

## Court Management in an Environment of Scarcity\*

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**WE ARE IN** a time of unprecedented change, substantial risks and challenges, and remarkable possibilities. We are in a world marked by fundamental dislocation and uncertainty, and closer to home by an environment of true scarcity, austere budget pictures, multiplying challenges, perhaps offset by technological wonders that court leaders of yesteryear could not even have imagined.

It's time for new mental models and new leadership approaches. We do not come to these transformative concepts easily. In James Clavell's novel, *Shogun*, a Japanese woman tells her British lover, who is perplexed by the strange world of 17th century Japan into which he has fallen, "It's all so simple, Anjinsan. Just change your concept of the world." Indeed!!

When those of you in the federal court system signed up for the job of chief of Probation or Pretrial Services, you probably did not expect to have to deal with the kind of severe budgetary challenges we face today leading, in some cases, to downsizing and employee layoffs or furloughs. I doubt you imagined yourself putting together contingency plans for the continuity of operations of your court, or supervising building evacuation exercises to prepare for possible terrorist attacks. You may have looked out on a court system that seemed well organized and functioning smoothly in that complement of court units quaintly described by many as the "court family." And you never imagined, in your wildest dreams, how much time and energy you would spend on resolving difficult personnel issues. Whether we imagined it or not, this is the world we have. As a very wise person once said, "The future isn't what it used to be."

And yet, in tough times, in times of turbulence or what management scholar Peter Vail calls "permanent whitewater," leadership is more important than ever. In their recently published book, *The Price of Government: Getting the Results We Need in an Age of Permanent Fiscal Crisis*, authors David Osborne and Peter Hutchinson describe Hutchinson's visit to a grade class in Minneapolis. (He was the former superintendent of schools in Minnesota.) Mr. Hutchinson asked the class the following question: "Does anyone know what a leader is?" The teacher called on a girl in the back of the room who was waving her hand with such ferocity that Hutchinson was afraid it might become detached from her body. She stood straight and tall and said, "A leader is someone who goes out and changes things and makes things better."

Now I've read many definitions and explanations of leadership, but I have to say this fourth-grader has gotten to the core of great leadership—someone who goes out and makes things better. But how?

How can court managers go out and make things better in these difficult times? First, by maintaining a focus on the big picture, on the "core" of what we do. As Collins and Porras

discuss in their excellent book, *Built to Last*, great organizations have core values, a core ideology that remains constant even in a world of continual change. These organizations may change their tactics and even their strategies, but they do not waiver on what they stand for.

We work for the greatest justice system in the world, where we embrace what Justice Sandra Day O’Conner calls “the majesty of the law.” In her book with that same title, Justice O’Conner states that, “What is quite remarkable in my view is that each and every petition for review, whether provided by a sophisticated lawyer in a high-rise or handwritten by a prison inmate or private citizen in her home, is reviewed with care by each Justice.” Or, as an applicant to the Federal Judicial Center’s Probation and Pretrial Services Leadership Development Program put it, “If Proctor and Gamble can brag about a new detergent and McDonald’s can celebrate low cholesterol French fries, can’t the U.S. Probation Officer be proud of the Constitution?”

We are part of a strong and independent judiciary, whose essence was perhaps best captured by President Truman when he said, “Packing the Supreme Court can’t be done. I’ve tried it and it won’t work. When you put a man on the Supreme Court, he ceases to be your friend.” Instead he or she becomes the friend of those in need of protection—against the ravages of discrimination or the denial of the equal protection of the law.

I vividly recall an event that took place shortly after 9/11, when we returned to work at the Thurgood Marshall Judiciary Building. It is a rare occurrence for anyone to use the public address system in our building, but on that day Director Mecham took to the airwaves as it were and what he said has stayed with me ever since, because it spoke to the core values of which I am speaking now. He said, as accurately as I can remember, “I know that many of you are upset and frightened, and perhaps others are frustrated wondering what you can do to help our nation’s recovery from this tragedy. One of the best things we can do is to continue our work on behalf of the ‘rule of law’ in this country.” Yes, the rule of law, or as Churchill described it the “sovereignty of law” is what the judiciary is all about.

Writing recently in the *Los Angeles Times*, former Senator Gary Hart said, “For more nations will follow us because of the power of our ideas than the might of all our weapons.”

