

Executive Summary

Judges Concerned for Judges Volunteer Manual

Introduction

Since 1988 Lawyers Concerned for Lawyers (LCL) has helped over 6,000 attorneys and judges struggling with stress, anxiety, alcohol and drug problems, gambling addiction, depression, eating disorders, and other illnesses which carry a stigma. Nearly all helped have been attorneys. Very few judges have called the LCL Confidential Helpline. We think there are two main reasons for this and we have addressed each one:

1. A judge's fear regarding a lawyer knowing about his or her personal problems keeps the judge from asking LCL for help. That is why we created Judges Concerned for Judges (JCJ) with its own separate confidential helpline and network of judge-volunteers. LCL's lawyer volunteers are not involved with JCJ.
2. Judges are very concerned about their privacy and reputation. To address this, JCJ permits a judge to remain anonymous and still utilize all of JCJ's services.

There are three other major challenges when trying to assist a judge in distress:

1. The inherent characteristic of substance use disorders and mental health disorders to deny or minimize one's condition, or, to accept one's disorder as inevitable.
2. It is natural for judges to be in control – be it in their courtroom or personal life.
3. It is human nature to be ambivalent. When considering something as serious as addressing a substance use or mental health disorder, this ambivalence is magnified.

Your role, as a JCJ volunteer, is to provide support and understanding to your colleague as they work through the process to become willing and ready to engage in services (e.g., evaluation, treatment, peer support). There will also be judges in distress who are unable to ask for help. Some you may be called upon, from time to time, to approach the judge, express the concern of others, and offer our support.

This is a summary of the JCJ Volunteer Manual ("Manual") – a comprehensive set of guidelines providing both general and specific suggestions on how to motivate a judge to address their problem. This summary is not a substitute for studying the Manual.

JCJ is a collaborative effort. LCL's Executive Director (Kenneth J. Hageen, Esq.) and Deputy Executive Director (Laurie J. Besden, Esq.) are always available to answer your questions, provide additional resources, and assist as needed. By consulting with them, you gain the

benefit of their knowledge and experience and you can rest assured that you have done your best to assist the judge in distress. Your communication with LCL executive staff is confidential.

A Word on Confidentiality and Record Keeping

Confidentiality, discretion, privacy – these are the lifeblood of JCJ. If we cannot be trusted to keep a confidence, we will cease to exist in any meaningful way. A judge in distress must be assured that their disclosures are private. We must protect their privacy. One breach, even if well-intended, can result in a loss of their trust and our opportunity to be of assistance.

- A simple rule to follow is to not disclose anything to anyone unless there is a valid reason for them to know – and that applies to conversations with LCL’s executive staff.
- Also, be careful that your conversations are not overheard and that any email communications cannot be read by others.
- Keep temporary records (notes, emails) out of sight and locked up when not in use. Use passwords and/or encrypt any files stored on your computer.
- No permanent records. Destroy all notes and delete all emails when no longer needed.

JCJ’s Confidential Helpline Services

In 2012, the primary presenting-problem of callers to the LCL Helpline were:

- alcohol, prescription or illicit drugs: 53.7%
- depression and bipolar: 16.8%
- anxiety and stress: 20.6%
- other: 08.9%

The causal factors underlying these illnesses are the same for judges and the prevalence rates should be similar. These illnesses are deadly. We must use our best efforts to engage the judge in distress, as there may not be another opportunity. JCJ offers a broad menu of services for judges that can be tailored to meet personal needs and comfort levels regarding disclosure.

There is no limit to the number of JCJ services utilized by a judge:

1. A separate Judges Confidential Helpline (1-888-999-9706);
2. Full control over which services are selected;
3. Full disclosure of how the Helpline works and what to expect during a call;
4. Assurances of privacy - no material disclosures to any party without prior consent;
5. Optional choice to remain anonymous, yet still qualify for JCJ services;
6. Optional peer assistance from fellow judges and not lawyers;

7. Optional choice to only accept assistance from a healthcare professional;
8. Optional choice to accept assistance from LCL's executive staff;
9. Free literature, mailed discreetly to an address designated by the judge; and
10. Services are available to the judges' immediate family members.

Your Role as a Volunteer

JCJ is a safe and confidential resource whose sole mission is to serve judges. Simply put, your role is one of support – a trusted resource to whom the judge can turn to at any time for help.

