



CORE[®]

National Association
for Court Management

Curriculum Design Public Relations

2023 UPDATE



Public Relations

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Use of Curriculum Design

Taken together, the curriculum designs in this series provide an overarching plan for the education of court managers; this overarching plan constitutes a curriculum. Individually, each curriculum design and associated information provide faculty with resources and guidance for developing courses for court managers.

The designs are based on the NACM Core®. Each of the curriculum designs, based on the competency areas, may be used either in its entirety or in segments to meet the needs of the individual circumstance or situation, the particular audience, and time constraints, among many other contextual factors.

Each curriculum design includes a series of learning objectives and educational content to support those learning objectives. Associated information for each curriculum design includes: (1) faculty resources, (2) participant activities, and (3) a bibliography. Each faculty resource and participant activity include information explaining its use. Also included in each design is a section entitled “Special Notes to Faculty,” which provides important information to assist faculty in effectively preparing to design and deliver a course, and a section entitled “Target Audience,” which provides some guidance on which audiences are most appropriate for the curriculum design.

Participant Activities

Participant activities have been designed to measure whether the learning objectives have been achieved. Participant activities include many types of group and individual interaction. Information on participant activities includes how to use, direct, and manage each activity. Instructions may be modified for the audience and setting, but the highest goal is to integrate each activity into the learning process and the content of the course. Faculty should incorporate additional activities to ensure that

participants remain actively engaged throughout the course. Additional activities may include asking participants questions about the content, engaging them in sharing their experiences with the content, encouraging them to ask questions, and more.

Faculty Resources

Faculty Resources provide written information and/or graphics that support certain content and may also be used as handouts for associated topics in the **Educational Content**. Faculty Resources are a combination of resources referenced within the Educational Content and recreations of those images embedded in the Educational Content as sample PowerPoint® slides. They may be used in any course, but their applicability and use need to be determined by faculty, based on the topics, length of the course, audience, and other factors. Faculty Resources often include examples of documentation and other data that are time-based. Faculty members are encouraged to update time-based material as well as use material that is specific to the presentation and/or audience. As with participant activities, faculty are encouraged to provide additional materials based on the needs of the participants. Another resource can be the various [NACM publications and guides](#).

Bibliography

While a bibliography may be viewed as optional by faculty, they are often important adult learning tools, foster reflection, and offer sources for follow up research and study.

Needs Assessment

A needs assessment gathers information about the participants’ proficiency on the topic of the session. Without a needs assessment, you may provide content participants cannot or will not use, or already know, or that fails to satisfy their expectations.

Assessing needs enables you to choose and deliver content with much greater accuracy. Conducting a needs assessment before your presentation may include a written survey or focus group discussion; and/or at the beginning of your presentation, you may conduct an informal question and answer exercise or a short pre-test.

Using surveys or focus groups in advance of a course is preferred as it provides you the opportunity to adapt and adjust your presentation to your audience in advance of the actual course. However, it is also advisable to use some time at the beginning of your presentation to seek information about your audience.

Whether you are able to conduct a needs assessment prior to the day of the session or not, the goal is to determine the essential knowledge, skills, and abilities the court managers who will be attending the session must have to perform their duties competently. Two key areas to explore are as follows:

- What level of knowledge, skills, and abilities do the participants currently have about the topic?
- What gaps in their knowledge would they like to close?

Questions enable the faculty member to make necessary adjustments to meet learning needs. If you find out that participants are much more knowledgeable about your topic than you had thought, you can adapt your presentation to a higher-level discussion. If you find that they are less knowledgeable, you can adapt your presentation to be more basic.

NACM Core® Reference

Competency: Public Relations

Public relations involve effective external and internal communication to improve the understanding of court processes and the court's critical role in preserving the rule of law. The public's trust and confidence are vital for courts to fulfill their constitutional mandate to safeguard the rights of all. The variety of audiences, messages and delivery methods require court leaders to possess a set of skills to ensure the transparency and accountability expected by the public.

Learning Objectives

The following learning objectives are designed for a comprehensive course on public relations. As a result of this education, participants will be able to:

1. Discuss the dynamic between the court's ability to discharge its constitutional mandate to uphold the rule of Law and the public's interest in and right to information;
2. Design a publicity campaign demonstrating knowledge of community education and outreach methods through news, social media and public outreach;
3. List the limitations of public access to court records and proceedings, including alternatives the court may offer;
4. Prepare and critique press releases using standard criteria; and
5. Design media strategies for hypothetical situations using new tools and criteria.

Target Audience

This curriculum design is appropriate for court managers and other court leaders who do not

have public information officers (PIO), but are new to having these tasks assigned to them.

Special Notes to Faculty

The references to court decisions and the resulting complex media law are intentionally oversimplified because time would not permit a full discussion. Also, there may be future case law that affects the balance of fair trial versus free press.

Ideally, a course based on this curriculum design would include a lively, facilitated discussion between an experienced journalist and a local judge regarding the implications of the First and Sixth Amendments.

Rule 2.10 of the ABA Model Code of Judicial Conduct is provided as a template for determining the responsibilities of judges regarding public access to court-related information. Also relevant is the NACM Model Code of Conduct for Court Professionals.¹ Faculty should also take into consideration any local codes or rules.

Content in this curriculum design, each section and its corresponding participant activities, builds on preceding information. Thus, for maximum effectiveness, the design will be used in its entirety for a comprehensive course. However, content can also be used in parts as appropriate for the audience's needs and the time available for the course.

NACM's Commitment to Diversity, Equity and Inclusion:

In addition to leadership knowledge, court leaders benefit by performing fair and inclusive practices. NACM is committed to inclusionary and equitable practices and policies in all facets of the association. NACM's mission statement regarding diversity, equity, and inclusion, is the foundation for which the association and the users of this curriculum should begin. The resolution of the association reflects and reinforces this commitment.

NACM is committed to a diverse, inclusive and equitable environment where all board members, members, volunteers and educators feel respected and valued regardless of gender, age, race, ethnicity, national origin, sexual orientation or identity, disability, education or other bias. NACM is nondiscriminatory and provides equal opportunity for participation in all areas of the Association. NACM respects the values that diversity of experiences brings to our Association, leadership, and board while striving to listen to all points of view. NACM will increase public awareness of the benefits of diversity, increase the pipeline of minorities toward leadership within court administration, utilize broad selection criteria and procedures in leadership advancement, and include minorities in the leadership selection process.

¹ NACM Model Code of Conduct for Court Professionals. Available at <https://nacmnet.org/sites/default/files/pdf/Model%20Code%20of%20Conduct%20for%20Court%20Professionals%20no%20comments.pdf>.

Educational Content

Introduction

Since early in its history, the National Association for Court Management (NACM) has recognized the need for good public communication and the importance of relations with traditional media outlets. NACM has recognized that the Judiciary has more work to do to assist the public and the news media in truly understanding its governmental functions.

The court leader's role is not just limited to working internally within the court; it also includes communicating with a wide variety of audiences about the courts and court processes. To be effective, court leaders need to use a variety of communication methods tailored to the nature of the message being conveyed and audience targeted. This curriculum is a resource for court managers in handling the media and public relations. The [NACM 2020 Media Guide](#) can be used to provide sample documents.

Media play an important role in the criminal justice system, functioning most often as a public watchdog. Used well, coverage can help instill confidence in our court system and the procedures used to bring guilty parties to justice, favorably influencing the public's perception of the judiciary and the justice system.

Public knowledge of the justice system is largely derived from media coverage, as most in today's society will never come to the court or observe a trial or hearing. The public relies on the press, social media, and technology to keep them current. Disinformation exploits fear of the unknown. If people know little about courts, they tend to believe false information in public commentary, including on social media. This situation feeds a lack of public trust and confidence in the judiciary and is one of the most characteristic features of public discourse in the 21st century.

To counter this fear of the unknown and the disinformation that arises from it, courts must increasingly assume an active role in transmitting good information about themselves to the public. Such communication cannot be a one-time event; rather, it must be continuous because disinformation has become a continuous phenomenon due to 24/7 instant worldwide communications. More than ever in today's world, it is not enough that justice be done. People must also see justice being done. And they must be reminded of the historical role that courts have played and continue to play to benefit society.

How can courts effectively navigate all the news channels coming their way? How do courts determine who qualifies for media access to court proceedings? Does court staff need to respond to every blog that posts something about their court? Should the court post responses to citizen journalists on their websites? Does it even matter? This curriculum will assist court managers in answering those questions.

Section 1 – Courts and the Public: A Historical Perspective

Learning Objectives

As a result of this section, participants will be able to:

1. Discuss the dynamic between the court's ability to discharge its constitutional mandate to uphold the rule of Law and the public's interest in and right to information.

1.1 The State of the Judicial Branch

"Four things belong to a judge: to hear courteously, to answer wisely, to consider soberly and to decide impartially."

-- Socrates (Greek philosopher) circa 400 B.C.

The most recent public opinion survey conducted October 22-25, 2022 by the National Center for State Courts found that public perceptions of the courts continues to slide.² In 2021, 64% of the public had confidence in state courts and in 2022, the confidence decreased to 60%.³ Specific to federal courts, the public perception is 57% confidence regarding the public's perception which is a decline from 60% in 2021.⁴

- A. While courts remain the most trusted branch of government and public confidence in the courts has grown, public opinions can shift quickly based on external factors or extensive media coverage of high-profile trials.
- B. The greatest threat to public confidence, based on the survey, was doubt about partisanship and political bias in the selection of judges as well as the decisions they make.

The degree to which the judicial branch of government can fulfill its constitutional mandate is based largely on the public's respect for its authority. The public's trust and confidence can be inspired by transparency and accountability in court processes and delivery of fair outcomes in addition to the perception of fairness.

- C. Another concern of public confidence is the public's perception of fairness, inclusion and diversity of population. The 2022 State of State Court's Survey indicates that the perceptions of equal justice, the gulf between white and people of color is wide. The survey shows that there is overwhelming public support for courts doing more on behavioral health.

The judicial branch of government is tasked with administering justice in a fair, impartial, and a diligent manner.

1.2 The Judicial Branch of Government

- A. The framers of the U.S. Constitution were intentional in designing their new government to have three co-equal branches of government with counterbalancing checks and balances, creating an inherent tension in the system.
- B. Alexander Hamilton, James Madison and John Jay wrote a series of essays in *The Federalist* to convince New York voters to ratify the proposed constitution. An excerpt of the Federalist No. 78 relevant to this issue is as follows:

² The summary findings from the survey issued November 21, 2022 by the National Center for State Courts can be found at <https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-leadership/state-of-the-state-courts>

³ Ibid.

⁴ Ibid.

Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatsoever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.⁵

- C. Almost 200 years later, the *Chicago Tribune's* August 15, 1981 edition quoted U.S. Supreme Court Justice Thurgood Marshall as saying:
“We must never forget that the only real source of power that we as judges can tap is the respect of the people.”
- D. To earn and maintain public understanding, trust and respect, court professionals need to effectively communicate the proper role of the court and its many functions.
- E. Public knowledge of justice is largely derived from media coverage because most of the public doesn't engage with the court system. In current society, the public relies on the press, social media and technology to keep them current.
- F. Courts have an increasing role in transmitting good information about themselves to the public because disinformation has become a continuous phenomenon due to 24/7 instant worldwide communications.

Activity One – Challenges for the Court – Invite participants as a group to identify what threats exist today that potentially affect the court's ability to discharge its constitutional mandate and what role the public might play.

⁵ The Federalist No. 78, The Judiciary Department, Independent Journal, Saturday, June 14, 1788, [Alexander Hamilton]. For the full text of Federalist No. 78 go to: <http://www.constitution.org/fed/federa78.htm>.

Section 2 – Community Education and Outreach

Learning Objective

As a result of this section, participants will be able to:

2. Design a publicity campaign demonstrating knowledge of community education and outreach methods through news, social media and public outreach.

