response provides a good lesson for judges in leadership positions in chambers and local courts.

Leadership skills can be taught and learned, practiced and mastered. First, for the development of judicial leadership, a judge must recognize the value of the competencies required for leadership within a local or regional court organization and exhibit a willingness to take the time to understand them and their application in court situations. Second, the judicial student of leadership must take a long view of employee development and nurturance and establish the necessary programs for producing the competencies required of leaders and managers. Finally, the leader has to master patience, persistence, and resilience to achieve the goals of the organization within its planned structure and culture. □

(James G. Apple is chief of the Interjudicial Affairs Office of the Federal Judicial Center and editor-in-chief of the State-Federal Judicial Observer; Sonnie S. Sussillo is a consultant on leadership skills in Maryland.)

ZOLL, from page 1

1976, Judge Zoll became acutely aware of the toll the daily burdens of the trial courts were having on his judges. The daily grind of the courtroom created, in his mind, the need for something inspirational for his judges—an experience that would uplift them and provide insights into the human conflicts with which they were confronted in their judicial duties.

Looking for a Process

He looked for a process that would provide judges with the time, environment, and stimulation to reflect on their judicial philosophy, their role in the community, and the impact of their judgments on not only litigants but the community.

In 1980, his search led him to Brandeis University in Waltham, Mass., where he found willing and eager partners.

“Doing Justice,” as the program was originally titled, was a team effort that included Chief Justice Zoll, District Court Administrator Jerome S. Berg, Professor Saul Touster, and Mr. Sanford M. Lottor. Faculty facilitators identified classics written by Herman Melville, Arthur Miller, Bertolt Brecht, Margaret Laurence, and others as the sources for discussions on “doing justice.” Funding was provided by the courts and the Massachusetts Foundation for the Humanities.

In establishing the program, Chief Justice Zoll recognized a fundamental need for judges, in the cases before them, to look into deeper issues involving the use of power, ethics, family relations, conflict, and community perceptions in order to resolve the disputes. He believed that knowledge of the law is only one dimension of judging.

According to Touster, “Chief Justice Zoll’s contribution was his ability to see a need, match the resources to meet the need, and institutionalize the program in the judicial system.”

Chief Justice’s Support

With the full support of then-Massachusetts Supreme Court Chief Justice Edward F. Hennessey, all district court judges were requested to attend the program. While attendance wasn’t mandatory, every judge did attend the first program. Groups of 18 judges gathered on the Brandeis campus and discussed moral, ethical, and personal conflicts arising out of their study of works of literature.

Chief Justice Zoll’s leadership for the program included consistent commitment over the long-term. “Judge Zoll was present at each of the pilot programs,” said Touster. “That had an enormous impact. And his insight into court administration and processes proved to be invaluable.”

“Word spread quickly,” Chief Justice Zoll explained. “We could not keep judges away. They wanted to come back a second and third time.”

He commented, “It was probably the only program we proposed that had the unanimous support of all of the judges.”

Job Demands

“The demands of the job require an intellectual ability to focus intensely, to have a firm philosophical foundation, and to understand the sociological consequences of judicial decisions,” Zoll said. “Law and literature programs should be an integral part of a professional, modern court.”

Judges leave the discussions with “a stronger and deeper sense of what they are doing.” He observed recently that there continues to be a “strong desire of judges to have somewhat structured, reflective periods to help them do their work.”

An additional benefit noted by Judge Zoll was the greater understanding that the program brought to the academic community. “It produced a profound understanding of and respect for the judges’ role and the inherent tensions of judging,” he said.

Since the 1980s, the Brandeis model has been replicated in other states, exposing thousands of judges and court personnel to new perspectives of their role in the justice system. “Doing Justice” was recognized in 1983 by the National Endowment for the Humanities and awarded one of seven exemplary grants. The funds were used to expand the program throughout Massachusetts.

Sanford Lottor, the founder of the private firm Literature and the Professions, said recently, “Without [Zoll] I doubt the

idea would ever have grown to where it is today.”

Leadership Not New

Leadership is not a new arena for Chief Justice Zoll. At age 23 he was elected to the Salem (Massachusetts) City Council and one year later, in 1958, he became president of the council.

