

NASJE NEWS – Summer 2003

SJI Scholarships Still Available

Judges and court managers who wish to attend out-of-state court-related educational programs beginning between October 1 and December 31, 2003, may submit their applications for scholarships between July 7 and August 29. Scholarships may cover tuition and travel costs up to \$1,500.

For complete information about the Scholarship Program, please visit SJI's web site (www.statejustice.org), click on SJI Grant Program Fact Sheets in the left-hand column, then click on Scholarships in the drop-down menu. You can also contact Candice Jackson, the Institute's Scholarship Coordinator, at (703) 684-6100, extension 216, or e-mail her at cjackson@statejustice.org if you have any questions.

SJI Board reviews applications, approved grants

At its May 2 meeting, the State Justice Institute Board of Directors reviewed 66 applications proposing new projects in State and local courts. The Board approved 19 project grants, 5 of which were submitted by State and local courts.

The approved projects include the following educational programs for judges and court staff:

- A judicial education curriculum addressing judicial ethics in pro se litigation to be developed by the American Judicature Society (\$49,000);
- A seminar exploring the unique problems rural courts face in delivering justice for rural judges and court managers who have leadership roles in their States and/or national organizations, to be offered by the Justice Management Institute (\$60,000);
- A two-day seminar and distance-learning course on courthouse safety and security to be offered by the National Judicial College (\$74,605);
- Refinement of the educational program developed by the American Judges Association and the National Center for State Courts on promoting and expanding judicial awareness and leadership in connection with substance abuse cases, and adaptation of the curriculum to a distance-learning format (\$62,775);
- A Collaboration Institute designed to assist jurisdictions in identifying and overcoming problems associated with sustaining collaborative relationships among justice agencies and service providers as an element of the National Resource Center on Collaboration in the Criminal and Juvenile Justice System operated by the Center for Effective Public Policy (\$119,395); and
- Continuation of the Institute for Faculty Excellence at the University of Memphis (\$138,156).

Other grants approved by the Board will

establish legal research centers in West Virginia (West Virginia Supreme Court of Appeals);

create The Court Channel, an integrated Statewide legal information system for low-income New Yorkers (New York Unified Court System);

start The Self-Help Practitioners' Resource Center: An On-Line Information Clearinghouse (National Center for State Courts);

implement electronic filing for criminal cases (Delaware Superior Court);

introduce a differentiated case management system for families involved in divorce cases (Idaho Supreme Court);

provide technical assistance to State courts on implementing the CCJ/COSCA guidelines on public access to court records (National Center for State Courts);

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create a benchguide to assist judges in interpreting and analyzing evidence and recommendations presented by evaluators in child custody cases involving domestic violence (National Council of Juvenile and Family Court Judges); and

provide technical assistance on court security and disaster preparedness (Justice Management Institute and American University).

A complete list of all the approved grants is posted on the Institute's web site (<http://www.statejustice.org/>) and will appear in the next issue of *SJI News* at <http://www.statejustice.org/pdf/nlv13n2.pdf>.

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NHTSA grant to NASJE grows

NASJE has received an additional \$25,000 grant from the National Highway Traffic Safety Administration for its project to produce a DUI and traffic safety web site for judges and judicial educators. This brings total funding under the contract to \$100,000.

NASJE's team of DUI and distance learning experts has been working since last year's NASJE conference to compile reference and educational materials on DUI. Our goal has been to create a single web site to which judges and judicial educators can go to find the best explanations, statistics, curricula, articles, and other resources on issues that arise in DUI cases. The additional funding will support addition of streamed video, to offer visual demonstrations of some of the written materials provided.

NASJE's work on this contract is being managed by the New Mexico Judicial Education Center (NMJEC), whose staff is coordinating the effort to assemble, catalog and prioritize the materials, and construct the web site for easy access and use. The National Center for State Courts administers the contract on behalf of NASJE.

Editor's note: NASJE members dedicating their time on behalf of this valuable project include Jerry Beatty (Iowa), William Brunson (NJ), Jim Drennan (North Carolina), Dawn Horton-Wilson (JERITT), Dottie McDonald (Smart Start, Inc. in Irving, TX), Kent Wagner (ICM), and Debra Weinberg (Ohio). NMJEC staff working hard on the team include, Paul Biderman, Pam Castaldi, Pam Lambert, and Nicole Martinez-Martin.

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PRODUCT ALERT

PRODUCT TITLE: NHTSA Impaired Driving Information Resources

REASON FOR DEVELOPMENT: In carrying out its mission over the years, NHTSA has prepared many publications and videos for various audiences to promote traffic safety. Now we are adapting selected print and video materials to compact disc media. This CD is intended to serve the needs of criminal justice entities that deal with impaired driving cases.

FORMAT: The CD contains NHTSA research relating to Standardized Field Sobriety Tests (SFST), a peer review article, Horizontal Gaze Nystagmus: The Science and the Law, Nystagmus State Case Law (published in May 2001), and video vignettes of SFST tests for illustration purposes only.

TARGET AUDIENCE: This CD is now available, and will be sent Criminal Justice Partners.

PRODUCT SHIPPED TO: NHTSA Regional Office, State Highway Safety Offices and selected NHTSA partner organizations.