2.1 Outreach to Increase Public Awareness of the Courts

Courts are becoming more proactive in their efforts to reach out to teachers, students, community and business leaders, legislators, and the public in general. Findings from recent surveys show how little Americans know about their government. From results released by the Annenberg Public Policy Center on September 13, 2022⁶:

- Of the 1,113 U.S. adults surveyed, only 47 percent could name all three branches of the U.S. government, this is down from 56 percent in 2021. Nearly 25 percent could not name one branch.
 - The number of respondents who could name all five Freedoms guaranteed by the First Amendment was down dramatically. For example, only (24%) could name Freedom of Religion as one of those guarantees. This was down from (56%) in 2021.
 - When asked what it means when the Supreme Court rules 5-4, only 55 percent knew it means that, “the decision is the law and needs to be followed.”
 - As an example, on a state level, a statewide public opinion research project completed by the Florida Judicial Management Council showed that “only 34% of those surveyed claimed to be at least generally familiar with Florida’s court system.”⁷
- A. Many Public Information Officers (PIO) write content and publish material in the form of annual reports, courthouse guides, brochures, and newsletters. Publications are available in print and in electronic form.
- The annual report is a mechanism to highlight the court’s accomplishments and to set the stage for funding requests in the future.
 - A courthouse guide could include a brief history of the courthouse, a listing of contact information for courthouse offices, a map, and a brief overview of the court system. Some more detailed guides include: latest updates, resources and tools for user assistance, and programs and services available. As a couple examples see:
 - A Guide to the Clarence M. Mitchell, Jr. Courthouse, Baltimore, Maryland
<http://www.baltocts.sailorsite.net/about/courthouseguide.pdf>
 - Ninth Judicial Circuit Court of Florida, Orange County Courthouse
<http://www.ninthcircuit.org/about/courthouses/orange-county-courthouse>

⁶ <https://www.annenbergpublicpolicycenter.org/americans-civics-knowledge-drops-on-first-amendment-and-branches-of-government/>

⁷ Florida Courts. Education & Outreach. Accessible at <http://flcourts.org/resources-and-services/education-outreach/>.

- Brochures may be suitable for topics like how to file small claims, or what to expect from jury service. Some examples are:
 - Superior Court of California, County of Sacramento, Various Brochures
<https://www.saccourt.ca.gov/general/brochures/brochures.aspx>
 - Judicial Branch of Arizona, Maricopa County, Various Brochures
<http://www.superiorcourt.maricopa.gov/MediaRelationsDepartment/Publications/brochures.asp>
- Newsletters could be geared toward internal or external audiences, and could be tailored to a specific audience (e.g., jurors). The publication of Maryland's quarterly newsletter was overseen by an editorial board and was produced by the public information office. It was distributed to employees, legislators, heads of government agencies, bar associations, civic organizations, law libraries, and the media. Editorial board members were delighted to see an article in *The Washington Post* quoting their newsletter as the source. Generally, the editorial board members sought content that educates readers about some aspect of the court system, or focused on what the court system had accomplished. Copies of the newsletter were available in print form for those who did not have access to the Internet.
- B. In addition to providing information about the court to the general public, many other audiences benefit from timely, accurate information on the court's website including lawyers, jurors, journalists, students, and researchers.
- C. Use occasions like Law Day, Constitution Day, or National Adoption Day for a "good news" story about the court. There are resources available from the American Bar Association which can be located at: <https://www.americanbar.org/> and <http://www.nationaladoptionday.org/>.
- D. There are a number of interesting and promising programs that courts should be eager to showcase for the community. Making these connections through outreach better informs the general public of the role that its courts serve. Public awareness is improved through events such as judicial ride along programs, specialty court tours and partnering with other community providers for veteran assistance programs, National Adoption Day and other events.

2.2 Teachers and Students

- A. The Maryland court system provides bookmarks with a website address for more information. Bookmarks are not expensive to produce and are available in electronic form for printing (<http://mdcourts.gov/publications/pdfs/thurgoodl.pdf>). To educate children about the court system, there are coloring books. The Circuit Judges of Lake County, Illinois created a series of coloring books on learning about the law and judges. The books are inexpensive to copy and the pages are available in electronic form so teachers and parents can print the coloring books at school or at home (<https://www.ija.org/learn-about-judges-coloring-book>). Louisiana includes resources for the judges in the classroom outreach initiative (http://www.lasc.org/Education?p=Judges_in_the_Classroom).
- B. Career days at local schools are an opportunity for court leaders to explain the roles of judges, lawyers, and other court personnel in the justice system. Courts, partnering with the

local school system, may hold mock trial competitions letting students experience the justice system firsthand. There are law-related educators in most states who may have resources to share. For example, state coordinators for the national high school mock trial competition can be found at <http://www.nationalmocktrial.org/state-coordinators/>.

C. Law-related education

The Center for Civic Education is a repository of civics, government, and law programs across the country (<http://www.civiced.org/wtp-about-us/state-programs>) including free lesson plans (<http://www.civiced.org/resources/curriculum/lesson-plans>). Justice Teaching offers free lesson plans for presentations to elementary, middle, and high school classes (<http://www.justiceteaching.org>). Street Law offers sample lesson plans on youth courts at no cost that may offer good ideas for school visits relating to civics in general (<http://www.streetlaw.org/teaching-resources/>). iCivics provides curricula and games (<https://www.icivics.org/>).

2.3 Outreach to the Other Branches of Government

There are many formal and informal methods of building relationships with local government officials and legislators, vital to ensuring financial and political support for court operations. The target audience for outreach may depend on the court's source of funding and how the court is structured (e.g., local, state, federal). In many cases, the structure differs from jurisdiction to jurisdiction. However, there are also centralized models like Florida which has the Office of Community and Intergovernmental Relations with Florida's administrative office of the courts. This office serves as the general liaison for the courts.⁸

- A. Some courts have had success with “ride along” programs or shadowing programs. The court typically identifies dockets that demonstrate challenging issues and recruits members of the local bar to escort invited legislators during the day to answer questions. Time may be allotted for legislators to meet with the bench before and after the docket for informal discussion. It offers the appropriate time to discuss how the lack of adequate funding affects judicial administration in addition to the impact of legislative changes or the need for legislative changes.
- B. After the election cycle ends, there is an opportunity to invite all elected local officials to a briefing at the court. It could be similar in content to the “law school for journalists” mentioned earlier. An explanation of the court structure in context of being a separate and distinct branch of government can help establish the court's need to operate independently from the rest of local government. One Arizona court established a program titled, “View From The Bench” which has state legislators invited to sit in the courtroom during proceedings to get a sense of the daily work of judges and the legal issues that impact their constituents. It became so popular that the Legislature began their own similar program inviting judges to sit with legislators during their sessions.
- C. Courts are generally funded through arrangements with federal, state, or local governments. It is important for court leaders to “tell the story” and explain how these allocations are being wisely directed and managed. Whether for victim's rights, expansion of access,

⁸ For more information about Florida's Office of the State Courts Administrator, Office of Community and Intergovernmental Relations visit its webpage at: <http://flcourts.org/administration-funding/court-administration/community-intergovernmental-relations.stml>.

support for families and children or community outreach, courts should share how the constitutions of the court and funding authority are being best served through these efforts.

2.4 Coordinating Council

Justice system stakeholders need to be kept informed about new developments. One effective means of communication is the formation of a coordinating council. For example, several courts have juvenile and criminal coordinating councils that meet quarterly or biannually to identify issues that impede the judicious and timely processing of cases and to implement changes and develop procedures that will facilitate improvement. Juvenile issues may involve detention as well as children in need of assistance/ supervision and include representatives from all agencies involved. Criminal issues, such as using an automated system to schedule court cases around the availability of officers' schedules, affect local and state law enforcement agencies. The active participation in both councils has been a factor in the courts achieving their aspirational performance measurement goals. For more information about coordinating councils, see the National Network of Criminal Justice Coordinating Councils (NNCJCC) at <http://www.jmijustice.org/network-coordination/national-network-criminal-justice-coordinating-councils/>. There are many resources through the NNCJCC and several of the more successful coordinating councils are highlighted.

2.5 Speaking at Events

Many community and business groups welcome speakers and could benefit from hearing the court's perspective. To minimize the effort required to prepare for the speech, draft speeches could be created. As a general process, speaker's bureaus ask organizations to send a written request for a speaker and match requests with judges recruited for this purpose. Speaker's bureaus, generally, include speech outlines on topics of general interest. Prior to attendance at any public speaking event, judges should review and be versed on their judicial canons. How a judge's ethics apply to what they say in public depends largely on whether they are elected or appointed and even the topic and forum of the event.

2.6 Courthouse Visitors

Courthouse visitors are another important audience. To improve court users' understanding as well as their access to the court system, services such as self-help legal clinics, kiosks, videos and bilingual help may be offered. Other considerations are appropriate signage, clearly marked entrances and exits, knowledgeable security officers and waiting areas that are suitable for children (or even onsite child care services).

Websites are very important for courthouse visitors. The use of CourTool #1, Access and Fairness⁹ and a court user survey can be instrumental in identifying areas in need of improvement. Exit surveys of those who use court services can be very helpful in identifying how best to make courts more accessible and easier to navigate. The results and comments in these questionnaires can also lead to improvements in procedural fairness and how people are treated.

Some courts might consider experimenting with a practice similar to a "secret shopper" program employed primarily by private sector retail. The idea is that someone not familiar with the court would be challenged to navigate the court's website and even court buildings. The language and

⁹ https://www.courtools.org/_data/assets/pdf_file/0033/88737/Measure-1.pdf.

logic used on our websites and wayfinding signage in our buildings may make perfect sense to us but might be impediments to those who do not regularly use court services.

Activity Two – *Design a Publicity Campaign* – In small groups, participants will design a publicity campaign based on one of the scenarios outlined and drawing on elements covered in earlier sections. Consider assigning this activity early in the course in order to provide plenty of opportunity for the small groups to develop the campaign.

Section 3 – Courts and the Media: Balancing Roles and Responsibilities

Learning Objective

As a result of this section, participants will be able to:

3. List the limitations of public access to court records and proceedings, including alternatives the court may offer.

3.1 Legal Framework

To prevent misconstruction or abuse of government powers, the U.S. Congress adopted amendments to the U.S. Constitution in 1789. There are two amendments that largely provide the context for discussion about the judicial system and its relations with the public:

A. First Amendment

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

B. Sixth Amendment

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

3.2 Decisional Framework

A. Supreme Court Cases

The balance of a “free press” with “fair trial,” rights guaranteed by the First and Sixth Amendments, has been shaped by key decisions by the U.S. Supreme Court. Some of the U.S. Supreme Court cases also reference the Due Process Clause in the Fourteenth Amendment.

1. Prejudicial publicity

- *Estes v. Texas*, 381 U.S. 532 (1965) – was a case in which the United States Supreme Court overturned the fraud conviction of petitioner Billy Sol Estes, holding that his Fourteenth Amendment due process rights had been violated by the publicity associated with the pretrial hearing, which had been carried live on both television and radio.¹⁰
- *Sheppard v. Maxwell*, 384 U.S. 333 (1966) – new trial ordered based on due process concerns. In *Sheppard v. Maxwell*, the U.S. Supreme Court held that publicity that is massive and pervasive could inherently prejudice a defendant's sixth amendment rights to a fair trial. Courts use various remedial measures in an attempt to negate the

¹⁰ <https://supreme.justia.com/cases/federal/us/381/532/>

effects of negative publicity. The effectiveness of these measures -- voir dire, continuance, sequestration, and change of venue -- have been questioned both in their logistics and effect.¹¹

- *Chandler v. Florida*, 449 U.S. 560 (1981) – The Florida Supreme Court, following a pilot program for televising judicial proceedings in the State, promulgated a revised Canon 3A (7) of the Florida Code of Judicial Conduct. The Canon permits electronic media and still photography coverage of judicial proceedings, subject to the control of the presiding judge and to implementing guidelines placing on trial judges' obligations to protect the fundamental right of the accused in a criminal case to a fair trial. Appellants, who were charged with a crime that attracted media attention, were convicted after a jury trial in a Florida trial court over objections that the televising and broadcast of parts of their trial denied them a fair and impartial trial. The Florida District Court of Appeal affirmed, finding no evidence that the presence of a television camera hampered appellants in presenting their case, deprived them of an impartial jury, or impaired the fairness of the trial. The Florida Supreme Court denied review. The Florida courts did not construe *Estes v. Texas*, 381 U. S. 532, as laying down a per se constitutional rule barring broadcast coverage under all circumstances.¹²
- *Mu'Min v. Virginia*, 500 U.S. 415 (1991) - The trial judge's refusal to question prospective jurors about the specific contents of the news reports to which they had been exposed did not violate Mu'Min's Sixth Amendment right to an impartial jury or his right to due process under the Fourteenth Amendment.¹³

2. Gag Orders

It is no surprise that courts attempted to address pretrial publicity with gag orders.

- *Nebraska Press Association v. Stuart*, 427 U.S. 539 (1976) – gag order was determined to be unconstitutional constraint. In this case, the court struck down an order prohibiting the media from reporting on certain confessions or admissions of the defendant. The court made clear that overcoming the presumption in favor of free speech is a “heavy burden,” even when balanced against protecting the rights of an accused. The majority closed by saying: Our analysis ends as it began, with a confrontation between prior restraint imposed to protect one vital constitutional guarantee and the explicit command of another that the freedom to speak and publish shall not be abridged. We reaffirm that the guarantees of freedom of expression are not an absolute prohibition under all circumstances, but the barriers to prior restraint remain high and the presumption against its use continues intact.
- It is difficult to constitutionally restrain the media from reporting what was learned in open court.

