



# BUILDING ADMINISTRATIVE SCAFFOLDING IN SMALL COURTS

Experiences in the U.S. and Abroad

BY LILIA ALVAREZ

In 2014, two years after graduating law school, I was appointed to serve as a municipal court judge in Guadalupe, Ariz.<sup>1</sup> The town had the highest unemployment rate in Maricopa County, leading to significant public funding consequences for its municipal court.<sup>2</sup> On becoming presiding judge of this one-judge court, I found that my biggest challenges were in areas that my law school education had not prepared me for and that I had not associated with being a judge. I had to manage a budget, train staff to implement orders, and promote institutional decorum to build public trust in the judicial system. In some instances, I had to do all three of these things at once.

For example, before my appointment, litigants were not showing up to court because they feared being jailed for having outstanding balances in their cases. After we implemented the option of payment plans for defendants, the court no longer issued failure to pay warrants. Within six months of the change, over 90 percent of defendants appeared in court.<sup>3</sup> In two years, the court's change in practices saved the town of Guadalupe \$182,490 in jail costs, and the total number of active warrants was reduced by 60 percent.<sup>4</sup>

I thought my experience of having to build administrative scaffolding to make my court function was unusual, but I have since found that my experiences as a new judge were in fact widely shared by other judges. In this article, I discuss ways that municipal court judges throughout the United States engage in what I call "administering leadership by necessity" and how those efforts parallel the experiences of counterparts in other countries in areas of budgeting, order implementation, and fostering a culture of decorum and public respect.

While in law school, I took for granted the ideal of public respect for the courts, believing that judges had adequate resources to hear cases and to see their orders implemented with accuracy and efficiency. I learned the hard way that many judges arrive in courts with limited administrative infrastructure, and they must find ways to strengthen their institutions while also discharging their decisional duties.

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#### LEARNING THE HARD WAY

While in law school, I took for granted the ideal of public respect for the courts, believing that judges had adequate resources to hear cases and to see their orders implemented with accuracy and efficiency. I learned the hard way that many judges arrive in courts with limited administrative infrastructure, and they must find ways to strengthen their institutions while also discharging their decisional duties. I succeeded as a judge in this setting in part because experienced jurists and judicial administrators from around Arizona volunteered to mentor and guide me through the administrative challenges of the job.

After two years on the bench in Guadalupe, I served as the 2018–19 Supreme Court Fellow assigned to the Office of the Counselor to the Chief Justice of the United States at the Supreme Court. As a fellow, I served a limited diplomatic role in a very dif-

ferent courthouse. One of my primary responsibilities was to brief members of visiting judicial delegations who were representing trial courts from other countries. Most visiting groups I met came to the Court by request of the U.S. State Department's International Visitor and Leadership Program (IVLP) or by other public or nongovernmental rule-of-law projects. The typical international visitor briefing provided overviews of Article III of the Constitution, the federal courts and their relationship to the state courts, the certiorari process, and case flow at the Court.

As I met with these visitors, I began to see that the experiences I found most surprising about my role as a judge in Guadalupe, Ariz., were common to many judges in the United States and throughout the world. Many of the visiting judges I met serve on courts that look more like the municipal court in Guadalupe than the Supreme Court of the United States. My time as a municipal court judge helped me illustrate important contrasts between the federal judiciary and state court experiences. This opened conversations with judges visiting the Court from other countries about their administrative problems and allowed me to make the most of our interactions during the briefings.

For example, one of the first briefings I gave at the Supreme Court was for a U.S. State Department-sponsored delegation of judges and court professionals from Uganda. They asked me how the U.S. judiciary remains independent. I responded with an example from my own experience and described how, before my appointment as presiding judge, the court staff was accustomed to giving different people priority depending on their personal relationship with them. Then I asked the delegation if my ►

example sounded familiar. Their collective response was a lively, “Yes!”

I then explained the process by which I hired, trained, and supervised court staff in order to shift the court culture to emphasize impartiality and respect for the independence of the judiciary.

