

Judicial Role in Combating Terrorism

Judge John R. Tunheim

Key Areas

- 1. Knowing and Understanding the Law and How to Apply It
- 2. Security
- 3. Management of Confidential or Classified Information
- 4. Management and Control of the Case
- 5. Witness Security
- 6. Ensuring Fairness for the Defendant
- 7. Handling the Pressure

Understanding the Law

- **New and Difficult Laws**
- **Evidentiary Problems**
- **Special Courts or Regular Judges**

Security

- **Enormous security risks – inside and outside courtroom**
- **Court must exercise strong leadership**
- **Develop security plan**
- **Implement plan every day**

Confidential Information

- Understand the law
- Different systems
- Declassification
- Security clearance and storage
- Foreign evidence

Management of Case

- **Most important role**
- **Delay is the enemy**
- **Anticipate and be ready**
- **Fair and firm deadlines**
- **Outline rules and expectations**
- **Technology**
- **Layout of the courtroom**

Management of Case

- **Media Coverage Issues**
- **Defendants' Conduct**
- **Continuous Trial**
- **Written Judgments**

Witness Security

- **Fear of testifying greatly diminishes the quality of the evidence**
- **Be flexible**

Ensuring Fairness

- **Public believes defendant are guilty**
- **Strong legal representation**
- **Coercive measures**
- **Access to defendants**
- **Equality of arms**

Handling the Pressure

- **Public pressure and political interference**
- **Remember that in long run respect comes from fair and open proceedings**
- **Reasoned judgment and fair and speedy proceedings**

Hague Memorandum

- Developed by Global Counterterrorism Forum
- Best statement on best practices for judges handling terrorism cases
- Read the Memorandum often
- Advocate for change that will improve the judiciary's performance

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