

Court issues analysis



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Court Issues AnalysisCJA 394Court Issues AnalysisAdministration and management of courts is filled with challenges. Often depending upon the geographical context of the court, such challenges will include resource shortage, a perpetual docket of criminal cases and the broader complexity of providing civil order and justice to communities while balancing constitutional law and local ordinance. Moreover, the complexity of administering justice in and of itself plays a part in the difficulty of court management, with issues such as the deepening ethnic diversity of encountered populations and shifting ideas about victims'™ rights playing defining roles in the tasks before any given court. The discussion here on language interpretation services and the timeline in the evolution of victims'™ rights are offered within the context of court administration. It is often the case that courts will find themselves burdened with the task of wading through the details of officer-defendant confrontations in spite of the various obstacles to communication which may have contributed to an initial altercation. Officers are trained to control situations rather than to reason with them, and especially in cases where language barriers are a factor, it is simply more expedient to work toward immediate resolution and allow the courts to sort through the details in a formal proceeding.

This is consistent with Robinson's™ claim that '?? American criminal justice now devotes a larger portion of its resources to its police and corrections than to its courts, providing more evidence that we are following a crime control model of criminal justice'?? (Robinson, 2002). It is for this reason that it is incumbent upon the courts to provide all participants in court proceedings with the necessary resource support to effectively navigate the

details of an altercation or of events that otherwise led to an incident, crime or arrest. According to the Missouri Courts, all courts are recommended to employ interpreters approved by a federal certification program overseen by the National Center for State Courts (NCSC) Consortium for Language Access in the Courts as implemented in 2000. This calls for the use of unbiased and fully qualified language interpreters. The availability of this resource is girded by legislative terms as well, which indicate that ??? by law, courts shall appoint a qualified foreign language interpreter in all legal proceedings in which a non-English speaking person is a party or a witness (Section 476.803. 1, RSMo).??? And in the event that such is necessary, the Missouri Courts continue, ??? Advise the court directly when services are needed so that they have adequate time to schedule qualified service providers??? (MC, 2010).

This denotes that it is incumbent upon those in need of an interpreter to make the proper arrangements to request the necessary support and, simultaneously, it is incumbent upon the court to provide the requesting individual with access to such personnel (MC, 2010). In the past, the focus of criminal justice procedures had typically been on the punishment of criminal behavior. This meant that within the context of legal proceedings, the experience of the victim has often been secondary or relegated to non-consideration as the resources of jurisprudence are dedicated to finding the truth of the alleged perpetrator??™s guilt or innocence. And because the system proceeds from an innocent-until-proven-guilty disposition, it has historically been difficult to simultaneously maintain the objectivity required

of the courts while attending to the needs, rights and sensitivities of the alleged victim.

This would create a scenario in which the advocacy of victims'™ rights would emerge as a critical area of need where court management is concerned. It is thus that in 2004, the movement to redraft the Sixth Amendment achieved a partial victory when Congress passed the Crime Victims'™ Rights Act (CVRA), which pledged that these rights to be present and to be heard would be implemented in federal court proceedings (Muraskin & Roberts, 2004). This would help to expand the implications of such court proceedings by introducing another dimension of justice to the process of adjudication. That is, for the court administrator, there is today a responsibility to simultaneously see that justice is carried out with respect to the facts surrounding the defendant but also to ensure that the victim's™ role as a witness does not also place this individual in a context to be bullied or intimidated by the defense proceedings.

This denotes a condition today where the victim is afforded certain protections designed to offset some of the practical challenges related to the philosophical presentation of defendant as innocent until proven guilty. It has also indicated a transition in the discussion of the victim's™ experience with parallel court systems increasingly focused on not just punishing perpetrators but also on compensating or awarding victims. Such is to say that presently, there is an emphasis for many victims in the courts systems to use civil proceedings as a way to receive just compensation for harm, damages or loss incurred as a result of actions pursued by the perpetrator. Accordingly, Muraskin & Roberts report, now the middle stage of

adjudication is undergoing privatization, and a dual court system is emerging: criminal courts handle most cases, but neighborhood justice centers and victim-offender reconciliation programs (VORPS) practicing dispute resolution work on selected cases diverted from the government??™s system??? (Muraskin & Roberts, 2004). Such is to say that today, as the ideology on the administration of justice has shifted to include consideration for the experience of the victim rather than simply the role of the perpetrator, compensation of the victim has become as important a goal as punishment of the perpetrator.

In fact, in most civil cases, the compensation and punishment are directly interdependent. With respect to the future of the administration of justice from the perspective of the victim??™s rights, there remains always a pressure upon the courts to improve the degree of equality reflected there within. For perpetrators and victims alike, ethnic and racial factors are frequently determinants of exposure to crime, violence and engagement of the court systems. Moreover, evidence abounds that racist practices and profiling are still strategies employed by law enforcement groups. And as Robinson notes here above, the culture of incarceration does dominate law enforcement. Therefore, it will often fall to the courts to take the steps necessary to identify and remove the effects of racial inequality that often take flight on the streets.

The means that proper training, education and internal culture must be in place to ensure that courts act with fairness and even work to redress some of the inequalities that may be faced by minorities and other groups unequally effected by crime. For victims who are already directly impacted

by the crime and violence in their respective communities, the court is intended to function to some degree as a protective context in which the relevance of these prejudices might be examined. It remains a challenge with many dimensions that future court administrators must address if justice is to truly be doled out in our courts.

References Missouri Courts (MC). (2010). Court Interpreter Services.

Courts. mo. gov. Muraskin, R.

& Roberts, A. (2004). *Visions for Change: Crime and Justice in the Twenty-First Century*. Prentice Hall.

Robinson, M. (2002). *Justice Blind* Prentice Hall.