

# Chapter 1

## The Juvenile Court Judge

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### *Prologue*

*If we are very fortunate in our lifetime, we have the opportunity to know, admire, and learn from a man like Judge Emanuel Cassimatis. Throughout his career, Mike was a leading advocate for children, serving as a member and Chair of the Juvenile Court Judges' Commission, President of the Pennsylvania Conference of State Trial Judges and of the Conference's Juvenile Court Section, member of the Pennsylvania Permanency Planning Task Force, chair of the Ad hoc Committee on the Mental Health Needs of Children, and Convener of Pennsylvania's Juvenile Justice Policy Group. In his home of York County, he established the Court Appointed Special Advocate (CASA) Program and the Earn-It program, which enables youth to earn money to pay for the damages caused by their offenses. Internationally, he was selected as one of five jurists worldwide to serve on the International Tribunal for Children's Rights to conduct hearings on war-affected children.*

*Upon his passing in November 2009, his fellow citizens of York County captured the essence of who Mike was, saying:*

*"The world seemed brighter when talking with Mike Cassimatis.....a brilliant and learned man who could have easily been a college professor.....that he loved people and the law came through all the time.....one of the most decent human beings to ever grace the court.....his deeds have touched the lives of untold thousands, and there could be no finer example than he.....he was always prepared, he worked diligently, and he cared greatly.....he was the model of judicial temperament".*

*Mike served as a member of the first Juvenile Delinquency Benchbook Committee and wrote the definitive treatise on what it means to be a juvenile court judge. The message it conveys is Mike's continuing message to all of us. The words of Judge Emanuel Cassimatis that follow continue to stand the test of time as the epitome of what we all aspire to be as juvenile court judges.*

Judge Art Grim  
Chair  
2003 and 2006 Benchbook Committees

## The Juvenile Court Judge

### *Judge Emanuel Cassimatis*<sup>1</sup>

So you are a Juvenile Court Judge. How did that come about? Are you a judge in a one-judge county, so you have to preside over all the cases that come before the court? Perhaps you are a judge in a multi-judge county and you have been assigned to handle juvenile court cases. Maybe this assignment is for several years and you will be rotated out with another judge replacing you in the rotation process. Then, again, you may have been handling juvenile court cases by request and choice, with the intention of remaining in juvenile court for at least five years.

Regardless how you have come to preside over juvenile cases, you are going to be responsible for presiding over cases and, perhaps, also overseeing the entire juvenile delinquency program and operations in your county.

***A juvenile court judge must bring passion, commitment and skills to the job.***

One thing is clear. There is nothing you will be doing that will be more important than your juvenile court assignment. The opportunity and challenge to you is to do the best possible job you can. How you will do your job will largely determine not only the processing of the juvenile delinquency cases in your county, but how well the juvenile probation department does its job; and, most importantly, whether the intervention of juvenile court in the lives of the juveniles who come before you will promote community safety, victim restoration, and youth redemption, the overarching mission of juvenile justice in Pennsylvania.

To sum up. In the final analysis, how you came to this assignment does not matter. But, how you do your job will matter – a great deal.

We hope you will find the suggestions and ideas in this chapter helpful to you in your assignment. A good place to begin would be to look at the basic qualities a juvenile court judge should have and cultivate. They are: ***passion, commitment*** and ***skills***. These are the attributes of a successful juvenile court judge.

**Passion** involves an intense emotional drive and enthusiasm for working in juvenile justice. This is more innate, but can be learned as one gains understanding of the promise and opportunities of a balanced and restorative juvenile justice system.

**Commitment** is the dedication of oneself to doing the best possible job as a juvenile court judge, and, even more, a commitment to excellence. It is both general and specific.

It is general in the sense of seeing to it that there are allocated to administering juvenile justice cases in the county sufficient resources including judicial time, adequate court and hearing rooms, trained and committed juvenile probation officers, district attorneys, public defenders, and victim witness service providers, and an adequate array of dispositional alternatives from which the judge can make a positive dispositional choice, and not the best of the offering of bad choices.

