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The Judge's Role As an Agent of Change

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AUTHORED ARTICLE | 3.31.2014

National Law Journal

Evelyn Lundberg Stratton, of counsel in the Vorys Columbus office and a member of the litigation group, authored an article for the *National Law Journal* titled "The Judge's Role As an Agent of Change." The full text of the article is included below.

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The Judge's Role As an Agent of Change

As a daughter of American missionaries, I was born and raised in Thailand. I knew nothing of the American judicial system. Having little access to movies or a TV, I had never even seen "Perry Mason."

However, upon returning to America for college, I went to law school and decided I wanted to become a judge. I think I had absorbed some of my parents "missionary zeal," because very early I became involved in issues of judicial reform. Along the way, I worked on many projects, from expedited adoption, appeals to mental health, veterans treatment courts and juvenile justice reforms. I did both state and national work in these areas.

In my seven years as a trial judge and 16 as an Ohio Supreme Court justice, I also learned lessons on how judges and justices can become agents of social change within their ethical boundaries.

I retired early from the Ohio Supreme Court at the end of 2012, so I could be freer to advocate and work on these issues. Part of my current "mission" is to encourage judges to become more involved as change agents.

Although judges in different states approach this issue with varying degrees of participation or caution, the reality is that almost all states have the same judicial code that allows judges to engage in reforms that promote the administration of justice, including testifying before the legislature (see American Bar Association Model Code of Judicial Conduct Rule 3.1, 3.2 and comments) as long as it does not reflect

negatively on their impartiality. Judges can add invaluable insight to the legislative process by explaining how laws will affect the real-life work they do.

I have learned four lessons in my work that make judges especially effective as leaders.

Ability to convene. Judges have a unique ability to convene a gathering of those necessary to address a problem affecting the system or our community. Judges are identified as respected leaders in the community. People return their calls. People typically attend meetings when invited by a judge. The power to convene enables judges to use their position of authority to bring parties, experts and practitioners together to solve problems.

Ability to build consensus. Judges have a unique ability to build consensus because they are considered a neutral party. Judges can urge others to work together. Particularly on issues that reach beyond the traditional sphere of the justice system, judges can work to break down the silos in which other entities are isolated. Judges are seen as being outside of the system and not as competitors.

While working on issues involving individuals with mental illness in the criminal justice system, a judge has a legitimate interest in seeing improvements made to the treatment system to ensure those under court supervision are provided the resources necessary to avoid recidivism. The judiciary is viewed as a separate branch able to effectively bridge the gaps in other systems and encourage cooperation.

Ability to lead, direct and build accountability. Society expects judges to be able to take charge and make decisions — to build accountability. This is inherent in a judge's role as arbiter. Judges are able to ask the big-picture question of what should be done in a particular situation. Just as with individuals on probation, judges can work with individuals in a community and set deadlines, give homework assignments and require reports.

BRINGING LEADERS TOGETHER

As I have addressed problems in Ohio, I have often brought agency leaders together to network solutions. We would divide tasks, set the next meeting and move the project forward with those deadlines.

Ability to inspire others. Judges have the ability to inspire individuals — not only other leaders, but also those at any level of an organization. Judges are looked up to in the community, both figuratively and literally. Judges are unique in the garments they wear (judicial robes) and the place from which they preside (an elevated bench).

Judges operating specialized dockets often inspire those defendants in their court. As such, the program participants start to feel empowered and begin to believe in themselves.

I have found that often I start a project with no idea how to address or fix a problem but, by following the four steps above, I bring together many who now start talking and find solutions or better ways to deal with a problem. Judges can start a committee or task force on their own and bring their community together, or a justice can set up a statewide task force. The judge can then participate in testifying in support of any reforms or legislation as part of the "administration of justice" role they play.

Judges have the ability to lead and effect significant change outside of the traditional role on the bench. Using these unique abilities will enable any judge to have a wider impact on the community. Taking a small step is all that is needed, since even a small act can lead to something much greater.

I am issuing a call to action to all judges to get involved.

As Francis of Assisi said, "Start by doing what's necessary; then do what's possible; and suddenly you are doing the impossible." Whoever and wherever you are, be a catalyst for change in your community.