Judicial Ethics, Everyday Work, and Emotion Management

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ABSTRACT

Judicial ethics and conduct guides emphasize dignity, decorum, patience, and courtesy, contributing to an understanding of judging as rational, detached, and unemotional. However, these are also interactional capacities, implying the presence of emotion and emotion work. Empirical research finds that judicial officers express considerable awareness of the need for judicial emotional capacities and emotion work and undertake a range of strategies to manage emotion. This judicial experience shows that available guidance does not adequately address emotion in judicial officers' everyday work. Improved guidance will explicitly recognize judicial work as an interactional space, generating emotion and demanding emotion work.

INTRODUCTION

The judiciary, in common with all occupations, projects an image of its key attributes. Judicial conduct, especially in court, is expected to embody the abstract rational authority of law and to be without emotion (Green and Roiphe 2008; Maroney 2011b). Similar to other professions, the conventional model of judging disavows emotion and valorizes impersonal detachment (Weber 1978; Bandes 2001, 2009; Bandes and Blumenthal 2012; Davies 2017). This dominant image of the judge as rational decision maker and of judging

We appreciate funding, financial, and other support from the Australian Research Council (LP0210306, LP0669168, DP0665198, DP1096888, DP150103663), Flinders University, and the Australasian Institute of Judicial Administration, the Association of Australian Magistrates, and many courts and their judicial officers. We are grateful to several research and administrative assistants, especially to Rhiannon Davies, Colleen deLaine, Jordan Tutton, and Rae Wood. All phases of this research involving human subjects were approved by the Flinders University Social and Behavioural Research Ethics Committee. For further information on the Judicial Research Project and Flinders University, see http://www.flinders.edu.au/law/judicialresearch. Contact the corresponding author, Sharyn Roach Anleu, at judicial.research@flinders.edu.au.

Journal of Law and Courts (Spring 2020) © 2020 by the Law and Courts Organized Section of the American Political Science Association. All rights reserved. 2164-6570/2020/0801-0006$10.00. Electronically published January 14, 2020.

https://doi.org/10.1086/703700 Published online by Cambridge University Press

as without emotion "is a cultural script of unusual longevity and potency" (Maroney 2011b, 630).

Remiche (2015, 99) articulates the concept of the "imagined judge . . . to embody the *imaginary representations* a legal culture conveys about its judges. It . . . refers to the image a society forges for its judges, their role and their power within the system."[1] Such images are produced in various places, from textual and graphical depictions of the judicial role to actual judicial performance, especially in court (Moran 2009; Remiche 2015; Judicial Images Project 2017; Davies 2018). More broadly, Weber's (1949) concept of the ideal type is an analytical construct that emphasizes certain possible elements of a phenomenon against which empirical reality can be measured.

Written ethics codes or guides for judicial conduct (hereafter "ethics guidance") can therefore be a source for some qualities or attributes of the "imagined judge" or "ideal type."[2] These written sources "typically identify the organization's conduct standards . . . and the organization's core values" (Treviño et al. 2014, 638). Although ethics guidance is only a component of the wider "ethical infrastructure" or ethical context,[3] it is one of the most visible, well documented, and commonly studied (Tenbrunsel and Smith-Crowe 2008; Treviño et al. 2014). Codes of conduct or ethics guides are often associated with professionalization and the maintenance of professional status,[4] sometimes implying emotion management as part of detached professional service (Wilensky 1964; Abbott 1983, 1988). In her discussion of emotional labor, Hochschild (1983, 153) notes that professions "supervise their own emotional labor by considering informal professional norms and client expectations."

Ethics guidance typically calls for the judicial officer to maintain decorum in court proceedings while being patient, courteous, and dignified and displaying a demeanor of

1. In using the phrase "imagined judge" developed by Remiche (2015), this article focuses on elements of this construct rather than the constitutional principles and wider cultural qualities identified by Remiche.

2. While it may be common in some professional or occupational contexts to use "ethics codes" to describe "conduct standards" (Treviño, den Nieuwenboer, and Kish-Gephart 2014) in judicial guides, the term "judicial conduct" rather than "ethics" is frequently used (e.g., United Nations Office on Drugs and Crime 2002; American Bar Association 2011; Council of Chief Justices of Australia and New Zealand 2017).

3. Treviño uses the terms "ethical infrastructure," "ethical culture," and "ethical climate" in distinct ways, and he attempts to delineate the scope of each. We are using the term "ethical infrastructure" broadly to encompass the elements, formal and informal, explicit and implicit, that form the ethical values and norms of the judiciary (also see Elek et al. 2017; Appleby and Le Mire 2019). The term "ethical infrastructure" appears to have been first proposed by Schneyer (1991) and subsequently cited in parallel literatures: legal ethics (Levin and Mather 2012) and organizational psychology (Tenbrunsel, Smith-Crowe, and Umphress 2003), with some cross-reference (Robbennolt 2015).

4. The research on professionalization is vast, with significant differences on the interpretation of professional attributes. Functionalist approaches acknowledge such traits as entry requirements, credentials, licensing, and the service ideal as intrinsic to certain kinds of work. Critical approaches take the same attributes as evidence of monopolization, exclusion, and maintenance of prestige and status. Social constructionists examine the ways in which professional tasks and boundaries are maintained and negotiated in everyday work (Abbott 1988; Macdonald 1995; Roach Anleu 2010).

https://doi.org/10.1086/703700 Published online by Cambridge University Press

emotionless detachment (United Nations Office on Drugs and Crime 2002; American Bar Association 2011; Council of Chief Justices of Australia and New Zealand 2017; Judiciary of England and Wales 2018; see also Shetreet 2014). These qualities are thought to reinforce core judicial values of independence, impartiality, and integrity and so advance public confidence (Green and Roiphe 2008; American Bar Association 2011; Council of Chief Justices of Australia and New Zealand 2017).

However, conceptions of the imagined or ideal-type judge do not, and perhaps cannot or are not meant to, exactly capture the realities of everyday work. Practical tasks and everyday contingencies cause departures from the abstract model. One characterization of this gap is found in Higgins's (1987, 1989) self-discrepancy theory, which distinguishes internalized self-guides that include the ideal (or aspirational) self and the ought (or obliged) self. External influences such as ethics guidance and norms, for example, may be internalized as part of the ideal or ought self-standards through processes such as professional socialization, education, and training. The relationship between the actual self (or self-concept) and these regulatory standards "determines the emotional impact of such standards" (Strauman 1996, 1142). Any gap or discrepancy between self-appraisal and the standards will affect the individual emotional experience, as well as the motivational function of the standards (see also Higgins 1999; Brockner and Higgins 2001; Gorman et al. 2012; Lanaj, Chang, and Johnson 2012).