It is specific in that the judge must be certain that there is devoted to each case before him or her enough time and information so that the judge can do his or her job unhurried, thoughtfully, and engaging all involved in a positive way as partners in achieving successful outcomes.

**Skills** refers to the judicial court judge gaining proficiency and expertise in all of the matters touching upon juvenile justice, and it is an ongoing, never completely achieved goal. This is learned, and not innate. It, of course, involves the provision of due process, a knowledge of criminal law, and constitutional safeguards, and proper decision-making in hearing juvenile complaints. But it means more: how to relate to the juvenile, his/her parents, and other person(s) acting in the role of parents to the juvenile; the victim, the involuntary and hurt participant in the system; police and other witnesses; juvenile probation staff; the school system; and service providers. All must be engaged in a positive way that will motivate and enable them to understand their role and the juvenile justice system's expectation—if not demand—that they play out their role competently and with integrity, enthusiasm and commitment.

The judge must also be constantly alert to improving his or her ability to relate to others to engage them in a way that promotes and enables their enthusiastic support, as well as to learning the vast array of dispositional alternatives, including placement resources and community-based services. The latter would include individual and family counseling, victim assistance and counseling, including mediation, and mental health, drug and alcohol, school, and mentoring services. If there are gaps in the offering of these services in the community, the judge should learn how to engage and lead the community to undertake the establishment and provision of such needed services.

Thus, the judge needs to be engaged in the ongoing process of developing skills which, when coupled with passion and commitment, will enable the judge to carry out his or her responsibilities.

There are three roles to play. The first is as a judge presiding over assigned cases. Here the judge will not only determine whether the charges against the youngster have been proven,

but will also have to set in motion and supervise the program of “supervision, care and rehabilitation which provide[s] balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable [the juvenile] to become [a] responsible and productive [member] of the community.”

The second role is the responsibility for operations of the juvenile probation department. (In counties where there is more than one judge assigned to juvenile court, this responsibility may be that of the assigned administrative judge of juvenile court.) In this role, the judge may be as active a participant as he or she wishes. Where there is an outstanding Chief Juvenile Probation Officer and a well-functioning department, there will be much less demand on the time and attention of the judge than where these strengths are lacking. In the latter case, the judge will have to be very actively involved in the operations, morale and improvement of the functioning of the department. In either situation, the judge must make every effort to see to it that there are sufficient monetary resources available to hire, train, and keep highly motivated staff and sufficient well-trained and functioning support staff. The judge must assure well-trained, highly motivated and functioning prosecutors (district attorney staff) and defense counsel (public defenders or specially appointed counsel) are in place. Emphasis will have to be placed on obtaining adequate technology and the training required for its use; constant updating on the latest proven and successful techniques on supervision of clients; and awareness of various proven and new treatment programs that must be provided. Adequate space within which the juvenile justice department functions must also be provided. Excellence must be demonstrated by the way the judge does his/her job and the judge’s expectation, indeed demand, that all who interact with the judge do their job in the same manner.

Finally, but not the least, the judge must assure that all the players in the juvenile justice system, as well as those coming in contact with it, are treated with courtesy, respect and civility, both in and outside the courtroom.

The third, and perhaps most difficult, role the judge will have to play is that of a community energizer and enabler. The principles of balanced and restorative justice require the community to play a larger role throughout the juvenile justice process. It was not too long ago that the community role was simply, passive, to expect the safety of the public and perhaps to insist that law enforcement, the police, and the juvenile court authorities did their job to assure public safety. There was, however, no offer or expectation that the community had a much larger role to play, an active role. We now know that no community

can simply depend upon law enforcement and juvenile court to keep the community safe from and successfully deal with juvenile offenders.

The community that wants to deal successfully with juvenile offenders must become actively involved in all aspects of the community's juvenile world. Initially, it involves the community identifying the risk behaviors and protective factors in the community (Communities That Care)<sup>2</sup>. Emphasis should be placed on prevention programs, which must begin in the earliest school, and even pre-school, years. There should be wholesome activities for the youth that will attract and keep them actively involved developing prosocial values and outlets; diversionary programs that will enable neighborhoods to deal with youthful offenders' early non-life-threatening misdeeds and redirect them to positive, law abiding lives. Schools must provide a learning opportunity that will attract and keep students in school until graduation.

