

# Choosing Helpful Over Hopeless



Bruce A. Courtade

**W**hen I was sworn in as the 78th president of the State Bar of Michigan, I spoke in my inaugural address of the role of lawyers as the town criers for civic education and the rule of law. It is a theme I have repeated as I have made my way around the state visiting local and affinity bar associations, handing out copies of the United States Constitution to any audience that will have me, and it was the subject of my "President's Page" column in the December 2012 issue of the *Bar Journal* when I wrote that lawyers *must* do better at preserving our Constitution and protecting the rule of law when so many in our society understand neither. In that same column I advocated teaching our children the virtues of our justice system so we do not have to help them understand it as adults.

Less than one week after that column was published, a madman burst into Sandy Hook Elementary School in Newtown, Connecticut, and used a rifle to kill 20 six- and seven-year-old children and six school staffers before committing suicide.

I remember when my daughter Jessie was six years old, attending first grade at Breton Downs Elementary School, just five houses away from our home in East Grand Rapids. I recall how tiny her hand felt in mine as I walked her to school each day, her hair in pigtails, carrying her Mickey Mouse backpack that seemed so big I was amazed its weight didn't pull her right over as she walked up the slight hill from our house to the school playground. I can still see her skipping away to join her friends on the monkey bars and slide, and how, at the end of the day, she couldn't wait to tell me all about the new things she learned in school (as well as which boy had put which bug in how many classmates' desks, jackets, or hair).

I can still remember visiting her first-grade class for a parent participation day—



High hopes: Jessica Courtade on her first day of first grade, September 1998

the kids were so enthusiastic that they would raise their hands in the air and say, "Ooh! Me! Call on me! I know the answer!" but when I called on them, they suddenly realized they were so excited they either forgot what they were going to say or perhaps never heard the question in the first place. I can remember how most of them needed help opening their milk cartons when we had lunch in the cafeteria. And I can remember how exhausted I was at the end of that one day—and how awestruck I was that Jessie's teacher could lead the class day in and day out, seemingly without ever losing that big smile on her face, and always understanding what each of the children in her class needed or wanted at any given time.

Kindergarten. First grade. Six years old. Seven years old. Carefree. Loving. Funny. Excited. Kind. Sweet. Outgoing. Full of energy. Missing front teeth. Fearless. A fan of

s'mores and watermelon and ice cream and cuddling. Creative. Unique. Bright. Determined. Sparkling.

These are terms I might have used to describe my daughter. But they are not. They are some of the terms that parents, families, and friends used to describe the 20 children gunned down in the massacre at Sandy Hook Elementary School.

I cannot imagine the fear those poor children must have felt as the deranged gunman opened fire at them, their classmates, and teachers. I cannot fathom what would drive someone to be filled with so much hate and anger that he would lash out at such tiny innocents. And I won't forget the courage of the six adults who gave their own lives trying to save the angels in their care—like Ann Marie Murphy, 52, who died trying to shield her students, including six-year-old Dylan Hockley, as the bullets passed through her body and into theirs. First responders found young Dylan dead in her arms.

The tragedy in Newtown ripped at the hearts of the American public. Judging from the calls and e-mails I received in the shooting's aftermath, it left many of us wondering what we Michigan lawyers can do to not only show our support for the victims, but to prevent such a tragedy from happening here in our state.

The gunman was mentally unstable, but incredibly bright. According to news reports, he was able to take apart and reassemble a computer in a matter of minutes but rarely spoke to anyone.<sup>1</sup> He "seemed to spend most of his time in his own large space in the basement of the home he shared with his mother—the same basement where she kept a collection of guns."<sup>2</sup> His mother owned the guns legally. And although the gunman was a loner who in hindsight seemed to fit the profile of the mass murderers who appear in television

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crime dramas, I am not aware of any reports indicating he had engaged in conduct that would be seen as threatening or dangerous before he shot his way into Sandy Hook on December 14, 2012. So there is not much we lawyers can do except express our regret, say our prayers for the victims, and perhaps donate money to their grieving families, right?

To the contrary, I believe we lawyers can, must, and already do many things that could help prevent the next Sandy Hook before it occurs and protect the victims of any such tragedy. What do we do?

- We can work with the courts, social service agencies, and legislature to make sure our justice system is able to recognize and deal with mental health issues more promptly and thoroughly. In this regard, a critical finding of the State Bar's 2011 *Judicial Crossroads Task Force Report and Recommendations*<sup>3</sup> was:

From close study of patterns of adjudication and outcomes over the last two decades around the country we have learned that the traditional method of resolving court cases in which the judge's role is simply to choose between options presented by opposing sides is not always the best method for handling a case. For example, some drug offenders sentenced to jail return repeatedly for the same or different offenses stemming from their underlying addiction. Individuals brought to court for vagrancy, disorderly conduct, or domestic abuse often fail to have conditions of mental illness recognized and treated, and they too, return time and again to court. Notwithstanding the potential for successful treatment, too often courts operate in a universe functionally separate from the community resources, including therapy, treatment, and counseling, that can interrupt the cycle of behavior that brings people repeatedly into the court system.