¹¹ <https://www.ojp.gov/ncjrs/virtual-library/abstracts/prejudicial-publicity-criminal-trials-bringing-sheppard-v-maxwell>

¹² <https://supreme.justia.com/cases/federal/us/449/560/>

¹³ <https://supreme.justia.com/cases/federal/us/500/415/>

3. Closed Courtrooms

If the media could not be restrained from reporting what happened in open court.

- *Gannett v. DePasquale*, 443 U.S. 368 (1979) – the judge could close the pretrial suppression hearing in a publicized murder case.
- *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980) – the judge could not close the criminal trial without findings.
- *Globe Newspaper Co. v. Superior Court for Norfolk County*, 457 U.S. 596 (1982) – the closure of trials during the testimony by minor rape victims cannot be statutorily mandated.
- *Press-Enterprise Co. v. Superior Court of California, Riverside County* [Press-Enterprise I], 464 U.S. 501 (1984) – found unconstitutional the closure of the six-week *voir dire* proceeding in the rape and murder of a teenage girl as well as the denial of the request for a transcript.
- *Waller v. Georgia*, 467 U.S. 39 (1984) – reversed the closure of the motion to suppress hearing.
- *Press-Enterprise Co. v. Superior Court of California, Riverside County* [Press-Enterprise II], 478 U.S. 1 (1986) – closure of a preliminary hearing in the murder case was unconstitutional.

B. Other Cases

There are many other issues affected by the balance of the guaranteed rights of free speech and freedom of the press with the guaranteed right to a fair trial. Court cases have addressed some of them:

1. Gag orders affecting trial participants, post-trial interviews with jurors or pretrial participants (e.g., grand jury witness disclosing his or her own testimony after the grand jury term ended);
2. Media access to grand jury proceedings (grand jury secrecy generally preserved);
3. Media access to bench conferences or sidebar conversations (under some circumstances, media prevailed);
4. Jury deliberations (secrecy preserved generally);
5. Juries and jury records (opinions vary);
6. Secret dockets (non-public cases that do not appear on dockets or appear using pseudonyms);
7. Sealed records (opinions vary).

3.3 Ethical Framework

A. Judges and Journalists

How judges and journalists fulfill their roles in the balance of fair trial versus free press is shaped by ethical standards.

1. Federal and state judges are bound by codes of judicial conduct. Violations are brought before judicial conduct commissions and sanctions may result.
 2. The Society of Professional Journalists and the Radio Television Digital News Association both have a one-page code of ethics. They are guides and not legally enforceable.
- B. Court Staff
- Many codes of judicial conduct address a judge's communication with citizens and public groups. Many courts may have codes of conduct for employees. Most likely, the applicable code of judicial conduct for judges in a local court refers to court staff and court officials as well.
1. American Bar Association's Model Code of Judicial Conduct:
Rule 2.10: Judicial Statements on Pending and Impending Cases
(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.
(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.
(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).
(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.
(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.
Local codes of judicial conduct address acceptable action regarding release of information to the public. Court personnel responsible for media relations need to become familiar with and abide by those rules."
 2. NACM Model Code of Conduct for Court Professionals
This is another great source of information for court professionals and versions of it have been adopted by many states and local jurisdictions. It is available at:
<https://nacmnet.org/ethics/index.html>.

For more information about ethics and its importance in the court administrator's job see the **NACM Core→ Ethics Curriculum Design**.

Activity Three (a) – Public Access and the Limitations – Using the ABA Model Code of Judicial Conduct or local applicable ethical code as a guide, participants will be asked to discuss in small groups what they learned about actions that may limit public access and which ethical statements may apply.

3.4 The Court's Role in Public Relations

The Conference of Chief Justices and Conference of State Court Administrators (COSCA) have paid a great deal of attention to the role the public plays in the effective operation of the justice system. In June 2000, teams from each state convened at the National Conference on Public Trust and Confidence in the Justice System to develop action plans for each state court system. The National Center for State Courts took a lead role in this effort and later served as a clearinghouse for programs implemented as a result of this national undertaking.

A. Conference of State Court Administrators' policy statement on Effective Judicial Governance and Accountability:

"While vigilant of our constitutional prerogatives as a separate branch of government, the judiciary must go beyond merely accepting appropriate outside review and affirmatively welcome it as the best opportunity to educate the public and the other branches about the mission, accomplishments and needs of the third branch. It is in that context that the Judiciary will best be able to articulate how excessive interference with court operations can impair the ability of the courts to provide the public with the highest level of service."¹⁴

B. Policy Paper on Effective Judicial Governance and Accountability, Conference of State Court Administrators:

- Develop strong communications and public affairs offices that work cooperatively and actively with the other branches and the media to educate them and the citizenry about specific judicial decisions and the judicial branch's performance and role in our governmental system.
- Establish judges' groups to meet with public officials and speak at forums and town meetings to improve understanding of the judiciary's functions, needs and problems.¹⁵

C. Policy Paper on Court Data: Open, With Care, Conference of State Court Administrators:

- State courts have the authority and responsibility to establish policies to control access to and manage release of court case data. In discharging that responsibility, state courts need to consider limits on access imposed by the need to also protect individual privacy, consider costs, concerns for data integrity, and the limits of technology.¹⁶

D. The State Justice Institute has also included in its list of national initiatives, public trust and confidence in the courts.

¹⁴ COSCA, Policy Statement: Effective Governance and Accountability (November 2001) available at: <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/11302001-Judicial-Governance-Policy-Statement.ashx>.

¹⁵ COSCA, Policy Paper on Effective Judicial Governance and Accountability (Dec. 2001) available at: <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/judgovwhitepapr.ashx>.

¹⁶ COSCA, Policy Paper on Court Data: Open With Care (2019) available at: https://cosca.ncsc.org/__data/assets/pdf_file/0017/51173/2019-COSCA-White-Paper.pdf

3.5 Who Are the Media?¹⁷

The courts need to provide information to their intended audiences as part of their ongoing public relations program. Understanding the scope and reach of each type of media will help courts tailor messages accordingly.

- A. Media respond to the public's need for information. The news the public receives through the media is an important influence on the public's understanding of the legal system.
- B. The objective of news media is telling a story and represents the public's interest. It's in the public's interest to be informed and media reporting holds courts accountable. The court's objective is to protect the constitutional rights of stakeholders. How does the court ensure both openness and due process?
- C. Who are "the media"? Anyone can claim to be a journalist. Other media sources include outlets such as blogs, Twitter, Facebook, LinkedIn, YouTube.
- D. Traditional journalism has evolved as news organizations seek to engage the digital market. Deadlines have generally shifted to "as soon as possible" to meet the 24-hour news cycle for both print and broadcast news organizations. The days of the beat reporter are becoming a thing of the past. Assignments go to who is available at the time so journalists may be covering court proceedings without any prior court experience. Traditional journalists who regularly gather news and have relationships with their sources as well as access is becoming less common. The resulting news stories are subject to an editorial process.
- E. Statistics about Media Usage
 - The Pew Research Center in 2020 found that 52% of Americans prefer to get news on a digital platform, 35% of Americans receive their news from television, 7% from radio news and 5% from print publications.¹⁸
 - A Gallup poll conducted in June 2013 found that Americans turn to news about current events in the U.S. and around the world: television (55%), Internet (21%), print (9%) and radio (6%). By age, the findings were fairly consistent except for those 65 and older, 68% preferred television, only 6% preferred the Internet and 18% preferred print. More recently, Gallup polling from 1972-2022 determined Americans trust in the media is at an all-time low with 38% reporting "no trust at all."¹⁹
 - "In contrast to the idea that one generation tends to rely on print, another on television and still another the web, the majority of Americans across generations now combine a mix of sources and technologies to get their news each week, according to the survey by

¹⁷ For an interesting discussion of Who Are the Media, see: <https://www.techfunnel.com/martech/traditional-media-vs-new-media-beneficial/#:~:text=Traditional%20media%20include%20radio%2C%20broadcast,success%20with%20traditional%20media%20campaigns>.

¹⁸ Pew Research Center, Survey August 31-September 7, 2020 <https://www.pewresearch.org/fact-tank/2021/01/12/more-than-eight-in-ten-americans-get-news-from-digital-devices/>

¹⁹ <https://news.gallup.com/poll/403166/americans-trust-media-remains-near-record-low.aspx>

the Media Insight Project, an initiative of the American Press Institute and the Associated Press-NORC Center for Public Affairs Research.”²⁰

- Where people go for news depends on the topic. For weather, traffic, crime and health news, people are most likely to turn to local TV.
- By age, people follow crime and public safety news: ages 18-29 64%; ages 30-39 68%; ages 40-59 62%; and ages 60 and older 80%.
- People depend on local TV news the most (40%) for crime and public safety news, followed by newspapers (17%), unspecified TV stations (13%) and 24-hour TV news (12%).²¹
- “Yet social media appears to be largely adding to, rather than replacing, other ways that people get news. At the same time that 4 in 10 now use social media, more than 80 percent of Americans say they also got news in the last week by going directly to a news organization in some manner – and that was consistent through generations.”²²

F. New media sources:²³

- Social media (e.g., Facebook) – users join and share information about themselves with others designated as friends or contacts.
- Blogging (e.g., Twitter) – users send brief text messages, photographs or audio clips to be viewed by anyone or as designated by the user. Visitors can add comments but cannot alter the original posts.
- Visual media (e.g., YouTube) – users post video and images that are easily shared and searched.
- Wikis (e.g., Wikipedia) – a website with a collective work of many authors allowing anyone to modify the content.

G. Social media users get news from social media websites and still get news from a variety of other sources.²⁴

Facebook reaches far more Americans than any other social media site. Thirty percent of U.S. adults get at least some news while on Facebook although 78% of Facebook news users mostly see news when on Facebook for other reasons. Just 34% of Facebook news consumers “like” a news organization or individual journalist. News is most likely coming from friends.²⁵

²⁰American Press Institute available at: <http://www.americanpressinstitute.org/publications/reports/survey-research/personal-news-cycle/single-page/>.

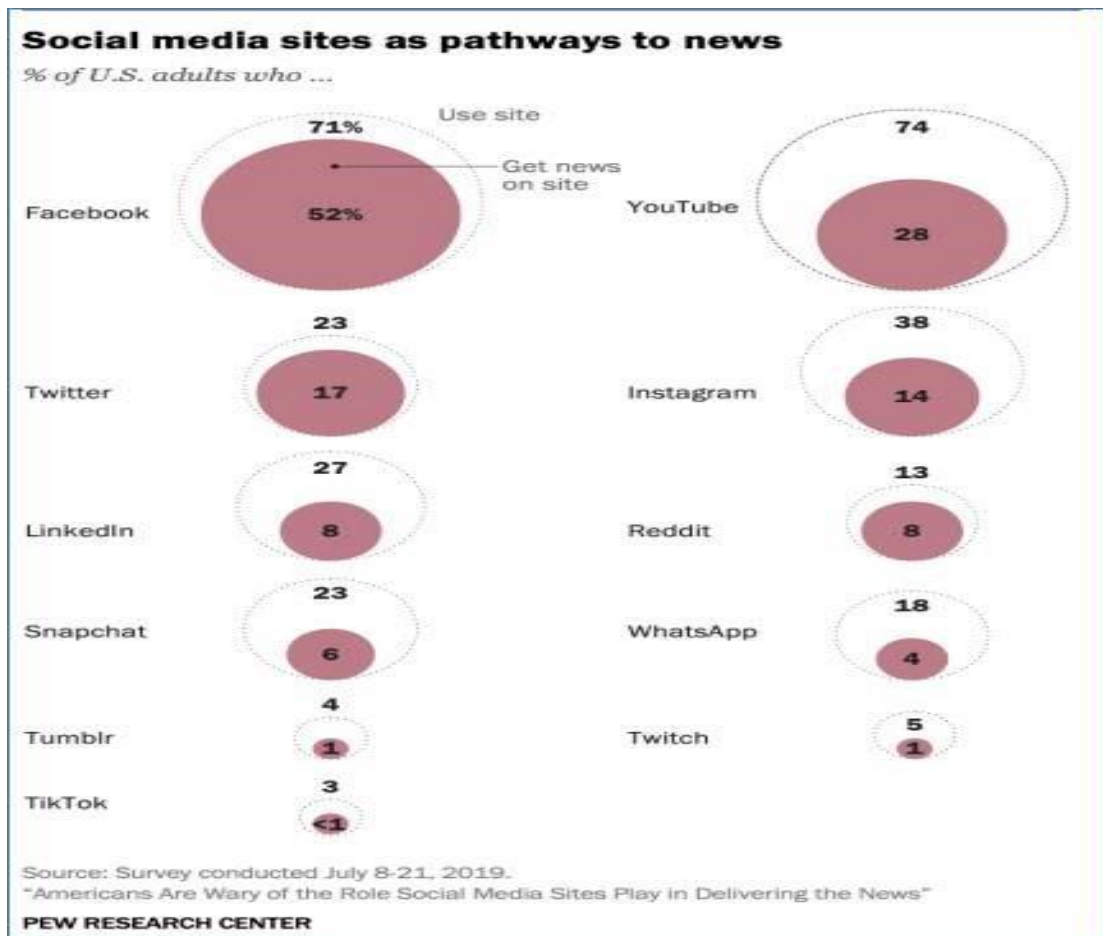
²¹ Ibid.