SUGGESTED MARKETING STRATEGIES/USE: Provide copies of the CD to individuals with a high degree of interest and specialization in impaired driving, such as judges, prosecutors and law enforcement agencies/individuals. This CD is not intended for media outlets.

DEVELOPER: NHTSA

HOW TO ORDER: Orders can be sent via Fax to (301) 386-2194.

NASJE News Product Review by Paul Biderman

NHTSA Impaired Driving Information Resources CD

--National Highway Traffic Safety Administration (September 2002)

NHTSA has compiled onto a single CD a set of articles and visual demonstrations to explain standardized field sobriety tests to officials who enforce DUI laws. As described by NHTSA on the CD.

This CD is intended to serve the needs of criminal justice entities that deal with impaired driving cases. The CD contains NHTSA research relating to Standardized Field Sobriety Tests (SFST), a peer review article, Horizontal Gaze Nystagmus: The Science and the Law, Nystagmus State Case Law (published in May 2001), and video vignettes of SFST tests for illustration purposes only.

The CD provides valuable reference materials for judges and judicial educators on the principles, justifications and methods underlying the use of standardized field sobriety tests. While users with limited science or math background may at first blush find the material somewhat challenging, there is nonetheless much of value that is accessible to the lay reader. For example, the report entitled "Horizontal Gaze Nystagmus: The Science and the Law," includes sections explaining the scientific basis for this test as well as the proper ways of administering it in the field. While a judge asked to admit the results of such a test into evidence would require a record adequate to do so under the state's scientific evidence rules and appellate authority, the judge's perusal of this report might help clarify some of the testimony on terminology, concepts, and basic procedures. Similar material is provided to document the validity and proper administration of other tests.

Particularly valuable are the three videos included on the CD. The reports of the studies are illustrated by videos of three visually and orally clear standardized field sobriety tests: the walk and turn, one-leg stand, and horizontal gaze nystagmus tests. A judge watching these illustrative tests can at once see how the officer should be trained to administer the test and what the officer looks for when he does.

Some of the most user-friendly features of the CD include the ability to conduct word searches, as well as the capacity to click on an entry in the table of contents and be taken immediately to the identified page in the report. These features prevent having to scroll through numerous pages to reach a desired section. Some desirable features are missing, however. The volume of the material and the technical nature of a significant portion of it might have induced NHTSA to

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include a little more guidance on how judges could most benefit from this resource, by highlighting particularly useful sections or summaries. Also, the chronological sequencing of the materials resulted in a particularly technical article coming first. To avoid discouraging the more scientifically challenged readers, it might have been preferable to start instead with a layman's overview, especially since one of the first pages of the first article features one of the few charts that is very difficult to read on screen. Finally, when one clicks on an item in the table of contents of an article to get into the text, then hits the "back" button, he is sent back to the Table of Contents of the whole CD, rather than to that of the article itself. This could discourage browsing within an article, which may be just what a judge needs to do.

We would hope that no one would be discouraged by these relatively minor shortcomings from exploring the value of this resource. NHTSA has clearly assembled very useful material that may help judges understand the why and how of field sobriety testing, and the administration of justice in DUI cases should be the better for it. This CD should be in the library of every state judicial educator whose state judges ask for more information on this difficult and common subject.

NHTSA's Impaired Driving information Resources CD may be ordered by fax at (301) 386-2194, through State Highway Safety Offices or NHTSA Regional Offices.

Paul Biderman is director of the New Mexico Judicial Education Center and is a former NASJE President and editor of NASJE news. He is currently NASJE's project manager in the development of a web resource library on DUI under a contract with the National Highway Traffic Safety Administration.

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Please join us in welcoming the following **new NASJE members**:

- **Ann Blankenship**
Program Attorney, Texas Center for the Judiciary, Inc., Austin, Texas
- **Chuck Claxton**
Professor of Adult and Higher Education, Appalachian State University, Boone, North Carolina
- **Philip D. Gould**
Research Associate, Center for the Study of Higher Education, Memphis, Tennessee
- **Janet Hunt**
Director, American Academy of Judicial Education, Tuscaloosa, Alabama
- **Pam Lambert**
Senior Attorney, New Mexico Judicial Education Center, Albuquerque, New Mexico
- **Guila Muir**
Principal, Muir & Associates, Seattle, Washington
- **Hon. Kenneth Nickolai**
Chief Administrative Law Judge, Office of Administrative Hearings, Minneapolis, Minnesota
- **Mary B. O'Connor**
Acting Deputy Director, Continuing Education, Connecticut Judicial Branch, Hartford, Connecticut
- **Joseph R. Sawyer**
Distance Learning and Technology Specialist, The National Judicial College, Reno, Nevada
- **Marty Sullivan**
Judicial Education Specialist, Administrative Office of the Courts, Little Rock, Arkansas

Michael J. Wise

Program Attorney, The National Judicial College, Reno, Nevada

The National Center for State Courts has closed its post office box. Databases and address books should be changed to send all correspondence to 300 Newport Avenue, Williamsburg, VA 23185.

