It Is All about the People Who Work in the Courthouse

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The Causes of Popular Dissatisfaction with the Administration of Justice

- 1906 speech by Professor Roscoe Pound, one of the founding fathers of judicial administration

One reason that drove dissatisfaction with the justice system was a belief that the administration of justice is an easy task to which anyone is competent.
Courts that are in fact well run and are perceived to be well run are well funded.

The rest are told to do more with less.
During the last several years, there has been a huge change in the funding for courts as well as the attitude toward public employees.

Courts are facing budget challenges that dwarf any that they have seen before.
Courts are in an era in which the political mantra for many is to question the work ethic and commitment of public employees.
One of the assumptions of public employment has been that there was job security that would be followed by a reasonable pension. The pay that public employees received may not have been as good as what the private sector was offering, but there was safety, security, and the prospect of a decent retirement. To illustrate where we are, this year 75% of the nation’s school districts will lay off teachers. Although state pension benefits are frequently better than those of the private sector, most public employee pensions are not lavish. Now those wages and benefits are being challenged.
Budget and Morale

This year 29 states cut court budgets. States have managed to close $170 billion in budget gaps since 2009, but the next fiscal year is expected to be even worse with budget shortfalls projected to be in excess of $140 billion.

Court leaders cannot print their own money, but they can have enormous positive (or negative) impact on the morale of the courthouse workforce.
Much of the current thinking of court leadership is driven by the paradigm of the professional culture which is made up of judges and the organizational culture which is made up of everyone else.

It may be better to consider a troika of cultures: the judges; the court administration such as the people who join the National Association of Court Managers, who are involved in local associations or who may have professional degrees in court administration; and finally line workers who perform tasks that, in many instances, are not even particular to the judiciary.
According to a recent survey, worker happiness in America is the lowest in history.

- 45% of American workers are satisfied with their work
- 64% of American workers under the age of 25 are unhappy in their jobs
- 43% of American workers feel secure in their jobs
- 51% of American workers are satisfied with their bosses
Public sector employee morale has reached a new level of frustration and discontentment.
The danger in the current economic situation is that court leaders will hunker down.

- The most effective court leaders will change their court to face problems for which there are no simple painless solutions.
- There is not an option to defend every legacy practice to the end.
- Effective court leaders will use the present turbulence to build for the future and bring closure to part of the past.
- To survive these times, courts will need to change the key rules of the game, but to do that they need to have a workforce that is prepared to make change.
It is not an easy era to be a leader.

A natural tendency is not to welcome dissent or embrace task conflict.

Dissenters can be obstructionists and a pain to deal with, but dissenters who can provide a different perspective need to be protected from pressure to remain silent.

Leaders need to listen to unfamiliar voices and set a tone for candor and risk taking.
What Courts Need Now

- Evidence-based court leadership
- Procedural fairness for the people who work in the courthouse, not just for those who appear before the judge.
- Willingness to think of how to satisfy employee needs.
Leadership focuses on...

- Relationships
- Motivating
- The ability to engage colleagues and employees around a shared vision
Crisis leadership has two phases:

- The emergency phase when your task is to stabilize the situation and buy time

- The adaptive phase when you tackle the underlying causes of the crisis
Great Court Leaders

- **Diagnose** – Understand the system you are in; surface what is really driving behavior; name the elephant in the room
- **Mobilize** – Put your ideas into action
- **Reflect** – Know your own “triggers” and tolerances
- **Connect** – Speak from the heart to inspire people
- **Grow** – Exceed your authority through leadership
Because the troika of court employees is quite disparate, different motivational theories may apply to each group. Court leaders need not be able to teach a course in motivational theory, but they need to understand the field and how to apply the thinking in the courthouse. At a minimum, court leaders need to be disavowed about common myths about courthouse morale.
Risk-Taking and Innovation

• How do you promote a climate of risk-taking, innovation and honesty?
• How do you formalize and support experiments within the court?
• Where have innovations been successful in your court?
• Where have they bombed? Why?
Organizational Curiosity is Important
Building Curiosity

- Do something to create urgency.
- Set aside formal times for play.
- Flex your risk muscles.
- Use measures to learn.
  - Put as much emphasis on learning why you did or did not reach the measurable goal as you do on achieving the goal itself.
“The hope of leadership lies in the capacity to deliver disturbing news and raise difficult questions in a way that people can absorb, prodding them to take up the message rather than ignore it or kill the messenger.”