²² Ibid.

²³ 2014 CCPIO New Media Survey, A Report of the Conference of Court Public Information Officers (2014) available at: http://ccpio.org/wp-content/uploads/2014/08/CCPIO-New-Media-survey-report_2014.pdf.

²⁴ Pew Research Center, Survey August 31-September 7, 2020 <https://www.pewresearch.org/fact-tank/2021/01/12/more-than-eight-in-ten-americans-get-news-from-digital-devices/>

²⁵<https://www.pewresearch.org/journalism/2019/10/02/americans-are-wary-of-the-role-social-media-sites-play-in-delivering-the-news/>.



Activity Three (b) – Public Access and the Limitations – Referring back to the list of actions in Activity Two (a) that may limit media access to court files or proceedings, small groups will consider how limited access would impact news and social media and what ethical steps could be taken by the court to offer alternatives.

Section 4 – Media Relations: Tools, Tips, and Strategies

Learning Objective

As a result of this section, participants will be able to:

4. Prepare and critique press releases using standard criteria.

4.1 Building Relationships

The best way to get positive media coverage is to build relationships. Good relations can get the media to call to check facts, invite comments and get clarifying background information that can help shape the story. Good relations can also preempt negative stories. The goal is to educate the media so that the public is educated about the justice system, thereby increasing their trust.

- A. Media that have a legitimate news interest (courts across the country struggle with who is legitimate and who is not) will want to report on court trials and other court news. Anyone designated as the court's contact for media inquiries should have a media plan if only an informal one (discussed in Section 4).
- B. Upon first being contacted, the court's media liaison should establish if there is a deadline for the story, what the journalist needs and who else the journalist has contacted or will contact for the story.
- C. Every media inquiry is an educational opportunity. How well the court responds can make a difference for the present and the future.

4.2 Delivering the Most Effective Messages

- A. Regardless of the format the information is provided to the media, the messages conveyed are important. The court system has its own language not easily understood outside the legal profession. Communications should use plain English with necessary legal terms explained simply. Research by Justice at Stake found that Americans want courts to be fair and impartial, accountable to the law and Constitution.
- B. Certain phrases connect better with Americans' values when delivered to an audience beyond the legal community. For example, the concept of judicial independence is better expressed by "fair and impartial courts." Sample messages for a letter to the editor, an op-ed piece and newsletter article are included in Justice at Stake's Speak to American Values messaging guide. For more information about the messaging guide view the Justice at Stake's article at:
http://www.justiceatstake.org/resources/judicial_outreach/delivering_an_effective_message/speak-to-american-values/.

4.3 Choosing the Method/Mean of Communication

- A. Press Releases
Press releases, media advisories, and public service announcements are often used to transmit news to the public in print and broadcast or to inform the media about breaking news. Press releases are typically used by courts to announce new services, system improvements, awards, appointments, building enhancements, ceremonies, community outreach, and other events that promote the public's trust and confidence in the justice

system. Media advisories are generally used to alert the media about sudden developments, e.g., courthouse closures, opinion expected in a high-profile case, press events for significant announcements. Public service announcements may be educational (e.g., helpful tips about the court system) or to create awareness (e.g., court closed due to severe weather, calls about jury service may be scams).

Activity Four (a) – Drafting and Critiquing Press Releases– Faculty will provide a factual story unrelated to the courts and will invite participant suggestions in the process of creating a brief sentence or two to cover the elements of who, what, when, where, why and how.

1. Press releases should cover who, what, when, where, why and how. The difficulty is addressing those essential elements in a brief sentence or two that is concise and easily understood. Consideration should be given to the most important element of the six to the audience you are trying to reach. For example, the *who* may be more important than the others because the person is a public figure. If timeliness is important, the *when* may be the first element covered. A quick way to determine the best way to convey your main point is to list the six elements, filling in the blanks next to them with the information you have and assigning a number in order of importance.
2. Consider the news reporting style used by print and broadcast news organizations. News stories lead with the main point (called the “lead”) of the story then fill in the details later. To catch the attention of print and broadcast news outlets, press releases need to lead with a headline and a brief first paragraph that impacts the reader.
3. After the main and most important point, news reports provide details in descending order of importance. Press releases should follow the same structure.
4. An important consideration of the media piece is its newsworthiness. The audience you are trying to reach will be most interested in stories that impact them, have a significant magnitude, deal with conflict, feature prominent people, are close to them geographically, are happening now, are particularly unusual, and/or have emotional appeal. Your story should have some of those values present to be of interest to the public.

KEY TIPS FOR DRAFTING A RELEASE:

- | | |
|--|---|
| ✓ Avoid jargon/legalese | ✓ Keep the release to 1 – 2 pages maximum |
| ✓ Identify the audience | ✓ Make sure the headline grabs an individual's attention |
| ✓ Identify the key message(s) | ✓ Make sure the language is at a sixth-grade reading level |
| ✓ Include contact information | ✓ Prepare for follow up questions and/or a request for an interview |
| ✓ Include data/statistics, if possible | ✓ Provide examples, if possible |
| ✓ Keep the content short and simple (similar to an elevator pitch) | ✓ Provide quotations from subject matter experts |

Activity Four (b) – Drafting and Critiquing Press Releases – The class will critique the press releases provided. Faculty may also (or alternatively) wish to provide your own press releases as examples.

5. A listing of local media with email addresses and deadlines for submitting news or community events is an important tool. The press release should be reviewed by the appropriate court authority and by someone with strong proofreading and editing skills.
6. Effective press releases (with photographs, if appropriate) may be published by small, local papers as submitted. You should be prepared to get calls from the news outlets upon receiving your press release with follow up questions. Although the story that is published or broadcast may be presented differently than your release, what matters is that the public was informed. A sample press release template is available in the faculty resources section.

B. Letters to the Editor

Another approach to getting your message to the public is submitting a letter to the editor or a lengthier opinion piece. Neither should be edited by the news outlet without permission by the author. A letter to the editor may be appropriate to clarify the court's role in a controversial case as reported.

1. Letters to the editor should be short and should offer factual information.
2. Submitting an essay for publication as an op-ed (opposite the editorial page) may be effective to affect opinion of issues currently in the public's discourse. For example, when court funding is threatened or budget cuts are proposed, explaining the consequences and offering alternatives written by someone who is viewed as an authority may get some attention.

3. There are times when you may need to issue statements in response to a high volume of email messages from the public or requests by the media.

C. Press Conferences

Press conferences are easily arranged but should be undertaken for significant news. Also, it may be your intent to brief the press on the immediate reason for the press conference but that does not preclude them from asking questions about any matter in your court.

4.4 Interacting with the Media

In interacting with the media, consider that journalists don't just cover trials. By subjecting police, prosecutors, and the judicial process and operations to extensive public scrutiny (and, of course, criticism), the reporting guards against miscarriages of justice. Also, our democratic form of government is based on an informed and active citizenry.

- A. Know exactly what "off the record" means and assume anything you say is public unless you and the reporter have a clear understanding of what's background and what's public.
- B. Courts are conscious of the need to preserve the right to a fair trial and are sensitive to privacy issues arising from personal and potentially embarrassing information in court records. Also, almost everyone has an example of negative or inaccurate reporting or editorial writing. For those reasons, some may be hesitant to take calls from reporters. The reality is that a story will be published or aired with or without your perspective. If the resulting story is negative or has factual inaccuracies, how can we criticize journalists if we don't return calls? For example, a journalist on deadline was assigned to report on a court decision. The court won't return calls and documents are not posted online. What is the likely outcome? We can overcome negative or inaccurate information disseminated to the public with more information, not by restricting access. Steps to improve access to information include:
 - Publishing court rules, dockets and opinions online;
 - Posting electronic court records online;
 - Designating someone to handle media calls;
 - Developing educational web content; and
 - Including the local bar in media plans.

Bad legal reporting hurts everyone. Ask for corrections in a story that is likely to be revisited by the media in the future because inaccuracies may be repeated in subsequent coverage.

- C. Many PIOs gauge the accuracy and depth of media coverage by monitoring news outlets – and blogs. Some PIOs circulate news articles, editorials and blog postings to their courts so that court officials are informed about issues of interest to the media and the public, and to prepare judicial leaders for responding to critical coverage. You can sign up for free Google news alerts tailored to your area. Twitter offers free analytics to help measure the impact of your tweets.
- D. Whether having access to court files or electronic court records, journalists are likely to have questions about terminology or proceedings. A particularly useful resource is a guide for journalists. The Journalist's Guide to Maryland's Legal System explains in basic terms how

civil and criminal matters are adjudicated from filing to resolution, explains the role of justice-related officials and includes a glossary of terms, for example. Teachers and civic organizations have found this guide helpful, too. The guide can be downloaded at: <https://online.flippingbook.com/view/691761>

- E. Journalist guides are not the only educational offering. Some PIOs develop and deliver the equivalent of a “law school for journalists.” A meeting of the bench and the local media can be a productive means to better understand each other’s priorities and to take steps to resolve areas of contention. Another way to encourage an ongoing dialogue is to form a working group with representatives from the bench, bar, and media. Maryland’s working group formed as a result of the provocative discussion at an educational program designed for judges and journalists to promote understanding. <https://www.google.com/url?q=https://www.msba.org/for-members/committees/editorial-advisory/>

4.5 Use of Social Media by Courts

Courts are using social media as another way to disseminate information to the public. Email lists of media contacts can become outdated. On the other hand, followers of social media (e.g., Twitter subscribers, Facebook friends, YouTube or TikTok followers) can see content as soon as it is posted. Courts can tweet or post links to other content. One court tweets thank you notes to everyone who posts messages about their jury service, and tweets about court delays or closings. Facebook and YouTube provide an opportunity to add visual images to messages that might otherwise be disseminated in press releases. The National Center for State Courts keeps a list of current social media accounts (<https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/home/overview>). The following are a few good examples of courts using social media:

- A. Twitter
- Clark County Courts [@LasVegasCourts](#)
 - New Jersey Courts [@njcourts](#)
 - Florida Supreme Court [@flcourts](#)
 - District of Columbia Courts [@DC_Courts](#)
- B. Facebook (Name represents Facebook account name)
- Clark County Courts <https://www.facebook.com/ClarkCountyCourts.NV>
 - New Jersey Courts <https://www.facebook.com/pages/New-Jersey-Courts/92569242329>
 - D.C. Courts <https://www.facebook.com/TheDCCourts>
- C. YouTube

- D.C. Courts
DCCourtsChannel
<https://www.youtube.com/channel/UC8T2CIV5UkqgYbzJaxUYMRA>
- New Jersey Courts (account name is the same)
<https://www.youtube.com/user/njcourts>

D. Pitfalls

- Judges should be aware that posting on Facebook may have negative consequences. The Texas State Commission on Judicial Conduct (April 20, 2015) admonished two judges for two separate incidents of posting comments about a pending case on his Facebook page.²⁶ A Georgia judge resigned in January, 2010 after questions arose about his Facebook relationship with a defendant.²⁷ A judge criticized a victim-impact statement on Facebook and the victims and their friends responded on Facebook, urging his ouster.
- The Mississippi Commission on Judicial Performance, with her agreement, recommended that former judge Nicole Clinkscales, who resigned in June, be publicly reprimanded and fined for making numerous statements on Facebook and Twitter that “could be reasonably construed to show racial bias and prejudice,” endorsed a political candidate on Facebook, ordered some participants into drug court, which is a voluntary program, ordered her nephew into drug court, made “misleading and deceptive responses” to questions from a reporter regarding a 2009 arrest for failure to obey a police officer, routinely started court late, and displayed poor courtroom demeanor.
- Guidance from the American Bar Association on judges’ use of electronic social networking media (ESM) is as follows:

Judicious use of ESM can benefit judges in both their personal and professional lives. As their use of this technology increases, judges can take advantage of its utility and potential as a valuable tool for public outreach. When used with proper care, judges’ use of ESM does not necessarily compromise their duties under the Model Code any more than use of traditional and less public forms of social connection such as U.S. Mail, telephone, email, or texting.

