

President's Column

Gayle A. Nachtigal

Over their lifetime, most citizens will never see the inside of a jail or be a participant in a criminal trial. They may come to the courthouse for traffic violations and for domestic relations cases, to pay property taxes, deal with landlord-tenant matters, or obtain documents for other events in their lives. As a result, their understanding and appreciation for the judicial system must be gathered from other sources. We must provide accurate information.

Citizens receive information about the judicial system from the media, particularly television. Television cases are resolved in approximately 22 minutes; on at least one show, that includes the commission and investigation of the crime, as well as the trial itself. Important legal rulings are made in the hallways, elevators, getting into or out of vehicles or in chambers. There is no record made of the proceedings and usually only the judge and the attorneys are present. I don't know about you, but I have yet to make an important legal ruling off the record and while I was getting into my car in the county parking lot. Television trials have only two or three witnesses a side and they are asked only a few extremely well-crafted questions. Closing arguments are beyond succinct—beautifully and flawlessly delivered by each attorney. When something goes “wrong” in a case, it is usually the fault of dishonest police officer, a bad lawyer, or incompetent judge. Certainly these are not average trials in Washington County, Oregon, yet this is the nightly view of trials, lawyers, judges, and courts.

Over time these powerful images develop into opinions about the judicial system, the third coequal branch of our government. Polls indicate that the legal profession is not held in the highest regard. There is a growing lack of faith in the judicial system, which I believe to be a new trend. If the judicial system really operated as it is portrayed, I would not have much faith in it either. I believe the growing public opinion is incorrect and must be changed.

Civics lessons on the importance of the judicial system in preserving the rule of law must be re-taught. And who better to begin the lesson than judges. If we do not correct the picture, who will? As “The Voice of the Judiciary,” the AJA has begun the process by its participation in the National Forum on Judicial Independence that makes up the pages of this special issue of *Court Review* and the taping of an edition of the PBS program *Inside the Law*. The program has aired on PBS stations throughout the United States during 2005.

As judges, we are neutral and approach each case without a preconceived position for either side of the legal question being presented. We are bound by precedent and must apply laws that are constitutional, even if we personally did not vote for them

or believe they are the best way to resolve an issue. This does not mean that we cannot speak out about the role and the importance of the judicial system. Basic civics is not off limits. What is the role of a judge? Just what is the job of the judicial system in our society and why is it important in preserving the rule of law? These are all topics I believe we as judges must discuss with our local service groups, civic associations, and schools. The people we serve must understand why they should care and what might occur if they don't.

Writing is not my strongest asset. I was a trial lawyer. I am a trial judge. In Oregon, we have a unified trial bench, causing me to handle traffic cases one day, followed by a civil or domestic relations matter, followed by a capital murder case. On the average day I have contact with many people. Like you, the vast majority of my in-court time is spent with a very small percentage of the overall population of my county. The vast majority of my time—and that of my fellow judges—is spent on the criminal-justice side of the judicial ledger.

I encourage each one of you to take an opportunity to talk to a school group, civic organization, or local service group. Law Day is an easy day to start, but why wait? Speak at your local civic groups about the rule of law and its importance in their lives. Take the time to have a school group visit the courthouse and sit in on part of a trial or hearing. Yes, you have to be careful of the trial subject matter and sometimes they wiggle just a little and make a little more noise than we typically allow, but the chance to teach something of value should not be missed. Take the time to answer some of their questions. I have received some of the best questions from third-grade students eager to learn something new. Be “The Voice of the Judiciary” in your community or others will be it for us.

I have been a member of the AJA since 1992. I attended my first annual meeting in Maui and I have not missed an annual or midyear meeting since. Every one has been a great experience in education, networking, and social events. During each education session, I learned something new and useful. After every meeting I brought back information to my county to better serve the people of my judicial district. Without a doubt, however, the 2004 annual meeting in San Francisco was the best educational experience of them all. The programs on judicial independence (excerpted in this issue), the Medgar Evers case, First Amendment and media issues for judges, bias in the courtroom, elder abuse, judicial leadership, problem-solving courts, interstate compacts, and Professor Whitebread's annual review of the opinions of the Supreme Court all were excellent and very well attended. Programs such as these prepare us to become “The Voice of the Judiciary.”