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President's Column

By Tom Langhorne

Someone much brighter than I once said that the only constant in our world is change. I am reminded of that maxim's applicability to NASJE as I sit here in Macedonia preparing to address that country's Ministry of Justice. Representing NASJE, I have been asked to address the issue of embracing and managing the compelling changes associated with Macedonia's judicial reform movement. After delivering my humble thoughts on this matter, I am now returning my focus to the many challenges associated with the changes facing NASJE.

We in NASJE are facing unparalleled fiscal crises in our states. I am a firm believer that crises and associated change make us stronger. Your Board of Management has worked diligently toward anticipating and squarely addressing challenges and opportunities facing judicial branch education. Accordingly, during our August conference, we will reveal for your deliberation and comment, NASJE's new strategic plan. The new strategic plan is designed to manage externally and internally driven change. Although our effort in this regard is commendable and responsible, we must go further in this strategic effort. We also must develop, for the first time in NASJE's history, methodologies for quantitatively and qualitatively measuring and monitoring our progress under that new strategic plan. Creating new visions and related plans to forge NASJE's preferred future are important. After all, as someone once said, "The best way to ensure our preferred future is to *invent* it." But how will we know if we are making progress toward this new future if we cannot *measure* our progress? After initially resisting the thought of having to develop such measures, our revered friend and colleague, Ingo Keilitz, convinced me otherwise. I appointed Ingo to the newly created Strategic Planning committee, in part, based upon his steadfast loyalty to his intellectual principles and unwillingness to waiver when I disagree with him. Due to his principled reasoning and the excellent work of the entire Strategic Planning committee, I will respectfully ask our new leadership to make "measuring NASJE's progress" a priority for the upcoming years.

Serving as your president has been one of my most cherished professional opportunities. It has given me a profound appreciation for those who have preceded me. I thank you for that privilege. Frankly, I am afraid that I have personally benefited far more from this experience than has NASJE. However, because this is my last opportunity to express my thoughts as your president in this forum, allow me to briefly portend NASJE's future.

I am absolutely convinced that NASJE's future is indeed promising. Many of the changes we will witness will be internally driven. Some will be dictated by external forces over which we have no control. In either event, we must be willing to initiate, in a proactive way, changes that will enable NASJE to thrive, not merely survive. We must also keep a vigilant eye on the basics and principles that got us to this point. In doing both, I am confident we will continue to proudly call ourselves judicial educators. This general strategy has resulted in increased prominence of and professional respect for our profession. Standing on the shoulders of our preceding presidents, board members, committee chairs, committee members, as well as NASJE's general membership, I look forward to tomorrow's leaders embracing the inevitable changes awaiting us. And capitalizing upon them.

Thank you for the honor and opportunity of serving you. See you in Reno-Lake Tahoe.
Tom

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Editorial: Volunteering and being involved

The article in this issue of NASJE News that talks about mentoring got me to thinking what it was like for me as I started this career and in NASJE and what I enjoy about my job and NASJE activities now. I had no mentor per se, but was very lucky to be working under the tutelage of past NASJE president Larry Stone (my boss) and current Western Regional Director Martha Kilbourn (my co-worker).

I was never eligible for out of state travel to NASJE conferences in those days. Whatever I got from the organization was indirect, a gift from Larry or Martha. And they were very helpful.

Being involved in the newsletter and international committees has stretched me in ways I never anticipated. Attending these meetings allowed me to get to know past and future presidents of our organization, and in so doing, start to trust myself more and more in terms of what I could offer our profession and my colleagues starting out.

You may have noticed some differences in NASJE News over the last year, since I have taken over as chair of the committee and managing editor. One thing I have tried to do is involve more people in the writing of articles. As much as we all benefit from the great writing of the editorial board, with all they have to offer, I have tried to open up the pages of NASJE News to those newer in the profession, or simply those who have not had the opportunity to share on any kind of regular basis with the rest of us.

As we approach the annual conference and think about a new administration taking the reins for us all, I start to think about what NASJE has meant to me over the past several years during which I have been a member. I think about the opportunity for growth it has given me, supported whole-heartedly by my immediate supervisor, John Meeks, and the administration of the Supreme Court of Ohio.

I thank you all, especially Tom Langhorne, for the honor and the opportunity to serve you all as editor-in-chief this past year. I hope you have all be pleased with the issues we have presented. We of course are always interested in hearing from you and welcome your participation in any of NASJE's many committees. As we end this fiscal year, I encourage you all to look for ways you can contribute to your community, your colleagues, and our organization. In fact, if there is a NASJE committee on which you would like to serve, you might even consider contacting incoming president Kenny Miller (km16@tjct.org) about being on it! He assures me he will welcome your interest.

So thank you for reading *NASJE News* this past year. I look forward to continuing to work with the fantastic people on the editorial board, our guest editors, and others of you who will be writing for us. Our goal is to continue to bring you valuable and enjoyable reading in the coming year. I look forward to seeing many of you in Reno-Tahoe in August.

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Turning Listeners into Learners: New Presentation Strategies for State Judicial Conference Sessions by Sharon L. Bowman, M.A.