- Many government agencies are using social media regularly. A good overview of the issues affecting government agencies – local, state, or federal – is described in the Government Accountability Office’s (GAO) Challenges in Federal Agencies’ Use of Web 2.0 Technologies:

“Web 2.0” technologies—such as Web logs (“blogs”), social networking Web sites, video- and multimedia-sharing sites, and “wikis”—are increasingly being utilized by federal agencies to communicate with the public. These tools have the potential to, among other things, better include the public in the governing process. However, agency use of these technologies can present risks associated with properly managing and protecting government records

²⁶ In Re Christopher Dupuy (Tex. Commission Jud. Conduct, 2014) and In Re Michelle Slaughter (Tex. Commission Jud. Conduct, 2015). Opinions available at: <http://www.scjc.state.tx.us/pdf/actions/FY2015-PUBSANC.pdf>.

²⁷ Weiss, D., Ga. Judge Resigns after Questions Raised about Facebook Contacts (A.B.A. J. Jan. 7, 2010) available at: http://www.abajournal.com/news/article/ga._judge_resigns_after_questions_raised_about_facebook_contacts/.

and sensitive information, including personally identifiable information. In light of the rapidly increasing popularity of Web 2.0 technologies, GAO was asked to identify and describe current uses of Web 2.0 technologies by federal agencies and key challenges associated with their use.

To accomplish this, GAO analyzed federal policies, reports, and guidance related to the use of Web 2.0 technologies and interviewed officials at selected federal agencies, including the Department of Homeland Security, the General Services Administration, and the National Archives and Records Administration.

Federal agencies are using Web 2.0 technologies to enhance services and support their individual missions. Federal Web managers use these applications to connect to people in new ways. Several challenges in federal agencies' use of Web 2.0 technologies have been identified:

Privacy and security. Agencies are faced with the challenges of determining how the Privacy Act of 1974, which provides certain protections to personally identifiable information, applies to information exchanged in the use of Web 2.0 technologies, such as social networking sites. Further, the federal government may face challenges in determining how to appropriately limit collection and use of personal information as agencies utilize these technologies and how and when to extend privacy protections to information collected and used by third-party providers of Web 2.0 services. In addition, personal information needs to be safeguarded from security threats, and guidance may be needed for employees on how to use social media Websites properly and how to handle personal information in the context of social media.

Records management and freedom of information. Web 2.0 technologies raise issues in the government's ability to identify and preserve federal records. Agencies may face challenges in assessing whether the information they generate and receive by means of these technologies constitutes federal records and establish mechanisms for preserving such records, which involves, among other things, determining the appropriate intervals at which to capture constantly changing Web content. The use of Web 2.0 technologies can also present challenges in appropriately responding to Freedom of Information Act (FOIA) requests because there are significant complexities in determining whether agencies control Web 2.0-generated content, as understood within the context of FOIA. Federal agencies have begun to identify some of the issues associated with Web 2.0 technologies and have taken steps to start addressing them. For example, the Office of Management and Budget recently issued guidance intended to (1) clarify when and how the Paperwork Reduction Act of 1995 applies to federal agency use of social media and Web-based interactive technologies; and (2)

help federal agencies protect privacy when using third-party Web sites and applications.”

e. Standards and Guidelines

- NCSC has answers to many frequently asked questions and some suggested guidelines for courts looking to develop social media accounts, <https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/home>.
- Michigan Trial Courts have also developed a Standards and Guidelines for Websites and Social Media, https://www.courts.michigan.gov/4ae4df/siteassets/court-administration/standardsguidelines/operations/standards-and-guidelines-for-websites-and-social-media_updated-9-20.pdf

Section 5 – Court Communications

Learning Objectives

As a result of this section, participants will be able to:

5. Design media strategies for hypothetical situations using new tools and criteria.

5.1 Role of Court Staff in Charge of Public Information

- A. Defining the Role – Court personnel who work in communications and public affairs offices are responsible for activities involving media relations, public education, community outreach, legislative/government relations, internal communications, and publications are called public information officers (PIOs). Typically, PIOs -- or court personnel designated to fulfill that function -- focus primarily on media relations to improve the accuracy of news coverage and to promote the education of the public on important legal issues and concepts. The actual areas of responsibility vary from court to court. Not all courts have full-time PIOs. Sometimes the judge who has administrative responsibility (e.g., presiding judge) handles relations with the media for the court and, in some cases, court personnel -- such as the clerk of court or court administrator -- are assigned those responsibilities as the need arises.
- B. Building Credibility – The person functioning as a PIO is most effective if identified as the contact on the court's behalf for all media inquiries. This individual's goal is to build credibility with the media and court personnel as the source of timely and accurate information. To be successful, the PIO must have access to those who make decisions on the court's behalf and be kept informed as new developments occur. If the person functioning as the PIO has the support of the court and is perceived by court personnel to have the court's trust, it is more likely that court personnel will assist the PIO in responding to media inquiries. Likewise, the person functioning as the PIO should be seen by the media as a valuable resource. Even if the PIO cannot answer a reporter's question (e.g., case is pending), there may be information readily available that would advance the reporter's story (e.g., statistics). Courts making an effort to determine the reporters' needs, steering them from case specific questions, will show a genuine effort to function as a media resource.
- C. Identifying Accessible Information – Another critical aspect of the PIO role and/or staff in charge of communications is the mastery of what information can be released to the public as well as the basis for any exemption from disclosure. What information is considered in the public domain varies from state to state and between state courts and the federal court system. Some state constitutions govern access to court records. Most states enacted legislation similar to the federal Freedom of Information Act but many do not apply to court records. The PIO acts as the legal authority for permitting or denying access to court records, both in paper and electronic form.
- D. Fielding Requests – In this age of technology, journalists expect to have greater access to court records and data than in the past. Journalists familiar with the federal court system's Public Access to Court Electronic Records (PACER) service expect state courts to provide similar access. While providing access to data does not raise as many concerns about individual privacy, there are many courts that deny requests for data because of the court resources involved. The PIO can be a valuable resource in fielding requests from the media

and determining what data they seek. It may be possible to provide data that has already been compiled that would assist a journalist in his or her pursuit once the PIO understands what angle the journalist is following.

- Court records in electronic form are a different matter. Courts across the country are struggling with how much information from court records should be available using Internet technology. Court records may include such personal identifiers as home address, social security number, and date of birth. Journalists and those representing commercial interests find the personal information invaluable in ensuring the identities of parties of interest. At the same time, the parties of interest may be concerned about their personal safety and their exposure to identity theft.
 - In Maryland, journalists have made regular use of the docket information from trial courts statewide published in CaseSearch (<http://casesearch.courts.state.md.us/casesearch//inquiry-index.jsp>). From their desktops, they can search court records at no cost. Often, the resulting coverage references the source. Not only does it save the journalists time, it promotes accuracy in reporting and highlights the transparency of court operations. Also, it lessens the demands on court personnel who have to track and retrieve court files.
- E. Clarifying Accessibility – Court personnel must also know what records may be inspected and, if access is denied, the basis for the exemption from disclosure. It may be helpful to prepare a chart²⁸ of the different categories of records available in the courthouse with the applicable legal citations. For example, journalists often want copies of jury lists. What jury information is available, when it is available, and the legal citation would be useful to know and have readily available when journalists call on a deadline. Court personnel may direct questions to their supervisors or the person serving as the PIO. Some PIOs provide training to court personnel on access to records.
- F. Identifying Sources – If court personnel are knowledgeable about the extent to which court records are subject to inspection, journalists will most likely get their information from court files in the courthouse. Some journalists may contact judges, instead, hoping to get quotes. PIOs routinely return media calls so that news reports will not state that the court refused to return the call. PIOs assess the nature of the call and determine who might be the court's best spokesperson or who from their court might best provide information to the PIO that they can then use in a response. Often, the PIO is the court's spokesperson and will answer factual questions about a case or an administrative issue to the extent the information is public. Note that practices vary from state to state and between the state and federal courts. Those serving as PIOs in the federal courts are most likely to answer questions about logistics only while state court PIOs may deal with facts of the case.
- G. Planning a Response – If the court received funding for courthouse renovation or a new judge was appointed to the bench, a judge may be the best spokesperson. PIOs can help the judge prepare for a print or on-camera interview by reviewing the list of anticipated

²⁸ For example, see the Michigan chart of Non-public and Limited Access Court Records: https://www.courts.michigan.gov/4993c9/siteassets/court-administration/standardsguidelines/casefile/cf_chart.pdf

questions and handling the logistics. PIOs work with the media to determine the appropriate setting (judge's office versus a conference room), the length of interview, the interview parameters (e.g., limitations of judicial ethics code) and who else is likely to be contacted for the story. If the interview is broadcast or photographs will be taken, the PIO can work out the arrangements.

- H. Providing the Rules – The extent to which photography and filming may occur in the courthouse and courtrooms varies. PIOs can make available to the media the rules regarding camera use and can coordinate the use with the court, courthouse security, and others. On some occasions, media coverage with cameras may be welcome.
- I. Recommending Responses – When controversy arises after a court proceeding that was open to the public, the court's files and recording of the proceeding are potential resources for the media. The PIO can assist the presiding judge in retrieving and reviewing the files and any recordings made for the court's use. While a judge may not be able to comment on pending or impending cases, the judge's own words on the record in a case open to the public can be effective. Recognizing that media deadlines dictate immediate responses to most questions – particularly when a controversy arises -- a PIO can be valuable in recommending what information to provide. Asking a journalist to wait a couple of days for a copy of the court's recording will not serve the court's best interest. The story will break without the court's perspective and it may be difficult to overcome the public perceptions created. Ideally, the PIO can make a copy of the court's recording or a transcript, with the pertinent section noted.
- J. Responding to Criticism – A PIO can provide help, too, when a judge or the entire court is the subject of criticism for decisions about case management or when the public perceives the justice system is not functioning well. For example, the trial judge newly appointed to take charge of the criminal division in a large trial court in Maryland accepted the challenge of responding to criticism on behalf of his bench. Due to pressures on the bench and bar in a high-volume trial court, postponements became a necessity. When four defendants charged with murder were set free because the legal limit for prosecution had expired, the public was outraged. The state's legislative body called for public hearings and funding for the entire judicial branch was in jeopardy. The trial judge implemented measures to reduce the number of postponements and to expedite case processing. He compiled statistics on a regular basis to show how those measures were producing immediate results. The PIO worked with the trial judge to provide talking points for the judge to use in media interviews and in legislative hearings and for the bench to use at every opportunity when speaking to the local community. The PIO used the talking points in regular press releases and when speaking to the media on a daily basis. Eventually, some of the local media began to report on the positive results.

Activity Five (a) – Developing a Media Strategy – In small groups, participants will be given real-life scenarios and asked to develop a media strategy using the tools just covered. When presenting their strategy to the entire group, they should explain the basis for their strategy.

5.2 Resources for Court Personnel Serving as PIOs

- A. One of the core elements of judicial accountability identified in the COSCA Position Paper on Effective Judicial Governance and Accountability was that courts develop public affairs offices to work actively to educate the other branches and the media about the judiciary and

its adjudicative and administrative functions. PIOs and court personnel who serve in that capacity are able to share best practices and resources through the Conference of Court Public Information Officers (CCPIO). This organization was designed to facilitate the exchange of successful programs, sharing of resources, and the opportunity for professional development for local, state, national, and international members.

- B. Association membership permits PIOs to make use of an Internet listserv where problems and solutions are exchanged on a daily basis. Those who may be interested in membership in CCPIO can find more information on the CCPIO website at <https://ccpio.org/>.
- C. Court administrators, court managers, or other court leaders designated as a PIO, or are considering assigning the function to someone, are all welcome to attend the annual CCPIO conferences. Topics of educational programs have included ethical boundaries, the impact of technology on communications, changes in the news media as an industry, practical tips for writing effective press releases, and dealing with controversies and crises. Information about membership and registration for the annual educational conference can be found at the CCPIO website.
- D. Those who fulfill the PIO role offer a variety of services to courts and media and more information on the duties can be found on the CCPIO website.²⁹
- E. Many CCPIO members are former journalists with expertise in media relations. The former PIO who drafted this curriculum design had no background in journalism or any related field. Attending a single conference and participating in the CCPIO listserv was enough of a foundation to assume the public affairs and communications function. CCPIO members very generously share their experiences and best practices. The listserv is particularly invaluable when you need quick advice from experts.

