
Table of Contents: Printable Version

News

1. SJI Update

by Billie Lee Jackson

2. NHTSA Contract Underway For DWI Website Development

3. President's Column

4. Transitions

Editorial

5. Renewing Our Effort to Revise NASJE's Strategic Plan

by Thomas N. Langhorne, III

Resources

• Report of the Diversity Task Force*: [PDF](#) | [MSWord](#)

• New Mexico ADR Project*: [PDF](#) | [MSWord](#)

• New Principles and Standards of Judicial Branch Education*: [PDF](#)

6. The National Tribal Judicial Center at The National Judicial College

by Mitchell C. Wright

Manager's Briefcase

7. Final in a Three-Part Series:

Building a Balanced Court Performance Measurement System

by Ingo Keilitz

Business

8. NASJE Elections

9. Call for Links

10. NASJE 2002 Annual Conference

* Please open and print these documents separately.

SJI Update

by Billie Lee Jackson

State judicial educators and others interested in the health of state courts are still waiting to discover the fate of the State Justice Institute (SJI). Since its establishment, SJI, as the only national source of funding for court improvement projects, has been the one resource available for state court projects that has significance beyond the jurisdictional boundaries of an individual state. Many court administrators and judicial educators believe it would be difficult to overstate the significance of SJI's contribution to state court improvement through the years.

Although funding issues are moving more slowly through Congress this year than usual, so that SJI's fate remains uncertain, a hopeful sign has appeared on the horizon. New legislation passed by Congress and signed by the President requires the Attorney General to submit to Congress a report on SJI's effectiveness. If all goes well, this could signify a turn in the tide and the allocation of solid funding for SJI in coming years. In the meantime, this development buys more time. All individuals who believe that SJI's continued and well-funded existence is crucial to the health of state courts should immediately convey that

message to their congressional representatives. Click below for an excerpt from the NCSC Washington update about SJI funding: [PDF version](#) | [MSWord version](#)

NHTSA Contract Underway for DWI Website Development

NASJE has received its first major contract to provide Web-based resources to the judicial education and judicial communities nationwide. The National Highway Traffic Safety Administration (NHTSA) has awarded a \$75,000, 18-month contract to NASJE to develop a Web-based resource library on drunk driving and traffic safety issues. The contract took effect at the beginning of July, 2002. The library will offer judicial educators and judges electronic resources such as curricula, PowerPoint presentations, publications, Web-based training materials, information on presenters available to speak on DWI-related topics, and guidelines for field sobriety and blood and breath alcohol tests. The Website should serve as a valuable single reference source for judicial educators seeking to strengthen program presentations, as well as judges seeking background information on DWI issues.

The project arose from initial discussions by NASJE past-president Denise Kilwein with Brian Chodrow and Judge Robert Piraglia of NHTSA. The contract will be administered by the NASJE secretariat, the National Center for State Courts Court Services Division. Planning coordination and Website development will be managed from the New Mexico Judicial Education Center. A planning committee is being organized to identify and accumulate materials to include on the Website. Some funding is available under the contract to pay travel expenses and consulting fees for service on this planning committee. We encourage NASJE members who have some experience in DWI programming or publications and especially those with interest in distance learning programs to indicate their interest in serving on the planning committee to Paul Biderman, NASJE president, at biderman@unm.edu, or (505) 277-8789.

President's Column

This has been an eventful year for NASJE. We have participated in a vigorous nationwide campaign to preserve the State Justice Institute, developed important funding sources that will help our organization thrive by providing valuable new resources, made significant progress in attaining objectives of committees, built our Website, and strengthened our associations with other national judicial organizations. And we have accomplished all this while maintaining our ongoing services, most notably preparing our annual conference, publishing our quarterly on-line newsletter; and supporting the invaluable services of the JERITT project.

All this has happened because so many NASJE members have dedicated their time and skills to the cause of advancing the quality of and support system for judicial education programs. With the support of their justices, court administrators and advisory boards, NASJE members have devoted countless hours to committee meetings, contacting prospective presenters, colleagues and funders, and writing, eliciting and editing articles, to cite just a few examples.

