

John Caher: Welcome to Amici, News and Insight from the New York Judiciary and the Unified Court System.

Today it's our pleasure and honor to welcome back our former Chief Administrative Judge, A. Gail Prudenti. Judge Prudenti, after more than 20 years of stellar service as a trial judge, presiding justice of the Appellate Division, Second Department, and Chief Administrative Judge, is now executive director of the Center for Children, Families and the Law at the Maurice A. Deane School of Law at Hofstra University, where she also serves as special advisor to Dean Eric Lane. In February of 2016, Judge Prudenti was appointed chair of the State's Permanent Judicial Commission on Justice for Children.

We'll be talking with her about her role on the Commission, her mission with the Center for Children, Families, and the Law and how those two positions mesh.

An honors graduate of Marymount College of Fordham University, Judge Prudenti studied law at the University of Aberdeen in Scotland. Before launching her judicial career, Judge Prudenti was a law assistant in Surrogate's Court, an assistant district attorney, a private practitioner specializing in trusts and estates and special counsel to the New York City Patrolmen Benevolent Association Widows and Orphans Fund.

Judge Prudenti ascended to the bench in 1991, when she was elected to the New York State Supreme Court. In 1994, she was the first woman ever elected Surrogate of Suffolk County and later became the first and only Surrogate in New York State to hold the position of District Administrative Judge.

Six years later, Judge Prudenti was re-elected to the Supreme Court bench and later named Administrative Judge for the 10th Judicial District. In 2001, she was promoted to the Appellate Division, Second Department, and the following year became the first female presiding justice of the one of the busiest appellate courts in the nation. She was Chief Administrative Judge from 2011 to 2015.

Judge, thank you so much for taking the time to speak with me today. Let's first talk about the Commission on Justice for Children. What is this Commission and how did it come to be?

Judge Prudenti: The New York State Permanent Commission on Justice for Children was established in 1988 by our then Chief Judge Sol Wachtler. Judge Wachtler

had a commitment to improving the lives and the odds for children that were being affected by the state court system. The Chief Judge asked one of his colleagues on the Court of Appeals, then Associate Judge Judith S. Kaye, to chair that Commission, which she did right up until her death in January of this year, 2016. Even when Chief Judge Kaye succeeded Judge Wachtler as Chief Judge, she was so committed that she continued to chair the Commission because she considered this work so important.

I have the great fortune, or some might say the misfortune, of following in the footsteps of a true legend — but for me, a very, very special individual who was a fabulous mentor. And while I know, because I knew her so well, that I can never fill Judge Kaye's shoes, I am committed to building on her legacy.

John Caher: It's apparent that the current Chief Judge, Janet DiFiore, is confident you can do just that. In announcing your appointment, the Chief Judge spoke of your “passionate voice for children and families in crisis.” Where does that passion come from?

Judge Prudenti: I have to tell you that in a number of ways it comes from my own family experiences and also my experiences as a private practitioner representing the New York City Patrolmen’s Benevolent Association, when it was an orphan fund, as well as my experiences as a judge.

My family was a very close-knit family. But we have had our share of broken hearts and really the entire fabric of the family was broken in 1990 when we lost both of our parents within three months of each other. At that time I was “orphaned,” so-to-speak, I was in my mid-30's. I was a lawyer, and I was quite capable of fending for myself. But it still rocked my world to the very core.

I have two brothers and I also observed how they truly suffered, and expressed on numerous occasions how it was the worst time in their lives. I couldn't help but think, and my brothers and I discussed, what it would have been like if we would've lost our parents when we were at a much younger age. So I can't help but think about children who do lose a parent or parents through death or divorce or separation or abandonment when they're really young. I can't imagine how painful, how disruptive and unsettling that experience must be—truly a life-changing event.

Later, when I became a judge and was sitting in the matrimonial part and I also sat in guardianship courts in Suffolk County, I did see children, parents, and extended family members, and they were suffering souls. It was truly

heartbreaking and I have always tried, from that day forward, from my very first day in the guardianship part and the matrimonial parts, whether it be as a judge or as an administrative judge, to try to see what I could do to ease their pain and hopefully restore some sense of balance in their life.

John Caher: I understand. What exactly is the Commission? What does it do?

Judge Prudenti: The Commission is a permanent entity. It's the New York State Commission on Justice for Children. And it really is comprised of a broad base of professionals. There's judges, there's lawyers, there's physicians, great advocates, lawmakers, and state and local officials. Its broad goal is improving the lives and chances for children involved with New York Courts.

It's evolved over the years. Initially, I remember the time when the Commission focused on the youngest children that were coming before the courts and trying to have some sort of early intervention. I remember how passionate Judge Kaye was about a statewide system of children's centers, making court proceedings more family friendly and really focusing and addressing the needs of children involved in the child welfare system.

Its role has evolved over the years. In 1994, the Court of Appeals under Chief Judge Kaye directed that the Commission implement a program that focused on foster care, the termination of parental rights and adoption proceedings. Since 2006, the Commission has expanded to reach into older children and their experiences in the court system and especially focusing on juvenile justice.

In this area, we have really grown. We are involved with children of incarcerated parents, improving educational outcomes for children who are in the courts and also, at the moment, addressing older youth out of home care, and efforts to try and engage children in their own court proceeding.

John Caher: Do we have a sense of the scope of the problem? Any statistics, any data that would illustrate what's going on here?

Judge Prudenti: Yes, unfortunately we do. And I have to tell you it does not paint a pretty picture.