As a cultural construct, the imagined judge (although aspirational) will inevitably influence judicial officers' understandings of their role and approach to everyday work. In court, the judicial officer must connect the abstract norms of ethics guidance with the concrete activities and practical constraints of the courtroom (Roach Anleu and Mack 2017). Courts are constituted by relationships and associated formal and informal interactions. They can be places of dense emotion, and judicial officers must engage in face-to-face interactions with participants—parties, witnesses, lawyers—who experience and display an array of feelings. Throughout these interactions, judicial officers must be aware of norms of judicial behavior and so conduct themselves with patience, courtesy, dignity, and decorum. Indeed, the specification of these qualities implicitly acknowledges the presence of interaction and therefore emotion in judicial work and the need for its regulation. Translating these abstract ethics precepts into everyday court work entails considerable emotion and emotion work (Roach Anleu and Mack 2005; Bandes 2009; Maroney 2011a; Richmond 2012; Goodman 2013; Rudolph and Tscharaktschiew 2014; Bergman Blix and Wettergren 2016, 2018).[5] Legal professionals, including judicial officers, can also use emotion (both experience and expression) as a resource to further individual or

5. Several different terms describing overlapping, but sometimes distinct, concepts are used somewhat interchangeably: "emotional labor" (Hochschild 1983; Wharton 1999, 2009), "emotion work" (Hochschild 1979), "emotion management," "emotion regulation" (Maroney and Gross 2014; Gross 2015), "emotional practices" (Scheer 2012), and "emotional capital" (Cottingham 2016). In this article, we use the term "emotion work" to convey the effort involved in managing one's own emotions and emotion display as well as the efforts to manage the emotions felt and displayed by others.

https://doi.org/10.1086/703700 Published online by Cambridge University Press

institutional legal objectives (Ashforth and Humphrey 1993, 1995; Scheer 2012; Bergman Blix and Wettergren 2018; Roach Anleu and Mack 2019).

How do judicial officers manage the emotional and practical demands of everyday judicial work, in light of the abstract norms and values of expected judicial conduct? How do judicial officers translate the qualities of the imagined judge—patience, courtesy, dignity, and emotional detachment—into their everyday judging practice?

These questions are addressed by a case study in Australia. The case study approach enables in-depth investigation of one jurisdiction, which can be the basis for subsequent comparative analysis (Ragin 1987; Flyvbjerg 2006). The first step is to analyze two leading sources of judicial conduct guidance in Australia: the Australasian Institute of Judicial Administration's *Guide to Judicial Conduct* (2017), or AIJA *Guide*, and Thomas's *Judicial Ethics in Australia* (2009) to identify their approaches to emotion in judicial work and the attributes of the imagined judge they project. Next, in-depth interviews with judicial officers across all levels of court investigate their experiences of and perceptions about emotions in their work. These interviews reveal the considerable emotion management demanded of the judicial officer to achieve the desired qualities or behaviors, as well as their sometimes limited capacity. Comparing the interview findings with the available guidance in the two sources reveals an apparent incongruity between their portrayal of the imagined judge and the realities of everyday judicial work.

JUDICIAL ETHICAL GUIDANCE IN AUSTRALIA

Judiciaries have varied sources that identify required, expected, or desired judicial conduct and demeanor. These can be thought of as articulating attributes of the imagined judge or as a component of an ethical infrastructure of the judiciary. Some jurisdictions have official codes of conduct enforced by formal disciplinary processes. For example, in the United States, the American Bar Association's *Model Code of Judicial Conduct* (2011), or ABA *Code*, has been adopted (or adapted with some modification) by most states. These states, in turn, have established judicial conduct commissions to investigate complaints against judicial officers, and where founded, impose disciplinary sanctions (Gray 2007).

Guidance about judicial conduct may also be found in statements of appropriate or desirable judicial conduct that may (or may not) be enforceable via formal discipline procedures.[6] The *Bangalore Principles of Judicial Conduct* is an example (United Nations Office

6. The disciplinary aspect of judicial ethics is not the focus of this article. In Australia, issues of judicial conduct have traditionally been for the heads of jurisdiction to handle internally and informally, if a concern or complaint is raised (Law Reform Commission of Western Australia 2012; Wallace, Mack, and Roach Anleu 2014). While several states have introduced judicial commissions to handle complaints against the judiciary (some very recently), little information about the nature of the complaints or the disposition of the matters is publicly available (e.g., *Judicial Commissions Act 1994* [Australian Capital Territory], pt. 4; *Judicial Officers Act 1986* [New South Wales], pt. 6; *Judicial Conduct Commissioner Act 2015* [South Australia], s 6(1), pt. 3; *Judicial Commission of Victoria Act 2016* [Victoria], s 1(b), pt. 2). As a result, there are few resources to flesh out the explicit ethical statements or identify the boundaries between ethical and unethical behavior or appropriate and inappropriate conduct (Appleby and Le Mire 2016).

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on Drugs and Crime 2002). It provides normative statements that indicate how judicial officers ought to conduct themselves, and it offers or implies standards of good judging.[7]

Various "artifacts" of judicial work (Maroney 2016), including written decisions, extracurial publications, presentations, and personal accounts, may also indicate qualities of the imagined judge and become part of the ethical infrastructure. Other sources of ethics guidance include professional development or judicial education programs, conferences or seminars, and benchbooks. Any of these additional components of the ethical infrastructure might address the demands for and practical strategies regarding emotion work in courtroom contexts (Roach Anleu, Elek, and Mack 2019).[8]

This article focuses on published guides to judicial conduct. These are readily accessible to all judicial officers in ways that other diverse sources may not be. Formal statements can go beyond practical or instrumental functions and may have symbolic or expressive importance for the judiciary as a whole as well as for individual judicial officers, providing an identifiable compendium of broad professional norms and values.

In Australia, two published sources offer ethical guidance untied to any formal disciplinary mechanism or process. The AIJA *Guide*, now in its third edition (2017), was developed by the Australasian Institute of Judicial Administration and approved by the Council of Chief Justices of Australia and New Zealand. The AIJA *Guide* does not provide a formal or official basis for judicial discipline in the way the ABA *Code* is used.[9] It states, "This publication does not purport to be a code in any sense of that word, or to lay down rules. It purposely avoids using the expression 'judicial ethics' or describing conduct as 'unethical'" (AIJA 2017, 2 [1.2]). It supports an image of the individual judge as part of a self-regulating profession, independent of external regulation or requirements. Despite this disclaimer, the AIJA *Guide* can still be regarded as part of the ethical infrastructure of the Australian judiciary because it propounds normative expectations for judicial conduct.