Here are a few of the qualities that will encourage a judge to “open up” to you:

1. Seek to establish a nonjudgmental, non-threatening, collaborative relationship.
2. Ask how you can be of assistance. Communicate a genuine interest in helping.
3. Listen and strive to understand the judge. Communicate genuine concern.
4. Accept the judge's thoughts and feelings, even if you disagree. Be respectful. Be kind.
5. Do not depersonalize the judge by labeling as alcoholic, depressed, has a problem, etc.
6. In general, do not give advice, make suggestions, or provide solutions prematurely or when unsolicited. Do not give advice on personal, financial or legal matters.
7. Offer feedback if and when appropriate and helpful. Do not come across as pushy or provide unsolicited opinions. To do otherwise may trigger resistance.
8. Do not give orders or directives; rather, acknowledge the judge's situation (through reflective listening) and encourage them to explore solutions.
9. Strive to educate and motivate (empower) the judge to make decisions and take action.
10. Assist in setting or clarifying goals or values.
11. When appropriate, support their efforts to develop a realistic plan to reach those goals.
12. Respect the judge's autonomy to make decisions – even wrong ones.

If you are unsure about how to support the judge, you may contact LCL executive staff at any time for guidance in addition to reviewing the pertinent chapters in the JCJ Volunteer Manual.

The Art of Listening

Establishing trust requires that you understand the speaker's state of mind (both thoughts and feelings), expressed concerns, and undisclosed needs. This is a three-step process: (1) ask open-ended questions, (2) listen, and (3) clarify. Asking open-ended questions requires the judge to talk; "yes or no" questions do not. Listen to what is being said — both content (the words used) and feelings (how it is being said — tone of voice, loudness, pace). Then restate what the speaker has said to verify that you have correctly understood. This process of listening and restating for clarification should be repeated until you are sure you have a complete and accurate understanding of the judge's circumstances, concerns, and needs (both expressed and unexpressed). [See Chapter 4 and Chapter 5 of the Manual for a full discussion.]

Six Stages of Change

Not everyone who calls the JCJ Helpline will be emotionally willing and ready to schedule an evaluation or start treatment. Your challenge is to determine the judge's level of readiness and tailor your conversation to match that level. Proper matching of your efforts to their level of readiness encourages a positive path and reduces missteps, misunderstandings, frustration, and resentments:

- If you push a judge to act before he or she is ready, you will trigger resistance.
- If you fail to encourage a judge to act when ready, they may procrastinate.

An individual changes when it is to their advantage to change. The motivation to change may come from seeking a "reward" (keeping one's law license, job, marriage, health, etc.), or from trying to avoid the painful consequences of not changing (loss of license, job, marriage, health).

The six stages of change are as follows:

1. *Pre-contemplation*: The judge is not considering behavioral change; they may be partially or completely unaware that a problem exists, that changes must occur, and that help is needed to effectuate lasting change. Or, the judge may be unwilling to change. Some may have tried to change and failed and are now too discouraged to try again. Most likely, the judge has not experienced sufficient adverse consequences to be convinced that there is a behavioral problem or present risk that must be addressed.
2. *Contemplation*: The judge is more aware of the consequences of their behavior and is beginning to perceive that there may be causes for concern and reasons to change. They may be considering the possibility of change by seeking relevant information, re-evaluating behavior, or seeking help to support the possibility of changing behavior. The individual is ambivalent — weighing the pros and cons of behavior modification — and

doubts that the long-term benefits of change outweigh the short-term costs (e.g., abstinence, “loss” of social life, lifestyle changes, giving up drinking buddies, etc.).

3. *Preparation/Determination*: The judge perceives that the benefits of change and the adverse consequences of not changing outweigh the positive features of their current behavior. The judge has made an initial commitment to change and is gathering information, strategies, and resources to understand what is involved to make the change. The judge engages in self-examination of his or her ability to change and may disclose, to others, the plans, goals, and commitment to change. The judge may attempt to affect change on his or her own with varying results. A poor result may discourage any future efforts (i.e., a return to the pre-contemplation stage).
4. *Action*: The judge chooses a strategy for change and begins to pursue it by modifying behavior and environment; making lifestyle changes; and reevaluating self-image.
5. *Maintenance*: The judge continues the efforts to sustain the gains achieved in the action stage. Extra precautions may be necessary to keep from reverting to problematic behaviors (e.g., drinking, gambling, etc.). In other words, the judge must know what may trigger a relapse and plan appropriately to avoid or mitigate those triggers.
6. *Recurrence (Relapse)*: This refers to the event that triggers the judge’s return to earlier stages of change and recycling through the process. However, this can be a learning opportunity if the judge discovers that certain goals are unrealistic, certain strategies are ineffective, or certain environments are not conducive to successful change.

