

POLICY REGARDING DISPLAYS IN THE JUSTICE CENTER

ISSUE

From time to time various advocacy groups which seek to deal with or improve the justice system wish to use the justice Center to publicize their concerns and goals, such as by displaying on tables or hanging on walls posters or signs, or displaying T-shirts, brochures, poems, cards, artwork, statements, or other material pertaining to their area of concern. Is this appropriate?

DISCUSSION

The various groups referenced above would include groups and programs dealing with such things as victims' rights, domestic violence awareness, rights of children, rights of litigants in custody cases, police-community relations, sexual assault victims' advocacy, drunk driving issues (MADD, SADDI, drug use issues (DARE), and many other concerns. Many of these groups have an obvious connection to the justice system, and serve an important public purpose by heightening public awareness of issues and advocating for improvement of the justice system.

However, the issue is not the value of such groups. Indeed, consistent with the First Amendment to the U S Constitution, the courts must be content-neutral in allowing or denying access to the halls and public areas of the justice Center for such groups. We cannot and should not permit access by some groups whose positions meet with the personal agreement of a particular judge, while rejecting others with a different message. Rather, the issue is whether such presence adversely impacts the duty of the courts to provide the reality and appearance of impartiality to all litigants.


The first and most fundamental duty of judges is to be fair and impartial, and to provide a venue to resolve disputes where litigants and the public as a whole perceive that there is total fairness and impartiality. "Courts must meticulously avoid any appearance of partiality, not merely to secure the confidence of the litigants immediately involved, but to retain public respect and secure willing and ready obedience to their judgments." (*People v. District Court*, 560 P.2d 828, 192 Colo. 503 (1977), quoting *Nordloh v. Packard*, 45 Colo. **515,101** P.2d 787 (1909)).

The public in general, and jurors, witnesses, and litigants in particular, enter the justice Center, walk the halls, use common areas, ride the elevators, and so forth. There is a risk that public displays by certain groups in the justice Center, since such displays must obviously have been approved by the courts in order to be in the justice Center, might be perceived as an explicit or implicit endorsement or

...mp of approval" by the courts, going to the merits of the individuals involved, the truth of the message, or the credibility of those represented by the advocacy group. This creates the appearance of partiality, to have the court seemingly give an imprimatur of approval to a particular person, group, or position. Depending upon the particular message, and the extent to which it comes to the attention of jurors or other trial participants, such a *de facto* judicial endorsement might go beyond appearance and actually affect the fairness of a trial. See, for example, *People v. Rogers*, 800 P.2d 1327 (Colo. App. 1990): •A trial court may not express to a jury any personal opinion of the credibility of testimony...It is particularly important that the judge should avoid any statement or action that could be construed as an endorsement...".

POLICY

Such materials shall not be displayed in the justice Center, in areas adjacent to courtrooms or in public areas where jurors, litigants, or the public in general must see them while going to and from court, where the group or cause represented or the message conveyed may relate to matters to be resolved by the courts through the process of litigation. The Chief judge and Administrator shall follow this policy in responding to requests received from time to time to allow such displays. It should be understood that this does not apply to areas of the justice Center occupied by ~~separate~~ independent agencies, such as Municipal Court or the District Attorney.


James H. Hiatt
Chief Judge 2-13-01



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District Judge
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February 13, 2001

Mr. Frank Lancaster
Larimer County Commissioner's Office
200 West Oak Street
Fort Collins CO 80521

Re: Eighth judicial Policy Re: Displays in
Public Areas in the justice Center

Dear Mr. Lancaster:

Enclosed for your information and for the information of the County Commissioners, is a policy adopted for the Eighth judicial District regarding the requests we receive from time to time to display issue-oriented materials in the public areas of the justice Center. I am not requesting that you or the County take any action regarding this issue, since requests to have such displays are usually directed to the courts directly, but I thought it appropriate to furnish you with a copy of this policy for your information.

This is a difficult issue because many of these groups are clearly of outstanding value and serve a positive public purpose. However, the concern of the judges is that allowing such displays might be perceived as an implicit endorsement of the group or the message promulgated by the group. We are obliged to avoid anything that might implicitly say to the public, or to a jury panel: "this type of witness is believable; we believe in them and support them and their message." The Colorado Court of Appeals has been quick to reverse convictions where it appeared that the courts were conveying such a message (*People v. Rogers* being a good example).

For your information, we surveyed other judicial districts in Colorado and although it is not unanimous, the vast majority of other judicial districts follow a similar policy.

Mr. Frank Lancaster
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On a more theoretical level, it also seems right to me that the courts, which are the forum for resolving disputes, should not also be the vehicle for promulgating the message of one side to a debate.

Finally, I should note that the Eighth judicial District recognizes that this should not apply to the parts of the justice Center occupied by separate agencies such as Municipal Court and the District Attorney. Although we will furnish a copy of this policy to them as a courtesy, for their information, in no way are we attempting to dictate to them what their position should be on this issue.

If you have any questions or need any further information please feel free to contact me at your convenience.

Very truly yours,



James H. Hiatt

jHH/cac

Enclosure

pc: Stuart A. VanMeveren, District Attorney
Honorable Kathleen Lane, Fort Collins Municipal Court
Scott Courtney, District Administrator

courtney scott

From: courtney scott
Sent: Wednesday, February 07, 2001 2:11 PM
To: District Administrators
Subject: Displays in the Courthouse/Justice Center

The survey of district administrators indicate that there are many requests from various advocacy groups and individuals to post or display materials in the courthouse or justice center. These requests are denied outright by the majority of districts in order to provide an atmosphere of impartiality and objectivity. A few districts may permit some postings or displays on a case by case basis. No district responding currently has a written policy. Survey results from (11) districts responding are as follows,

- not permitted, no written policy
- must have permission, all of requests and the answer has been no before
- not permitted, no written policy
- nothing in question has occurred
- not permitted
- not permitted, no written policy
- not permitted, no written policy
- not permitted, no written policy
- not permitted, no written policy
- public bulletin board used, no written policy
- dealt with on case by case and also requires county permission, no written policy