



OFFICES

11 Times Square, 10th Floor

New York, NY 10036

Tel: (212) 512-0825

Fax: (212) 202-6100



New York Law Journal

The Legacy of John Adams:

Defending Due Process and the Rights of the Accused

Alternate Approaches Offer Promise

By Gretchen Beall Schumann,

Chair, New York Women's Bar Association Foundation



This May, as the nation celebrates Law Day, the theme is The Legacy of John Adams, From Boston to Guantánamo, in

“New York State has made considerable strides in both establishing and recognizing alternative approaches within its criminal justice system. These approaches not only ensure due process, but foster access to justice and rehabilitative measures for accused individuals who might otherwise be without adequate representation, advocacy or a chance for successful treatment.”

recognition of Adams' defense of British soldiers charged with the fatal shooting of five men during the 1770 Boston Massacre, an unpopular undertaking at the time,¹ but one that demonstrated Adams' steadfast commitment to the principles of due process and defending the rights of the accused.

While this year's theme has implications throughout history, nationally and internationally, in the 241 years since, we have witnessed a proliferation of efforts to protect the rights of the accused. For example, there are the establishment and expansion of law school capital punishment projects and clinics to ensure access to justice in criminal courts, as well as community law projects and bar association initiatives aimed at developing approaches to unmet needs within criminal justice systems.

New York State has made considerable strides in both establishing and recognizing alternative approaches within its criminal justice system. These approaches not only ensure due process, but foster access to justice and rehabilitative measures for accused individuals who might otherwise be without adequate representation, advocacy or a chance for successful treatment. These alternatives provide defense counsel with options unheard of in 1770.

Alternatives within the criminal justice system first attracted my attention as a law student, when I had the extraordinary opportunity to intern as a courtroom advocate with an alternative to incarceration program for criminal defendants who were survivors of domestic violence.

This experience, especially rewarding when a client participated in the program, rather than being or remaining incarcerated, isolated from children and support systems,

provided solutions beyond conventional models of crime and punishment. This experience also afforded invaluable insight into the role of the defense attorney in partnering with providers to address the client's non-legal needs.

New York State has implemented and widely expanded innovative tribunals designed to provide defendants in criminal cases with intervention where appropriate, while at the same time, affording protection, services and education for families and individuals impacted by domestic violence, substance abuse or other abuse.

These courts, the Problem-Solving Courts, consisting of the Integrated Domestic Violence Courts, Sex Offense Courts, Domestic Violence Courts, Youthful Offender Domestic Violence Courts, Drug Treatment Courts, Mental Health Courts and Community Courts, keep pace with a diverse range of issues and potential solutions and require defense attorneys to facilitate client participation.²

While we can only guess that Adams would laud these efforts, at least one renowned biographer describes John Adams as "...not a man to back down or give up, not one to do anything other than what he saw as his duty."³ As lawyers, we continue to embrace Adams' sense of duty as we look for creative solutions in the law, in order to be able to champion due process alongside today's resources.

Endnotes:

1. David McCullough, "John Adams" (Simon & Schuster Paperbacks, 2001), 65-68.
2. New York State Problem-Solving Courts Brochure.
3. McCullough, "John Adams," 29.

Gretchen Beall Schumann is a past President of the New York Women's Bar Association and is Chair of the New York Women's Bar Association Foundation

COHEN RABIN STINE SCHUMANN LLP
11 Times Square, 10th Floor, New York, NY 10036
Phone: (212) 512-0825 Fax: (212) 202-6100
www.crsslaw.com