An individual does not move through these stages in a linear fashion; rather, they travel back and forth between stages. For example:

- A judge calls the JCJ Helpline and asks for information about our services (contemplation).
- A few days later the judge decides to accept JCJ’s evaluation services (preparation/determination), calls the JCJ Helpline (action), makes the appointment (action), but later cancels the appointment (back to contemplation).
- Later, the judge reschedules the evaluation (preparation/determination and action) and meets with the healthcare provider (action).
- Upon being informed of the diagnosis and the provider’s recommendations for treatment, the judge starts a new cycle regarding whether or not to engage in treatment services.

Empowering the Judge – Evaluations

In this situation, you are talking to a judge who has not made the decision to schedule an evaluation. The judge has mixed thoughts and feelings about being evaluated. The “contemplating” judge is gathering information in preparation of making a decision about scheduling an assessment. Please keep the following in mind:

- Your goal is to empower the judge to make a decision about scheduling an evaluation.
- Your understanding and positive affirmations of their ability to change may tip the balance in favor of the judge deciding to schedule an evaluation.
- Unless the judge is in crisis and requires immediate assistance, you can be supportive and patient as they move from contemplation to making a decision.
- Keep the line of communication open and active (unless the judge asks you to not call — then, politely say you are always available to them if they wish to talk).

Use your active and reflective listening skills while utilizing the following techniques to guide the judge through their ambivalence:

- Commend the judge for contacting JCJ. Ask how you can assist.
- Validate ambivalence and lack of readiness to immediately schedule an evaluation.
- Clarify that the decision is the judge’s to make – not JCJ’s. Don’t try to persuade or push.
- Encourage the judge to weigh the pros and cons of seeing a healthcare professional.
- Promote positive outcome expectations from meeting with a healthcare professional.
- Encourage small initial steps such as calling the JCJ Helpline to schedule an evaluation.
- See Chapter 6 of the Manual for several examples of what to say to a resistant judge.

Once the judge agrees to schedule an evaluation, redirect the judge to the JCJ Helpline. It is very important that they see a qualified healthcare provider who is experienced in diagnosing substance use disorders and mental health disorders. The judge may want to go to their primary care physician – someone who is well-intended but unqualified for diagnosing the presence of one or both types of illnesses. A misdiagnosis can lead to disaster.

If they balk at calling the JCJ Helpline, don’t insist. Ask if you can provide them with the name and contact information of a qualified provider. If they agree, call LCL’s executive staff. They will provide an evaluator and available appointment dates for you to pass on to the judge.

The Judge Who Cancels the Evaluation

What to do about the judge who cancels his or her evaluation is a sensitive matter. Because of confidentiality, unless the judge tells you, you will not know that the judge was not assessed. The JCJ Helpline Manager will be aware of the cancellation (assuming we made the referral) but cannot disclose this information to anyone without the judge's permission.

To avoid this situation, have the judge tell you the date of the evaluation and agree to a follow-up call from you to see how it went. That way, when you follow up, the judge may tell you how the appointment went or that it was cancelled.

If the judge admits to you that the appointment was cancelled, don't jump to any conclusions or begin a cross examination. Rather, express your willingness to help address any concerns or obstacles and ask what happened. There may have been a last-minute scheduling conflict. If so, inquire if the appointment is rescheduled. If it is not, ask if there are any obstacles and if you can be of assistance. On the other hand, it could be that the judge has slipped back into the contemplation stage and needs more time to (once again) reach a decision. In those situations, revisit Chapter 5 and Chapter 6 of the Manual and re-engage.