Among the highlights of this year's efforts:

- NASJE's support has been recognized as key to the hoped for continuation of Congressional funding for the State Justice Institute. While we unfortunately do not yet know whether the funding level will be adequate to accomplish anything on the scale of past efforts, at least the continuation of the program for another year (and the opportunity to request future increases) seems promising;
- NASJE has begun work on contracts with the National Highway Traffic Safety Administration and the Century Council to develop Web-based and published resources on drunk driving litigation, including a Web resource library. The result will be a valuable source of information and ideas for judicial educators and judges that will also help pay the costs of maintaining and developing NASJE's growing Website. We have also for the first time recruited sponsors for several of the

- events at our conference, ensuring that we break even without raising conference registration fees;
- NASJE committees have worked toward creating and realizing their visions. While we will hear detailed reports from committees at the annual conference, special thanks go to the Education Committee for its tireless work in planning our 2002 annual conference, and to the Newsletter/Website committee for publishing such informative issues and developing a comprehensive resource base for judicial educators. But substantial new initiatives have also been undertaken in such areas as standards, international work, mentoring, and diversity, to name a few. And where would we be without the ongoing efforts of the bylaws, nominating and membership committees?
 - NASJE has sent more of its board members than ever before to collaborating organizations. Particularly important relationships have been strengthened with such organizations as the Conference of Chief Justices, NACM, COSCA, and the American Judges Association. We have also built some promising new relationships, such as with the National Association of Governor's Highway Safety Representatives.
 - Our Website has continued to grow, providing not only quarterly newsletters of great and current interest to us, but also such self-supporting resources as the consultants' page. This new feature will allow us instant access to consultants offering their services to us for presentations and other services, while generating funding from the fees paid for this service.

The achievements of our past year could not have begun to happen without the remarkable creativity and energy of so many members, of our Board, and of the Secretariat at the National Center for State Courts. At risk of missing some very important contributors, bear with me as I single out the contributions of our officers: Denise Kilwein, Tom Langhorne, Kenny Miller, Sherry Carson, and Kevin Bowling; our regional directors: Dan Schenk, Martha Kilbourn, Susan Leseman, and Elise Geltzer; and the secretariat, particularly Kim Swanson and Brenda Williams, all of whom have devoted so much effort and skill to make NASJE what it has become. I hope to have the opportunity to thank all of you personally in Santa Fe for the opportunity to spend a great year as your association president, and for all your enthusiastic support for NASJE. If you can't be there, then please accept my sincere thanks for all that you have given to our organization.

Sincerely yours,

Paul Biderman
President

Transitions: Welcome

Please join us in welcoming the following new NASJE members:

1. Terence Agnew
Head of Training and Development, Irish Courts Service, Dublin, Ireland
2. Holly Hiett
Judicial Education Specialist, Administrative Office of the Courts, Little Rock, Arkansas
3. Verdene Johnson
Program Attorney, National Judicial College, Reno, Nevada
4. Anne Maxon
Program Director, California Judges Association, Oakland, California
5. Andrea Rinaldi
Judicial Education Specialist, State of Hawaii Judiciary, Office of Judicial Education, Honolulu, Hawaii
6. Enid Rodriguez
Director, Institute for Judicial Education, Office of Courts Administration, San Juan, Puerto Rico

7. Stephen Schele
Continuing Education Manager, Minnesota Supreme Court, St. Paul, Minnesota
 8. Doug Somerlot
Executive Vice President, The Justice Management Institute, Denver, Colorado
 9. Melinda Taylor
Judicial Education Specialist, Colorado State Court Administrator's Office, Denver, Colorado
 10. Hon. William P. Williams
Norfolk Juvenile and Domestic Relations District Court, Norfolk, Virginia
-

Editorial

Renewing Our Effort to Revise NASJE's Strategic Plan

by Thomas N. Langhorne, III

NASJE's last effort to develop and articulate a strategic plan was completed several year's ago. That comprehensive effort was an unqualified success. It exemplified excellence in teamwork and visionary thinking that few organizations of NASJE's size could accomplish. (NASJE's Strategic Plan can be linked and viewed by returning to our Homepage). However, many new developments have intervened since our last strategic plan was adopted. Moreover, some of that strategic plan's major goals have been accomplished. Accordingly, we must once again reinvigorate our strategic thinking to accommodate our rapidly changing world, new challenges and the increasingly emerging national leadership role NASJE is asked to assume.