Editor's Note: Ms. Bowman will be on the faculty of our conference in August. Join us in Reno-Tahoe and hear her in person. Attend "Preventing Death by Lecture" during the afternoon of Wednesday, August 20 to hear more from her on this topic.

It's your turn. At your upcoming NASJE conference, you'll be participating in a breakout session on a topic of your choice. You'll have about 90 minutes to present as much information as you can to your colleagues. You hope that they learn enough about the topic to feel knowledgeable and competent in this area.

Having been a participant at many judicial education workshops and conferences, you know first-hand that "telling ain't training." You're aware that listening doesn't mean learning and that most folks only remember about 20% of what they hear. The 80% that is forgotten can lead to critical mistakes. In the justice system especially, the mistakes judges, lawyers, and judicial staff make can be disastrous and can become a state judiciary's worst nightmare.

So how DO you involve your conference session participants in their own learning, while covering the required amount of topical information a judicial educator needs to know in order to feel competent and successful? How do you help them learn, remember, and use the information you tell them?

You decide to try some new presentation strategies taken from the most current brain research on how adults learn best. According to David Meier, author of ***The Accelerated Learning Handbook***, listeners must be involved in their own learning in order to remember and use information they hear. This involvement is crucial to long-term memory, and it needs to happen in a number of different ways using more than one physical sense: seeing, saying, doing, as well as hearing. So involvement is the key, even during a short ninety-minute conference program. Through participant involvement, you transform the session from a "listening experience" into a "learning experience."

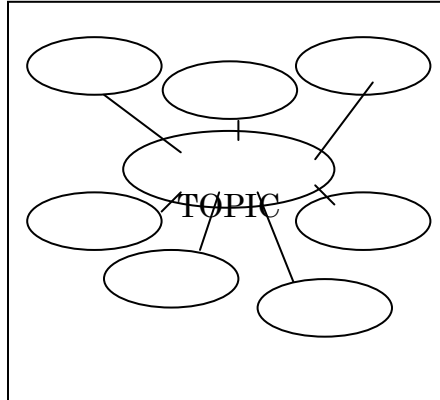
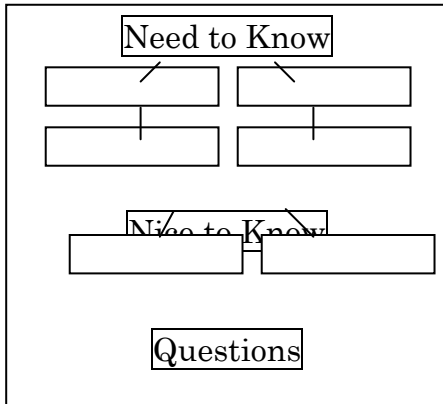
Here are some of the presentation strategies you use to involve your listeners in their own learning:

Graphic Organizers - Before the session, you create a simple note-taking page for each participant to use as you present information. As you talk, participants write important facts in specifically designated sections on the page.

This "graphic organizer" serves three purposes: 1. It gives learners something to do with the information besides just listening to it. 2. It helps them remember the information longer because they write it down in a visual format rather than just words. 3. It provides them with a personally created resource page to use as a reference guide later.

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Below are two examples of simple graphic organizers. You can find other examples in the book *Graphic Organizers - Visual Strategies for Active Learning* by Karen Bromley.



Information Chunking - As a culture, we're used to having our information divided up into seven to ten minute chunks. Do you know why? Of course - television! The average person watches about 2½ hours of TV every day, or about 15-21 separate pieces of news, movie, sit-com, or commercials. Since your conference participants are used to this shorter format, you divide your session information into seven to ten minute chunks too. This means you'll have about nine information segments in a 90 minute presentation. Every ten minutes or so, you stop talking and ask a question or engage your learners in a short discussion of what they just heard. Or you can do the following two activities.

Dyad Dialogues - Also called "pair-shares" by training professionals, dyad dialogues are the easiest, quickest, and most low-risk way of involving learners in their own learning. You direct your participants to pair up (triads are okay too - make sure no one is left out) and tell their partner the most important thing they learned in the last 10 minutes. Or they ask their partner a question about what they just learned. Or you ask them a question and they discuss it with their partner and agree on an answer. The dyad dialogue can be as short as 30 seconds or as long as 2 minutes. You can find a dozen "pair-shares" in the book *Presenting with Pizzazz* by Sharon Bowman.

Information Linking - Before you begin another 10 minute "mini-lecture," ask your session participants to shout out a number between 3 and 9. Then tell them to verbally state that many facts about the sub-topic. For example, if your topic is the Americans with Disabilities Act, your sub-topic might be new legal considerations regarding the ADA. If your learners chose the number 7, they take turns stating 7 facts about the new ADA regulations. You then correct any erroneous information, add to what they know, and refer to their answers as you elaborate upon the sub-topic. In other words, you are linking what they already know to what you want them to know. According to Bob Pike, president of Creative Training Techniques, Int'l., linking new information to old is a powerful memory tool. You can find variations on this "shout out" activity in *Preventing Death by Lecture* by Sharon Bowman.

Visual Cues - The human brain is an image-making device. We use words to paint mental pictures, and the brain remembers the pictures longer than the words. "One picture is worth a thousand words;" television and the computer only reinforce this wise adage.

