

Evolution of a Judge

by Eugene M. Hyman | December 2011

My first foray into law was as a 22-year-old police officer in Santa Clara in 1972. On the police force, the concept of justice seemed well delineated, much like in the old West when the sheriff caught the bad guys. While studying law part time, I continued to work as a "copper." Though I was exhausted most of the time, I nevertheless assiduously pursued my goal.

As a young lawyer in San Jose, I was appointed in 1980 to the conflict-of-interest list for the county public defender's office. The prospect of me defending criminals seemed to my colleagues in uniform like a betrayal, and when I took the work, many of them stopped talking to me. But my need to pay bills trumped ideology.

Gradually, I began to see things in a different light. One young drug addict in particular comes to mind. I'll call him "Fred." His request was simple: "We want to be treated as humans, we aren't animals." And with treatment, Fred not only managed to stay off drugs but he completed higher education, got a job, got married, and had a family.

Of course, not all criminals are capable of rehabilitation. And when I became a municipal court judge in 1990, I didn't shy away from delivering harsh sentences. Public safety can never be compromised.

Still, I was shocked to see how harsh our system of justice had become, with possible misdemeanors routinely charged as felonies. Simple possession of methamphetamine for individual use can be charged as a misdemeanor - but invariably it is charged as a felony, leaving the defendant with a permanent criminal record. Probation officers seemed to feel obliged to behave more like cops than supportive social workers. And California's three-strikes law sometimes forced me to impose sentences that I couldn't possibly defend.

In 1996 I was elected to the Superior Court in Santa Clara County. I soon realized that teenagers were falling through the cracks of the system, particularly in the area of "dating violence." There was no intervention - either to help victims safely leave a relationship or to help perpetrators change their abusive behavior.

The police didn't take teen-dating violence seriously, either. Batterers were typically cited with a misdemeanor and thus they weren't even required to go to court. At most, they'd have to attend a few anger management classes, which



didn't address domestic violence issues.

I resolved to change the system by creating the nation's first juvenile domestic and family violence court. It would assist victims in leaving abusive relationships, educate them about choosing healthy relationships, and rehabilitate young batterers to deter them from becoming adult abusers (many had children already).

Over four months I worked with advocates for victims, intervention specialists, prosecutors, probation officers, public defenders, and the police department to ensure accountability among all the participants and to promote intervention.

In Santa Clara County juvenile domestic violence now triggers a mandatory arrest, just as it would in adult situations. The probation department is required to take the matter to the district attorney's office for prosecution rather than resolving it informally, as had previously been the practice. The court requires any convicted teenage batterer to attend a 26-week intervention program. It refers victims to advocacy organizations and makes many other helpful services available.

The juvenile domestic and family violence court opened in April 1999. During my five years there I presided over more than 300 cases. While this court drew much attention and has served as a model worldwide, more importantly it has brought the issue of juvenile domestic violence to the forefront, prompting intervention to occur on many levels.

Some former criminals can indeed become productive members of society when they're given a chance. To this day, "Fred" offers guidance to young offenders as their Alcoholics Anonymous sponsor. And thanks to people like him, my view of justice has evolved.

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