-Ronald Heifetz
-Marty Linsky
Working with those who are uncommitted, but wary…

- Accept responsibility for your piece of the mess
- Acknowledge their loss
- Model the behavior
- Accept casualties
Show Them the Future

- Emphasize the positive vision of a better future—make it real, highlight the values they are fighting for.

- Answering the “Why” question increases people’s willingness to endure hardships that come with improvement.
Sometimes you need to Raise the Heat to Move your Court.
How to Raise the Heat

1. Draw attention to tough questions and keep it focused there.
2. Give people more responsibility than they are comfortable with.
3. Bring conflicts to the surface.
4. Challenge the argument that the needed change is not worth the upset it will cause (i.e. addressing the problem is imperative in order to move forward)
Sometimes you need to cool things down.
How to Lower the Heat

1. Address the technical aspects of the problem.
2. Structure the problem by breaking it into parts.
3. Temporarily reclaim responsibility for tough issues (i.e. I’ll deal with him/her. I’ll get the money.)
4. Employ work avoidance mechanisms (i.e. find an excuse for a party, use humor, etc.)
5. Slow down the process of challenging norms and expectations (i.e. push a target date out further, ask for more data/analysis on an issue)
Create a Court Culture of Courageous Conversations

- In a period of sustained uncertainty, the most difficult topics must be discussed.
- Dissenters who can provide actual insights need to be protected from organizational pressure to remain silent.
- Leaders need to listen to unfamiliar voices and set the tone for candor and risk-taking.
Observations about the new Courthouse Workplace

**Communicate excessively**

- Discourage “parking lot meetings”
- Share news as it breaks
- Share concerns as well as hopes and expectations
- Forget about having fire drills
Myth 1: I’m the leader; I can motivate people.

A good court leader can establish an environment where employees motivate and empower themselves.

The more an individual or a group of people have a clear understanding of the nature of a problem, the more effective they will be in solving that problem.
Myth 2: Fear is a good motivator.

At best, fear is a good motivator for a very short period of time.

It is hard for line staff to feel like a judge is a colleague if they are afraid of the person.

The power imbalance between the troika explains why fear occurs, but it does not justify permitting that fear to exist or continue.
Myth 3: I’m okay; it is them I need to worry about.

- Motivating court employees starts with court leaders motivating themselves.
- Enthusiasm is contagious. It can start at the top with the attitude of court leaders and regrettably it can end there too.
Myth 4: Increased pay is all we need to keep the courthouse happy.

Money is an important desire, but human motivation is more complex than ascribing all problems to lack of salary.

With rare exception, judges have historically had a difficult time with salary issues. Now judges’ misery has been visited upon the rest of the courthouse employees.

Court leaders need to continue to advocate for fair wages for everyone in the courthouse, but until that day they cannot simply say, “There is nothing we can do about the morale around here.”
Myth 5: People are good, honest, and will always perform to the best of their ability.

- There are times when people are human, fallible, and prone to mistakes.
- Effective court leaders need to know how best to change the behavior of those whose actions threaten to infect the institution.
Fundamental Value - TRUST

- Every human transaction rests either explicitly or implicitly as a foundation of trust – or lack thereof.

- To be an effective branch of government, we need to trust colleagues and staff.
“Simply put, trust means confidence. The opposite of trust, distrust, is suspicion.”

-Steven Covey, The Speed of Trust
In today’s environment, no courthouse can survive if there is rampant suspicion.

- Trust means willingness to be vulnerable to the actions of others.
- Trust means confidence and faith that positive expectations will be met.
- Fundamentally, trust is a belief in the goodwill of the people with whom you work.
Steps to creating a fun and vibrant court workplace.

1. Understand yourself.

2. Ask questions and then take first steps. Are you satisfied with the level of motivation that exists in your court? If not, what could be changed? Can you identify barriers to motivating people within your court? What motivational activity could be done that has not been thought of before?

3. Consider writing a list of three to five things that motivate the judges, court administration, and the line staff.
Steps to creating a fun and vibrant court workplace.

1. Give up the notion that professionalism and the nature of the mission of the courthouse means being serious all of the time.

2. Encourage employees to leave work behind them at the end of the day.

3. Recognize the necessity of balance between individual contribution and group support. The goal is an open, honest, and healthy courthouse where judges and staff can be candid about their views and experiences and take greater responsibility for their own actions.

4. “TGIM” – Thank Got It’s Monday. Do what it takes to insure that judges, court administration, and line staff look forward to coming to work.
The only real stumbling block is fear of failure. In cooking you’ve got to have a “what the hell” attitude.

-Julia Child