During your ten-minute presentation pieces, you use photos, cartoons, drawings, or simple geometric shapes to emphasize certain points. You put the images on chart paper, on PowerPoint slides, on handout materials. You invite your participants to draw "analog images," i.e. doodles on their note-taking page to represent important points they need to remember. You can even have them work together to create metaphors for the topic. For example, working in small groups, each group chooses a household object and then discusses and agrees on three to five ways the topic is like that object. Give them about three minutes to do this and then randomly call on a few groups to verbally report what they came up with. Allow about another two minutes for this processing.

Random Response Device - The phrase was first coined by Sivasailam "Thiagi" Thiagarajan, corporate trainer and president of Workshops by Thiagi, to describe any soft throwable object (eg. a Koosh or Nerf ball). You direct your participants to stand, then toss the ball to one of them. That person states the most important thing he learned and then tosses the ball to someone else to do the same. Allow about three minutes for a half-dozen ball tosses. This activity is a fun, quick, high-energy way to review information. It also makes a great session closing activity too. The book *Shake, Rattle, and Roll* by Sharon Bowman, has an entire chapter devoted to activities using the random response device.

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Peer-Coaching - The learning doesn't stop when your conference session ends. You assign "study-buddy" partners by having participants trade business cards. Or they write their name and contact information (work phone or email address) on 3x5 cards. They exchange cards before the session ends. A couple of weeks later, they check in with each other to find out what they've done with what they learned, to review old and new information related to the topic, to support each other, to ask questions, or just to connect again. This "peer-coaching" will ensure that your participants remember what they learned in their session with you.

Post-Script - Your conference session is a resounding success! Word gets around and you find yourself doing more conference presentations. In fact, you decide to present a workshop at the annual NASJE conference because now you know how to turn passive listeners into active learners, and your conference participants love you for it!

Sharon Bowman, a professional speaker and corporate trainer, works with educators and business people who want to improve their information-delivery skills. Sharon calls it learning to "teach it quick and make it stick!" She conducts both public and in-house train-the-trainer seminars. She is the author of six popular training and motivation books, a member of the National Speakers Association, and the director of The Lake Tahoe Trainers Group. Log onto her web site at www.Bowperson.com for more information about her products and services.

Cited Resources:

Bowman, Sharon. ***Presenting with Pizzazz.***

Bowman, Sharon. ***Preventing Death by Lecture.***

Bowman, Sharon. ***Shake, Rattle, and Roll.***

Bromley, Karen. ***Graphic Organizers - Visual Strategies for Active Learning.***

Meier, David. ***The Accelerated Learning Handbook.***

Web-Sites:

www.Bowperson.com

Sharon Bowman, *The Lake Tahoe Trainers Group*

www.alcenter.com

David Meier, *The Center for Accelerated Learning*

www.Thiagi.com

Sivasailam "Thiagi" Thiagarajan, *Workshops by Thiagi*

www.thebobpikegroup.com

Bob Pike, *Creative Training Techniques, Int'l.*

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The Plot Thickens - Using Literature and Film in Judicial Education

By Hon. Terry P. Lewis, Leon County Court, Tallahassee, Florida

Introduction

This article will discuss the world's oldest profession and how it can be used effectively in judicial education. No, I'm not talking about that profession. I'm referring to the art of storytelling. From the earliest tales told around the campfire to today's sophisticated mediums, storytellers have, throughout our history, both entertained and educated us. In this article I will suggest why and how this art can enhance judicial education.

For several years now, I have utilized literature (novels, novellas, short stories, plays) and movies in seminars and educational programs for judges and others interested in exploring the concept of justice and the manner in which we go about trying to achieve it. I do not profess to be a literary or film critic. Indeed, I would suggest that an over emphasis on analysis of a work can sometimes take away from its effectiveness for judicial education.ⁱ What I can do here, however, is to share some of my experiences, observations, and biases regarding the use of literature and film in the hope that you might find something useful in planning and presenting your education programs.

Why Literature and Film?

Entertaining, Engaging, and Enduring

Can you identify the novel, play or film from which the following quotes are taken?

"To be or not to be, that is the question."... "It was the best of times, it was the worst of times." ... "Call me Ismael." ...
"Frankly, my dear, I don't give a damn." ... "You can't handle the truth." ... "I'm gonna make him an offer he can't refuse."
...ⁱⁱ

Are the following names familiar to you?

Atticus Finch, Captain Ahab, Ebenezer Scrooge, Rhett Butler, Sherlock Holmes.ⁱⁱⁱ

Chances are you identified most, if not all of the above and, if so, you have demonstrated an important point about literature and film. They are powerful art forms that entertain us and engage us. The good ones stay with us and continue to have an impact on the way we think about things long after the initial reading or viewing. It is a good combination. Entertainment value is important. If you don't get and keep your participants' attention, it is less likely that there will be any learning going on. On the other hand, a successful course must do more than entertain. Fortunately, for the astute faculty and student, even the most commercial literature or film can be effectively mined for educational purposes.