Consider the many milestone developments that have intervened since our 1999 strategic plan was issued. Firstly, consistent with Goal One of our Strategic Plan, NASJE's bylaws were significantly revised last year. These bylaws changes resulted in expanding our membership and embracing previously excluded professional stake-holder organizations who were equally interested in improving the quality of judicial branch education. As a result, NASJE now enjoys a more diverse membership comprised of an unprecedented number of judges, lawyers, national judicial education providers and professional educators. This was one of the expected concomitant results associated with the revision of our bylaws. NASJE is now, more than ever, situated to assume a greater national and international role and reach new, prominent audiences who, like us, want to improve the quality of American justice.

Secondly, in the last year, NASJE has carefully sought and successfully engaged in new, collaborations with national foundations, premier organizations and persons willing to make private contributions to our organization's unique mission. This was another major goal of the current strategic plan. Many influential entities are impressed with our small but select mission and accomplishments. NASJE has attracted their interest because they similarly want to contribute to our judicial branch education efforts. As a result, for the first time in my memory, NASJE will show a profit as a result of its yearly operations.

Since the last strategic plan was issued, traditional sources of NASJE financial support have disappeared or have evolved considerably. SJI is one prominent example. Even before SJI began experiencing reduced congressional funding, SJI eliminated virtually all funding support to NASJE. As a result, NASJE News ceased to exist as a hard copy publication. In its place emerged a more powerful and responsive online source of information. Moreover, it appears NASJE News is firmly situated to become not only a self-supporting operation, it is poised to become a profit center for NASJE. Out of necessity, new ad hoc visions and new, creative business practices have emerged.

NASJE News has matured and continues to offer more diverse and sophisticated tools for NASJE members. It has created a virtual online community while forging a greater shared identity and interstate collaborations among judicial educators. In short, NASJE itself has evolved in considerable ways since our last strategic plan was adopted.

But there remains an underlying tension. While NASJE continues to mature and change, we must be vigilant to preserve the fundamental values, skills and practices upon which NASJE is predicated. To accomplish that delicate balance, we must reconstitute another strategic planning task force. Moreover, we must not be complacent once that strategic plan is adopted and published. We must constantly revisit it and question it. That should be one of the highest priorities of our new President.

The National Tribal Judicial Center at The National Judicial College

by Mitchell C. Wright

When Supreme Court Justices Sandra Day O'Connor and Stephen Breyer participated as faculty in a course for Tribal Appellate Justices at The National Judicial College last July, the United States Supreme Court had just handed down a ruling that damaged tribal communities around the country, *Nevada v. Hicks*. The Hicks case developed when game wardens from the State of Nevada entered the Fallon Tribe's Reservation with a state court warrant. The wardens were acting on a tip from a confidential informant to conduct a search for freshly killed desert Bighorn Sheep. The Desert Bighorn Sheep is a heavily regulated species in Nevada. The game wardens stopped at the Fallon Tribe's Tribal Court to have the warrant domesticated by the Tribal Court Judge. The Tribal Judge modified the State court warrant excluding the interior of Mr. Hicks' house from the search for the freshly killed sheep. Nonetheless, the game wardens allegedly entered Mr. Hicks' home and confiscated two mounted Mountain Bighorn sheep heads that were legally taken several decades earlier. The mounts were purportedly then examined, and returned to Mr. Hicks in a damaged condition.



