

THE BOOK SHELF

BOOK REVIEW: LEONARD EDWARDS' *THE ROLE OF THE JUVENILE COURT JUDGE: PRACTICE AND ETHICS*

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This article reviews the first of its kind book on judicial ethics for juvenile and family court judges, written by Judge Leonard Edwards, retired California judge and national leader for the voice of families and children engaged in court action. The author's unique style of instructing by scenarios is both engaging and easily available to judges and nonlawyers alike.

Key Points for the Family Court Community:

- Judge Edwards brings decades of real-time experience to the many questions that confront juvenile and family court judges
- Edwards' organization of the material by topic and issue makes it quickly understandable, the logic easy to follow
- It is the only book published to focus entirely on everyday events, and the ethical implications, faced by every juvenile and family court judge
- Those who desire to act as judicial leaders for systems change will find a roadmap through ethical quagmires that will empower.

Keywords: Book; Ethics; Judiciary; and Juvenile and Family Court Judges.

"Ethical guidelines govern a judge's conduct both on and off the bench. Everyone knows that judges must follow the law, but outside of the legal world, few Americans understand that judges are also bound by ethical rules."¹

Those ethical guidelines are called upon virtually every day and in every case, whenever a juvenile and family court judge enters the courtroom, engages in conversations, opens the mail, answers a call, or has an idea for a better way of serving families and children. The scope of the ethical landscape is arguably more vast for a juvenile and family court judge than any other judicial officer adjudicating any other type of case.

Consider the following situations:

- A grandparent whose son is involved in a custody case in front of you has just sent you a letter explaining why you must grant custody to her son.
- You have a brief social conversation at your child's soccer game with another spectator, only to learn the next week that he has a case in front of you.
- The child whose adoption you just finalized gives you candy and a framed picture from that day as a memento for your walls, but you know you are prohibited from receiving gifts.
- You inform the head probation officer, who you have hired, what form you want probation reports to take on future cases.
- The mediator on one of your cases contacts you to advise that in his session the father threatened to physically harm the mother.

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- A local mental health provider contacts you to ask that you appoint her on custody cases needing an evaluation.
- An attorney representing one side of the divorce case, while the other side is self-represented, approaches the bench before the case begins to chat with you about last week's bar meeting.
- A local fraternal organization offers to remodel the waiting room for a more family-friendly environment.
- At the monthly stakeholder meeting for the family drug treatment court you run, the court is asked to sponsor a training conference and also lead a fundraising effort to subsidize the costs.
- You decide to call a public meeting on a weekend to raise interest and awareness about initiating Court-Appointed Special Advocates (CASA) in your area.
- You are asked to serve on the board of directors of a nonprofit youth organization in your area.
- The county executive asks you to serve on a new commission investigating an alarming increase in child fatalities in the child welfare system.
- The district attorney's office and police ask you to speak to their members about how to better file petitions on domestic violence cases; the child welfare agency asks the same regarding the information you desire in their petitions on child abuse and neglect filings.

These issues are only a sampling of the hundreds of scenarios and quandaries that now-retired Judge Len Edwards of the California Superior Court addresses in his 2012 book, *The Role of the Juvenile Court Judge: Practice and Ethics*.

In clear, concise language Judge Edwards addresses the range of ethical concerns that every juvenile and family court judge will encounter during his/her tenure or rotation, providing common-sense answers grounded soundly in the ethical canons. The state of California's ethical rules are based on the American Bar Association's (ABA) *Model Code of Judicial Conduct*,² as are most states' canons. Although there will be variations, then, across the various state jurisdictions, there is a common body that forms the large portion of ethical canons governing state judicial officers. The ABA Code thus forms a common parlance for national discussion. Even though Judge Edwards' book is grounded in California's canons, the answers are easily translatable and applicable in general ways that will provide universal appeal for all juvenile and family court judges.

In fact, the book would also be helpful to attorneys and other professionals, as well as community members and organizations, to better appreciate the ethical boundaries that underscore the actions and activities of juvenile and family court bench officers. Given the layout of the book, which covers a far-ranging series of hypotheticals and an entire section called "Working Off the Bench" addressing collaborative efforts in the community, the information and guidance is easily available to the nonlawyer.