The nobility of our cause should uplift our spirits, even in tough times. And it should give us the courage to advocate for ourselves, to lobby for the resources necessary to secure this great enterprise called the judiciary. As Lyndon Johnson once said, “Nothing convinces like conviction.” But it’s not enough to have a noble cause when things get really tough and when we operate in an environment of waiting for the other shoe to drop, an atmosphere of scarcity and fear. What else can leaders do to go out and make things better?

Allow me to suggest some things we can do. First, I suggest that leaders avoid the panic mode. There is nothing more debilitating to employees than seeing their leaders fall victim to a panic mode when dealing with tough issues. Panic spreads quickly and creates an atmosphere of toxicity, as described by Professor Peter Frost of the University of British Columbia in a fine article titled, “Handling Toxic Emotions: New Challenges for Leaders and Their Organizations” (*Organizational Dynamics* Volume 33, 2004). In her unforgettable eulogy for the late President Ronald Reagan, Margaret Thatcher recalled how Reagan always maintained a sense of calm as a leader, no matter what came at him. After all, he was even calm when he walked into George Washington Hospital after being almost fatally wounded and said to the doctors about to operate, “I hope you’re all Republicans!”

In the article I alluded to earlier, Professor Frost shares the insights of David Marsing, a senior manager at Intel, who said in an interview:

I try, to the greatest extent possible, to maintain a level of calmness in the face of frantic issues. I try to be as objective as possible in discussions, and if I’m in a face-to-face meeting with someone who has a short fuse, I’ll sit right next to that person to make sure the fuse is never lit. I do that by being calm, even overly calm. When things get heated, I even change my voice. I will consciously take a

deeper breath, or two breaths, in front of everybody to get them to calm down a little bit and talk about the specifics, about solutions.

It's also a good idea to avoid the syndrome of "learned helplessness" as described by psychologist Martin Seligman. This posture tells us, "I can't do it, and the forces are stacked against me. I cannot provide any help to my staff because I too am paralyzed by fear, and anger, and my own impotence."

Indeed, Seligman has spawned a whole movement called positive psychology. This approach redirects focus away from an almost singular emphasis on healing mental illnesses and pathologies, and toward psychology's two forgotten missions: making people's lives more productive and worthwhile, and actualizing human potential. Seligman's pioneering work has led to the development of a school called positive organizational behavior or POB, which applies positively oriented human resource strengths to organizations; these strengths include self-efficacy/confidence, hope, optimism, and resiliency. The totality of these characteristics amounts to positive psychological capital.

People respond better to optimists than to pessimists, even when the only optimism possible is a brutal one, like Winston Churchill who told the British people, "I have nothing to offer you but blood, sweat and tears...but in the end I know we'll prevail."

In tough times, you can and should reach out to others. Our system has an amazing reservoir of good will, of people willing to help their colleagues. In the words of Oscar Stephenson, a chief probation officer in Alabama, "Anyone in our system can visit any courthouse in the nation with a full measure of confidence that she will be treated with a warm courtesy and an attitude of helpfulness and support." People are willing to share computer programs, expert knowledge, and even solutions to problems. In short, I recommend to you the following: don't go it alone!!

In a July 1993 article in the *Harvard Business Review*, authors Robert Kelley and Janet Kaplan sought out an explanation for how the superstars at Bell Laboratories achieved that elevated status. These are the 10 to 15 percent of scientists and engineers who stood out among their co-workers as stars. Managers explained the ascendancy of the stars by their IQ, or their competitive spirit, or other innate characteristics. Kelley and Kaplan, on the other hand, found the real keys to becoming a superstar included taking initiative and asking for help when needed.

In a recent article in the "Health" section of *The Washington Post*, a physician explained how reaching out to others helped him in his personal struggle against prostate cancer. By consulting friends, experts, and colleagues, this doctor learned that he did not have to take the most extreme advice proposed by one of his own doctors, but could try out less invasive, promising measures and then if needed go to the extreme.

A new study by psychologist Patrick Laughlin and his colleagues at The University of Illinois demonstrates that the approaches and outcomes of cooperating groups are not just better than those of the average member of the group, but are also better than the group's best problem-solver acting alone. I guess this research conclusion seems at odds with the famous quip of President John F. Kennedy, who proclaimed to a group of Nobel laureates seated for a meal at The White House, "There are almost as many brains assembled here as there were when Jefferson dined alone!"