Professional Quality

You can certainly draft hypotheticals and do a role play to raise an issue for discussion, but in literature and film, someone has already done it, and often, very well. For example, it's hard to imagine a role play of a cross examination better than that by Tom Cruise of Jack Nicholson in the film, "A Few Good Men".

Lots of Choices

Our culture is fascinated by trials and the judicial process. There are, as a result, many films and works of fiction that revolve around a trial or other court proceedings that portray judges, lawyers, and the other "players" and raise issues of justice, ethics and morality. It is not difficult at all to find a work of fiction or a film that is both entertaining and has educational value for those of us in the profession.

Vicarious Experience

It has been said that many a truth is told through fiction. There are many controversial topics, sticky issues, like abortion, rape, discrimination, poverty, child abuse, etc., that are difficult to deal with directly in an educational program. People are sometimes reluctant to discuss their personal experiences or opinions. Literature and film, however, offer participants an opportunity to deal with these issues, vicariously, through fictional characters and stories. They can explore their own feelings and opinions from a safe distance.

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Intrinsic Value of The Work Itself

There is, I submit, regardless of any other learning objectives you might have for a course, an intrinsic value to reading a well crafted work of literature, or viewing a well done film. They reflect, and affect, the way we view ourselves, others, and the world around us. In reading or viewing them, we can learn a little bit about ourselves and can use that knowledge for personal and professional growth.

How To Use Literature and Film

Law and literature courses have been around for some time. These are traditionally stand alone courses in which participants are expected to complete readings prior to the course, then use the course time to discuss themes and issues presented in the selected works of fiction. Law and film courses, though not as common, have a similar format and focus. Both mediums can be effective educational tools, but each has its pros and cons:

1. For those who are predisposed to the notion of reflection and consideration of their views on such issues as ethics, law and justice, this type of course can be a very rewarding educational experience. But it is not for everyone, and probably shouldn't be required of everyone. Self selection should be the by-word here.
2. In a law and literature course, depending on the length of the course and the number of works to be discussed, it can mean quite a commitment of time by the participants to read the works ahead of time. Although the time commitment should be less for a law and film class, it can be quite tedious to view several movies in a short span of time, even the very good ones. Unlike a novel, which you might read in segments, most of us will watch a movie in its entirety in one sitting.
3. There is also, of course, the cost of purchasing the novels, plays, or short stories. And, if you are not purchasing the complete work for each participant, you will need to get permission to reprint, or run the risk of copyright infringement.^{iv}
4. Depending on what your learning objectives are for the course, works of fiction are not always neatly tailored to a particular topic or issue. A well written novel or story will generally be complex, interwoven, with appropriate subplots or side stories. If you wanted to use *The Ox Bow Incident*^v, for example, as a vehicle to discuss due process, the side story of Gill's unrequited love for a saloon singer is extraneous.

Movies are more adaptable and you can usually use selected scenes to illustrate a point, or to introduce a topic for discussion. There are several reasons for this. First, there are fewer films made than books published each year. Movies more appropriately fit into the category of mass entertainment and it is more likely that the participants will have seen a movie, or at least be familiar with its story line. Also, if the purpose of showing a clip is to illustrate how lawyers, judges, or other participants are portrayed, it is really not necessary for the participants to know much at all about the story line, much less the side stories.

One of the disadvantages of using film, however, is that, unlike with a novel or short story, where participants and faculty can shift from one passage to another with relative ease and can linger there, shifting from one scene to another in a film is a logistical challenge. You either have to have the same number of videos as you have scenes, or you have to edit in order to collect only the scenes you wish to show. The first option is cumbersome. The second option decreases your flexibility, and increases your risk of copyright infringement.^{vi} Either way you cannot linger on a scene, or focus on particular dialogue, the way you can with literature.

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With these pros and cons in mind, you may want to consider using a combination of literature and film in a stand alone course. On a couple of occasions in Florida, I have helped plan and teach a three day course called *Perceptions of Justice*. We have used a combination of fiction, nonfiction, and films as springboards for discussion of issues and I have found that the variation does much to keep the participants interested and engaged. Finding the right combination of materials and learning activities is, of course, always the challenge.

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In addition to being the primary focus in a stand alone course, literature and film can also be used effectively in more traditional courses. In my experience, this is especially true for film clips. For example, *My Cousin Vinny* offers an entertaining, humorous, and somewhat instructive scene concerning expert witnesses, as does “Trial and Error.” In fact, there are many films that present evidence issues that might be pertinent to a particular course. See, for example, *The Verdict*, *Rainmaker*, *Class Action*, *A Civil Action*, *Witness for the Prosecution*, and *Presumed Innocent*.

Film clips can offer a dramatic or humorous introduction to a topic of substantive or procedural law. Some examples: For jury selection: *The Rainmaker*, *Trial and Error*, *My Cousin Vinny*; For cross examination: *Kramer vs. Kramer*, *A Few Good Men*, *To Kill A Mockingbird*; For opening statement: *And Justice For All*; For plea negotiations: *The Accused*, *And Justice For All*; For juror misconduct: *Twelve Angry Men*, *The Suspect*; For Brady violation: *Jagged Edge*; For prosecutorial discretion in charging: *Absence of Malice*, *The Accused*. Some of the above are also novels, and I am sure that you can think of many more passages from works of literature, or film clips, that could easily be incorporated into a course on substantive or procedural law to help illustrate a point or raise an issue.^{vii}

Conclusion

Whether used as the focus in a stand alone course or in smaller doses as part of other courses, literature and film offer you, the judicial educator, a powerful tool. How you put the art of storytelling to use is limited only by your imagination.

