

Rhode Island Women Lawyers: Past, Present, & Future

This series was inspired by Roger Williams University School of Law's annual *Women in Robes* event, and was created in alliance with their exciting new project *The First Women*, which recognizes and honors the first women of the Rhode Island bar.



Barbara Hurst, Esq.

Barbara Hurst's career has been—and continues to be—notable for many reasons, but her dedication to public service is certainly among the top of them. After her admission to the Rhode Island bar in 1976, Attorney Hurst joined the Rhode Island Public Defender Office (RIPD). Together with Terry MacFadyen, she wrote the grant that established the Appellate Division where she litigated for nearly two decades, primarily as the chief of the unit—a position she held until she became the Deputy Public Defender in 1993. She served in that capacity until she retired in July 2012. Retirement, however, did not mark the end of Attorney Hurst's career, as she has spent the past decade working in various capacities for the Federal Court of the District of Rhode Island (where she is currently employed as a clerk in Judge Mary S. McElroy's chambers) and as a consultant to the nonprofit sector, where she shared the management, personnel, and budgeting skills she developed as the Deputy Public Defender. In addition, Attorney Hurst is still an adjunct professor at the Roger Williams University School of Law, teaching such courses as State Constitutional Law and Advanced Appellate Advocacy, and has served on the national executive committee for the American Civil Liberties Union.

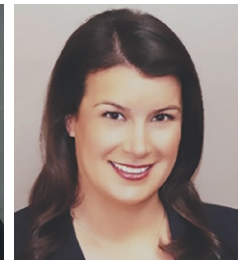
At the RIPD, Attorney Hurst used her voice

to make sure that public defenders were given a "seat at the table" when important policy decisions were being made, something that did not always happen as a matter of course. For example, she recognized the need for a more active public defender representative on the then-Governor's Justice Commission, which oversaw the distribution of significant federal funding for justice initiatives. Almost overnight, she was able to secure large grants for the RIPD, including funding for much-needed computer upgrades and an early intervention project with social workers—which marked the beginning of the RIPD's transition into one of the national forerunners of the "holistic defense" movement. Most incredibly, she was able to convince the courts and the Department of Corrections to provide the necessary matching funding for the early intervention project when the State Budget Office would not do so. The impact went beyond these specific grants, for it set the precedent that the RIPD should have a voice in the conversation and modeled a level of partnership to achieve common goals that were extremely rare at that time in the criminal justice community. She credited this success to the strength of the personal relationships she had developed and the recognition that different stakeholders may have shared goals—even if this is not always obvious from the outset. "It was also a time," she said, "where there had been leadership transitions in state government, particularly in Corrections, to people who recognized the value of cooperative enterprises, even while we all continued our primary adversarial roles. Much of that credit goes to former Directors George Vose and A. T. Wall."

Attorney Hurst's positive impact on the criminal justice system is also evidenced by her appointment to the federal Global Justice Information Sharing Initiative Advisory Committee, commissioned by then-Attorney General John Ashcroft. The committee's charge was to advise on the development of a new system of inter-agency information-sharing among criminal justice agencies—a priority in the aftermath of



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9/11. While law enforcement entities—like the Department of Justice, probation, the courts, sheriffs, police, and state attorney general—were well represented on the committee, Attorney Hurst was the only member to represent the defense community on what, she was told, was the last federal advisory committee retaining a defense representative. She remembers her primary charge was "to stay on the Committee" and, despite many heated disputes over policy, the defense retained its "seat at the table." She found her experience served her particularly well when she served on the subcommittee on privacy, where she helped ensure that arrestees' privacy interests were protected in the data-sharing scheme. This work allowed her to once again collaborate with a seemingly unlikely ally: the domestic violence advocacy community, which also places a strong value on data privacy. As a result of this mutually beneficial partnership, Attorney Hurst even received an invitation to speak at a national domestic violence conference for judges.