Judge Edwards' voice has long been a clarion call to other judges of like mind and heart seeking better outcomes for children and families, and he writes from long experience on the juvenile bench. He served for twenty-six years as a superior court judge in Santa Clara County, California, where he presided as a domestic relations judge and as a juvenile court judge. Upon resigning his seat on the bench he continued to serve the California judiciary, acting for six years as Judge-in-Residence with the Center for Families, Children & the Courts, a division of the California Administrative Office of the Courts. During his judicial career, Judge Edwards founded and was the first president of the Juvenile Court Judges of California, founder of the Santa Clara County Domestic Violence Council, founder of Kids In Common, and founder of the Child Advocates of Santa Clara County. He was the president of the National Council of Juvenile and Family Court Judges in 2002–2003 and board member for years prior. Judge Edwards has taught at the University of Santa Clara Law School, Stanford Law School, and the California Judicial College and has provided judicial trainings in virtually every U.S. state and nearly a dozen foreign countries.

Why a specific book for juvenile and family court judges? Juvenile courts came into existence during the period of the 1880s to 1920s in the United States as part of a much larger and sweeping social reform movement known as the "Progressive Era."³ The rapid growth of cities as industrialization came of age resulted in stresses to the previously rural American family home life, while the

influx of large immigrant populations added to the confusion. The reformers of the time adopted the *parens patrie* notion, a philosophy that was codified in state statutes, giving the state the authority to act as a parent and substitute its judgment for the care of children. The concept has a paternalistic, rather than penal function, seeking to find rehabilitative solutions. By 1925 virtually all states had created specialized courts for children, which operated within each state judiciary, but did not fit neatly into the structure or philosophy of the already existing civil and criminal courts.⁴

As Judge Edwards notes, then, “[m]ost judicial ethics writings and trainings focus on problems faced by the majority of judges—those who hear civil and criminal cases.”⁵ The available written treatises on judicial ethics provide scant assistance in guiding the juvenile or family court judge who will have many more roles in addition to the customary disposition of cases. For example, juvenile court judges in some states may have administrative roles in the hiring of probation staff or attorneys assigned to represent indigent litigants or children. Juvenile and family court judges are routinely required to select outside experts such as custodial evaluators, mediators, or CASA.⁶ These judges also have statutory responsibility for the oversight of services to the families who come before them, for instance, in the federal mandate that judges require state child welfare agencies to use “reasonable efforts” to reunify or assist families and children.⁷ By necessity then, the duties of the juvenile bench will require the judge to be an inquiring magistrate, rather than a removed aloof director of court action.

Judge Edwards makes clear that his aim in producing this book is not as an authoritative treatise on ethics, but as guidance on the myriad scenarios where the canons of ethics, state opinions, or decisions from judicial performance and disciplinary bodies are silent. His considered and logical analyses in this book form a framework for each judge to form his or her own opinion about whether a certain course of action or response is ethical.

Judges were not always bound by explicit, written rules governing their actions. The same era of progressive reform that birthed the juvenile courts also focused critical attention on a judiciary then considered imperious and privileged.⁸ In 1924 the first model canons from the ABA were adopted, containing thirty-four rules of behavior. The model code was then amended in 1972, 1990, 1997, 1999, 2003, 2007, and most recently in 2011 to its current succinct form.⁹

The 2011 *Model Code* has only four rules or canons, which are expanded with commentaries:

Canon 1: A judge shall uphold and promote the, independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Canon 2: A judge shall perform the duties of judicial office impartially, competently, and diligently.

Canon 3: A judge shall conduct the judge’s personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Canon 4: A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the integrity, or impartiality of the judiciary.

By the 2007 revisions,¹⁰ problem-solving courts (e.g., criminal drug courts, domestic violence courts, mental health courts, family drug treatment courts) were a part of every state’s judicial landscape. Much like the premise for the creation of the juvenile and family courts, these alternative courts grew in popularity as the solution to social problems, rather than simply adjudicating the individual, proved to provide more satisfying and equitable results. While the ABA considered the issue, they arguably fell short of tackling the unique role of the judge who presides over such dockets, leaving specific guidance to local directive.¹¹ Judge Edwards has tackled that discussion both here and in other writings, thoroughly dissecting all the elements and expected interactions of participants, anticipating the many pitfalls and ethical questions that will arise.¹²

The format of the book is refreshing and instantly instructional. Instead of merely a scholarly treatise citing ethical rules, Judge Edwards creates multiple hypotheticals that occur in the real world of the juvenile and family court judge and then discusses the application of the canons to the various

scenarios. Where the canons are silent, he applies a voice of common sense and high integrity, which has the effect of instilling confidence in the reader in deciding upon a personal course of action.