Hopefully, the judge has not returned to the pre-contemplation stage; i.e., no longer sees the need to make a life change, much less go for an evaluation. However, if that happens, the following techniques may be helpful:

1. Validate the judge's lack of readiness. Unless the judge is in crisis, you can be patient;
2. Clarify that the decision is the judge's to make;
3. Encourage re-evaluation of current behavior;
4. Encourage self-exploration, not action;
5. Look for opportunities for the judge to self-discover any discrepancy in their statements and/or behavior;
6. Explain and (if appropriate) personalize the risks; and
7. Remind the judge that you are always available to them to talk or provide assistance.

Finally, keep LCL executive staff apprised of what is going on. They may have non-confidential information that they can share with you (and vice versa) that will allow collaboration in an effort to develop a strategy to motivate the judge to reschedule and attend the evaluation.

Moving the Judge toward Treatment

A judge, who has been diagnosed and given treatment recommendations, may (a) be ready to start treatment, (b) have mixed feelings about treatment, or (c) refuse to start treatment. Your role is to provide support matched to their level of readiness. When ambivalence or resistance to treatment is present [see Chapter 8 of the Manual for examples], the following may help:

1. Commend the judge for following through on the evaluation;
2. Ask if the judge wants to discuss the findings and recommendations;
3. If not, don't push; ask how you can be of assistance; and
4. If the judge wants to talk about it, use open-ended questions coupled with active and reflective listening techniques.

If the judge agrees to talk about it, ask how the consultation went:

1. What did the evaluator say?
2. What were the findings or prognosis?
3. How does the judge feel about the diagnosis? Ask if the judge would like some literature on the topic in order to better understand the diagnosis.
4. Was treatment recommended? If so, what was suggested?
5. How does the judge feel about that?
6. Encourage the judge to explore the pros and cons of treatment – help them to see how the positive outcomes of treatment outweigh any negatives.

Always remember, the final decision to engage in treatment services lies with the judge. We support, guide and assist. We do not insist. Stay in touch unless requested to stop.

Motivational Interventions

Sometimes a judge in distress is unable to seek assistance and must be approached by others. These approaches must be carefully considered, thoroughly planned, and thoughtfully carried out. Interventions are very detail oriented. Chapter 9 of the Manual fully discusses the process.

JCJ places a high priority on preserving the distressed party's dignity and autonomy; thereby, minimizing resistance to the message. Our general objectives include:

- building trust;
- validating the distressed judge's thoughts and emotions;
- reinforcing their autonomy over seeking help;
- empowering the judge to move through the stages of change; and
- assisting the judge (as indicated and appropriate).

The JCJ protocol recommends that:

1. The first approach should be a private conversation carried out "one-on-one" by a concerned party who has firsthand knowledge of the facts and who is known and respected by the judge. We try to avoid using second-hand knowledge, even if credible. This prevents the judge from fixating on identifying the party who "dimed" them out.

2. Subsequent conversations, if needed, may need to include additional concerned parties.
3. These conversations are meant to encourage introspection and self-realization by the judge that change is necessary and desirable. This may take some time. Leverage is not applied unless the circumstances warrant immediate action to prevent or mitigate serious harm to self (health, career, law license) or others.
 - a. Although a concerned judge who is intervening upon a colleague may apply leverage (i.e., the threat to report professional misconduct), JCJ volunteers, as a general rule, do not apply leverage. This reduces the likelihood of the judge resenting the volunteer's "intrusion" into their personal life – a resentment which may keep them from asking for or accepting help from JCJ at a later date.
4. When appropriate, JCJ consults with professional interventionists.
5. LCL's executive staff should be involved in all intervention cases. They offer a wealth of experience and other resources to ensure best efforts are used to assist the judge. Their involvement also ensures that the intervention is covered by LCL's liability insurance.

There will also be situations when the concerned parties are unwilling or unable to be directly involved. In those cases, LCL's executive staff can collaborate with those JCJ volunteers who are willing to approach the judge in distress. Chapter 10 of the Manual specifically addresses these situations.

Conclusion

When all is said and done, the role of a JCJ volunteer is to be a trusted confidant who possesses the knowledge and skill to guide the judge in distress to the point where they are able, ready and willing to take the action required to address their problems.

You may be the only person who the judge feels he or she can trust.

You may be the only person the judge feels is sincerely concerned about them, with no hidden agenda or competing loyalties.

You may be able to empower the judge to believe that their problems can be solved and to instill a sense of hope for the future.

You may be able to help the judge to make a decision that will forever alter his or her life and will benefit all with whom they come into contact.

JCJ volunteers make a difference. Thank you.