

**COLUMBUS BAR ASSOCIATION POLICY ON
RESPONDING TO UNJUST CRITICISM OF THE JUDICIAL SYSTEM**

Adopted November 18, 2005

RESOLVED, that it is the policy of the Columbus Bar Association (CBA) on behalf of its members to:

1. Respond if the judicial system is subjected to unjust attack;
2. Explain the difference between valid, constructive criticism of the decisions of our courts and baseless charges;
3. Assist the public in understanding the difficult burden of the courts to strike a proper balance between individual constitutional rights and the rights of society;
4. Assist the public in understanding the operation of courts, judicial procedures and the administration of justice;

AND IT IS FURTHER RESOLVED, in order to implement the foregoing, that the CBA Board of Governors adopts the following guidelines and procedures for responding to unjust criticism of the judicial system (within the area served by the CBA):

I. Nature of Cases:

A. A response by the CBA is appropriate:

- (1) When the criticism is misdirected at a judge but is actually an attack upon another element of the system of justice, e.g., grand jury, law enforcement, penal institutions, etc.
- (2) When a response is necessary to educate the public about an important aspect of the administration of justice.
- (3) When the critic is obviously misinformed about the operation of the judicial system and a correction should be made on a factual basis.
- (4) When a disparaging comment is made affecting the judicial system or its players, but a time-consuming investigation would be necessary to determine the facts, and the comment will be limited to advocating that pre-judgments should not be made until the facts are known.
- (5) When the criticism is serious and unwarranted and will most likely have a significant negative effect on the community.

B. A response by the CBA is not appropriate:

- (1) When the dispute is personal between the critic and the judge and arises on a local or limited basis.
- (2) When the judge may adequately defend himself.
- (3) When the issue is one of substantive law or requires legislation or appellate determination.
- (4) When the response would prejudice a matter at issue in a pending proceeding.
- (5) When the criticism is vague or the product of innuendo (except when the innuendo is clear and its effect meets the criteria in A. above).

II. Nature of the Response:

- A. The response should be timely, preferably within 24-48 hours of the criticism.
- B. The response should be concise and accurate, without emotional or subjective terms.
- C. The response should be informative, using non-technical terms, not condescending or partisan and, if possible, phrased with a view toward inclusion in a newspaper or television news story.
- D. The response should include a correction of the inaccuracies, citing authorities (state law, etc.) where appropriate.
- E. When appropriate, the response should point out that the judge had no discretion or control, e.g., was bound by legislative or executive mandate.
- F. When appropriate, the response should include an explanation of the process involved, e.g., sentencing, temporary restraining order, etc.
- G. The response should not discredit or attack the critic, his or her competence, good faith, or associates.
- H. The response should not overreact or defend the indefensible.

II. Procedures

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- A. A Criticism Response Committee is hereby established, which shall be comprised of the President, President Elect, Secretary/Treasurer, and may be appointed by the President: two Board of Governor members, and no more than three past Presidents and/or other members of the CBA. The number of members shall be at the discretion of the President.
- B. In the event any unjust criticism of the judiciary is published in the media, which appears to warrant a response, a member of the CBA should direct to the CBA Executive Director a request for review and possible response to the Committee.
- C. The judge or court criticized may request that the Executive Director or the President ask the Committee to review any unjust criticism for possible response.
- D. Once the Executive Director receives a request, s/he shall promptly notify the other members of the Committee, and the Committee shall promptly meet (in person, by telephone conference, or by electronic communication) to determine and act upon an appropriate response.
- E. The following alternatives shall be considered by the Committee:
 - a. That a response is not warranted.
 - b. That the judge should respond on his/her own.
 - c. That a response on behalf of the CBA should be prepared.
- F. If the Committee elects to respond, it will require a two thirds vote of the committee members. The response shall be promptly released on behalf of the CBA in an appropriate manner, with a copy to the affected judge or tribunal. The Committee, at its discretion, may employ media consultants.