

The Register-Guard

Q & A: The retiring judge who built Eugene's 'second chance' court

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Posted at 10:05 AM

Updated at 10:05 AM

Wayne Allen, Eugene Municipal Court's longtime presiding judge, is retiring Dec. 31 after more than four decades of service

Last Friday, days from his Dec. 31 retirement, Wayne Allen, Eugene Municipal Court's presiding judge for the last 24 years, was relaxed, fully in his element.

Allen, 74, sat in a main meeting room of the Eugene Public Library for an interview, not yet in the judicial robes he's preparing to hang up for good. A week earlier, city officials held a ceremony to rename a courtroom in his honor.

Around him, people were readying for another session of community court. The two-year-old specialty court is arguably the capstone of a Allen's 40-plus-year career with the municipal court as a prosecutor and judge. It aligns with his decades-long work to transform the court into what he calls a "progressive, (helping), second-chance court."

Allen is adamant that tossing people in jail or repeatedly fining them for low-level, nonviolent offenses is expensive and counterproductive — for the court, the community at large and the offenders themselves.

So over the years, the court has developed numerous initiatives that waggle a carrot in front of offenders to change their behavior while keeping the big stick visible.

Community court is a separate, voluntary docket of the municipal court that allows offenders charged with low-level, nonviolent crimes downtown to connect to social services while working their punishment off through community service rather than jail time.

It's one of several specialty courts developed during Allen's tenure to steer eligible offenders to rehabilitation rather than a room behind bars, a necessity given the city's limited jail beds.

Other initiatives help offenders work off fines by doing community service and require others to complete educational programs to learn about the consequences of their actions.

Allen also is an administrator as the presiding judge, a big job considering that the municipal court handles an average of more than 5,000 misdemeanor cases a year — second in the state only to Multnomah County Circuit Court — in addition to adjudicating speeding and parking tickets.

Allen and the municipal court's five judges are on the front lines of two of the city's major issues: homelessness and, interrelated, the criminal and nuisance behaviors by people who loiter downtown.

Many of those offenders are dealing with mental health and substance abuse problems, so Allen and his judges are confronted with a choice: offer a helping hand or drop what Allen called the "hammer" of jail time.

The following interview has been condensed and lightly edited.

How do you make that choice between helping hand and hammer?

"Experience, and with the help of a lot of people, a lot of analysis. So for instance this morning we had a briefing. The downtown cops are there telling us what's happening on the street. The person from Willamette Family (a local treatment center) is there telling us what's going on with our clientele: 'This person did this, this person didn't do that.' The prosecutor is there. The defense attorney is there, and we're talking about, 'OK, what do we do with this person?'"

Does the city's municipal court need to be more punitive, more willing to put people in jail?

"The court doesn't have the option. The city doesn't have the option. We have 15 beds at Lane County and you have 15, maybe 20, at Springfield (municipal jail). That's not enough when you have 5,000 misdemeanors to be a heavy-handed punitive court.

"Second, what I think this (community) court proves is ... if we can separate the people who want the help that's offered in this room and the support that's offered by the court, that's very successful. In the first year we had 91 percent who made it through and graduated with us and didn't reoffend. These are people who were offending, if not daily, then certainly weekly and probably daily but not cited daily ... There's so many people we used to see all the time and we don't see them anymore."

... "If you hit somebody downtown, if you assault somebody (and) you come to see me in the regular court, you're going to jail and you're going to be excluded from downtown. I don't know that people understand that."

... "I don't know the answer to that other category (nonviolent offenders who refuse the court's social assistance). A lot of that other category is sitting down on the street corners. And I find it highly irritating, just like a lot of people do. Same people. Same street corner. Same idea of degrading the community and downtown, and disrespecting the people who work in the businesses down there, the people who own the businesses. ... I find it highly irritating, but I don't know what the solution is."

What's your personal view of the ongoing debate about the city of Eugene's outdoor camping ban and the national discussion about the criminalization of homelessness?

"I try very hard not to criminalize homeless people. By criminalizing what you're saying is you camp, you sleep outdoors, you go to jail. Not in my court. ... Now, if he's a constant problem and he becomes violent, then the game changes."

... “But if you’re going to put people in jail for drinking in public or sleeping outside, you are criminalizing. How can you say anything else? Those are the two charges that reflect almost invariably somebody who’s homeless.”

What about the argument that continually fining homeless people for violating the city’s outdoor camping ban can have a similar punitive effect?

“As soon as they are getting through (a specialty court), we’ll bend over backwards to eliminate that debt. ... That’s not criminalizing homelessness. The imposition of repeated fines is a useless exercise.”

What’s the court’s biggest accomplishment during your tenure?

“Moving to a progressive, (helping), second-chance court. For years (prior), I’d see these people in court. And I’d treat them respectfully, more respectfully than they’ve been treated anywhere else. ... But at the end of the day, they’re walking out of court with a fine, and no ability to pay it. And there’s just this emptiness of, there’s got to be something better. That is what this is.”

What would you liked to have seen the court make more progress on?

“I would like to see our criminal defense attorneys paid more fairly. Your paper did an article in the last week or so about that. It’s true here. It is not right. It is not right that court-appointed attorneys are paid significantly less than prosecutors. ... A vibrant criminal justice system has to have fairly paid defense attorneys, period.

As a judge, how has your definition of justice evolved over the decades?

“We always had the rule of law, but I don’t think we had enough compassion. I think it’s the injection of compassion and problem-solving for people who are not able to necessarily problem-solve for themselves.

Did you every have aspirations to move up the judicial ladder to the circuit or federal levels?

“God, no. This is much better. This is much more mobile, much more creative and, in my humble view, has much greater impact on the quality of life in Eugene. ... I’m completely happy, wild and free. I have support, and I can do the right thing every single day. There aren’t that many judges that can say that in any court system anywhere.”