Although the majority of her career was spent with the RIPD, Attorney Hurst's sphere of positive influence goes beyond the world of criminal justice. One of her most fascinating experiences with the U.S. District Court was when Chief Judge John J. McConnell, noting the influx of foreclosure proceedings that were filed during the financial downturn, envisioned a large-scale mortgage settlement project under the sponsorship of the Court. The project was the brainchild of banker Merrill Sherman, and Attorney Hurst was hired as Deputy Special Master to help administer this project, which brought together lenders and homeowners to re-negotiate mortgage contracts under the guidance of a special master. This helped many homeowners stay in their homes or, if they could not afford the even lower new terms, receive some settlement money toward relocation. This unique program also served as a model for other states dealing with the aftermath of the housing crisis. The project was also a rare opportunity for a criminal defense lawyer to oper-

ate in the civil law realm, in which Attorney Hurst had spent a brief 8 months “on leave” from the RIPD to become Director of Litigation for Rhode Island Legal Services (RILS). Although that was a short tenure, it gave her a skeletal familiarity with litigation in housing, consumer rights, and immigration. Most of her time was spent co-counseling class action lawsuits, including a number of civil rights cases on behalf of prisoners. “This was in 1979-1980,” she said, “when we had the privilege of litigating before Chief Judge Raymond Pettine. My favorite case—mostly for the sheer novelty of it—was one brought by 14 prisoners transferred from the ACI to federal penitentiaries across the country. The RIPD, RILS, and Jack Cicilline each represented some of the 14, and we tried the case for weeks in the basement of then-Medium Security at the ACI.”

The greatest challenge Attorney Hurst faced as a new lawyer was her status as a non-native Rhode Islander. When reminiscing about her early days as a Rhode Island attorney, she remembers being an “outsider” in a state characterized by minimal “degrees of separation.” Criminal defense was, in particular, a tight-knit, homogeneous male community, with few exceptions. Additionally, she joined an office that, at the time, was mostly made up of Catholic, white, male attorneys. “I hadn’t grown up in the same neighborhoods,” she said, “I wasn’t a member of a parish, and I wasn’t anyone’s second cousin. For me, the ‘out of place’ issue was not primarily about gender. It was the absence of cultural connection.” For a Jewish woman who grew up in the suburbs of Boston, it took a while for her to feel as though she belonged—but eventually, she did. “I was lucky, though, that Allegra Munson had paved the way and that strong women lawyers like Lise Gescheidt, Paula Rosin, and Jannie Weisfeld soon joined the office.” Attorney Hurst stated, “I was also grateful, that talented and established defense lawyers—like Jack Cicilline, Peter DiBiase, and Kirk Griffin—welcomed and helped me. And for many years I was able to work as a team

with Terry MacFadyen, who also came from out-of-state.” Although she did not have native Rhode Island roots, Attorney Hurst built her own network, citing her nonprofit board service as a helpful way to expand her Rhode Island connections—something she encourages other “new Rhode Islanders” to explore.

She sees the increased diversity of the bar over the past few decades as a positive step. After all, as she noted, the legal system itself is a masculine, autocratic structure, with even the courtroom set-up perpetuating the hierarchical nature of the system: judges sit high above the lawyers, who are separated from their clients by a literal bar. Attorney Hurst reflected that women often have a different style as lawyers and leaders: they are more focused on relationship-building, more approachable, and less authoritarian. She hopes that the increased numbers of women in the field will help us to challenge some long-held beliefs and systems that could benefit from re-examination.

Similarly, Attorney Hurst reflected that client “hand-holding” should be recast in a positive light and not as inefficient or a waste of time. Facing a legal proceeding is stressful for clients, and lawyers should expect to walk clients through those stresses as a major part of the service they provide. In her personal practice, Attorney Hurst tried to ensure her clients knew she was not just another authority figure. “We need to learn from the increased awareness in the medical profession that we have to provide more than simply technical services. Legal services, like medical services, ought to be a partnership between the professional and the client. The relationship itself is part of the service.”

Looking towards the future, Attorney Hurst noted that women should not run away from a more feminine model; instead, they should advocate for changes that move the legal system towards collaborative problem-solving as a tool in addition to strict litigation. The adversarial system is designed to be “winner take all,” which is rarely the best solution, she feels and is often prohibitively costly. Often, mediation might be the best first step in the civil context and should not be something that happens near the end of the process. In the criminal sphere, the Federal Hope Court is an example of a different type of alternative dispute resolution that puts the defendants squarely in the discussion, where they belong. “Hope Court is a great example because it demands that a defendant become someone who helps determine the outcome, not just someone ‘to whom things happen.’”

In short, Attorney Hurst encourages women to give voice to the issues they care about. She advises new women attorneys to take a seat at the table and not wait to be invited. Another sage piece of advice is for women to let other women know that they are not alone in their fears. Long a taboo topic, it is time to talk about insecurities with each other—and how to face them together. ◇



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