

Bridging the Gap Between The Citizens and Their Courts

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It is very difficult to place a label on the relationship American citizens have with their courts. Americans, of course, are proud of their court system and would be unlikely to surrender the third branch of government and the power it wields to either the executive or legislative branches. At the same time, however, many Americans have become distrustful of the courts, often expressing the view that judges have usurped power from, and render decisions that do not reflect the will of, the people. This attitude signals a rejection of the fundamental concept in American democracy that although the courts exist to serve the people, the judges who staff the courts are not, in fact, supposed to represent the people but rather are to apply the law in a fair and even-handed manner. This distinction creates enormous tensions. The best way to resolve these tensions is through education, both of the citizenry and of the people who staff and run the courts. The role of educator, communicator and facilitator, the role of bridge between the citizens and the courts, can be filled by nongovernmental organizations. This is one of the main functions of Pennsylvanians for Modern Courts (“PMC”), a nonprofit, nonpartisan court reform organization operating in Pennsylvania.

PMC was founded in response to the findings of the Pennsylvania Judicial Reform Commission (“the Commission”), a blue-ribbon panel of civic leaders, public officials, legal professionals and members of the judiciary commissioned by then-

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Governor Casey and chaired by Superior Court Judge Phyllis W. Beck. In 1988, the Commission found that confidence in Pennsylvania's judiciary was appallingly low. The Commission believed that public faith in the judiciary and the court system needed to be restored; a court system is only strong if the public believes it dispenses justice fairly and impartially. PMC was created by a group of citizens motivated to achieve many of the reforms identified as critical by the Beck Commission.

PMC's mission is to improve the quality and administration of justice in Pennsylvania. With improved courts should come renewed public confidence in the system. To accomplish this mission, PMC promotes greater public understanding of the role of the courts and builds an educated coalition for change. PMC serves as a resource to citizens, public interest organizations, reporters, policy makers and academics about the courts through educational forums, classroom appearances, direct communications, and the publication of "citizen guides." As the only state or local organization in Pennsylvania that exclusively addresses issues involving the judicial system, PMC performs a unique educational and "watch-dog" role.

Many states, like Pennsylvania, still use judicial elections to select some of their judges. Arguably, citizens' greatest opportunity to be involved in or to affect the court system would take the form of electing judges. Sadly, turnout for judicial elections is very low. Instead, the most frequent contacts between citizens and the courts remain the experiences citizens have as litigants, witnesses or jurors. Although such interactions may highlight the need for change, they do not afford the opportunity to educate and communicate with the courts; they do not provide the chance to reform the courts in any

meaningful way. This reality underscores the need for nongovernmental organizations to take up the call for reform.

Bar associations, government watchdog groups and citizen groups each have a role to play in this process. PMC has assumed a special role in this mix, serving as a bridge between the courts and the citizens, but both those groups must be invested in the reform movement. To achieve this, we strive to remain a citizen-based group that works for and with citizens while also maintaining a high profile in the legal community and with the leaders and administrators of our court system. At times, this task is difficult. We have found, however, that these seemingly disparate elements of our organizational identity enable us to be an effective advocate for reform.

We seek to engage citizens in all of our work. We speak to community groups, design programs for schools and publish and distribute citizen guides about the courts, the judicial discipline system and jury duty. Citizens have a critical stake in ensuring the existence of accessible courts with qualified judges and personnel. In Pennsylvania, changes to the judicial discipline process and the method of judicial selection require constitutional amendments, which ultimately must be approved in a public referendum. The citizens, therefore, make the final determination about the operation of the judicial system. Citizens must be educated about the courts, the importance of the courts and the need for change. Only with such knowledge can they be fully engaged in the effort to achieve reform.

Reform can most effectively be accomplished by coalition building. PMC's work focuses on several areas of the judicial system: judicial selection, the jury system and judicial discipline. Our partners change depending on the nature of the

project, but the constant factor is that we rarely work alone. Instead, we seek to partner with others. This networking gives breadth to our calls for reform and demonstrates the well-recognized need for change. In addition, the voices of our partners, whether they are bar associations or citizen groups such as Common Cause, the League of Women Voters, or the National Association for the Advancement of Colored People (NAACP), lend legitimacy to our efforts; their partnership signals to legislators and judicial officers that the need for change is real.

This is the strategy PMC followed in the early 1990's when working to create a new judicial discipline system for Pennsylvania. In the wake of scandals involving corrupt judges and the impeachment of a sitting Pennsylvania Supreme Court justice, PMC worked to make the judicial discipline process more effective. Changing the process required a constitutional amendment. PMC amassed a coalition and started consulting with key legislators about the necessary elements of an effective judicial discipline process. PMC's input was critical in designing the constitutional amendment, and the coalition for reform educated the public about the need for change. Ultimately, success was achieved when the 1993 public referendum approved the constitutional amendment.

