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Correspondence Between Frederick R. Franklin and Hugh B. Horton In Regards to the American Bar Association's Standard of Judicial Conduct

Frederick R. Franklin
Hugh B. Horton

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Dear Mr. Horton:

Thank you for your letter of February 26, 1970 asking for a copy of the Preliminary Report of the Special Committee on Evaluation of Disciplinary Enforcement. A copy has been forwarded to you under-separate cover.

Your comments pertaining to discipline of judges, together with the newspaper article you enclosed with your letter, will be forwarded to the Special Committee on Standards of Judicial Conduct which is in the process of drafting a new Code of Judicial Ethics. I feel certain that this Committee will give your suggestions careful consideration.

Sincerely yours,

[Signature]
Frederick R. Franklin
Staff Director
Professional Standards

cc: Members, Special Committee on Standards of Judicial Conduct
Division of Professional Service Activities
American Bar Association
1155 East 60th Street
Chicago, Illinois 60637

Gentlemen:

We have noted the comments in the American Bar News both on the Code of Professional Responsibility and the problem of disciplinary enforcement.

While recent news of Supreme Court nominees and of the Chicago Seven trial may highlight the problem, we believe the most serious problem at the present time from a public relations point of view is discipline of Judges—both federal and state.

While the ABA would know of the publicized matters, highlighting a more local problem and illustrating the need of control over state judges was a recent exchange between a Superior Court Judge and the Judge of a court of limited jurisdiction set forth in the local press with a copy of this enclosed. There were several follow ups which have not been transmitted but this matter was embarrassing to all lawyers and as we have learned, there is no disciplinary procedure or proceedings in the State of Washington. Apparently Superior Court Judges here can be corrected only by being defeated in an election.

We shall likewise appreciate receiving a copy of the proposed report.

Very truly yours,

HORTON, WILKINS & HORTON

Hugh B. Horton
A long-standing feud between Superior Court Judge John T. Day and the Franklin County commissioners appears to be causing work at the overworked bicounty juvenile home.

This summer a citizens advisory group studied the operation of the home. It found the staff too busy processing cases to do much of a job of rehabilitation and probation.

One recommendation was that the work load by relieved by having juvenile traffic cases handled in adult court. Paul Schlacel, juvenile home administrator, said at the time the transfer would be implemented.

However, what's happened, is that most of the Benton County cases are being referred to adult court but very few Franklin County cases are.

The main reason seems to be a fear by Judge Day that the Franklin County court of Fred Staples is under the thumb of the county commissioners.

It's a charge which both the commissioners and Staples say is ridiculous.

Speculation that the reason might be that Staples worked for Charles Morbeck in Morbeck's 1968 campaign against Judge Day were dismissed by Judge Day. He pointed out there are three judges presently receiving juvenile cases — Bob Day in Kennewick, Al Yencopal in Richland and Jack Pearl in Prosser.

"Everyone of them, as far as I know, has actively worked against me in campaigns," said Judge Day. "Al Yencopal even managed one against me."

So why doesn't he refer the Franklin County cases to Staples?

Judge Day said there are two reasons:

1. Staples has a "noisy member of his staff" who in the past has discussed the guilt and innocence of people before they were tried. He felt a "serious obligation" to juveniles to have their first contact with a court be of a high level.

   Asked to name the "noisy" person, Judge Day declined, saying he would be no party to libeling anyone.

2. His second reason for not transferring the juveniles, said the judge, was that although Staples is an "honorable person" whose decision he didn't think would be colored, at least one
commissioner "has told me in open proceedings that he intends to see that these (Juvenile cases) are transferred to the district court in order to make money for the county."

Judge Day predicted he would start referring the cases:

- When Staples is an elected officer and not at the "whims of commissioners who do not understand judicial process."
- When Staples' court settles down in one location under a "defined budget."
- When Staples controls his staff.
- And when "the system is going to treat them (the juveniles) as fairly as they can be treated."

Charges Denied

Dealing with the criticisms, Staples replied:

- He is an elected justice of the peace, and his district-court post is elective. The fact he was appointed to it makes him no more subject to the "whims" of the county commissioners than did the fact that Judge Day was appointed by Gov. Al Rosellini make Day subject to Rosellini's whims. Commissioners can't fire Staples.
- Staples said he had moved his court to the Pasco City Hall because of lack of space, but didn't think it affected the quality of justice. He said he has a "defined" budget.
- Staples is sure no member of his staff is acting unprofessionally, but would investigate if Judge Day would give him details.
- As for the fairness of his court, he felt it was fair to both juveniles and adults.
- Most of the juveniles would be processed in Pasco city police court, from which the county receives no money.

The only money the county's general fund obtains from county traffic cases is that which goes to pay for operation of the court.

Each of the three county commissioners denies he has tried, or would try, to interfere with the operation of Staples' court.

Each commissioner, polled separately, denies he made the statement mentioned by Judge Day that he wanted to see the juvenile cases transferred "to make money for the county."

Why Wait?

The charges made by Judge Day are serious.

Inappropriate action by a member of Staples' staff, or interference in the judicial process by commissioners, is too serious for correction to wait, as Judge Day seems to be content to do, until Staples becomes an elected district-court judge a couple of years from now.

It would seem Day's charges should either be substantiated or withdrawn, and a demand for this should be made either by Judge Staples or by the Franklin County commissioners.