The AIJA *Guide* articulates three objectives—public confidence, respect, and reputation—based on three basic principles: impartiality, judicial independence, and integrity and personal behavior (AIJA 2017, 5 [2]). These principles are similar to other sources, whether or not they have a formal regulatory function. The ABA *Code* emphasizes the

7. An important aspect of such ethics codes and conduct guides is to specify conflicts of interest and delineate the boundaries between the judge's personal and public lives. That is not the focus of this article.

8. Other potential Australian sources are case law about procedural fairness or actual or apprehended bias where in-court, emotion-laden conduct is alleged to have interfered with a fair hearing; misconduct commissions in those states or territories that have them; and legal literature, especially judicial speeches and writings. While these are important elements of the ethical infrastructure, they rarely address judicial conduct in a broad or systematic way or aim to provide general proactive guidance. Movements to develop newer, more engaged forms of judging such as therapeutic jurisprudence could also be part of an ethical infrastructure addressing emotion and emotion work within the judiciary but are not (yet) widely promulgated within the judiciary (Hunter, Roach Anleu, and Mack 2016; Roach Anleu and Mack 2017). These and other forms and sources of ethical guidance in relation to judicial emotion and emotion work are canvassed in Roach Anleu et al. (2019).

9. Thomas (2009, 2) emphasizes that "the *Guide* is advisory in nature."

https://doi.org/10.1086/703700 Published online by Cambridge University Press

importance of "public confidence in the independence, impartiality and integrity of the judiciary" (ABA 2011, canon 1 and rule 1.2),[10] as does the *Bangalore Principles*, in which value 1 is independence, value 2 is impartiality, and value 3 is integrity (United Nations Office on Drugs and Crime 2002; see also Devlin and Dodek 2016).

The other key source for Australia is *Judicial Ethics in Australia*, written by James Thomas, a former judge of the Queensland Court of Appeal, published in three editions, each increasing in scope and detail (Thomas 1988, 1997, 2009). Like the AIJA *Guide*, Thomas's *Judicial Ethics* is influenced by standards set by a variety of international organizations and other nations. In contrast to the AIJA *Guide*, Thomas explicitly frames concerns about judicial conduct as a matter of ethics. While this book has no official standing, it is nonetheless also part of the ethical infrastructure of the Australian judiciary. The AIJA *Guide* acknowledges reliance on it, and it has been described as "a pioneering work" (Sackville 2015, 245). Its importance derives from its status as the first Australian publication of its kind.

Thomas's *Judicial Ethics* does not systematically enunciate guiding principles; rather, it is designed to "assist a reasoned solution to many types of ethical difficulty" using "actual . . . examples of behaviour" (Thomas 2009, xv). This will sometimes involve the mention of features of judicial conduct that Thomas regards as essential. For example, hearing both sides is described as "one of the fundamental principles of the system" (22 [4.3]) and is emphasized elsewhere in relation to judicial misconduct of various sorts (e.g., 23–24 [4.3], 24 [4.6]). It provides many anecdotes and examples, drawn from the distant and recent past and from several jurisdictions around the world. The book "range[s] from matters of serious principle down to matters of mere etiquette" (7 [1.11]). Its focus is more on misconduct and considers the (in)appropriateness of formal discipline in relation to many of the examples, often with a strong dose of the author's personal opinions (Ehlers 2010).

THE IMAGINED JUDGE

The AIJA *Guide* and Thomas's *Judicial Ethics*, along with the sources that influence them, describe judicial conduct and the values of an imagined judge who is impartial and emotionally detached. The AIJA *Guide* states that "it is important for judges to maintain a standard of behaviour in court that is consistent with the status of judicial office and does not diminish the confidence of litigants in particular, and the public in general, in the ability, the integrity, the impartiality and the independence of the judge. It is therefore desirable to display such personal attributes as punctuality, courtesy, patience, tolerance and good humour" (AIJA 2017, 19 [4.1]). It continues: "The entitlement of everyone who comes to court—counsel, litigants and witnesses alike—to be treated in a way that respects their

10. "The . . . Model Code consists of four canons, which state overarching principles of judicial conduct. Each canon is followed by the black-letter rules. . . . Commentary then adds explanation, interpretation and aspirational goals" (Arkfeld 2007, 318).

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dignity should be constantly borne in mind. . . . The absence of any intention to offend a witness or a litigant does not lessen the impact," adding that "a judge must be firm but fair in the maintenance of decorum, and above all evenhanded" (19 [4.1]).

The judicial qualities desired for in-court interaction are described in very similar terms by the ABA *Code*. Rule 2.8A provides that "a judge shall require order and decorum in proceedings before the court," and rule 2.8B states that "a judge shall be patient, dignified, and courteous" (ABA 2011). The *Bangalore Principles* states that "a judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous" (United Nations Office on Drugs and Crime 2002, [6.6]).

Regardless of the formal authority of the source or the disciplinary consequences, the expected or desired judicial conduct is articulated in strikingly similar terms, suggesting these qualities are essential attributes of the imagined judge. These requirements reflect qualities of detachment or distance, understood to be markers of impartiality and necessary for maintaining public confidence in the judiciary (Green and Roiphe 2008). The emphasis on the status of the judicial office and on being firm and maintaining decorum reinforces the view that "the ideal judge, as described by codes of judicial conduct, is unreadable, detached, and impersonal" (Lens 2016, 714). The need for fairness and being evenhanded reflects the ideal of impartiality and links to the need for decorum, reinforcing the idea of judicial authority as formal and impersonal and the imagined judge as detached and emotionless.

At the same time, the AIJA *Guide* characterizes these and other important qualities as "personal attributes": punctuality, courtesy, patience, tolerance, and good humor (AIJA 2017, 19 [4.1]). The display of these qualities appears to be thought to convey a judicial officer's individual capacities and conduct, rather than being attributes of the formal legal judicial role that should be manifested regardless of personal differences. These admonitions, along with the expectation of recognizing the dignity of those who come to court, implicitly acknowledge the importance of social interaction and interpersonal skills to judicial work. Further, the guidelines assume that others in court may be acting in ways that demand judicial patience, courtesy, and tolerance or the maintenance of decorum.

