



Judge Leonard Edwards
Santa Clara Superior Court (Ret.)

Juvenile Justice Exchange: China and the United States

In April of 2017 representatives from the Supreme People's Court asked John Kamm, Executive Director and founder of Dui Hua, to help in organizing a program on the reform of juvenile justice in China and the United States. Dui Hua has worked with the Supreme People's Court on several previous occasions to help organize exchanges regarding best practices in juvenile law. Mr. Kamm asked Judge Leonard Edwards (ret.) to lead a team of four additional experts and to prepare materials for the project. Judge Edwards had participated in the most recent conference in 2014 held in Beijing, China, where he discussed juvenile records and the record sealing process. Mr. Kamm designated Ms. Yin Yu to manage the project from Dui Hua.

Judge Edwards selected Professor Shay Bilchik of Georgetown University, John Tuell, Executive Director of the Robert Kennedy National Resource Center for Juvenile Justice, Judge Roger Chan, San Francisco Superior Court, and Patricia Lee, Managing Attorney, San Francisco Public Defender's Office as the four additional experts. Additionally, two expert observers joined the United States team, Judge Elizabeth Lee (San Mateo County) and retired Judge Julie Tang (San Francisco Superior Court).

The Supreme People's Court identified four topic areas they would like the U.S. experts to discuss: (1) Trial Systems (2) Juvenile Trials and Judicial Responsibilities (3) Construction, Admittance, Assessment and Treatment and (4) Judicial Protection and Public Responsibility of Juvenile Trials. We exchanged emails to identify specific issues the Chinese delegates wished to discuss within

these topics, and then I worked with our team to assign topics each expert was to address. The Chinese set the conference for the 2nd week in November giving us only 60 – 90 days to prepare our presentations because it was necessary to translate our materials into Chinese. We all finished on time and then worked with Dui Hua to obtain our visas and make airplane reservations.

As the date approached we learned that our program was the first activity hosted by the Supreme People's Court with a foreign non-governmental organization (NGO) under the Foreign NGO Management Law that took effect on January 1, 2017. This likely was because of a long-standing positive relationship that John Kamm and Dui Hua had developed with the Chinese government. We also learned that approximately 50 presiding judges, political leaders, and law professors from China would attend the conference.

The format for the first day of the conference included presentations from experts of each country on each of the four topics followed by questions to the presenters. As it turned out there were many questions after each presentation. Everyone was engaged in the discussion about best practices in juvenile court. The questions had to be limited because of time constraints. On the second day, we visited a Juvenile Delinquent Assist and Education Campus. The campus hosts a social worker center where social reports are generated for the juvenile court regarding youths appearing in the juvenile court. Then we visited a local business that hires juveniles on probation. Finally, we met in a courthouse where (after a tour) we discussed judicial issues with several judges. This included a

question and answer session addressing a number of issues.

We learned a great deal about the Chinese juvenile court. It is a relatively new court having started in Shanghai about 30 years ago. Chinese juvenile law has a strong rehabilitative component. The state does not prosecute children under 14 for crimes they commit. Judges in the juvenile court hear only serious felonies. The police settle most misdemeanors without referral to the juvenile court. There are several different judicial models in China's juvenile courts. In one model, the criminal court judges hear juvenile cases while in another family court judges hear juvenile cases. Chinese law requires that most juvenile records be sealed automatically so that the young person does not have a juvenile record following him or her through life

Juveniles accused of crimes in China receive legal representation from the outset of the case. They receive the same legal and constitutional rights that the law affords juveniles in the U.S. Judges, not juries, hear juvenile trials. Social work experts conduct social studies of juveniles, and then provide them to the judge. In the question and answer portion of the program, it became clear that the Chinese juvenile courts are not as busy as those in the United States, and that there are fewer and fewer cases coming to those courts.

Our experts reported on a number of developments in the juvenile justice system in the United States. We discussed the creation of national organizations such as the National Council of Juvenile and Family Court

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Judges and national governmental organizations such as the Office of Juvenile Justice and Delinquency Prevention. We reported that these and similar organizations provide technical assistance, financial support, and important publications to local juvenile judges and juvenile courts. We described evaluative tools used by probation departments that give the judge an indication of the likelihood the juvenile will recidivate. We also discussed evidence-based practices where researchers have tested programs and interventions to determine their effectiveness. Several of our presenters highlighted the importance of early and intensive family involvement in the juvenile justice system. We presented our country's best practices for defense attorneys and prosecutors in the juvenile court as well as the selection and training for juvenile court judges.

We learned a great deal from our Chinese counterparts. Perhaps most importantly, the Chinese understand that children are different from adults and that correcting juvenile behavior needs to be rehabilitative and not punitive. We learned that the Chinese educational system is very strong and provides support for the rehabilitative process. Chinese society is much less violent than that in the United States, resulting in fewer serious crimes. In fact, in some juvenile courts, there are not enough cases to provide a full docket of juvenile cases for the judge.

The Chinese are committed to improving outcomes for delinquent youth. This is not a political issue – this is fundamental to the progress the Chinese wish to make in their society. They believe that they can be successful and that a strong juvenile court is important to achieve that goal.

We concluded that the judiciary is not as powerful as that in the United States. It appears that there are insufficient resources dedicated to the judiciary to provide for clerks, reporters, attorneys, social workers and other staff to support the work of the juvenile court.

All of our participants agreed that this was a very successful conference. There was a rich exchange of ideas from both sides, particularly during the question and answer period. A law professor who attended indicated that he would like to invite some of the U.S. experts to his law school for further discussions. Whether the Chinese judges will follow up remains to be seen as they come from all parts of China, serve widely different populations, and have different court structures and practices.

It is very likely that Dui Hua will continue its tradition of bringing people together to discuss important issues facing the Chinese judicial system. One suggestion is to sponsor a conference focusing upon girls in conflict with the law. Another is to address child welfare issues. Whatever the next steps are, it is clear that this conference demonstrated that similar discussions will benefit both countries. 🌐



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