The business and industrial community can provide jobs that will prepare youthful offenders to learn how to become job-ready and get and keep a job while they are earning money to pay their restitution to the victims they have wronged and caused a loss. Community service will permit the juvenile to repay the community he/she has wronged where there is no monetary loss caused by his/her transgression. The community can provide community-based programs that will offer needed services to juveniles and their families instead of sending such juveniles out of the community into program placements that are not only costly but less effective in dealing with the juvenile and the family and neighborhood because of the juvenile's separation from the community. Engaging the schools, religious institutions, character building organizations, service clubs, and neighborhoods to become actively involved in identifying, helping, mentoring and socializing juvenile offenders is critical to success. Also important, the community must establish an environment in which the youth will grow that will instill in them by example mutual respect for the personhood of every one regardless of race, color, creed, national origin, or gender. This is not an all-inclusive list. There are more that a creative judge can identify with an engaged community.

The initial challenge to the judge is how to engage the community. A judge who has been an active member of the community prior to the election to the bench can build on the numerous contacts developed during that time. The judge who was not so actively involved will find that it is not that difficult to reach out. Initially, the community respects enormously the position of judge. The engagement can begin by speaking to various groups, educating them to the principles of balanced and restorative justice and the community's role in implementing them; for example, the Chamber of Commerce,

Manufacturers Association, Council of Churches, PTAs, service clubs and other community, civic, educational, and religious organizations. The Chief Juvenile Probation Officer can be a big help in suggesting to the judge the type of community initiatives that could provide a good beginning, such as neighborhood youth panels and community group conferencing programs.

After the initial contact, the judge will find it easier to continue the engagement, to lead the community to accept a role, and, indeed, responsibility in carrying out the principles of the balanced approach. Staff support will be needed. Funding for the community meetings, services input and program operations will be required. Grants are readily available.<sup>3</sup> The Chief Juvenile Probation Officer will have to draft the proposal. The judge will give the direction and enlist the needed support of the County Commissioners for the grant proposal.

A community that is involved in deciding what the role of the community should be and what programs should be created or maintained will much more easily provide the support and get the approval of the County Commissioners for such initiatives. Community involvement leads to community ownership. Meaningful community involvement leads to meaningful community ownership.

The judge can make this happen. Indeed, he or she is probably the only one who can make it happen.

The judge should not overlook the importance of being certain the media, print, radio, and television, know and understand the general principles of the Juvenile Act and especially the goals of balanced and restorative justice. With this understanding their reporting about the functioning of juvenile justice, generally, or in a specific case, will be related in a way that is likely to promote a positive attitude to the functioning of juvenile justice in the community.

Two ways the judge can go about this are: media reporters attending juvenile hearings and the judge meeting with media personnel individually, or preferably, regular background meetings with media personnel discussing the issues of juvenile justice that are important for them and the larger community to understand.

Media reporters may, of course, attend juvenile hearings that are open to the public. But there is no reason why they should not also be permitted to attend and report about closed hearings, so long as they do not report in a way that would disclose the identity of the juvenile involved. If the judge conducts the hearing in a way that all the participants, juveniles, parents, attorneys, victims and other interested parties, clearly understand what

is happening and why, there will be no need for any additional explanation to the media reporters. This process can promote the public's understanding of the operation the juvenile justice in their community by having access to news reports by reporters who personally covered the hearing. Of course, there is no guarantee that such reports will be written in a way we would have written such reports, but they most likely will be written in a way that lifts a little higher the veil of secrecy and lack of understanding of juvenile justice.