Thus, the Judicial Crossroads Task Force recommended the expanded use and development of trial courts featuring specialty dockets with a therapeutic, problem-solving orientation devoted to, among other things, issues such as mental illness and addiction. The premise is clear and undeniable: if our courts are able to recognize underlying issues such as drug dependency or mental illness and offer some form of therapeutic treatment instead of simply imposing fines or jail time, we can expect society to benefit from decreased recidivism, less-crowded dockets, and, more importantly, members of our society getting the help they need rather than fines or incarceration, which only exacerbate their underlying medical or mental impairments.

Lawyers and judges throughout Michigan can help this effort by volunteering their time and expertise in training not only judges but also other key players, including prosecutors, court staff, law enforcement officials, and community health professionals regarding the need for and usefulness of these problem-solving courts. We can also help by educating our legislators about the vital importance of these courts to our society, as cooperation of the legislature is necessary to obtain funding to create and maintain these specialized dockets.

- We support civil legal aid programs—not only with our donations but with our time. I have witnessed legal aid attorneys counseling clients about their legal rights as well as their responsibilities under the law. I have seen them refer indigent clients who need mental health and social service help to agencies able to provide that support. More importantly, our legal aid programs are so well respected and recognized for the work they do with

the less fortunate among us that they have become integral elements of their local community mental health framework. Their members regularly serve on community agency boards and know and work with the human services community, so they often lead or convene groups to solve community problems and direct clients to nonlegal services when needed. They are also often first on the ground to help those who have nowhere else to turn after disasters. Your assistance to local legal aid programs is crucial to providing this much-needed community support.

- We guide people through the probate court, helping to assure their needs are met as they try to move on from tragedies and that they are not victimized by a court system they never wanted to be in and cannot understand.
- We prosecute those who try to profit from others' pain, such as the woman from New York charged with posing as the aunt of one of the Sandy Hook victims and falsely soliciting donations on behalf of the family of six-year-old victim Noah Pozner.<sup>4</sup>
- We inform and educate people of their rights, duties, and responsibilities under the law. Michigan lawyers routinely volunteer their time by speaking to school children, senior citizens, and everyone in between about the impact of certain laws and the consequences of not understanding how the law affects them daily.
- We often assist our lawmakers in drafting new laws and regulations—and occasionally have to explain to them why a proposal would have disastrous unintended consequences.
- At its core, a lawyer's role is grounded in healing and peacemaking. Whether through court representation, mediation, counseling, negotiation, or movements toward collaborative law, we as a profession offer an alternative to violence and aggression, despite what you may see on television and in the media.

In short, we provide comfort and hope to those who need it most, whether they are victims of their own shortcomings or

actions beyond their control. By advocating for the rule of law and its place in our American justice system, we lawyers can see to it that victims of senseless violence—those who perish and those who are left behind—are afforded equal access to justice and the comfort that it brings, particularly in times of crisis.

Obviously, nothing we do can bring the victims and heroes who died at Sandy Hook Elementary—or Columbine High School or the Aurora, Colorado movie theater—back to their families and loved ones.

But as lawyers and members of a humane and compassionate healing profession, we can make a difference by offering hope to the hopeless and justice to the victims of crime and oppression. Moreover, we can serve as leaders and informed participants in societal discourse regarding how to address troubling issues like gun violence and gun control, the balancing of free speech and campaign finance laws, and

other hugely emotional issues that threaten to tear our society apart rather than advance its best interests. In so doing, we honor not only the victims of tragedies like Sandy Hook, but also the heroes of our own profession who advocated for individual rights and freedoms and drafted the Declaration of Independence, the United States Constitution, the Bill of Rights, and the Emancipation Proclamation.

It is not nearly enough. But it is a start. And for now, that will have to do.<sup>5</sup> ■

### FOOTNOTES

1. NY Daily News <<http://www.nydailynews.com/new-york/adam-lanza-assemble-computer-minutes-article-1.1225845>>. All websites cited in this article were accessed January 24, 2013.
2. *Id.*
3. SBM Judicial Crossroads Task Force, *Report and Recommendations: Delivering Justice in the Face of Diminishing Resources*, available at <<http://www.michbar.org/judicialcrossroads/JudicialCrossroadsReport.pdf>>.
4. Today News, *Rossen Reports: Scammers try to exploit Connecticut shooting* <[http://todaynews.today.com/\\_news/2012/12/21/16051227-rossen-reports-scammers-try-to-exploit-connecticut-shooting?lite](http://todaynews.today.com/_news/2012/12/21/16051227-rossen-reports-scammers-try-to-exploit-connecticut-shooting?lite)>.
5. For those who are inclined to do something more substantive and directly related to helping the Newtown victims, attorneys from that area are coordinating pro bono relief efforts for requests they expect to begin trickling in as families go through the grieving process. As explained in an article by *Connecticut Law Tribune* columnist Karen Ali, Newtown lawyers have volunteered to help families of victims of the Newtown massacre at Sandy Hook Elementary School on a pro bono basis. Ms. Ali reports that Newtown attorney and Selectman Will Rodgers and two other lawyers are lending their legal expertise to charitable organizations that are sprouting up to funnel money to the elementary school and the victims' families, but need an entertainment lawyer who can help coordinate the volunteer efforts and activities of many "A-list quality" celebrities and sports leagues that are "lining up to help Newtown in some way." Ali, *Newtown Lawyers Open Up Offices and Hearts for Grieving Residents*, *The Connecticut Tribune*, December 27, 2012, available at <<http://www.lawjobs.com/newsandviews/LawArticle.jsp?id=1202582563556&thepage=1&slretrn=20130025232750>>.