As our experience with the judicial discipline process demonstrates, coalitions can be powerful engines for change. PMC also proved during that process that it was a valuable resource for legislators charged with drafting rules and laws dealing with the courts. Whenever one branch of government is in a position to exert power over another, whether through rulemaking or financially, tensions arise. Organizations like PMC can help facilitate the process by acting as an impartial voice to educate legislators

about the court system and the need for reform. PMC often assumes this role of outside advisor when bodies outside the court system are empowered to effect change; a prime example is when legislative bodies are considering court-funding requests.

Sometimes for change to occur, however, the courts themselves must be spurred to act by outside pressure. We, of course, are not referring to how judges make decisions in specific cases. Rather, at issue are systemic reforms that aim to ensure that courts treat all litigants equally, impartially and without regard to race, gender, ethnicity or socio-economic status. Courts are not immune from the issues facing society as a whole; they cannot be isolated from work geared towards achieving equality and eradicating bias. Some courts, however, have been slow to respond to the call for such reform. As a result, extrajudicial or nongovernmental organizations and individuals have united to motivate the courts to act. The outcome: state court systems throughout the nation have appointed committees to study issues of bias.

In Pennsylvania, PMC worked for years with state and local bar associations to motivate the Pennsylvania Supreme Court to study the issue of racial and gender bias in the justice system. Finally, in 1999, the Supreme Court appointed a Committee on Racial and Gender Bias in the Court System. The Committee was given a staff and a budget and was assigned to study the state court system to determine whether racial or gender bias plays a role in the justice system. The Supreme Court supported the efforts of the Committee, which involved conducting surveys, holding focus groups, engaging academics and studying courts throughout the Commonwealth to determine where and how bias infected the justice system. In March 2003, the Committee presented a comprehensive report to the Supreme Court, identifying multiple areas where bias

persisted and recommending measures for the Supreme Court, the legislature, bar associations and individual lawyers to take to reduce bias in the court system. The Supreme Court has appointed implementation task forces to assist the Court's efforts to adopt some of the Committee's recommendations. This is a fine example of how a citizen-based coalition's call for reform finally was heeded by the court system and, ultimately, adopted as an effort of the system.

PMC also seeks to partner with the court system, the very institution we are seeking to change. In addition to calling for reform, identifying problems and drawing attention to problems in the administration of justice, PMC publicly praises the court system for innovations and programmatic successes, supports the courts' own reform efforts and works with the courts to further the mission of improving the court system. Our approach is balanced: we do not shy away from publicly identifying problems in the justice system, but neither are we full time "attackers" of the courts.

One example of our productive partnership with the courts is the annual Juror Appreciation Day we have sponsored for five years with the Philadelphia Court of Common Pleas. This program recognizes the citizens who serve as jurors in our criminal and civil courts. Juror Appreciation Day represents an opportunity for the courts and the judges to express appreciation to the jurors, to highlight the importance of jury duty and to publicize the need for citizens to serve. We have worked with the local court to create short, informative, and, we hope, inspiring programs that encourage service and recognize the efforts of the jurors. Each year, Juror Appreciation Day has attracted positive media attention, and PMC has been asked to develop a similar program for the Allegheny County Court of Common Pleas in Pittsburgh.

Juror Appreciation Day epitomizes the positive effect partnering with the courts has on PMC's mission. PMC's Jury Project aims to increase the number of citizens summoned for and reporting to jury duty, enhance the diversity of jury pools and improve the juror experience by making it easier to serve. The courts share these goals. Working together to develop programs aimed at increasing juror service and devising ways to make jury duty less burdensome is a natural fit for PMC and the courts. This collaborative work enhances PMC's standing and enables our other reform efforts to proceed as well.

As a citizen-based reform organization, it is our responsibility to identify problems and recommend strategies for change. Although we can mobilize constituencies and educate the public and the courts about the problems we observe, we cannot act unilaterally to change them. For many of our ideals to become reality requires cooperation and acceptance by the court system. This is achieved by education and by the power of strong relationships built upon mutual respect and understanding. PMC's unique status as a community-based, nongovernmental organization positions us to lead the movement for reform in Pennsylvania and engage both citizens and the courts as our partners. We believe that uniting the separate spheres of the public and the courts will enable us to improve the courts and restore public confidence in the judiciary and the court system. The work is ongoing, but we are hopeful that our work to bridge the gap between citizens and the courts will continue to achieve success.