Background meetings with media representatives can be arranged by the judge monthly, bi-monthly, or some other regular basis. These could be "Dutch treat" luncheon or dinner meetings. The judge can present over a series of meetings the various significant provisions of the Juvenile Act that they and the community should be sure to understand. Other topics could and should include: the principles of balanced and restorative justice; the roles of the family, the community, and the juvenile justice system; the availability or lack of adequate facilities, personnel, and time to enable juvenile justice system to do its job well; the importance of prevention; adequate community-based programs that serve the needs of the juvenile, pre-and post-delinquency adjudication; the new emphasis on the restoration and understanding of the victim; the need for the schools to be able and willing to play their part in both prevention and treatment; and the new role the community must play for the balanced approach to work. The judge can expand this list according to the specific needs of the community.

The media representatives should be encouraged at these background meetings to ask questions and bring up topics for discussion at future meetings. These meetings should be "off the record." This would not prevent reporters from reporting in a story or series on any of the subjects discussed at the background meetings. It is important that the editorial writers and city editors also attend. With such attendance will come an increased understanding of juvenile justice and related matters that will be reflected in their news stories as well as editorials and columns.

Finally, and perhaps of paramount importance, the culture of juvenile justice in the community is critical. The juvenile and his/her family, the victim, school, police, neighbors, and service providers must come away from their experience in juvenile court with respect for juvenile justice as an institution. The court's involvement must produce an aura that promotes this respect and, is it too much to expect, reverence for juvenile justice. The personal appearance and involvement of the judge as distinguished from masters, lends significantly to this aura; that is, that juvenile justice is so important that it requires the judge's personal involvement and not just an attorney/master. Of course, there will be the

need for masters<sup>4</sup> where the judge simply does not have and cannot make sufficient time to preside at detention hearings and other situations covered in the Juvenile Court Judges' Commission's Standards Governing the Use of Juvenile Court Masters (see discussion at § 11-3). But, we must recognize that the non-presence of the judge in any court appearance/hearing sends a powerful message to all involved that this is not that important to require the actual presence of a judge. The district attorneys and public defenders or other assigned defense counsel must carry out their roles in a way that promotes respect for juvenile justice.

The hearing rooms and facilities allocated for juvenile court use must be adequate. If they aren't, this lack or deficiency again delivers a powerful message to those involved, that is, juvenile justice is not that important; it gets second class status on the allocation and use of judicial facilities. Not only the courtrooms must be adequate, but victim/witness waiting rooms and interview rooms must be reasonably adequate.

In short, the majesty of the law of juvenile justice must be instilled in all involved. If it is, the promotion of the principles of balanced and restorative justice will be greatly facilitated. If it isn't, it will be difficult to overcome the impression that our conduct, that is the lack of priority of judicial time, staff, and facilities, speaks louder than all our protestations that the involvement of the juvenile and his family and others is of top priority in the dispensing of juvenile justice by our courts.

In conclusion, here are a few do's and don'ts that express the role of the judge.

### **DO's**

1. Approach each case with enthusiasm and as an opportunity as well as a duty to achieve the mission of the juvenile justice system: community protection, victim restoration and youth redemption.
2. In scheduling cases, allow sufficient time for each case without rushing through or even appearing to do so. Bring the hearing to an unrushed conclusion and not an abrupt stop when the time allotted for the case has expired.
3. Articulate clearly the court's expectations of all involved: the juvenile, parents/family, juvenile probation officer, counsel, school, victims' services, and resource providers.
4. Hold all involved in the case accountable for accomplishing their specific goals/ assignments. Review interim reports, monitor to make sure everyone is on track to reach their goals in a timely manner.

5. Treat everyone with respect and courtesy and insist all involved do the same.
6. Treat each contact with the juvenile and family as an opportunity to enable the child to advance in his/her program of supervision, care, and rehabilitation.
7. Treat each contact with a crime victim as an opportunity to affirm the importance of his or her input and participation throughout the juvenile justice process.
8. Create and maintain a culture in the community that informs the community of its role in carrying out the principles of balanced and restorative justice and enables and leads the community in doing so. This includes special attention to establishing a close liaison with school authorities that enables coordination of policies and programs.
9. Join with other juvenile court judges in constantly striving to improve juvenile justice in Pennsylvania; for example, attending and actively participating in meetings of the Juvenile Court Section of the Pennsylvania Conference of State Trial Judges and The Pennsylvania Conference on Juvenile Justice
10. Be informed on all new developments in the law and treatment programs/resources in juvenile justice. Help to create new programs where needed, especially in the community.
11. Create and maintain or enable the creation and maintenance in juvenile court of an aura of the majesty of the law that instills the respect of all involved.