The National Judicial College

At the core of the Hicks decision is the Supreme Court's finding that state law enforcement officials have the right to enter a reservation and investigate crimes without consulting with or even notifying tribal law enforcement or judicial officials. The decision strikes a blow to the heart of the inherent native sovereignty of tribes. Understandably, tribal judges and the communities they serve were piqued with the decision and poised with fervent anticipation to express their concerns to Justices O'Connor and Breyer. In what amounted to a sincere and courageous exchange on the part of all concerned Native American scholars and tribal judges from across Indian Country engaged in an open and candid discussion with the Justices about the distressing trend in recent Supreme Court opinions, which fundamentally erodes the foundations of tribal sovereignty.

The statistics are undeniable. Consider these numbers: In Chief Justice Warren Burger's court (1969-1985) Indian won 58 percent of Supreme Court Cases. In Chief Justice William Rehnquist's court, (1986 - Present) Indians win only 23 percent of the time. Tribes lost all but 5 of the 28 Indian Law cases before the Supreme Court from 1991-2000. States have won jurisdiction over Indian in Indian country in 54 percent of the cases in the Rehnquist court, while states won only 36 percent of the same cases in the Burger court. Tribal interests lost 70 percent of the time in the Rehnquist court while they won 63 percent of the time in the Burger court. Reversals are just as bleak. When a state loses in a lower court and the Supreme Court accepts an appeal, it reverses the lower court 93 percent of the time. But when a state wins in the lower court the Supreme Court reverses only 47 percent of the time.¹

Tribes and Tribal Court Judges know these numbers well. No other judiciary anywhere has the review process that tribal courts do. First, a tribal judge's opinions are reviewed by the people who matter most; the real parties in interest before the court. Second, the tribal council reviews the opinion in many tribes, *de facto*. With the recent trend from the federal courts and the Supreme Court in particular, Tribal councils are paying ever-increasing attention to tribal court decisions. With no clear separation of powers in many

tribes, if a judge's decisions are unpopular with council members or their families, many judges, time on the tribal bench is prematurely cut short. Third, is the tribal Court of Appeals. Fourth, is the Federal District Court. Fifth, is the Federal Court of Appeals. And last, is the United States Supreme Court. In short, a tribal judge is subjected to more scrutiny in review than any other member of a judiciary.

That brings me to the real core of this article, the need for judicial education for judges on both sides of the jurisdictional line. The National Tribal Judicial Center at The National Judicial College focuses: educating tribal state and federal court judges in cross-jurisdictional issues and skills development to effect a well-considered approach to multi-cultural justice between sovereigns. The Supreme Court project was a first step to do exactly that. What follows is a description of how the National Tribal Judicial Center is trying to address the educational void that exists in our society.

This course offers a fundamental approach to adjudicating Tribal Appellate decisions. Group decision making, appellate procedure, and opinion writing make up the



curriculum.

Supreme Court panel left to right Federal judge William Canby, author of Indian Law in a Nut Shell, Stephen Breyer, Sandra Day O'Connor, Professor Rebecca Tsosie



This course is designed to meet the fundamental needs of tribal court judges. Instruction is presented in civil and criminal jurisdiction and procedure foundation principles of Federal Indian Law and evidence. The course is unique in that it revolves around a single hypothetical for the entire week.

Elbridge Coochise, Associate Justice the Inter-tribal Court of Appeals

In 1998 the Chairman of the National Indian Gaming Commission approached National Judicial College to develop a course for Tribal Gaming Commissioners. The result of this collaborative effort was Essential Skills for Tribal Gaming commissioners. Tribal Gaming Commissioners act in an administrative law capacity adjudicating employment and patron disputes arising from gaming operations.



U.S. Supreme Court Justice Sandra Day O'Connor at the Essential Skills for tribal Appellate judges, July, 2001

The National Judicial College has designed 5 courses to meet the unique needs of tribal court judges. They are not simply clones of our other courses. These courses were designed with the help of the National American Indian Court Judges and The National Association of Tribal Court personnel.



Judge Eugene White-fish, Chief Judge of the Potawatami Tribe in Wisconsin



One of the most challenging courses in the tribal program is Logic and Opinion Writing for TCJs. Many TCJs are not legally trained many are. This course intergrates the role of custom and tradition with the skills of legal thinking and legal writing.