The book is divided into three broad categories that provide such an ease of use for a busy judge that it could nicely serve as a model for other reference books of this kind. In the first part, "Court Operations: Running the Juvenile Court," Judge Edwards notes the different roles of the judge in presiding over juvenile delinquency cases versus a dependency (child welfare, abuse/neglect) case. He provides practical answers to such ubiquitous matters as timeliness (delays) of hearings, calendar management, conflicts of representation, helping the underrepresented party, selecting evaluators, receiving gifts, working with self-represented parties,¹³ and more. The next section of the book, "Ex Parte Communications," covers the gamut of situations that are daily a part of the professional life of the juvenile and family court judge. Judge Edwards provides a logical framework with practical suggestions for working with court staff, probation officers, attorneys in the courtroom, schools, interns, and trainings. He provides solid steps in handling uninvited communications (whether oral or in writing) to the judge that, if followed each and every time, will ensure the integrity of the court and the impartiality of the judicial officer.

Nearly one half of the book is devoted to the final section, "Working Off the Bench," in recognition of the extrajudicial demands on the juvenile and family court judge beyond the case docket.¹⁴ From public speaking engagements, to working with media, service providers, and children's services agencies, and then on to the more creative work of building collaborative community responses to serve the family and children of the jurisdiction, Judge Edwards tackles the very real and vexing question of "what can I ethically do to champion the cause of children and families in my hometown?" The range of scenarios is comprehensive, and the answers so logical that the volume is of equal guidance to those nonlawyers who seek the ethical interaction of the court in community-wide work. They can be just as informed as the bench about what situations and roles can be handled ethically. In fact, in areas where judicial rotation is the norm by custom or directive, outside community leaders can even assist the new judicial officer in realizing that in fact there are many actions and matters in which the judge may ethically be involved and is, in fact, encouraged to be a leading voice for community concerns.

It would be hard to find a more readable or accessible discussion of the ethical constellation that surrounds a juvenile and family court judge than this reference book. Rather than a dour sermon full of stern warnings about ethical violations, judicial reprimand, discipline, or removal, Judge Edwards' book empowers the juvenile and family court judge to act to the full extent of ethical bounds. His wise words motivate judges, as vital members of the communities in which they reside, to improve the lives of the children and families they serve.

NOTES

1. Leonard Edwards, *Ethical Challenges for the Juvenile Court Judge*, 62 JUV. & FAM. CT. J. 1 (2011).
2. ABA MODEL CODE OF JUDICIAL CONDUCT (2011), available at http://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct.html. The ABA Code is considered a model code with no binding effect but, because it has been adopted in whole or large part by the states, has a widespread and enduring effect.
3. See generally BARRY KRISBERG & JAMES F. AUSTIN, *REINVENTING JUVENILE JUSTICE* (1993).
4. Michele Benedetto Neitz, *A Unique Bench, A Common Code: Evaluating Judicial Ethics in Juvenile Court*, 24 GORGETOWN J LEGAL ETHICS 97, 118 (2011).
5. LEONARD EDWARDS, *THE ROLE OF THE JUVENILE COURT JUDGE: PRACTICE AND ETHICS 2* (2012).
6. CASA is a national organization founded by a Seattle, Washington state judge, in existence since 1977. More information is located at <http://www.casaforchildren.org> (last visited July 18, 2014).
7. The Adoption and Safe Families Act, 42 U.S.C. §§ 620–647 (1997).
8. Benedetto Neitz, *supra*, note 4, at 100.
9. ABA MODEL CODE, *supra* note 2.
10. For an article explaining the process and implications of the 2007 revisions for juvenile and family court judges, see Thomas E. Hormnsby, *The American Bar Association (ABA) 2007 Model Code of Judicial Conduct: What Does it Mean to Juvenile and Family Court Judges?*, 62 JUV. & FAM. CT. J. 67 (2011).

11. Benedetto Neitz, *supra* note 8, at 120.
12. Leonard Edwards, *Ethical Issues in the Family Drug Treatment Court*, 64 JUV. & FAM. CT. J. 1 (2013).
13. For an in-depth discussion, see Russell Engler, *The Toughest Nut: Handling Cases Pitting Unrepresented Litigants Against Represented Ones*, 62 JUV. & FAM. CT. J. 10 (2011).
14. See also Jennifer Renne, *Judicial Involvement in Extra-Judicial Activities Involving Child Welfare Organizations*, 62 JUV. & FAM. CT. J. 54 (2011).

Janice M. Rosa, retired justice, served for nearly 20 years on the New York State judiciary, on both the Family Court and the Supreme Court trial benches in the Buffalo, New York area. She acted as supervising judge of the Family Courts in the 8th Judicial District's eight counties and also the district's supervising judge for divorce matters. On the bench she was active in the creation and support of Buffalo's child welfare Model Court, Erie County's Integrated Domestic Violence Court, and the Honoring Military Families Civil Docket pilot. She has for years been a frequent trainer nationally and on state levels on family and juvenile law matters, as well as judicial leadership and systems change.