In my earliest presentations, I felt a strong pull to emphasize the federal court system. This was partly a function of venue; the majesty of the Supreme Court building looms powerfully in the background of any conversation held there. In addition, I felt moved to describe the uniform, well-resourced federal court system as exemplary of the judiciary in the United States. For visitors from judiciaries that struggle with basic administrative infrastructure, I saw that my emphasis on federal courts widened the gap between their experiences and those in our comparatively well-resourced federal judiciary. Our federal court system has a clarity and attractiveness useful for teaching. But I suggest here that consultations with state court municipal judges can enhance international rule-of-law projects and educational offerings by helping build bridges to the international judicial community. By drawing on the work of our state courts, these programs can make the U.S. experience more relatable and spark a different conversation with visiting judges.<sup>5</sup>

### COMPARING EXPERIENCES

This exchange, and others, inspired me to think about the common challenges of judges who serve on small courts with limited administrative infrastructure. I wanted to identify institutional issues shared across borders and learn how other judges went about addressing needs for improving their courts.

To help accomplish this, I spent time with two experienced U.S. municipal

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court judges (one from a single-judge court like Guadalupe’s, and another from a community court in a major city) and two judges from other countries (both with experience serving at a local level with limited resources). The four judges who gave their time and energy through interviews to help me develop this project were: Judge Terry L. Brown of the Ferguson Municipal Court in Ferguson, Mo.; Judge David Weingarten of the Roxbury Division of the Boston Municipal Court in Roxbury, Mass.; Judge Winfred Naigaga of the Kabale Municipality Trial Court in Kabale, Uganda; and Judge Mehnaz Siddiqui of the Comilla Trial Court in Comilla, Bangladesh.<sup>6</sup> This article is the result of their reflections on the common challenges faced by different courts in the areas of budget, order implementation, and decorum and public perception.<sup>7</sup>

### BUDGET

As a new judge, budget was an independent study for me. It had not been obvious to me that learning to manage court finances would be necessary to establish the value of the court in the community. I had no budget template, and, before my appointment, the town’s finance director spoke at town council meetings on behalf of the court. The budget was poorly planned for court functions — there was no

mention of the need for staff training, for a public defender, or for an interpreter. The budget did, however, include a line item for prosecutor supplies. I requested the assistance of a court administrator from a neighboring municipal court and studied the budget with help, line by line, to understand the allocations in it.

All four of the judges I spoke with emphasized the importance of the budget to “administering leadership by necessity.” They needed a working knowledge of the budget to participate intelligently in conversations about resource allocations in order to preserve the integrity of the institution of the court. This was an unexpected challenge for all of us because it was not a skill taught during law school or new judge orientation.

Judge Naigaga of the Kabale Municipality Trial Court in Kabale, Uganda, agreed: “You have to be very good at budgeting.” She described feeling particularly challenged by budgetary issues because, for several months each year, she did not have funds for employee compensation, office paper for court orders, or other materials needed for the administration of justice. She had no training to decipher her court’s budget, even though she came to view it as the roadmap she would use to plan and strategize about how to keep the court’s doors open for business.

Judge Siddiqui of the Comilla Trial Court in Comilla, Bangladesh, said she learned the budgetary process on her own so that she could control prioritization of resources. For example, she eliminated funding for new curtains and carpeting in order to ensure adequate funding for paper and printer ink.

As the only judge in the Ferguson Municipal Court, Judge Brown had sole responsibility for the budget. He had

prior service in another state court and used his working knowledge of that court's budget to argue to the Ferguson city finance department that the purpose of the court is to dispense justice, not to be the city's "piggy bank or ATM." By Judge Brown's account, "many times municipal courts feel they are partly responsible for generating the revenue for the city."

Judge Weingarten of the Roxbury Division of the Boston Municipal Court said he paid attention to his local budget to make sure administrative needs for supplies and equipment were met, but that as a judge in a multi-judge court, he did not have primary responsibility for finances. He learned more about budgetary mechanics through his involvement in the implementation of Bridges, a mental health court.<sup>8</sup> He said it was a "budgetary add-on that made it possible for [his] court to hire social workers and expand from one to three mental health sessions."

The four judges in my study emphasized the importance of learning the budgetary process for strategic reasons — to use as an effective tool for court improvement. Like me, they valued knowing how resource allocations could be changed in, added to, or eliminated from the budget, and why these allocations matter for meeting the basic needs of a court.

#### ORDER IMPLEMENTATION

Upon my appointment, I inherited thousands of backlogged cases. Old case records were in storage, collecting dust for a decade, or were placed in mislabeled boxes stacked up against the clerks' desks and on tall shelves that crowded the office space. I held hearings for litigants on a walk-in basis because the court's case management system was inadequate to track case progress and staff was not

accurately updating the files with compliance outcomes.