Later, the AIJA *Guide* points out that "particular care should be taken to avoid causing unnecessary hurt in the exercise of the judicial function. This includes taking care about comments made in court . . . and observations made in reasons for judgment or in remarks on sentence" (AIJA 2017, 21 [4.8]). The "hurt" referred to appears to include emotional hurt as well as other harms, such as loss of privacy. This is the only occasion in which the *Guide* refers directly to emotional aspects of in-court judicial conduct and communication. This is a rare specific exhortation for judicial officers to engage in the management of the emotions of others involved in the court process.

In contrast, Thomas's approach is less abstract; *Judicial Ethics* provides many anecdotes and examples, nearly always of poor judicial behavior. By emphasizing what the judge ought not do, Thomas vividly depicts the opposite of the imagined judge. These examples

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of judicial deviance reinforce the importance of the courtesy, patience, decorum, and detachment expected of the imagined judge (Roach Anleu 2006).

Notably, *Judicial Ethics* frequently uses the explicit language of emotion to characterize unethical behavior. It describes the emergence of impatience, frustration, aggression, or hostility. Thomas (2009, 31 [4.18]) points out that "judges deal daily with highly charged events and troublesome social issues, and must state reasons for the solution they choose. . . . Years of judicial experience and of temperate judging are forgotten when a misguided statement comes out." This passage contains direct emotion language to describe the judicial role. The "highly charged" and "troublesome" cases that come before the court generate emotional responses, perhaps in the parties to the case, the legal representatives, the public, or even the judicial officer. The praise for "temperate" judging implies the value of well-managed emotions on the part of the judicial officer. However, according to Thomas, "from time to time, judges make needless remarks that cause offence to litigants or community groups" (31 [4.18]). Describing the response as an "offence" implies an emotional response on the part of listeners or others aware of the statements.

The qualities and conduct endorsed (or criticized) in these sources are about presentation of the judicial self. These precepts identify institutionally specific emotions or emotion display (Goffman 1959)—dignity, decorum, courtesy, and patience—that are compatible with judicial detachment or impersonality. Their accomplishment can support a perception of judicial impartiality and reinforce the imagined judge. However, the interactional nature of in-court work can make the achievement of these qualities depend on emotion management, which is neither explicitly recognized nor articulated in ethical guidance but necessarily implied.

This raises the question of how judicial officers manage the "fit" between their emotional experiences of judicial work and the ethical guidance that presupposes the detached, emotionless, impersonal judge, reflected in qualities such as dignity or maintaining decorum. In-depth, face-to-face interviews with judicial officers throughout Australia address this question.

RESEARCH DESIGN

In-depth, face-to-face interviews with judicial officers throughout Australia are essential to understand the emotional experiences of judicial work, to gauge the fit between judicial accounts and the ethical guides, and to understand the implicit or informal elements of the ethical infrastructure and the imagined judge. In the absence of other sources that flesh out the more general or aspiration guidance, interviews enable investigation of the less formal or less visible elements of the judicial ethical infrastructure and reveal more depth about the nature of the imagined judge. Interviews were semistructured, with questions based around key issues identified from the authors' previous research. Interview questions were open-ended, allowing interviewees to discuss a full range of issues from their own perspective and in their own words, based on their experiences and knowledge (Silverman 2000, 2015; Mason 2002; Denzin and Lincoln 2005; Gubrium et al. 2012; Holmes 2015).

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Potential interviewees were identified from lists of all judicial officers, obtained primarily from court websites, informed by suggestions from judicial officers, the four pilot interviews, academics who have worked with judicial officers in a variety of capacities, and the Australian authors' own knowledge of and experience with judicial officers throughout Australia. The aim was to obtain a wide cross-section of the judiciary. The 38 interviewees come from all levels of court in every state and territory in metropolitan ($N = 31$) and regional/suburban locations ($N = 7$) but not federal courts. Nineteen of the interviewees are men, and 19 are women. Seventeen of the interviewees are magistrates (10 women; seven men); the others are judges (nine women; 12 men).

All interviews were conducted between August 2012 and December 2013. Interviews ranged in length from 25 minutes to 1 hour and 33 minutes, all undertaken by Sharyn Roach Anleu. Extensive analysis of the transcript data was undertaken using the software package NVivo. Following several readings of the transcripts, recurrent themes were identified and nodes developed to capture the complexity of emotion management (as well as other themes from the interviews). The interviews were double-coded by Sharyn Roach Anleu and a research assistant, paying special attention to different interpretations and the need for multiple codes for this textual data.

Discussion about emotion emerged in different ways during the interviews, most often in response to specific questions about the importance of interpersonal skills or the stressful nature of the job. Probes or follow-up questions might ask specifically about the role of emotion or emotion management in everyday judicial work. Questions about other aspects of work, such as understandings of impartiality, also elicited responses regarding perceptions and experiences of emotion among judicial officers.

Scheer (2012, 218) poses the question, "How do we know when a source is talking about an emotion?" Some interviewees used specific emotion words such as "anger" or "frustrated" or referred more generally to their feelings in the situations they described. Sometimes interviewees described physical manifestations of emotion such as feeling sick or crying. Similarly, in describing other court participants, some interviewees directly labeled their demeanor or conduct as emotional or as indicating specific emotions such as anxiety, distress, or anger, or they identified behavior such as shouting to imply a particular emotion. Emotion can also be implicit, as when an interviewee discussed a situation that clearly entails emotion, such as the experience of a victim of a serious crime, without using explicit emotion words.

In these interviews, judicial officers describe their experiences of emotion and emotion work in court and their perceptions of other participants' emotions. These interview findings do not indicate the frequency or distribution of emotion across courtrooms generally, where much of the interaction is routine, ordinary, and businesslike (Mack and Roach Anleu 2010; Travers 2017; Tata 2019). Other research methodologies, such as court observations, can investigate what judicial officers do as distinct from what they say they do. The aim of this article is to investigate judicial officers' experiences and perceptions of emotion work, in light of limited formal ethical and conduct guidance.

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JUDICIAL OFFICERS' PERCEPTIONS AND EXPERIENCES OF EMOTION AND EMOTION WORK

Judicial ethics guidance describes the imagined judge as one who displays dignity, decorum, courtesy, and patience. Interview data demonstrate judicial understanding of the meaning and importance of these qualities in everyday work and the emotion management strategies they use to achieve the specified qualities. These everyday practices simultaneously reproduce and modify the imagined judge.