To start with, we know that the incarceration rate in the United States is at least four times that of other western nations. That prison population is heavily 20 to 30-year-old racial minorities. Also, New York spends roughly three times more to incarcerate a person than it does to educate one. We also know that about half a million people drop out of high school

nationwide and that close to 70 percent of those incarcerated in the state prisons are high school dropouts. We know that for the inmates, a good number of them are parents themselves. They have children and they have a disproportionate percentage of kids who age out of foster care and end up in prison themselves, unemployed and homeless.

You know, when I think of this and I talk to my colleagues that both sit on the permanent commission as well as the Center for Children, Families and the Law at Hofstra, it seems like an overwhelming problem. But I think the good news is that we all realize that anything we can do will just help the situation and there's nowhere to go but up.

What this Commission is trying to do, and there's another way that I could put it to you, is build off ramps. Some people refer to them as demonstration projects to see what works, so we can divert children and young people from a highway of despair and hopelessness to a much more productive life.

John Caher: “Off-ramp.” That's an interesting way to put it. And it sounds a lot like what you're now doing at Hofstra.

Judge Prudenti: Yes, it is to a very, very large extent. By way of explanation, the Center for Children, Families and the Law at Hofstra was established in 2001. It was really established because there was an urgent need for more effective representation of children and families in crisis. It benefits families who are at their wits end at some of the most difficult times in their entire lives. It invests in the community by providing assistance to families and bolstering what I think is the foundation of any strong community — and that's a family presence that can be depended upon. It provides law students with practical experiences. And we sponsor lectures, clinics, seminars and we promote an interdisciplinary dialogue here at Hofstra.

At the time we are focused on two “off-ramp” initiatives or demonstration projects. One is in the area of mediation—a project for families enduring separation or divorce. And the other is a guardianship project involving families—individuals who have or are developmentally disabled or delayed in some way.

John Caher: Let's look at them separately. What exactly is the mediation project? How does that work?

Judge Prudenti: The mediation project is one which involves separation and divorce.

What we know as professionals is that this is one of the most disruptive experiences in the lives of both children and adults, especially when they're in the courthouse and it can be even more disruptive. At the Center, what we're trying to prevent some of the stress by helping to mediate marital disputes in a more timely fashion and help adults put aside the great animosity they often have for each other, that when they walk into the courthouse is only exacerbated.

We help them try to come to an agreement that in the best interest of their children or child. We do this by referring them to appropriate services, whether they be psychological services, services that involve parenting skills, or financial counseling because the people we deal with are of very modest means. Psychological counseling is provided by our Psychology Department here at the university. And the Business School provides financial counseling to individuals who request it. Usually, it's debt counseling and counseling with regard to foreclosure.

What we do is we specifically train and monitor law students. They're trained by our Law School professors. They're trained by professors from the Department of Psychology, and also they consult with professors from our Business School. We enlist and are very happy to tell you we have many, many experienced pro bono attorneys who have volunteered to serve as mediators. We try to help get people to resolve their disputes as amicably as possible. When I believe outside services would be useful, we do everything we can to facilitate the appropriate referrals.

John Caher: What a wonderful initiative. And what about the guardianship project?

Judge Prudenti: The guardianship project I have a soft spot in my heart for. And I know how much it is needed, having been both the Surrogate of Suffolk County and having sat in a guardianship court.

What happens to many families with developmentally disabled or delayed children is they often find themselves in unenviable positions at a crossroads, when their infant reaches the age of 18. They often don't realize that they must have a guardian appointed to make even the most minor decisions with regard to dental care, as well as major decisions with regard to medical, legal and ongoing life decisions. Parents don't realize they need these guardians until something happens.

So often a parent who has been providing for a child for 18 years with continual care in that role, when that child turns 18, he or she is unable to fulfill those responsibilities and they also worry greatly about what's going

to happen to their children if something happens to them.

So Article 17A of the Surrogate's Court Procedure Act allows for the appointment of a guardian as well as a standby guardian to act on behalf of the individual now that they're 18 years old and they have intellectual or developmental disabilities. But few parents, indigent or otherwise, are equipped to arrange guardianship or standby guardianship without counsel.

Once again we have found a community that has terrific needs, but does not have the wherewithal to enlist the use of counsel. Under our program, we train our students and we supervise them by faculty and by, once again, fabulously experienced pro bono counsel. We've established a program for guardianship and standby guardianship at the same time in the Surrogates courts in both Nassau and Suffolk counties. We walk our clients through that process until completion at the Surrogates Court.

John Caher: It sounds like your work with the Permanent Commission dovetails perfectly with your work at Hofstra.

Judge Prudenti: It really does. I think that I have found my next career.

As the Chair of the New York State Permanent Commission on Justice for Children and as the executive director of the Center for Children, Families and the Law at Hofstra, I am able to focus my effort on the same goals for both the Commission and the Center. It is my truly held belief that the lessons that we have learned from the New York State Commission on Justice for Children will also allow the Hofstra Center for Children, Families, and the Law to be the most effective center in providing our next generation of lawyers with the knowledge and skills they need to help people at the most difficult times in their lives. And isn't that what both entities were originally created for and really today all about?

John Caher: Sounds like the perfect niche for you. And thank you so much for taking the time to speak with us today.

Judge Prudenti: Thank you John. I appreciate the interest that you have in both the Permanent Commission as well as the Center for Children, Families, and the Law here at Hofstra.

John Caher: Thank you Judge.

Thank you for listening to this edition of Amici. If you have a suggestion for a topic on Amici, call John Caher at 518-453-8667 or send him a note at

JCahe@nycourts.gov. In the meantime, stay tuned.