Once again, the four judges I drew on as comparators also were "administering leadership by necessity" in learning how to hire, train, and supervise court staff to ensure the accurate case processing and order implementation that litigants deserve. While moving cases along from the bench is important, the court's ability to successfully close cases when litigants comply with the court's requirements depends largely on judicial oversight of the court's case management system and the judge's ability to train court staff on the importance of accurate case processing.

Judge Naigaga and Judge Siddiqui described extensive case backlogs in their courts. Judge Siddiqui's case management system in Bangladesh is based on paper only; large stacks of cases take up her courtroom space. She developed a system to verify the work of court staff to ensure that orders, including case closures, were accurately captured in the files. Judge Siddiqui related the challenge of not

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having court staff members who are adequately trained in case management. She said, "The judge has to study first, and then teach the staff how to do their job." Her hands-on approach was to ensure that the court's staff processed cases "by the book."

Judge Naigaga in Uganda said the time she spent training staff and overseeing case processing helped to "lift staff morale." Through her personal involvement in the details, she was able to train her staff on how to close cases administratively after each case was resolved under the law. She also took her docket list to the jailhouse to confirm the presence of defendants and to put the jailing authority on notice that the litigants must appear in court.

Judge Brown in Missouri inherited a backlog of 10,000 cases due to structural issues that preceded his tenure and that had led to a consent decree requiring oversight by a federal judge.<sup>9</sup> Judge Brown attended administrative trainings, provided to his staff by the U.S. Department of Justice, to signal the importance of the work and "to ensure the court is useful in resolving cases and not in creating more problems for people." He shared with staff the positive feedback — from a federal judge who oversaw the court and from the Department of Justice lawyers who conducted the trainings — because it encouraged court staff to "feel positive about their contributions to the reform process and solidified their acceptance of the changes."

Judge Weingarten in Massachusetts said that, "Historically, the challenge in Roxbury is to ensure that every piece of the work is done to the highest possible standard." He described a case in which a person spent 12 extra days in jail because of an administrative error on a warrant that should have been removed from the system years ago ►

by a clerk whose work was normally outstanding. For Judge Weingarten, a judge's ability to address accurate case management through staff training and supervision is beyond critical — it is the “life blood” of a court's integrity.

I found that the four judges in my study were actively involved in strengthening the administrative foundations of their courts. Like me, they valued understanding the technical process of their courts' case management system for practical reasons — knowledge gave them the ability to effectively train and supervise staff on best practices on an ongoing basis.

#### **DECORUM AND PUBLIC PERCEPTION**

Most people who came to my court in Guadalupe were unfamiliar with judicial decorum. Because I was appointed at the relatively young age of 32, many people seemed to have a hard time accepting my authority. Court staff told me they were not ready to call me “judge.” The Maricopa County Sheriff's Office deputies began to refer traffic citations to a neighboring court without the knowledge of their supervisor. Even the building janitor refused to respect my role until I vacuumed the courtroom. For her, this meant I respected the importance of her work and was therefore trustworthy.

All four of my comparator judges also described fundamental issues with decorum and public perception by court staff, litigants, lawyers appearing before the court, and members of the community. These four judges faced an uphill battle to earn the trust of the communities they served, just as I did. Being appointed or elected did not alone convey the authority of the office. All four judges promoted court decorum to improve the public's trust in the integrity of the proceedings. All

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reflected on receiving limited training in building decorum and had sought out advice and guidance from senior retired judges, judicial colleagues, or non-legal professionals.

In addition, although most people think of a judicial appointment as a career capstone, as it is in the U.S. federal court system, some limited-jurisdiction judges in the U.S. are appointed early in their careers. These new jurists, like me, experience issues specific to our age in transitioning to the bench.

Judge Naigaga was only 26 years old when she was appointed to the judiciary. She was the only person with legal training in the community to which she was assigned. When she arrived at the court, an older judge said, “Winfred, welcome to this noble profession,” and handed her a stack of old cases to hear right away. When litigants did not appear in court, she learned that some members of parliament would tell their constituents not to bother with respecting the court because judges were merely “fortune tellers.” To educate people unfamiliar with the court system, she participated

in community meetings and awareness programs broadcast by radio. This expenditure of her valuable time was worthwhile, she said, because “the public cannot be confident in the court if they do not understand the judge and do not know where the court is coming from.” Judge Naigaga remembered when defendants told her, “We thought judges shouted, but you do not shout at us.” She noticed that defendants seemed surprised that she “cares to listen to them to build rapport through empathy.”