Professor and Judge Carey Vicenti



This course takes a team approach to developing action plans. Judges and Court administrators work together for the week to make changes and design programs tailored to meet the needs of their own court.

U.S. Supreme Court Justice Steven Breyer at the recent Essential Skills for Tribal Appellate Judges, July, 2001



NJC is proud to announce The National Tribal Judicial Center at the NJC. The center will be devoted to the development of tribal court programs and their coordination with state

and federal courts. NJC hope to have the center in place by January of 2002.

Tribal Court judges at the recent Supreme Court visit



The NJC has offered courses for tribal court judges since 1993. In 1997, the program accelerated. With the help of the Department of Justice, The National Judicial College began to develop a full curriculum for tribal courts.

The Inter-tribal Court of Appeals sitting in the model courtroom during the recent Supreme Court visit

Unlike any other identifiable ethnic group Native Americans have their own body of Federal Law dedicated to the recognition of their status as separate sovereigns within the four corners of the United States. While seemingly contradictory in our system of justice, which strives for the homogeneity of all people before the law, 25 USC and the other legal codifications of "Indian Law" not only acknowledge the uniqueness of tribes, but also codify the human rights inherent to the indigenous people of America from its inception. While a full discussion of why the law should protect Indian autonomy and why the Indian population of the United States should not be forced to assimilate into the mainstream economic, political and social structure and abandon their own cultural traditions and customs exceeds the scope of this writing, the fact remains that for nearly four centuries the laws of discovery and conquest in our America have recognized the protections afforded to indigenous peoples everywhere around the globe. History it seems is written by the conqueror and preserved in self-accolades by the dominant society. Dispelling the proliferation of long held myths and misconceptions is not an easy process. The key remains in open and honest communication between our leaders and our decision makers. Judges on the tribal state and federal level must be provided with an understanding of why the law is the law in a non-threatening safe environment. Justices O'Connor and Breyer's participation illustrates that meaningful communication between judges from separate systems of justice and every level of the judiciary is not just possible, but essential to effecting justice for all peoples in our society. At The National Tribal Judicial Center, we are proud to continue the long tradition of judicial education at The National Judicial College to accomplish these goals.

The [Hon. Mitchell C. Wright](#) served as the Chief Judge for the Washoe Tribe of Nevada and California for five years. He still serves as an Associate Justice on the Inter-Tribal Court of Appeals for Nevada, and a judge pro tem for several other tribes. He was recently named to head up The National Tribal Judicial Center at The National Judicial College

The National Tribal Judicial Center at the National Judicial College maintains five courses for tribal court judges:

- Essential Skills for Tribal Court Judges
- Court Management for Judges and Court Administrators
- Essential Skills for Tribal Gaming Commissioners
- Logic and Opinion Writing for Tribal Court Judges, and
- Essential Skills for Tribal Appellate Court Judges

Contact Program Attorney [Mitchell Wright](#). Visit the web page of [The National Judicial College](#).

¹David Getches, "Beyond Indian Law: The Rehnquist Court's Pursuit of States Rights, Color Blind Justice and Mainstream Values," Minnesota Law Review, Volume 86, December 2001, Number 2.

NASJE Elections

Come to the conference or send your proxy and vote for the officers of your choice. Click below to get the candidates' vita and vision statements.

National Association of State Judicial Educators
2002-2003 Slate of Candidates

Candidates:

Vice President
William Brunson

Secretary
Kevin Bowling

Treasurer
Sherry Carson

Southeastern Regional Director
Leslie Johnson

Midwestern Regional Director
Linda Evans
M. Christy Tull

Vita and Vision Statements: [PDF Version](#) | [MSWord Version](#)

Call for Links!

The race is on! What sites would you like to share with your colleagues? Be the first to suggest your best three to five sites for linking from our Website and earn the envy and thanks of judicial branch educators across the country! Submit your site address(es) with a line or two about why someone would want to use the site to the editor at schopicp@sconet.state.oh.us. Be sure to put the words NASJE link in the subject box. Do it today. Don't let your best link be left off the list.

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