Dignity and Decorum

Several judicial officers describe emotionally dense situations, in which they had to manage their own emotions as well as those of court users. The background to or goal of such emotion management seems to be a concern to maintain the dignity and decorum of the court. A magistrate elaborates on the importance of managing her own emotions:[11]

> These are all human processes we're very much engaged in, um, perhaps it's over people just getting material at the last minute that can throw out timetables and throw out everybody's arrangements and put not only professional people to inconvenience. Um, that's a sort of thing that might really, um, make me be quite stern but at the end of the day, um, it's usually not helpful to sort of get carried away. Um, look I think patience is incredibly important,[12] um, but you know it can be hard to develop as well. Um, and I think I've learnt that just descending into, you know, getting cross with various participants although it's important to maintain the dignity of the court and the processes of the court and be reminding people that, you know, we need to comply with our processes and everything. (Female magistrate, I32)[13]

This judicial officer describes the social relational context of the courtroom where several participants must "coordinate and shape their behavior in relation to others" (Ridgeway

11. Within Australia, the term "magistrate" refers to members of the judiciary who preside in the lower state and territory courts, while "judge" indicates those who preside in the intermediate and higher state and territory courts and all national courts. (Except in the Northern Territory, where the Magistrates Court was renamed the Local Court in 2016 and magistrates are now called judges.) Jurisdictions outside Australia also use these terms, but they may not have the same meanings as in Australia, or they may use other labels for their judiciary. In this article, the term "judicial officer" is used generically.

12. While the presentation of the interview data is structured into separate sections relating to distinct qualities, these qualities are interconnected in everyday judicial practice, as shown by the reference in this quotation to patience as a way of maintaining dignity. This interrelation is discussed more fully below.

13. Quotations from interviews are provided verbatim, deleting identifying and potentially identifying material and retaining qualities of natural, everyday speech such as unfinished sentences, repeated phrases, and filler words like "um" to maintain their narrative quality. Each interview was assigned a number from 1 to 38 as part of the process to keep the respondents anonymous.

https://doi.org/10.1086/703700 Published online by Cambridge University Press

2006, 5). When events are not completely coordinated—"timetables" and "arrangements" can be thrown out and the proceedings disrupted—she becomes "quite stern" but recognizes that the outward display of anger or frustration could compromise "the dignity of the court." When she indicates that "patience is incredibly important," it is more than a personal quality; it facilitates compliance with "the processes of the court." Anger and frustration, either experienced or displayed, are "usually not helpful" in the context of courts as legal institutions. The reminder of the need "to comply with our processes" is an appeal to a higher loyalty—following correct legal procedure—and so removes the interaction from the purely interpersonal to the institutional (Sykes and Matza 1957). These comments implicitly acknowledge the importance of the judicial role as the embodiment of the (impersonal) authority of the courts and law, thereby reinforcing the imagined judge.

The AIJA *Guide* refers to "perception," "display," and "impression," indicating the importance of how court participants interpret the judge's emotional display or lack thereof (AIJA 2017, 8 [2.3], 19 [4.1]). A detached, dispassionate demeanor may or may not achieve the goal of generating perceptions of fairness, propriety, or respect. Detachment, depending on how expressed, can suggest to some participants that their own emotional experience is not being adequately acknowledged or accommodated. Ethical guidance really calls on judicial officers to understand and anticipate how court participants perceive judicial demeanor and for judicial officers to have the self-knowledge to regulate their conduct accordingly.

Another judicial officer describes a situation in which "most people who come before you . . . [find] nothing comforting about the experience at all" and continues: "So people in those strange stress situations behave unusually and if you're not careful you can be, in my view, too quick to judge what otherwise might well have been a person just exhibiting nervousness so you need to be able to put them at rest and you've got to do that—by the same token people respond aggressively as it's the fight or flight syndrome so you know they might be contemptuous. You've got to defuse the contempt" (male magistrate, I07). This comment distinguishes emotion self-management from the management of the emotions of another person in the courtroom. This magistrate recognizes that the courtroom is a social, relational context and understands judicial work as requiring attention to and anticipation of the feelings and behavior of others, as part of courtroom management. He understands that the behavior of court users might breach judicial expectations of courtroom decorum. Emotion displays could be incorrectly regarded as deliberate misconduct, when "a person is just exhibiting nervousness," perhaps normal for someone unfamiliar with the court context. This magistrate distinguishes understandable anxiety from aggression or fear—implied by reference to the "fight or flight syndrome"—which may result in inappropriate, "contemptuous" behavior. In either case, it is the judicial officer who defines, labels, and manages the perceived emotion that other participants express.

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Judicial officers differ somewhat on how best to manage what they interpret as emotionally difficult circumstances in court. This perhaps reflects different personalities or differences in the embodiment of judicial authority. One example is the use of tone of voice. A male judge uses his voice as the embodiment of authority, speaking in a "firm voice," and he will even "shout louder": "Well it depends on what's happening and what the witness does and what sort of person the witness is. If it's a big bullying man who starts shouting, I shout louder, and I've got the authority to shut him up, and he does. If it's, I mean just to take stereotypes. . . . If it's a female who's getting hysterical I try to calm her down but in a firm voice, you know, to make sure she knows she can't go on screaming at parties in court—so you've got to be aware of the signs of various emotions" (male judge, I08). This comment demonstrates that emotion management strategies may not be compassionate or benign. The interaction may be a location of judicial aggression and gender stereotyping (Carlen 1976; Travers 2017). In contrast, a woman magistrate lowers her voice as an emotion management strategy to quiet down somebody who is anxious or angry, thereby maintaining the dignity of the courtroom: "I think your tone of voice is a very good tool . . . for somebody who's in a heightened state of anxiety or anger, I've found that if I lower my voice, lower the tone of my voice and the volume rather than if you shout at them they just get worse but they are often quietened down as well—at least enough for you to be able to say what you need to say" (female magistrate, I09).

These comments identify two approaches to maintaining the dignity and decorum of the court in the face of challenging emotional demands.[14] In these circumstances, judicial conduct is inextricably enmeshed in the behavior of others, demonstrating the deeply interrelational nature of judicial work, which can undercut the image of the judge as entirely detached and impersonal. In both instances, the judicial officer espouses institutional expectations and affirms judicial authority within the direct communications with courtroom participants. In the first excerpt, the judicial officer wants to "make sure . . . she can't go on screaming." In the second, the judicial officer needs "to be able to say what you need to say."

Such interactional challenges faced by judicial officers, and their different responses, are not directly addressed either by the AIJA *Guide* or Thomas's *Judicial Ethics*. Thomas is concerned about identifying poor conduct, with numerous examples. The focus tends to be on the individual judicial officer, rather than the context, and on discerning the threshold of how wrong is wrong enough to amount to misconduct. The AIJA *Guide*, while promoting a more positive approach to judicial conduct, does not directly provide strategies for achieving decorum or maintaining the dignity of court.