Judge Siddiqui was appointed to the judiciary at age 23. For her, the 15 days of formal judicial training she received were not enough. Lawyers questioned her ability to decide cases, but instead of getting into “ego clashes with very experienced lawyers,” she worked to treat every person with respect. She took notes and studied the case law. Through her efforts, the public began to perceive her court as fair and professional. As she reflected on her experiences, she told me, “Books cannot teach a person how to be a judge. The education needed for learning judicial temperament and control, or how to earn the respect of the lawyers coming before you, requires a different kind of training.” She emphasized that “judicial training should focus more on the administrative parts of the job.”

To improve public perception during hearings, Judge Siddiqui noted the importance of “trying to make things a little more convenient for the litigants.” Judge Siddiqui makes sure all litigants — defendants, witnesses, and victims — are heard on the day of their scheduled court hearing. She chooses to stay in court until 7 p.m. or later to make progress on a daunting workload and to confirm the impression that the court is sincere in dispensing impartial justice. According to Judge Siddiqui,

her ability to listen with empathy has played an important role in her ability to promote decorum and improve the public's perception of her as an impartial jurist. She emphasized the importance of empathy to avoid being "too mechanical," because otherwise the "human touch that a judge should have could be lost."

Judge Brown was first elected to the judiciary at age 29 and served 24 years as a circuit judge in Mississippi County, Mo., before being sworn in as the municipal judge for the city of Ferguson in 2016. He described how, in his early years as a judge, lawyers, judges, and the general public doubted his abilities because he was young. Like Judge Siddiqui, he immersed himself in the law and, by his account, developed a sense of judicial decorum by choosing not to handle his court like the judges who had previously been "rude" to him.

To improve public perception and help people have confidence in the court, Judge Brown slows down proceedings and asks defendants to "set themselves up to succeed" by entering into a reasonable payment plan or requesting community service options. He emphasized that "people no longer fear that when they come to court, someone will yell at them, or that they will be immediately arrested." For him, removing the fear factor results in better participation from people in court. He said, "When the judge interacts with empathy, the litigants feel like they are getting their fair turn in the court system."

Judge Weingarten felt his court had a solid standing in the community but described an ongoing sense of obligation to sustain and improve the public's perception of it. He identified a need in his community of Roxbury to ensure that people who came before the court felt measures were taken to

address implicit bias. He referenced daily lunch hours and conversations with his judicial colleagues to help him remain objective and ensure impartiality with respect to sensitive bias issues. For him, learning to be a judge was "on the job training" that consisted of two weeks sitting as a second judge on the bench shadowing another judge. He was given access to the "90 Day Guide" (a collection of materials put together by the district court of the things a new judge was likely to come up against during the first 90 days). He recalled the Chief Justice saying, "Okay, now you're on your own. If you have any questions, give us a call."

Judge Weingarten said that launching a mental health court helped build public confidence in his local jurisdiction by "applying the law at a very local level to the most vulnerable."

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He reflected on the impact that court proceedings can have on a community overall: "Litigants are going back into the community and saying, 'Judge Weingarten really listened to me' or 'Judge Weingarten didn't give me the time of day.' That word goes out way beyond what we're able to see." He went on to say, "That will be our brand of justice and the perception that people will have about whether there is justice in our courtrooms." Judge Weingarten attributed the success of his community court to "empathy for the defendant and 'cross pollination' among all the stakeholders — everyone talks to everybody." Because Bridges is not an adversarial process, the court relies on defense lawyers and prosecutors to recommend defendants into the program. All attorneys meet directly with defendants and not only receive training on how mental illness drives a person's criminal activity but also get a "crash course in what it is like to be a poor person of color with a mental illness, homeless, and living in the community, trying to make life work."

Like me, the four judges in my study used their own initiative to strengthen their institutions despite limited administrative infrastructure. Like me, they used diplomacy to improve public trust and confidence in their courts. Judge Weingarten's experience gave me the added insight that improving public perception is ongoing work. But it is very worthwhile work: Public confidence in courts at a local level enhances respect for the institution of justice everywhere.