5.3 Communications Tools, Tips, and Strategies

Whether the court has a PIO or someone designated to handle PIO responsibilities as the need arises, effective communications depend on having documented communications plans and being prepared for a variety of situations that involve the media and the public. Tools, tips and strategies may also want to contemplate how to effectively manage attention surrounding high-profile trials.

- A. Media plans (general and trial specific) – The court should create a media plan for distribution to all court personnel. A separate media plan may be adopted to address unique media needs associated with high profile trials. The National Center for State Courts has a dedicated section on their website which specifically speaks to high profile case management (<https://www.ncsc.org/hpc>).

General media plans may include:

- Procedures for court personnel to follow when responding to inquiries by the media by phone or in person. Perhaps factual questions can be handled by anyone with the inquiry noted for a supervisor. Otherwise, basic information should be taken (reporter's name,

²⁹ The Court Public Information Officers located at: <https://www.ccpio.org>.

news outlet affiliation, deadline, contact information) and forwarded immediately to the person designated to handle media inquiries.

- Links to court rules on access to court records, photographing and broadcasting, pooling of cameras, and other related rules should be included.
 - Other topics such as courthouse screening, parking restrictions, and courthouse access in general.
 - Instructions about how to access court records remotely and at the courthouse would be helpful.
 - For a specific trial, guidance should be added about any proceedings related to the trial, technology available and restricted, camera location/pooling, satellite truck parking, access to evidence and how questions from the media will be handled (e.g., submit on index cards to be answered at breaks) and any specific restrictions (e.g., photographing, interviewing jurors).
 - Several courts have developed effective media plans, including:
 - A good example of a general media plan is one developed by the Superior Court of the State of California County of Kings (http://www.kings.courts.ca.gov/News%20and%20Media/NM%20Docs/Media_Plan_Updated_Feb_2014.pdf).
 - A good example of a trial specific plan is one developed by the State of Florida Seventh Judicial Circuit found at <http://www.circuit7.org/Communications/mediaplan-deltanamurders-stjohnsweb.pdf>.
- B. Media interviews – Media interviews are a good opportunity for the court to educate the public. Ideally, guidance should be readily available for media interviews in case attempts to get positive media coverage are successful or court leaders determine it is the best approach to counter negative publicity that is non-case specific. Tips for successful media interviews:
- Before the interview, identify the three or four points you want to make and think about how you can express them in a clear and concise way.
 - Answer the reporter's questions succinctly and don't be tempted to expand your response to fill an uncomfortable period of silence. Note that if you keep your responses short, the reporter may ask follow up questions for more details.
 - If you don't want to be quoted, don't say it.
 - If you don't know the answer to a reporter's question, say you don't know but will find out and get back to the reporter with the answer in the agreed upon time frame.
 - Be honest and open, and be prepared for questions from a reporter who is not familiar with the interview topic. If you don't know the level of understanding the reporter has, have reference material on hand (e.g., glossary of terms, guidance on covering the courts from the Reporters Committee for Freedom of the Press³⁰) so that you can assist the reporter in getting the story portrayed accurately.

³⁰ See **Faculty Resource** -- *Reporters Committee for Freedom of the Press – Helpful Links* for a list of suggested resources from Reporters Committee for Freedom of the Press website.

- You should look for ways to get your key points across at every opportunity by finding a way to “bridge” to them. You can use the same technique if a question is uncomfortable for any reason. You can say, “I’m glad you asked that because one of the most important aspects is ...” and segue to something related to the question and one of your key points.
 - Don’t respond with “no comment.” Explain why you cannot answer a question (e.g., code of ethics) and offer an alternative source or bridge to a related question you can answer.
- C. Anticipated Media Attention – Certain situations are expected to generate media attention.
- High-profile Individuals – Certainly, the arrest of a celebrity in your jurisdiction will attract the attention of the media and the public. You will need to be prepared for all types of media inquiries and requests throughout the resulting court proceedings. The person serving as the PIO can serve as the primary media contact and resource. High profile trials create many logistical problems when courts balance the right to a fair trial with the public access.
 - By planning ahead, court managers can help relieve judges of some of the demands inherent in a high-profile trial. A meeting with the judge, staff involved in the trial, court security, clerk’s office and others (e.g., local legal experts) can identify issues and concerns before meeting with the attorneys to discuss media issues and set ground rules. A press kit or fact sheet can be developed based on those discussions, ideally with media input, which includes the designation of the person who will be the court’s spokesperson and media contact.
 - There are many media issues to be considered. Should priority be given to local or national media? If cameras are permitted, how many or pooled? Courtroom logistics like location of cameras, a lottery for media seats in the courtroom, press passes, space outside courthouse for satellite truck parking, broadcasting to other locations for overflow seating, location for media interviews and allowing media to transmit – email, text, blog, tweet – from courtroom to avoid disruption as they leave to file reports should be addressed. One option is to appoint a media committee to make recommendations to the presiding judge within prescribed constraints.
 - Offering a media callback list when there are new developments (and following through) is one technique to manage an overwhelming number of media calls.
 - Anticipating media needs frees the judge to preside over legal matters and relieves the burden on limited court resources (e.g., requests for copies of documents). In handling *State vs. Tripp* (the issue was Linda Tripp’s recording of phone conversations with White House intern Monica Lewinsky about her relationship with the President of the United States), the trial judge posted all her written decisions, verdicts and media advisories on the court’s website– simultaneously upon issuance. She required attorneys to submit all documents electronically so they could be posted. Also, the judge’s biographical information (including the pronunciation of her last name for broadcast media), a fact sheet and protocol order were posted as well as a legal description of the issues in the complex pretrial motions. As a result, most of the reporters following this case chose not

to come to the courtroom. Interestingly, with all the national and international attention, the courtroom was nearly empty when the judge issued her final decision.

- D. Unanticipated Media Attention – The high-profile trial is not the only opportunity for media scrutiny and controversy. Sometimes, the controversy arises from a case involving average citizens. The fact pattern below may not be particularly unusual, but an element of the case struck a chord with the public:

There was a ruling in an adoption case in Maryland that was picked up by The Washington Post, Dateline, 20/20 and The Wall Street Journal. The trial judge found himself in the midst of a controversy after distorted facts were leaked to the media about what should have been a sealed adoption case. Much of the frustration expressed by the media and the public about the court system resulted from the court's practice of not saying or explaining anything, perhaps due to ethical considerations. In this case, neither the records nor the recording of the hearing could be made public to address the distorted facts leaked earlier. In response to repeated media requests and negative coverage, the PIO worked with the trial judge to release a statement that referred to the specific canon of judicial ethics that precluded him from making any comment. The trial judge permitted the PIO to provide to the media the citation for the legal standard in Maryland for terminating the rights of a biological parent. Also, the PIO recruited well-known family law attorneys not involved in the case to answer media questions.

- A target of unjust criticism has to consider whether it is a story today likely to be forgotten by the public tomorrow in our 24-hour news cycle. If a court wants to respond to the criticism, the question is what type of response would be most effective. As mentioned earlier, PIOs often draft opinion columns and letters to the editor for publication and statements and talking points in response to media inquiries. The attribution of the commentary depends on the type of criticism. Sometimes a bar leader can be recruited to defend the criticism. Most likely the PIO would respond on behalf of the court.
 - Another factor to consider is whether the criticism is truly unjust or a fair commentary from an opposing view. The judge who is the subject of criticism may feel a defense is appropriate while other members of the same bench may have a different perspective. For a response to be effective, it must be issued within 24 to 48 hours. That does not allow much time for the PIO to help the subject of criticism review the facts, consider whether to respond and the best method to respond, get input from the judge responsible for the court's administration, then draft and issue a response.
 - The timing of the response is important. If the criticism is published in a paper that is not published daily, it could take several days for a letter to the editor to appear. The response could then resurrect a criticism that had long passed from the public's attention.
- E. Emergency or Crisis Situations – Whether there is a courthouse shooting or damage to the courthouse caused by flooding or fire, the media will want regular updates on the event. In the event of a potential public health risk (e.g., COVID, Ebola scare), extreme weather conditions or any event that could significantly disrupt normal operations, having a plan in

place may make the difference if decisions need to be made quickly. PIOs are designated for that purpose and can produce a plan for crisis communication. A good crisis communication plan will include the identification of the team who can make decisions about the crisis (one of which should be the person serving as the PIO), how information will flow to and from the team members, who will serve as the official and backup spokespersons, what audiences need to be informed and how updates should occur (e.g., phone tree for employees, website postings for the public).

In addition to a crisis communication plan, many courts have adopted – or are in the process of developing – a continuity of operations plan (generally known as a COOP). The COOP can cover incidents ranging from a lack of electrical power in the courthouse to the court functioning in an alternate facility as a result of emergency conditions (earthquake damage to the courthouse, pandemic flu). Internal and external communication is key so the designation of a PIO is vital.

These plans should include:

- A listing of key court personnel and their contact information;
- Designation of a spokesperson and backup;
- Identification of which agencies need to be kept in the communications loop and contact information;
- A listing of who can provide critical information and contact information; and
- Media lists with contact information.

For more information about COOP plans see the Operations Management Curriculum Design.

Activity Five (b) – Developing a Media Strategy – Using the reports from Activity Four (a), ask each group to review its media strategy in consideration of social media to see if the strategy would change and, if so, why and how.

5.4 Coordination with the Bar

A vital partner in the area of court communications is the local bar association. A protocol can be established with bar leaders to ensure that timely information is provided to the bar (e.g., announcements, courthouse's emergency closing or delay) and that effective information sharing is established (e.g., crisis communication, responding to unjust criticism). Also, members of the bar may be recruited to participate in the court's community outreach programs. A judge may be more comfortable engaging the public if accompanied by an attorney who would be able to field questions that may not be answered by the judge. Likewise, there may be a role for the bar in the court's media and publicity campaigns.

Activity Five (c) – Developing a Media Strategy – Public Criticism – In small groups, design a media and information dissemination strategy in response to scenarios involving public criticism, incorporating ethical considerations recorded in Activity Two.

Conclusion

The worlds of the judiciary and the media could not be more dissimilar, but they do have one thing in common: the public. The better the courts learn how to work effectively with the media and how to clearly communicate to the public through the media, the better the chances are that the public will understand and appreciate the important role that courts play in our democracy. As the use of digital and social media to report on court proceedings continues to evolve and becomes more commonplace in contemporary society, court managers will need to be aware of the impact and understand the reach of digital media and work to leverage that medium for public engagement. It's clear that court managers will need to use public relations to enhance the third branch of government. It is vital to develop appropriate policies, procedures, and strategies so courts will be well-positioned to provide a reasoned response in a timely manner.

Throughout this curriculum, court managers have learned how to effectively navigate all media channels, determine who qualifies to access court proceedings, and how to respond to negative posts regarding the courts.

A court's deployment of public relations tools or strategies will vary depending on the situation at hand. This can involve a one-time response or an ongoing response to stakeholders or any other media covering a matter before the court. Available resources play a major role in the ability of the court to respond and communicate effectively to the public, i.e., - lack of PIO, rural courts, etc.

Navigating through the public relations process can be cumbersome and frightening at times. With the tools and information contained in this curriculum, the court manager will be in a better position to pull together a “response team”, or maintain balance, while communicating the court’s response and purpose in a fair and impartial manner.

This curriculum provides the court managers who lack a full-time public information officer the knowledge to effectively manage media relations and provides additional avenues for further assistance. Effective court managers need to embrace the media to improve the relationship in a way to enhance the rule of law and public trust and confidence in the judiciary.

Faculty Resources

Faculty Resources are intended to be used as references and illustrations of content, methodology, and purpose for each topic. Faculty resources are annotated in the content outline in places where their use may be most effective. Faculty for a course based on this curriculum design may have supplemental resources that would be useful to court managers. These faculty resources are not intended to be the only participant materials; they are intended to provide some materials that are considered vital to the content.