14. While it may be tempting to infer that these two excerpts demonstrate a gender effect or that gender could even determine a judicial officer's experience of emotion and emotion management capacities or strategies, the number of judicial officers interviewed does not provide a foundation on which to draw such conclusions. Survey data show some differences between men and women regarding emotion, but they indicate that court context and other factors, such as time on the bench, are also important (Roach Anleu and Mack 2017).

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Courtesy and Patience

Patience and courtesy are important social qualities in themselves, albeit culturally and historically specific, as well as normative goals, indicating respect for the dignity of others, which judicial officers should display to all with whom they deal.[15] Judicial courtesy and patience play several important roles in court proceedings, including emotion management. Their display acknowledges the person appearing before the judicial officer, and perhaps their feelings, as a way of respecting their dignity (see AIJA 2017, 19 [4.1]). It can also be a way of maintaining some degree of formality, and so enhancing the decorum of court proceedings (see AIJA 2017, 19 [4.1]), by using terms of address such as "Mr." rather than more informal language (Green and Roiphe 2008). Patience and courtesy also appear to be closely linked in judicial practice, while judicial impatience can be reflected in a lack of courtesy.

Several interviewees emphasize courtesy in ways that implicitly or explicitly delineate their conception of the judicial role and the ethical parameters for their work: "You have to be courteous, considerate, but nobody's friend. There are occasions when you're dealing with unrepresented people that you have to go out of your way to explain to them so that you're sure that they're understanding what's happening" (male magistrate, I26). The third edition of Thomas's *Judicial Ethics* adds material expressing concern about judicial frustration with litigants in person, suggesting that this is an aspect of the changing judicial role demanding a more interactive judicial approach: "The frustrations arising from dealing with unrepresented litigants can easily lead to judicial aggression that can give a litigant a strong impression of unfairness and prejudgment" (Thomas 2009, 24 [4.5]). This deviation from the ethical expectation of courtesy can generate an apparent breach of the central value of impartiality. The judicial emotions that unrepresented litigants can trigger are due to the kind of human interaction required but that has not been regarded as part of the formal detached judicial role. These emotions also arise because of the absence of shared definitions of the situation between lay and professional participants (Ridgeway 2006). This challenge is not addressed in the AIJA *Guide*. The only guidance specifically addressing unrepresented litigants is to be careful of "informal exchanges between the judge and counsel" to avoid an "impression that . . . the proceedings" are "an activity of an exclusive group" (AIJA 2017, 19 [4.1]).

The magistrate above (I26) also indicates that courtesy is an important aspect of visible judicial conduct, but it should not indicate any deeper interpersonal connection. A judicial officer is "nobody's friend," reinforcing the overarching value of impartiality in judging and the associated emphasis on judicial emotionlessness, dispassion, and distance (Goodman 2013). In this way, the cultural image of the judge can restrict the performance and

15. The third edition of the AIJA *Guide* adds the need for judges to exercise "courtesy and consideration" toward court staff and judicial colleagues (AIJA 2017, 28 [5.14], [5.16]). This desired conduct is also reflected in the ABA *Code* (ABA 2011, rules 2.5(B) and 2.8B) and the *Bangalore Principles* (United Nations Office on Drugs and Crime 2002, [5.3]).

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realization of some ethical precepts. For example, one interviewee emphasizes the importance of showing courtesy to everyone involved in the court process, but this is limited by the institutional need for the judicial officer to control court proceedings. As she explains, "Treating people with courtesy and respect is the first thing you need to always do, whether it's the staff, whether it's the litigants or the other players, solicitors and so on, um. But being aware of vulnerabilities and making sure that other people don't take advantage of them within the court that you're controlling" (female magistrate, I28). This magistrate associates courtesy with respect, but if courtesy interferes with maintaining courtroom control or does not succeed in curbing the inappropriate or time-wasting emotional behavior of others, then more direct judicial control must be exercised. Again, it is within the authority of the judicial officer to determine when and how these boundaries have been transgressed.

Another judicial officer describes difficulties of "listening and being courteous," because there are times when

> we get a lot of difficult people before us in court, not only defendants but also some very bad lawyers, you know, when I mean bad I don't mean bad, I mean very unskilled lawyers and sometimes it's quite difficult to deal with them and difficult not to be rude but we've got to try and we've got to try not to—some people have a difficulty I know with listening quietly and knowing the right time to intervene and stop somebody on a particular course because if you just sit there and passively—there's a tension between passive and active judging I think too and if you just sit there passively you could be there for three times the amount of time that it actually takes but, and we don't have that luxury—if it's a luxury. (Female magistrate, I09)

This judicial officer explicitly connects the limits of courtesy to time pressures in court and describes the difficulty of maintaining courtesy and managing her own emotions, especially in relation to lawyers or parties who are not able to present what is needed in a timely or effective way, a consistent problem in magistrate courts where this interviewee presides. Interestingly, she comments that "we've got to try." A commitment to the imagined emotionless, detached judge may drive this aspiration. Similarly, judicial patience has limits, if participants are not moving things along in a busy court. This can result in anger and frustration on the part of the judicial officer, so that the management of the emotions of others is intertwined with the management of the judicial officer's own emotions (Maroney 2012).

The tension felt by judicial officers between the demands of case processing and behaving with courtesy and patience is not addressed directly or in detail in the available guides. Thomas's *Judicial Ethics* recognizes a more active role for the judiciary to move cases along, but it does not link this to limits on courtesy or patience: "There is also a growing expectation that judges should take a more interventionist role than was formerly the case.

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Judges now go to considerable lengths to ensure that time is not wasted and that the cost of litigation is minimised" (2009, 27 [4.12]). The ABA *Code* (2011) stresses that these values need not be in conflict. The commentary on rule 2.3 states that "the duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate" (see also Mack and Roach Anleu 2007; Roach Anleu and Mack 2017). However, it provides no concrete assistance on how to reconcile the duties. There is no similar claim in the AIJA *Guide*.

Considerable harm can be done by lack of courtesy, as this magistrate explains, but it is also important to balance courtesy with maintaining judicial authority and "not putting up with rubbish":

> There's nothing worse than a rude judicial officer or an unfair judicial officer in the sense of um, we all have experiences with new lawyers and lawyers who say silly things and you know walk, walking that line between being able to pick someone up for something that is just blatant, plainly a silly thing to say, um, and not, but not humiliating them. It's a case of, "yes I've heard that and I don't agree with that, let's move on to something else" but doing that in a courteous and tactful way so I think courtesy and tact—but at the same time not putting up with rubbish. (Female magistrate, I32)

This magistrate also identifies the practical and emotional importance of how the magistrate's attitude toward the substance of the submission and the need for time management expectations are communicated.