## CONCLUSIONS

These three themes — budget, order implementation, and decorum and public perception — present an opportunity to provide training for and enhance collegial dialogue among ►

new judges in small courts. Given the similarities in experiences of judges in small, local courts in the U.S. and abroad, consultations with municipal court judges would be a useful tool for strengthening international rule-of-law programs. These exchanges could focus on concrete areas that are not dependent on the substantive law while emphasizing commonalities among the different court systems.

Using real examples to demonstrate the challenges our own domestic judges experience with the administration of justice in local courts can spark a different conversation with judges abroad who experience similar challenges. This strategy may encourage deeper engagement between judges from other countries and judges in the United States.

My experience and the experiences of the judges in my study taught me that resources alone do not drive a court's ability to deliver justice. The success of a new judge appointed to a court with limited resources depends on his or her willingness to "administer leadership by necessity" and learn court administration.



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- <sup>1</sup> See *Guadalupe Community Profile*, ARIZ. COM. AUTH. (2018), <https://www.azcommerce.com/a/profiles/ViewProfile/69/Guadalupe/>; see also TOWN OF GUADALUPE, <https://www.guadalupeaz.org/>.
- <sup>2</sup> *Community Action Program Community Needs Assessment*, MARICOPA CNTY. HUM. SERVS. DEP'T, 13 (Nov. 2016), <https://www.maricopa.gov/DocumentCenter/View/43491/2016-CAP-Community-Needs-Assessment>.
- <sup>3</sup> Lilia Alvarez, *Guadalupe Municipal Court One-Year Report: Accomplishments & Goals*, GUADALUPE MUN. CT., 2 (Sep. 3, 2015), <https://guadalupecourt.org/Content/annual-reports/en/2014-15-Court-One-Year-Report.pdf>.
- <sup>4</sup> Lilia Alvarez, *Two-Year Report: Guadalupe Municipal Court Accomplishments*, GUADALUPE MUN. CT., 2 (Aug. 11, 2016), <http://guadalupecourt-upgrade.azurewebsites.net/Content/annual-reports/en/2015-16-Court-One-Year-Report.pdf>.
- <sup>5</sup> The ability of both state and federal judges from the United States to engage with their counterparts from abroad is, of course, limited. Their primary obligation is to domestic matters and this constrains their availability to work on international rule-of-law initiatives.
- <sup>6</sup> The four judges constituted an availability sample — that is, they were referred to me and convenient for interview for this project. See J. M. Dabbs, Jr., *Making Things Visible*, in *VARIETIES OF QUALITATIVE RESEARCH* 31, 31-66 (J. Van Maanen, J. M. Dabbs, Jr., & R. F. Faulkner eds. 1982). I drew on conversations with these colleagues to help me compare and explain my own experiences rather than attempt to create any sort of authoritative data set.
- <sup>7</sup> Unless otherwise noted, all quotes or references to these judges' personal experiences are derived from interviews between the author and each judge. In order of first mention, see Interview with Winfred Kyobiika Naigaga, Magistrate, Ugandan Judiciary, in Washington, D.C. (Nov. 30, 2018); Interview with Mehnaz Siddiqui, Senior Assistant Judge, The Ministry of Law, Justice and Parliamentary Affairs, Dhaka, Bangl., in Washington, D.C. (Nov. 29, 2018); Telephone Interview with Terry L. Brown, Municipal Judge, Ferguson Municipal Court (Dec. 19, 2018); Telephone Interview with David Weingarten, First Justice, Boston Municipal Court (Dec. 28, 2018).
- <sup>8</sup> *Mental Health Court (Recovery with Justice)*, MASS. GOV (2020) <https://www.mass.gov/service-details/mental-health-court-recovery-with-justice>.
- <sup>9</sup> See Consent Decree at 103, *U.S. v. City of Ferguson*, No. 4:16-cv-000180-CDP (E.D. Mo. Apr. 19, 2016) ("Independent Monitor"), <https://www.justice.gov/crt/file/883846/download>. See also, Memorandum in Support of Joint Motion for Approval of Consent Decree Monitor Selection and for a Status Hearing at 1, *U.S. v. City of Ferguson*, No. 4:16-cv-000180-CDP (E.D. Mo. July 20, 2016) (requesting approval of the parties' stipulated selection for Independent Monitor), <https://www.justice.gov/crt/file/878801/download>. See also *Investigation of The Ferguson Police Department*, UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION (March 4, 2015), <https://www.courts.mo.gov/file.jsp?id=95274>.