#### **DON'Ts**

1. Undertake the duties of a juvenile court judge with less than a 100% passionate commitment to demanding excellence of yourself and all those involved in working with juvenile and family; i.e., the attorneys, juvenile probation officers, victim and other service providers and school personnel.
2. Always assume the juvenile is the root cause of the problem that brings this juvenile into court. Rather, always consider the role of the family, school, and community as both a contributor to the cause of the juvenile's actions as well as resources for accomplishing community protection, victim restoration and youth redemption.
3. Go into a case unprepared or allow others involved to do so.

4. Overlook the importance of positive feedback not only to the juvenile and family but to others involved as well; i.e., the juvenile probation officer, attorneys, victim, and school and resource personnel.
5. Miss any opportunity to communicate with the community about their role in the juvenile justice process.
6. Overlook shortcomings or failures in performance of their roles by the various players in juvenile justice. Rather, inform them, privately at first, of their shortcomings and failures and importance of improvement to the overall juvenile justice system.
7. Feel any one person/program is indispensable in working with the juvenile and family. All, including the judge, are replaceable. Training and foresight will assure successful succession. This should not be an excuse for unnecessary and avoidable staff turnover of those involved in the case.
8. Expect feedback, especially positive. Learn to have confidence in how you are doing your job.
9. Expect a perfect outcome in all cases, but do not give up trying.
10. Expect to rotate out of a juvenile court assignment in less than two years or preferably in less than 5 years.

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<sup>1</sup> The Honorable Emanuel A. “Mike” Cassimatis (December 2, 1926 - November 4, 2009) served as a member of the Juvenile Court Judges’ Commission (JCJC) from 1989-1998 and as JCJC Chairman from 1989-1994. Judge Cassimatis understood that the key to addressing major issues in state government lies in developing effective working relationships with other people and agencies. The leadership provided by Judge Cassimatis during his four years as JCJC’s Chairman was truly exceptional, and there are countless examples of the quality and effectiveness of his leadership. Suffice it to say that it was the consensus of the other members of the Juvenile Court Judges’ Commission present at the JCJC’s meeting in July of 1994 when he concluded his term as Chairman, that no chairman, in the history of the Juvenile Court Judges’ Commission, had given of himself so fully as did Judge Cassimatis during his term of office.

Judge Cassimatis served as Judge of the Court of Common Pleas in York County from 1978 to 1996 and as a Senior Judge from 1996 to 2006. Regarded as one of Pennsylvania’s finest judges, he was active as an officer in the Pennsylvania Conference of State Trial Judges and its Juvenile Court Section, both of which he served as President. Following the 1995 amendments to the Juvenile Act, which established a new statutory mission for Pennsylvania’s juvenile justice system based on the principles of balanced and restorative justice, Judge Cassimatis led the Juvenile Advisory Committee of the Pennsylvania Commission on Crime and Delinquency through the process of developing the mission statement for the system of “Community Protection; Victim Restoration; and Youth Redemption.” Judge Cassimatis became one of Pennsylvania’s most eloquent advocates for the principles of balanced and restorative justice.

<sup>2</sup> <https://www.communitiesthatcare.net/>

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<sup>3</sup> The Pennsylvania Commission on Crime and Delinquency (PCCD). <http://www.pccd.pa.gov/pages/default.aspx> may have funding available.

<sup>4</sup> In 2017 the Rules of Juvenile Court Procedure were amended to replace the term “master” with the term “juvenile court hearing officer”. The definition of the term “juvenile court hearing officer” at Pa.R.J.C.P. 120 explains that the term has the same meaning as term “master” as used in the Juvenile Act.