Thomas's *Judicial Ethics* states that "impatience is understandable, and sometimes unavoidable or even beneficial. But more often it is a judicial weakness that threatens a fair hearing" (2009, 21 [4.2]). In this passage, Thomas identifies impatience as a personal failure or human weakness rather than the product of the institutional context. The fault of impatience or lack of courtesy, and many other examples of emotionally inappropriate judicial behavior criticized by Thomas, is precisely that they impair the fairness or evenhandedness, or at least the appearance of these qualities, essential to judicial performance of impartiality and reproduction of the imagined judge.

Patience and courtesy may have practical functions in a busy courtroom where emotions can run high. A judicial officer's outward display of courtesy may in turn elicit courtesy in others and so avoid or defuse inappropriate emotional conduct or expression on the part of others in court. One judicial officer explicitly requests reciprocal courtesy from a court user, even one who has been extremely abusive, as a way to "defuse contempt." He continues: "Let's say the abuse was derogative [*sic*] of me or something about the court or the process, I generally have a standard line that goes something like, 'Mr so and so, I understand that you were stressed, you're behaving unusually, I would hope that given, that you would take the view that the court's given you every consideration, courtesy

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extended to you—we ask for nothing more than courtesy and consideration in return' and it's a prop [*sic*] 'Oh I'm sorry, I'm sorry, I understand' " (male magistrate, I07). This magistrate describes a very concrete strategy for recognizing and managing the emotions of court users, as well as implicitly managing his own emotions, when faced with abuse directed at him personally or about the court. His strategy contains a routinized and "standard" response that engages with a court participant but not in an individual, particular, familiar, or personal way.

Another judge talks about his role in establishing an emotional climate in the courtroom so that different participants "feel at home" in court.

> The litigants, the solicitors, or other people who might be in court, witnesses, making them feel at home so you have to be able to, um, you have to be able to have a good rapport with people generally and particularly the people who appear in front of you and you have to have patience with them. I've just finished a case with an unrepresented party, the case went for four days, the other side was represented by a barrister, um, and it's, that wasn't at all an unusual case for an unrepresented party but judges generally find it very frustrating dealing with unrepresented parties. So it's very important with them to make them feel as though they're listened to and their cases are important and that they get a fair hearing and so you really have—so patience is a very important virtue for a judge. (Male judge, I20)

This judge links patience with procedural justice values, of ensuring that people in court "feel as though they're listened to and their cases are important" (see Lind and Tyler 1988; Tyler 1990; Burke and Leben 2007–8). Careful listening can also enable better understanding of participants and produce better decisions, as well as improving emotion management. This interviewee indicates the need for emotion work, in the form of patience, to manage his own feelings of frustration and to ensure that the hearing is actually fair in substance, as well as being perceived as fair.

As these judicial officers recognize, and as ethical precepts expect, patience and courtesy are essential judicial attributes. However, the interviewees describe greater complexity in their experience, display, and use of judicial courtesy and patience than is articulated by the ethical sources. Judicial officers expressly identify the importance of patience and courtesy as intrinsically, socially, and judicially appropriate demeanors and as qualities that can be applied to their own emotions and emotional display and to those in court. They also understand these qualities as having instrumental functions, assisting in courtroom management, as well as having limits or boundaries. Judicial courtesy can engender a reciprocal display of courtesy on the part of another in court and so contribute to the maintenance of decorum. As other interviewees point out, there are limits to the usefulness of patience and courtesy, if they lead to loss of courtroom control. This can feel especially acute when time pressures require imposing limits on unskilled or dilatory conduct.

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The general ethical admonitions that a judicial officer should be patient or courteous do not capture or reflect this complexity. Judicial officers themselves must delineate the judicial role in the face of practical interpersonal demands and competing abstract ethical expectations.

DISCUSSION: COMPARING JUDICIAL EXPERIENCE WITH ETHICAL GUIDANCE

Comparing the general or abstract statements in the AIJA *Guide*, and the more extensive anecdotes in Thomas's *Judicial Ethics*, with the actual emotional experiences and practices of judicial officers in their everyday work illustrates important elements of the ethical infrastructure in Australia and the qualities of the imagined judge. Judicial officers describe emotion-dense situations in court. They sometimes use the language of emotion or refer to specific emotions—for example, empathy, anger, frustration—when describing their experience, or they describe their approach as valuing or relying on an emotion. Others speak of their emotional reactions in behavioral terms such as raising or lowering their voices, or they describe the physical conduct of others that indicate emotions, such as crying or shouting. Interviewees sometimes talk about emotion when they describe situations, such as taking account of a victim's experience, that involve emotion, but they do not specifically label an emotion as such.

Through these descriptions, judicial officers articulate their conceptions of the judicial role and its boundaries. These conceptions locate formal ethical requirements or articulate informal norms about appropriate judicial conduct and expression as components of the wider ethical infrastructure. They also reveal, and challenge, attributes of the imagined judge.

Judicial emotion management requires identification of some judicial emotion or related conduct as appropriate or inappropriate in the courtroom when assessed against qualities of the imagined judge (Roach Anleu, Mack, and Tutton 2014). Attributes consistently articulated by the AIJA *Guide* (and the ABA and other sources) include patience, courtesy, dignity, and decorum either as an achieved emotional state or as a display. Thomas's *Judicial Ethics* identifies other displays such as rudeness or impatience as violations of the qualities expected of judicial officers.

When judicial officers themselves describe the emotional aspects of their everyday work and the strategies they use to respond, they often frame their practices in terms of the qualities and values identified in the AIJA *Guide* such as patience, or they frame them in terms of the conduct that is to be avoided, such as impatience as discussed by Thomas. Only one interviewee explicitly mentioned the AIJA *Guide*; this person also mentioned Thomas's work and the breadth of US materials on ethics. While the behaviors articulated by the AIJA *Guide* or Thomas are a key reference point for the Australian judiciary in regulating and reflecting on their own conduct, and while they appear to be part of their ethical infrastructure, interviewees do not specifically identify the AIJA *Guide* or Thomas as

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sources. This may reflect Shetreet's (2014, 294) claim that the content of recent written guides is mainly "declaratory of . . . existing standards."