1. I have sometimes used a clip from “Annie Hall” to make this point and set a tone at the beginning of a course. In the scene, the two main characters, played by Woody Allen and Diane Keaton, are standing in line for a movie while a professor behind them pontificates on a certain director’s style, what themes he is working with, etc. When Woody Allen’s character can take it no more and confronts the man, the professor insists that he knows what he’s talking about. Woody Allen’s character then says that he just happens to have the director right there, at which point he pulls over a man who proceeds to tell the professor that he is the director, and that the professor knows nothing of his work, that he is just a pompous blow hard.
2. Hamlet by William Shakespeare, A Tale of Two Cities by Charles Dickens, Moby Dick by Herman Melville, Movies: Gone With The Wind, A Few Good Men, The Godfather
3. Characters created by Harper Lee, Herman Melville, Charles Dickens, Margaret Mitchell, and Arthur Conan Doyle.
4. I will not pretend to offer legal advice on copyright issues here, just this caveat. Make sure you seek legal advice or research the issue thoroughly on how to avoid infringing a copyright, as to literature or film.
5. By Walter VanTildenberg
6. See Endnote #4 above.
7. Your best library of literature and film for purposes of judicial education is the one you build yourself from personal experience. If you are looking for some guidance and direction, however, you might want to take a look at the following references: *Law and Literature - An Annotated Bibliography of Law - Related Works* - Edited by Elizabeth Villiers Gemmette; *Law and Literature - Legal Themes and Short Stories* - Edited by Elizabeth Villiers Gemmette; *Reel Justice* - Paul Bergman & Michael Asimow; *Wigmore’s ‘Legal*

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Novels' Expanded - A Collaborative Effort - New York State Bar Journal, February 1978, Richard H. Weisberg and Karen Kretschman.

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DOMESTIC VIOLENCE EDUCATION FOR JUDGES

Judicial Leadership on Domestic Violence v. the Canons of Ethics

By Billie Lee Dunford-Jackson

Domestic violence has gained widespread acknowledgement as a social problem that inflicts insupportable costs, social and financial, upon our nation. For the past 20 years, the considerable resources devoted to the reduction of family violence have in general advanced the knowledge about what motivates batterers, why victims respond as they do, and the potential harm that violence in their homes causes children. Despite everything we have learned, however, victims continue to suffer battering and death at the hands of their intimate partners in horrifying numbers; and children continue to witness these atrocities and to learn to emulate the behaviors of their elders. In the words of one accomplished jurist "What is needed is a systems approach, a strategy which includes all parts of the justice system."¹

Such a system presupposes that judges on domestic violence dockets will come to the table along with representatives from all the other sectors of the community who have a hand in attempting to curtail domestic violence; that they will act in concert with these other representatives to develop protocols and practices to close the gaps into which victims and their children often fall; and that they will contribute to a community endeavor to educate the public about domestic violence and to make an unequivocal statement that such behavior is unacceptable in their community. And if they do that, they step outside of their classic impartial-arbiter-of-justice role and directly into conflict with their judicial canons of ethics. Such at least has been the traditional opinion, and one still espoused by many jurists, legal scholars, and members of the criminal defense bar. After all, even if a judge acts with perfect propriety and impartiality in the individual case, how can he or she, as an activist against domestic violence in the community, escape at least the appearance of bias against individual defendants in domestic violence cases?

To be sure, during the course of the past few years, any number of instances have occurred where individual jurists, state legislators and ethics committees have constructed ways around the dilemma. For example, West Virginia's Chief Justice recently issued an Administrative Order overriding an advisory opinion from the state's Judicial Investigation Commission by approving judicial attendance at a multidisciplinary conference to enhance community and statewide enforcement of protection orders.² Many states allow judges to sit on coordinated community counsels, and some allow judges to chair these. The National Judicial Institute on Domestic Violence, a project co-sponsored by the National Council of Juvenile and Family Court Judges and the Family Violence Prevention Fund, explores in depth with participant judges ways they can, in compliance with their ethical canons, take a more active leadership role in their communities. They have, in fact, developed a curriculum on the issue, which is available for judicial educators and judges upon request by calling 1-800-527-3223 and asking for the Judicial Institute Desk.

Despite these individual instances of enlightenment, many judges who hear domestic violence cases still appear to espouse the traditional view. Change will occur slowly as long as significant numbers of judges remain resistant to the idea that they will as surely have an impact in their community by not taking a leadership role as by finding ethically permissible ways to educate and lead the public.

1 Edwards, L., "Reducing Family Violence: The Role of the Family Violence Council", *Juvenile & Family Court Journal* (1992).