Don't go it alone. Why? Because the lone problem-solver cannot match the diversity, knowledge, and perspectives of a group. We at the Federal Judicial Center broadcast an FJTN program related to the "Twelve Angry Men," noting that the jury in that famous movie reached a better decision because of its diversity—and because one of the jury members took the time to survey perspectives and entertain dissenting voices.

The problem-solver who goes it alone loses a considerable advantage—the power of parallel processing. In a cooperating group, specific parts of a decision can be parceled out to members for research, while the lone operator must process each piece sequentially. This can be a

fatiguing exercise when performed solo, because the decision requires information, analysis, integration, and judgment.

Whether it's about the best way to absorb budgetary shortfalls, to implement a new wave of the latest technology, or to coordinate the plethora of decisions and actions around moving into a new building, the leader will benefit from the wisdom of the team.

Finally, you must use compassion in turbulent times. You may think there is little you can do, but according to another article in the *Harvard Business Review*, there actually exists a compassion lab that measures the compassion levels of organizations. According to Professor Peter Frost, "Leaders of people in pain listen. They listen with attention and compassion to someone else's pain providing a moment of human connection." In the words of an executive interviewed by Frost, "I didn't say much, but I would look them in the eye and do a lot of nodding."

You can take small actions that have a big impact. During the 1995 government furlough—when Bill Clinton and Newt Gingrich could not agree on a budget for the federal government—the Secretary of Health and Human Services, Donna Shalala, wondered out loud what she could do to show compassion to her staff, who would lose pay and benefits during the holiday season. She explained her actions to *The Journal of Leadership Studies* in 2002:

I had to find a way to keep their morale up during a pretty devastating time for them, and we did lots of different things. Including the fact that we only had half the money for their paychecks just before Christmas, we figured out that we did not have to take all of the deductions out—Medicare and other tax deductions. As a result, our employees actually got their full checks before Christmas. They were shocked because all their friends and neighbors were getting \$7.00 checks and \$20.00 checks. It just took an extra effort for us to do this for our employees. We also communicated very clearly with them about what was going on. Even when we did not know what was going on, we sent them a letter saying, "We love you, hang in there." I remember my staff saying to me "We don't have anything to tell them." I said, "I don't care, just draft me a letter signed by me that says, hang in there, we're fighting for you."

In closing, I wish to emphasize, again, my personal recognition that you are leading your probation and pretrial services offices in a difficult time, and that there really is no playbook to guide your actions. You will have to have courage, defined by Senator John McCain as "that rare moment of unity between conscience, fear, and action, when something deep within us strikes the flint of love, of honor, of duty to make the spark that fires our resolve. Courage is the highest quality of life attainable by human beings." You will have to try and remember the grandiosity of the judiciary's mission, the need to face adversity squarely and not resort to learned helplessness, the imperative to reach out to others, and to use your teams to help you.

Take up a new form of leadership, more akin to General Matthew Bunker Ridgway than to Douglas MacArthur. According to David Halberstam, writing in *Fast Company* (September 2004):

Ridgway was courageous, but he is also instructive to us as a reflection of a new kind of military leader. In retrospect, MacArthur, the man he would soon replace as commander in the Far East, seems like a leader from another century. He was always busily engaged in cultivating his own personal mystique as the great man, the Great MacArthur who was head and shoulders above all other generals. The idea was that because he was such a great general, those he led were also great and would now fight well because he was leading them.

Ridgway was very different, a leader for the new, modern era. His leadership was more of an egalitarian kind, premised on letting the men fighting under him find something within themselves that made them tough and combat ready. The point of his leadership was not that

they would think that he was a great general—although in time they did—but that they would fight well because they were now more confident about who they were and what their mission was, and confident, too that they were tough and well prepared. And in a stunningly short time, he turned the Eighth Army around and made it a remarkable fighting force, one that could stalemate the vastly superior number of Chinese.

That was leadership at its best: a truly great man rising to the heights during an unforeseen, desperate occasion, lifted by his talents and his instincts, and imposing the force of his will on so many disheartened others. It was as if he had prepared for this moment during his entire career—and maybe he had. You won't find the secrets of it in any of his books. He did what he did because to do anything less would have been less than who he was.

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