The vivid and emotionally explicit narratives from the judicial officers interviewed contrast with the generic and abstract exhortations or admonitions contained in the AIJA *Guide*. Overall, the wording of the AIJA *Guide*, the ABA *Code*, and the *Bangalore Principles* as it might relate to judicial emotion is general ("patient, dignified, and courteous"). While such statements imply emotional demands and emotion work to achieve these desired qualities, they do not use the language of emotion. In contrast, Thomas's *Judicial Ethics* sometimes uses emotion language, especially when describing specific instances of judicial misbehavior, misconduct, and poor emotion management, but there is little positive guidance. Across these sources, there is very little or no concrete behavioral guidance as to how judicial officers are to achieve these emotional and behavioral goals.

The interviews reveal a range of strategies that judicial officers adopt to manage emotions and achieve an appropriate emotional climate in the courtroom. These strategies aim to maintain overall courtroom decorum and their own dignity as judicial officers; they also aim to respect the dignity of others and thereby elaborate their understanding of the judicial role, reproducing and modifying the imagined judge (Remiche 2015).

As revealed in the interviews, the relationships among the desirable and undesirable qualities are complex. Maintaining decorum may involve being patient or courteous, or it may require different approaches such as insisting on greater formality or speaking sternly, when patience is no longer effective. As Maroney (2012, 1214) notes, anger can be justified and "be a legitimate basis for judicial action." Courtesy, patience, dignity, and decorum may be displayed strategically to generate desired emotions, either in the judicial officer or in others in the courtroom. Sometimes judicial officers demand of themselves that they subjectively feel patient and attempt to induce this feeling, to meet the expectations of dispassion. In other cases, they may behave in ways that indicate or display patience or avoid displaying the frustration or impatience they feel subjectively, to maintain the image of the imagined judge as dispassionate and detached.

As well as managing their own emotions and emotion display, judicial officers must manage others' emotions. One way this can be accomplished is by displaying the patience, tolerance, and courtesy indicated by the ethical precepts. This appearance may be aimed at eliciting a desired emotion in another court participant, for example, to put court users at ease, so that they are not anxious or frightened, or to elicit appropriate reciprocal behavior from those in court. This, in turn, maintains the dignity or decorum of the courtroom as a whole. Many of the strategies and practices judicial officers rely on to manage the emotions of others are personal or embodied, such as tone of voice or facial expressions, or a specific verbal acknowledgment of the emotions a court user may appear to be feeling, such as anxiety or stress.

As described in the interviews, there are clear limits to the observance and display of the prescribed qualities; these may reflect the competing objectives judicial officers must balance in the limited time available in the courtroom. Concerns about courtroom control

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and time management lead judicial officers to interrupt, to prod or prompt legal representatives, or to become stern or even shout. In some circumstances, this conduct may even be appropriate (Maroney 2012). The demand for and use of emotion depends on context and requires varied emotion strategies on the part of the judicial officer.

CONCLUSION

Judicial officers across different courts throughout Australia describe complex emotional experiences and management demands; however, this research discloses a substantial lack of fit between the needs of judicial practice and the available guidance. The current AIJA *Guide* says little directly about emotion or emotion management. This is also true of similar provisions of the ABA *Code* or the *Bangalore Principles*. These sources identify qualities such as patience and courtesy, which are thought to communicate impartiality and so engender public confidence. There is limited recognition that these positively required behaviors may be difficult to maintain in the face of strong emotion or provocation. In contrast, Thomas's *Judicial Ethics* identifies behaviors that are not acceptable and names judicial emotions that may underlie such conduct. Undesirable judicial behaviors that may be the result of subjective judicial emotion or lack of emotion management are criticized by Thomas because of their inconsistency with the core value of impartiality and their potential to damage public confidence. While these two sources are important components of the Australian ethical infrastructure, neither Thomas's *Judicial Ethics* nor the AIJA *Guide* provides substantial, positive, proactive behavioral guidance on emotion work or emotion management strategies to achieve decorum, patience, courtesy, or dignity in an emotionally demanding and often time-pressured environment.

This research also suggests that the available sources usually consider only individual conduct, framed as "personal," and do not pay sufficient attention to the courtroom as an interactive context and the various episodes, moments, and situations that judicial officers encounter as they approach their tasks (Roach Anleu and Mack 2017). As one analysis of judging points out, "Beginning with a definition of a good judge or good judging causes us to focus too much on the qualities or characteristics of [individual] judges, and not enough on the nature of the context or environment in which they make decisions" (Wistrich 2010, 257).

This research demonstrates the ways that the imagined judge, while a cultural construct, is not static, but can shift, albeit slowly. In everyday work, a judge must simultaneously embody the law and the related values of dispassion, and he must engage in a social relational context or interaction order in which behavior and activities must be coordinated and emotions managed in ways that are not anticipated by the available ethical guidance (Ridgeway 2006). As a result, the imagined judge is both reproduced and modified through the everyday conduct of judicial officers.

Goodman (2013, 957) suggests risks are posed by the judiciary taking "'dispassionate judging' to the extreme" and so losing "sight of the humanity" of others in the court. This

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suggests that the qualities of the imagined judge should place less emphasis on detachment and dispassion and more on compassion and other human or engaged qualities.

It is important that codes, ethical culture, and judicial leadership are complementary and relate to actual judicial practice. Over time, everyday judicial work may drift from an ethical code or conduct guide's characterization of the imagined judge, creating tension. The question this article asks is whether that point is now, especially in relation to the emotion aspects of judicial work. The research findings suggest that it is time for judicial leaders to reconsider whether the current judicial guides and codes adequately accommodate the emotional realities of contemporary judging.

The current approaches to judicial ethics in Australia provide primarily abstract precepts (AIJA *Guide*) or anecdotes of poor judicial conduct (Thomas). Both concentrate on the conduct of individual judicial officers. Sources in other jurisdictions (e.g., the ABA *Code*) describe conduct in similar abstract terms but within a much different ethical infrastructure, which includes elaboration of the code provisions and complaint and discipline processes to flesh out and apply general precepts, as well as national and local judicial mentoring and education programs (although there may be little or no coordination among these resources). As these research findings show, the experiences and insights of judicial officers themselves can provide concrete direction for developing and expanding ethical guidance that recognizes and assists with the judicial work of managing emotions.

Ultimately, addressing the considerable variety and intensity of judicial emotions and demands for emotion management will require more than revising general guidelines. It will be necessary to engage many elements of ethical infrastructure, including professional development programs and other sources, much more broadly and to explicitly reconstruct the imagined judge, to more closely reflect the realities of judicial practice and culture.

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