Section Two

American Bar Association Model Code of Judicial Conduct, Rule 2.10

Section Three

Social Media as a Pathway to News

Section Four

Press Release Template

Sample Letters to the Editor

Sample Statement

Section Five

Reporters Committee for Freedom of the Press – Helpful Links

Section Two:

American Bar Association Model Code of Judicial Conduct, Rule 2.10

Rule 2.10: Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

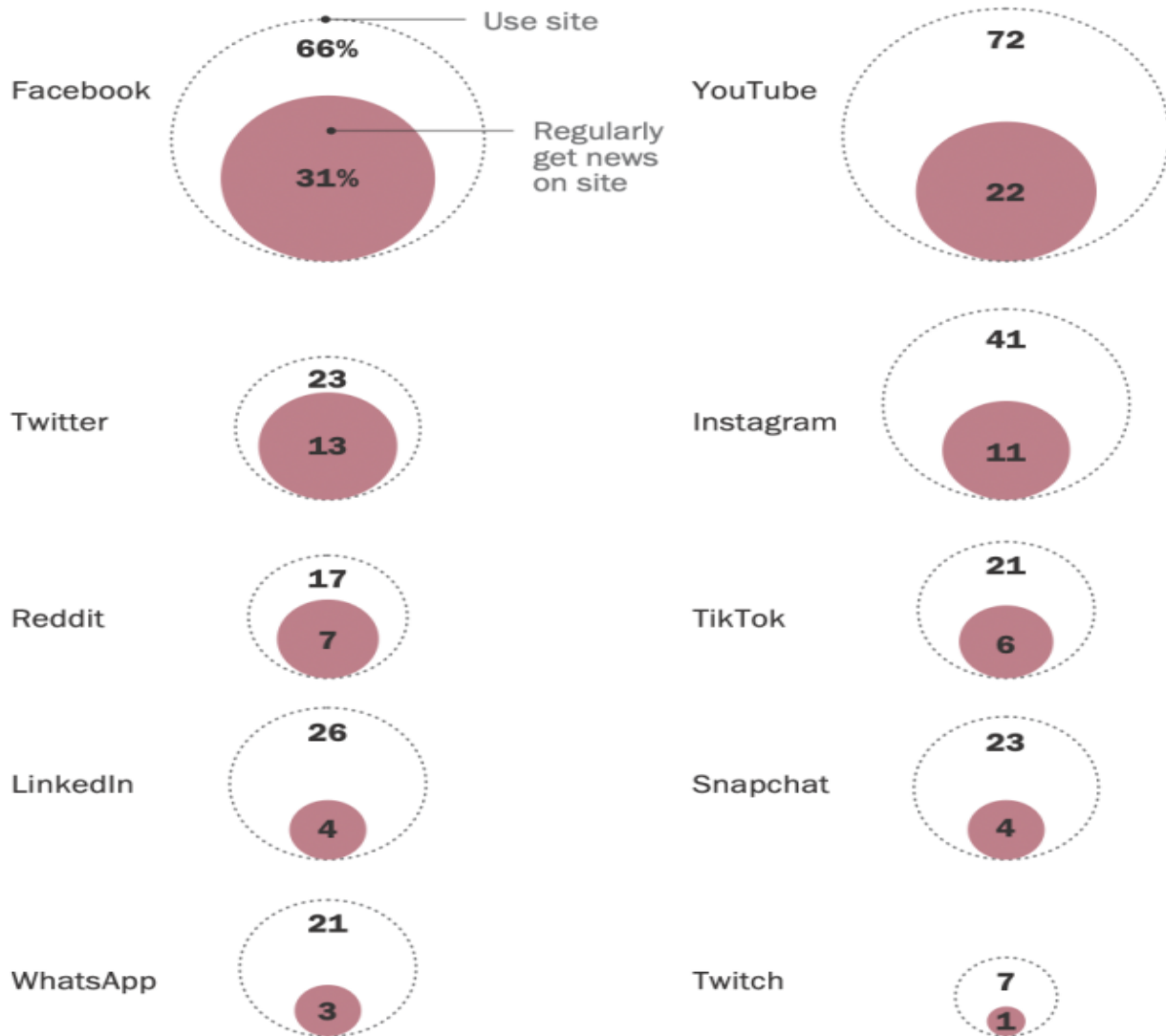
(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

Section Three:

Social Media as a Pathway to News

Nearly a third of Americans regularly get news on Facebook

% of U.S. adults who ...



Source: Survey of U.S. adults conducted July 26-Aug. 8, 2021.
"News Consumption Across Social Media in 2021"

PEW RESEARCH CENTER

<https://www.pewresearch.org/journalism/2021/09/20/news-consumption-across-social-media-in-2021/>

Section Four:

Press Release Template

Organization Name
Address
City and State
Telephone number (XXX) XXX-XXXX

For Immediate Release

CONTACT: Name
 Second Contact Name
 Telephone Number

Headline is Centered – 14 Pt. Type, Bold, Upper and Lowercase

Usually no more than two lines

A subhead can be used to provide more detail

and can often include statistics – centered, 12 point, italics, and first letter lowercase

(**CITY IN CAPS**, State Abbreviation — Month spelled out) The lead in a news release provides key details of an issue, position, event, or program and includes the who, what, where, when, why, and how. The lead should read quickly to catch the eye of your audience – the media – and is designed to prompt the media to cover your story, publish your position, and/or attend your event. The lead can be more than one sentence, but preferably kept to a few short sentences.

The second paragraph is usually a quote from a judge or high-ranking official. The quote complements the key elements of the story and provides “color.” It can include statistics or significant background, reaction, etc. to the information in your lead.

The third and fourth paragraphs provide more information, greater detail, and context to the subject matter. These paragraphs can often be followed by a second quote from your first source.

The fifth and subsequent paragraphs usually provide additional background on the subject, program, issue, event, organization, etc., and can be followed by another quote from another source.

The last paragraph of the news release can include contact information for an individual or group, along with a Web address.

#####

Editor’s Note: Notes to the media regarding available photos, cameras being welcomed or prohibited, security protocols, credentialing, etc., are placed at the bottom of the release.

Sample Letters to the Editor

Sample One

In your July 13 Opinion column (“Judicial system let dangerous man fall between the cracks”), you focus on the judiciary’s role in Mr. Neiman’s encounters with the criminal justice system. Court records show that judges issued bench warrants promptly when Mr. Neiman failed to appear for court and when he violated probation.

The criminal justice system consists of law enforcement, judicial, correctional and other public safety officers who serve the public under challenging circumstances. To attribute failure solely to the “judicial” system is misleading. It is important the public be accurately informed to promote their understanding of how the justice system operates.

(Name of court spokesperson)

Sample Two

“In your May 19 editorial (Our say: Prosecutors don't deserve blame for Jones verdict), you suggested that the judicial system was at fault. An unfavorable outcome of any trial does not mean that there is something wrong with the judicial system, or with the prosecution or defense of the accused.

In this case, the State’s Attorney got indictments. That required a grand jury only to determine probable cause existed for the criminal charges. For a conviction, the State has to provide sufficient evidence to prove the accused “guilty beyond a reasonable doubt,” a much higher standard. The State’s Attorney has to weigh many factors in deciding to prosecute a case, including the available evidence of the offense, interest of justice and request of the victim or victim’s family. In this case, a jury considered the evidence insufficient to meet this burden of proof.

The judge presided over the proceedings to make sure the rules of court procedures were followed. The jury was randomly selected in accordance with standard procedures and the trial began. At its conclusion, the jury reached its verdict. This required 12 jurors to agree that the accused was not guilty of the charges.

It is important for citizens to understand how the judicial system operates.”

(Name of court spokesperson)

Sample Statement

“Judges are vested with the responsibility of reaching difficult decisions in matters that are, by nature, adversarial and often controversial. To render fair and impartial decisions based on law, judges must act without regard to public opinion. Those who are unhappy with the outcome of their cases have the right to appeal. Citizens’ individual rights are best protected and their legal interests are best served when their courts are independent and strong. There are three separate, coequal branches of government acting in check of each other, with the one, the Judiciary, being a non-political branch, unable to engage in the public debate. Removal of judges from office, a process available to the General Assembly under the State Constitution, is a remedy limited to addressing “incompetency, willful neglect of duty, misbehavior in office, or any other crime,” not used to address disagreement with a particular decision or decisions. Otherwise, this action would weaken our court system and interfere with its ability to provide access to justice for all.”

(name of spokesperson)

Section Five:

Reporters Committee for Freedom of the Press

The Reporters Committee for Freedom of the Press website contains resources and information that may be helpful to court managers who are new to the public relations area. The URL is www.rcfp.org. Some specific links that are helpful are:

Access to courts

This link provides several resources and additional links of information about where, when, and how the media has access to the courts:

<http://www.rcfp.org/digital-journalists-legal-guide/access-courts>

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

This link provides some basic information about orders that a judge may issue to limit access by the media:

<https://www.rcfp.org/resources/first-amendment-handbook/#gag-orders>

(First Amendment Handbook 2022 (7th ed.))

Open Courts Compendium

The Open Courts Compendium is a general guide to court access issues with specific information for each state and federal circuit:

<http://www.rcfp.org/open-courts-compendium>

(last updated Sept. 2020)

COVID-19

Press freedom and government transparency during COVID-19

<https://www.rcfp.org/resources/covid-19/>

Participant Activities

The participant activities are one of the most important parts of the curriculum design as they are the tools faculty members are able to use to determine if participants have achieved the outcomes defined in the learning objectives. Also, participant activities provide tools to faculty to ensure the training, course, or session is not only informative, but also interactive.

Participant activities are annotated in the content outline in places they may be effectively used. Each activity has a cover page explaining its purpose, the specific learning objective being measured, and how to use the activity. Each activity is on a separate page(s) for ease of duplication.

The following activities are to measure achievement of stated learning objectives. Faculty are encouraged to incorporate additional strategies to engage court managers and keep them active during their educational experience, for example, asking questions about content before presenting it, having learners discuss content and provide feedback to faculty on their perspectives, and more.

Activity One – Challenges for the Court

Learning objective: *Discuss the dynamic between the court's ability to discharge its constitutional mandate to uphold the rule of Law and the public's interest in and right to information.*

Activity Two – Design a Publicity Campaign

Learning objective: *Design a publicity campaign demonstrating knowledge of methods of communicating through news media, social media, and public outreach methods.*

Activity Three (a) and (b) – Public Access and the Limitations

Learning objective: *List the limitations of public access to court records and proceedings, including alternatives the court may offer.*

Activity Four (a) and (b) – Drafting and Critiquing Press Releases

Learning Objective: *Prepare and critique press releases using standard criteria.*

Activity Five (a), (b), and (c) – Developing a Media Strategy

Learning objective: *Design media strategies for hypothetical situations using new tools and criteria.*

Activity One: Challenges for the Court

Purpose

The purpose of this activity is to encourage participants to think about how the court's role to uphold the rule of law sometimes is at odds with the public's interest in information and what can be done to balance the public's interest in information.

Notes about Using the Activity

Divide participants into small groups. Encourage them to talk about the dynamic between the court's role and the public's interest in information. Encourage participants to share stories and anecdotes about issues they may have had in their court. Allow the small groups to meet and discuss for approximately 10-15 minutes. Reconvene the large group and encourage the groups to report their findings. Consider making a list of issues on an easel chart.

Relevant Learning Objective

Discuss the dynamic between the court's ability to discharge its constitutional mandate to uphold the rule of law and the public's interest in and right to information.

Challenges for the Court

In your small groups, discuss how the court's role to uphold the rule of law sometimes is at odds with the public's interests in information. Specifically, share information and issues that may have occurred in your court and how you and your court approached them. Also, brainstorm issues that have or may arise to share with the whole class.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Activity Two: Design a Publicity Campaign

Purpose

Using all the skills gained through the course, participants will use this activity to practice them by building a publicity campaign drawing on elements covered in earlier sections.

Notes about Using the Activity

Divide participants into small groups and assign each group one of the scenarios. You may wish to have the groups work on this assignment the day (or days) before the last day of class in order to give them time to develop an elaborate plan. Encourage them to be creative and develop a plan that could actually be implemented. Encourage each group to prepare a report that may be presented to the class.

Relevant Learning Objective

Design a publicity campaign demonstrating knowledge of methods of communicating through news media, social media, and public outreach methods.

Activity Three (a) and (b): Public Access and the Limitations

Purpose

The purpose of this two-part activity is to allow participants to explore what actions may limit the public's access to court information and how to properly accommodate the public with information requested.

Notes about Using the Activity

Activity Three (a): Using either ABA Model Code of Judicial Conduct, Rule 2.10: Judicial Statements on Pending and Impending Cases included in the faculty resources or the local judicial code facilitate a list of responses of the limitations the public has to information in the court. This can occur in a large group or you can break the group into small groups and then debrief the small groups to create the list.

Activity Three (b): Referring back to the list of actions in the first part of Activity Two that may limit media access to court files or proceedings, in small groups consider how limited access would impact news and social media and what ethical steps can be taken by the court to offer alternatives.

Relevant Learning Objective

List the limitations of public access to court records and proceedings, including alternatives the court may offer.