He was elected to the Massachusetts House of Representatives in 1965. In 1970, he was elected Mayor of Salem. A graduate of Suffolk University Law School and Boston University’s Graduate School of Business Education, Chief Justice Zoll practiced law from 1962 to 1974. He was appointed to the bench in 1973 by Governor Francis Sargeant and to the position of chief justice of the district courts in 1976 by Governor Michael S. Dukakis.

Louis Brandeis believed strongly in the necessity of educating both judges and the public to the connection between law and life, so that one might have, to use the title of one of his most famous essays, a “living law.” The proliferation of law and literature programs is a testament to the legacy of Brandeis and the wisdom of Zoll.

To learn more about law and literature programs, contact:

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become rather active in pressing them before” Congress. Taft was quite aware that this was a new conception of his office. “I don’t think the former Chief Justice had so much to do in the matter of legislation as I have,” he wrote to his brother Horace, but “I don’t object to it, because I think Chief Justices ought to take part in that.”

Throughout his service on the Court, Taft was a frequent witness before congressional committees, lobbying hard for judicial reforms. He was responsible for numerous impressive legislative achievements, including the 1922 Act, the Judiciary Act of 1925 (which vastly reduced the Supreme Court’s mandatory docket), and the construction of the Supreme Court building itself. But these achievements brought their own new challenges.

Taft found that efforts to achieve legislative reform often required him to engage in political mobilization, which tested the boundaries of traditional norms of judicial disinterest. In 1928, for example, Taft wrote letters to newspapers, met with the Presi-

dent, and actively directed legislative opposition to a bill (approved by the Senate Judiciary Committee without even a hearing) that would strip federal courts of diversity and federal question jurisdiction. Taft also found that pressing for legislative reform tested traditional norms against advisory opinions. Every time he endorsed a legislative solution to an issue of federal judicial management, he implicitly, and sometimes explicitly, warranted its constitutionality.

These tensions may create difficult situations, but they inhere in the role of Chief Justice, especially for activist Chief Justices such as Taft. They are in fact Taft’s ambiguous gifts to subsequent Chief Justices, each of whom has structured the office to suit his own particular style within the broad framework provided by Taft. They are gifts whose outlines lurk just beneath the surface of Chief Justice Rehnquist’s recent observations about the “state of the judiciary.” But they are undoubtedly the consequence of judicial leadership by a very determined and effective judicial leader. □

Courts as Learning Organizations: A New Approach to Leadership

One new approach to court improvement and court leadership is to view courts as learning organizations. The essence of this new approach is that an entire organization benefits if its personnel are continuously engaged in learning as well as doing.

A corollary to this basic principle is that “teaching and learning are the most powerful tools that are available to a leader, and that education is a primary avenue for promoting change both in individuals as well as groups.”

An exponent of this approach to leadership, with particular reference to judges and courts, is The Leadership Institute in Judicial Education of the Center for the Study of Higher Education, at the University of Memphis in Memphis, Tenn. The Leadership Institute has developed a one-year program for judges, judicial educators, court administrators, and other court personnel. The program applies this new approach to participants.

The Institute’s program, which takes one year, is conducted in the following manner:

- an advisory committee of the Institute selects six teams from among its applicants;
- the Institute conducts a six-day confer-

ence in Memphis focusing on issues raised in preparatory reading materials, which are distributed to participants, and an experiential learning model;

- each team departs from the conference with an action plan for implementing the new learning plan in the participants’ home states;
- each team organizes in its home state an On-Site Leadership Institute, which is designed to “expand the circle” of individuals committed to educational goals; and
- representatives from each team gather one year later at an Advanced Leadership Institute, also held in Memphis, where reports are received on the initial team’s progress in implementing the action plan.

The Institute has attracted over 240 judges, judicial educators, court administrators, and other court staff from 39 states and the District of Columbia.

On-Site Institutes have attracted 700 additional participants.

For more information about this program contact Patricia Murrell, Center for the Study of Higher Education, University of Memphis, Memphis, TN 38152, phone: 901-678-2775, fax: 901-678-4257, email: <murrell@cc.memphis.edu>. □

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