Public Access and the Limitations

Identifying the Limitations

Discuss how the court's role to uphold the rule of law may limit the public's access to some court information. In your group, make a list of information to which the public has limited or no access. If you are brainstorming in a small group, be prepared to share your list with the large group. Compare your list to what is in the ABA Model Code of Judicial Conduct, Rule 2.10 and/or your local rules or standards.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

Public Access and the Limitations Alternatives to Access

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

Activity Four (a) and (b): Drafting and Critiquing Press Releases

Purpose

The purpose of this two-part activity is to focus participants on the news media reporting style. News stories lead with the main point of the story then fill in the details later. The first part of the activity focuses participants on how to create story leads. The second part of the activity provides the participants with experience in critiquing press releases.

Notes about Using this Activity

Activity Four(a): Use the brief factual story unrelated to the courts to invite suggestions in the process of creating a brief sentence or two to cover the elements of who, what, when, where, why and how. Ask participants to work individually. Then, debrief the class by working to create one or two brief sentences that exemplify a brief, concise sentence that includes the elements. Model answers are below to assist you.

Activity Four(b): For the second part of the exercise, ask the participants to identify where the “who, what, when, where, why and how” questions are answered in the release and how far they had to read to get those questions answered. Also, have the list of news media values handy and have participants identify which news media values may be present. If the basic “who, what, when, where, why and how” are not answered in the first couple of sentences, ask participants how to reword the release to accomplish that. Also, if few news media values are present, invite suggestions by participants as to how to make the release newsworthy.

Relevant Learning Objective

Prepare and critique press releases using standard criteria.

Model Answers to Activity Four (a)

Main point: An electrical short circuit may have caused yesterday’s fire at the Maple Street home of Jim Smith who firefighters found unconscious and later hospitalized after neighbors reported the fire at 10:15 p.m.

Main point (if the victim is well known): Jim Smith, former Pine Grove mayor, was hospitalized last night after firefighters found him unconscious at his Maple Street home after neighbors reported the fire, possibly caused by an electrical short circuit.

Drafting and Critiquing Press Releases

Jim Smith and his wife Sue live in a two-story house on Maple Street in Pine Grove. They were high school sweethearts and are 68 years old. On Thursday, May 2, Sue was out of town visiting her sister. After dinner that night, Jim fell asleep in his recliner. At 10:15 p.m. on Thursday, May 3, neighbors saw flames and smoke coming from the Smith's house and called the fire department. Firefighters rescued an unconscious man from the first floor and placed him in the waiting ambulance. The unconscious man was identified as Jim Smith and he was treated for smoke inhalation. Evidence at the scene of the fire indicated that the fire started in the laundry room, perhaps an electrical short circuit in the dryer.

Draft one to two sentences to summarize the main point of the information above. Consider all of the elements (who, what, when, where, why and how).

[illegible]

Drafting and Critiquing Press Releases

Review the press release and answer the following questions for each one.

1. Identify where the “who, what, when, where, why and how” questions are answered
2. Identify which news values may be present.
3. What changes, if any, would you make to the release?

KEY TIPS FOR DRAFTING A RELEASE:

- | | |
|--|---|
| ✓ Avoid jargon/legalese | ✓ Keep the release to 1 – 2 pages maximum |
| ✓ Identify the audience | ✓ Make sure the headline grabs an individual's attention |
| ✓ Identify the key message(s) | ✓ Make sure the language is at a sixth-grade reading level |
| ✓ Include contact information | ✓ Prepare for follow up questions and/or a request for an interview |
| ✓ Include data/statistics, if possible | ✓ Provide examples, if possible |
| ✓ Keep the content short and simple (similar to an elevator pitch) | ✓ Provide quotations from subject matter experts |

Press Release #1

Pine Grove Superior Court Moves to
Appointment System at Busiest Traffic Facility.
Scheduled Appearances Now Required at Woods Facility.

In order to make a traffic court appearance move more efficiently, the Pine Grove Superior Court is now scheduling appointments at its Woods facility. Effective March 1, 2015, the Woods Traffic Court, at 1117 Aspen Boulevard, will require all courtroom appearances are scheduled in advance.

With the volume inherent to traffic court and the reduction of staff, maintaining court

calendars and scheduling appearances, via appointment, is the best way the Court can effectively serve the public. Last fiscal year alone, the Woods Traffic Court staff processed more than 170,000 cases. “This will make a traffic court appearance operate more smoothly for the public. With advanced notice, files can be pulled and processed so that when members of the public arrive at the courthouse, cases are prepped and ready to move forward immediately,” says Tonya Smith, Executive Officer of the Pine Grove Superior Court.

The Court is providing several methods to schedule a Woods courtroom appearance via its website (pgcourt.xxx.gov), via phone and via personal contact at the public counters.

Courtroom appearances on traffic ticket collection cases, which have been scheduled by court staff in the past, will continue with fewer exceptions. This new traffic court procedure follows similar policy decisions in other Superior Courts.

Non-appointment or “walk-in” services are still available at the Court’s other three traffic courts located in North County, East County and South County.

In an additional effort to assist the public in completing court business as efficiently as possible at the Woods Courthouse, new payment windows have been installed outside the facility so the public does not have to wait in line for security or spend time searching for a payment window once inside the courthouse. The windows are open daily for express payments.

Press Release #2

Superior Court Judge
Mary Jackson Retires

Judge Mary Jackson, well known for her dedication to the young people touched by the Sleepy Hollow Juvenile Court system, retires May 6th after serving 14 years on the bench. Appointed by Governor June Jones on April 19, 2001, Judge Jackson has spent the majority of her judicial career at the Juvenile Court.

“I remain honored to have been selected by the Governor to serve as a judge. I have chosen to stay in Juvenile Court for almost all of my 14 years on the Bench, and this assignment has been the most challenging and rewarding part of my entire legal career. I hope that I have been able to provide some compassion, stability and hope for some of the children involved in the Juvenile Court system,” says Judge Jackson.

A graduate of the University of Chester, Judge Jackson also holds a Master’s degree in Social Work from the University of Chester. Prior to gaining her law degree, she worked at a family service agency where she provided therapy for children and their families and subsequently opened her own practice. In 1982, she received her law degree from the Applewood College of Law.

Prior to joining the Court, Judge Jackson specialized in healthcare law here in Sleepy Hollow. She was a partner of the law firm Kent & Kennedy.

According to Presiding Judge John Bridges, “Judge Jackson proved to be an inspired choice for a judgeship. She was a class act; her keen intellect and warm heart, working in tandem with her valuable background of social work, civil litigation and dispute resolution, helped her to set the bar high for herself and others during her storied Juvenile Court tenure.” Judge Jackson says during her retirement she looks forward to re-learning Spanish, traveling and, hopefully, staying involved with child and family issues.

Press Release #3

Get online, not in line

Kellogg Superior Court Cuts Online Traffic Fees, Improves Web-Based Services

Local drivers welcome the Kellogg Superior Court’s improved website featuring lower fees and an automated online assistant that make it easy to pay traffic citations, extend fine payments and schedule traffic school. Online users avoid the time, expense and hassle of standing in long lines at the courthouses. Effective Monday, March 30, 2015, the Kellogg Superior Court will lower many online fees and improve the functionality of its website-based traffic services on www.kelloggcourt.gov.

Website users with traffic citations will now have the option of utilizing the automated online assistant to determine the type of traffic transaction they need and how to proceed. The assistant will provide help in English and Spanish, with service in other languages coming soon along with new and expanded features.

The introduction of the automated online assistant is featured in the Court’s new “Get online, not in line” campaign, launched to encourage Court users to take advantage of the services offered on the Court’s website, saving litigants, attorneys, and others time and money.

Fees for paying traffic fines online by credit card will be cut in half – to \$5 from its present \$10. Free online services—such as registering for jury duty, retrieving courthouse information, and assistance for self-represented litigants—will remain so.

Press Release #4

Willow County Court offers one-on-one assistance to self-represented litigants

People representing themselves in court proceedings in Willow County will have the opportunity to meet with an attorney for 15 minutes to discuss their criminal, eviction, money, divorce, or small-claims case.

The Law Day event, sponsored by the Willow Bar Association, will be held from 9 a.m. to 3 p.m. Friday, May 1, 2015, in the atrium in the Willow Administration offices, 200 Grove Parkway, in Beasley City.

There is no charge to meet with an attorney at the Law Day event. Discussions will be confidential.

The event is part of a broader national program to celebrate the United States' commitment to the rule of law. This year's Law Day theme is Magna Carta: Symbol of Freedom Under Law.

"Law Day in Willow County gives our community members an opportunity to meet with an attorney for 15 minutes free of charge to get some direction and information about their court cases or legal issues," said Magistrate Judy Taylor. "Because more than two-thirds of all cases have at least one self-represented party, the service our volunteer attorneys offer is invaluable to the people and to the court."

Press Release #5

U.S. District Court to Honor Local Veterans

The U.S. District Court for the Eastern District of Missouri will celebrate its sixth annual Veterans Muster on Thursday, May 21, at 9:30 a.m. at the Federal Courthouse, 127 Maple Street.

"This year marks our sixth year of honoring veterans. As we commemorate veterans throughout the area, we want to give special homage by honoring the evolution of women in the military," said Judge Kathy Watson. "Please join us for this year's celebration as we thank those who have dedicated their lives to our country." The ceremony will be held on the lawn of the historic wing of the courthouse.

To prepare for this event, the court is calling on veterans to submit photos and information about their service to be included in a video. Veterans can submit photos and information online at www.annualveteransmuster.org.

The veterans' appreciation ceremony on May 21 is free and open to the public. No reservations are required and light refreshments will be provided.

Activity Five (a), (b) and (c): Developing a Media Strategy

Purpose

The purpose of this three-part activity is to give participants practice in developing their own media strategy.

Notes about Using the Activity

Activity Five(a): Divide participants up into small groups and assign the small groups one of the two scenarios. Ask the participants to develop a media strategy using the questions to help guide them. Debrief the class by seeking examples of the developed media strategies.

Activity Five(b): Using the reports from part (a), ask each group to review its media strategy in consideration of social media to see if the strategy would change and, if so, why and how. Debrief the class again by seeking volunteers to share how their media strategies changed when considering social media.

Activity Five(c): In small groups, design a media and information dissemination strategy in response to the scenario. Ask the participants to develop a media strategy using the questions to help guide them. Debrief the class by seeking examples of the developed media strategies.

Relevant Learning Objective

Design media strategies for hypothetical situations using new tools and criteria.

Developing a Media Strategy

Scenario #1

The court has decided to hold a juror appreciation day. As part of the celebration, the court would like to invite citizens to come and learn about the courts and about jury service.

Scenario #2

The court is in the process of installing new video conferencing technology to conduct hearings involving detainees and inmates.

1. What are the newsworthy elements?
2. Who is your intended audience, e.g., age, geographic area, other demographics?
3. Do you have still photos, graphics, video or any other visual method to aid communication?
4. What is your time frame for dissemination?
5. Do you have existing relationships with the media that could help get your message disseminated?
6. How will you disseminate the information? (Radio, morning shows, weekend shows, court website, press releases, social media, local/state bar associations, etc.)
7. Describe your media strategy:

Developing a Media Strategy Public Criticism

During a local campaign for the office of prosecutor, the challenger to the incumbent has criticized her as well as the court system for the number of plea deals and cases where charges were dropped.

1. What are the issues that are important to the public?
2. Should there be a response and why?
3. If so, who should respond (e.g., court, bar, another respected spokesperson)?
4. Assuming the court is undertaking the response, who is the intended audience, e.g., age, geographic area, other demographics?
5. Do you have still photos, graphics, statistics, video or any other visual method to aid communication?
6. What is your time frame for dissemination?
7. Do you have existing relationships with the media that could help get your message disseminated?
8. How will you disseminate the information? (Radio, morning shows, court website, weekend shows, press releases, social media, and local/state bar associations, etc.)
9. How will you use social media to assist you with the media strategy?

10. Are there preventive measures that can be taken to mitigate these issues in the future?

11. Describe your media strategy (on the back of this sheet of paper):

Design a Publicity Campaign

In your small group, develop a publicity campaign for one of the scenarios below. Consider relevant questions that need to be answered to develop your campaign including the audience, timing, social media, visual aids, etc.

Scenario #1

The court just acquired new jury system software that shortens the length of jury service and permits cash payment upon arrival for jury service.

Scenario #2

The court implemented a drug treatment court program in response to the increased number of reoffenders with substance abuse problems.

Scenario #3

The county will be opening a new courthouse wing to add more courtrooms, space for the self-help legal clinic and space for onsite child care.

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