2 Administrative Order, Supreme Court of Appeals of West Virginia, March 16, 1999, Larry Starcher, Chief Justice

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Accordingly, the National Council, the nation's largest and oldest judge membership organization, has decided on a direct approach. At its 65th Annual Conference last summer, the National Council's membership passed a resolution to work in concert with other interested organizations to draft specific canons aimed at bringing about change and clarity for judges regarding their roles and permitting them to work actively toward the improvement of outcomes for children, individuals and families who appear before them. This resolution called for the creation of a committee to draft these new ethical proposals for presentation to the National Council and the Conference of Chief Justices for review and approval at their respective 2003 annual conferences. A copy of the National Council's resolution appears as a sidebar to this article.

The committee formed as a result of the National Council's resolution is up and running and on target to have its recommendations ready for the upcoming annual conferences of both its parent organization and the Conference of Chief Justices. Once those organizations have signed off on proposals for new ethical canons on judicial leadership, the next step will be enlisting the support of the ABA. Then the state ethical committees will require education, as will the bar and bench in general. This process will take some time to complete, but not as long as would the current process of having each judge make an individual determination of what is and is not allowed by way of judicial leadership under the existing canons and what leadership role each feels comfortable assuming. Nevertheless, as judges await the outcome of the national discussion about where the ethical lines eventually will be drawn, it is incumbent upon each to engage in a critical analysis of what his or her individual community stands to gain or lose from an active, involved judiciary. And it is incumbent upon judicial educators to keep the conversation going with judges and help each define for himself or herself an active, meaningful leadership role consistent with the ethical guidelines and within his or her comfort zone.

Billie Lee Dunford-Jackson, JD, Assistant Director of the Family Violence Department of the National Council of Juvenile and Family Court Judges, received her Master's Degree and Juris Doctorate from the University of Virginia. She works with states to enact and implement the Model Code on Family Violence, and is instrumental in designing the curriculum for and conducting the widely acclaimed judicial education programs, "Enhancing Judicial Skills in Domestic Violence Cases." She has authored numerous articles, and is a frequent presenter on domestic violence and children's issues.

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**NCJFCJ 65th ANNUAL CONFERENCE
JULY 14-17, 2002
Boston, Massachusetts**

No. 4

**RESOLUTION IN SUPPORT OF THE MODIFICATION
OF CANONS OF JUDICIAL ETHICS**

WHEREAS, the National Council of Juvenile and Family Court Judges has a long established policy of encouraging the judiciary to engage in community outreach to foster the effective administration of justice; and

WHEREAS, the Conference of Chief Justices, at their Annual Meeting I August 2000, passed a resolution recognizing and encouraging judges to become involved in their communities to improve the quality of justice; and

WHEREAS, the role of juvenile and family court judges involves much more than fact-finding and adjudication; and

WHEREAS, judges are increasingly expected to take on the role of case management, overseeing the successful implementation of comprehensive court-ordered services plans; and

WHEREAS, to serve the public effectively, judges must be aware of services in the community and must educate the public about issues coming before the courts to encourage community support of the work of juvenile and family court judges; and

WHEREAS, judges taking on such roles still experience conflicting response and confusion as to the propriety of their activities; and

WHEREAS, the Canons of Judicial Ethics vary from state to state, and may not reflect the realities of being an effective juvenile and family court judge; and

WHEREAS, judges would benefit from a comprehensive set of appropriate guidelines and model rules, in efforts to bring about change and clarity regarding their roles as juvenile and family court judges both on and off the bench; and

WHEREAS, the National Council of Juvenile and Family Court Judges should take a leadership role in modifying canons of judicial ethics to assure that juvenile and family court judges can actively work toward the improvement of outcomes for children, individuals, and families who appear in our courts, without unreasonable fear of censure.

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees directs the development, in collaboration with other interested organizations, of a committee to draft

specific canons for the affirmative ethical implementation of the aforementioned resolution;

FURTHERMORE, that the proposed canons be presented to the National Council of Juvenile and Family Court Judges and the Conference of Chief Justices for review and approval at their 200 annual conferences, and other appropriate bodies as may be helpful in implementing these new canons.

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Adopted this 17th day of July, 2002
By the Membership Assembled in Conference
In Boston, Massachusetts

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Collaborative Law

By Joy Ashton, Project Attorney, National Council of Juvenile and Family Court Judges

“Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser – in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.”

So says Abraham Lincoln on the lawyer’s role as peacemaker. In this vein, a movement called “Collaborative Law” or, sometimes, “Collaborative Family Law” has swept the nation in recent years. Attorneys advertise this service to the public with tempting phrases: No Court Divorce; Save Your Money for Your Children’s Education; Turn Loss into Gain – Take Control of your Life.

Collaborative Law (CL) is an alternative to litigation. Both parties and their attorneys commit themselves to resolving their differences justly and equitably without resort or threat of resort to the courts. In fact, they sign a contract (disqualification agreement) agreeing that if they are not able to resolve their legal issues through the collaborative process, and they opt to litigate, that their attorney will not represent them in court. The collaborative lawyers are then “fired” and the parties must retain new counsel.

The parties also agree to full disclosure of all relevant information. A series of conferences and informal discussions take place to settle all legal issues.

The phrase, “Collaborative Divorce,” is a registered service mark and encompasses a more multi-disciplinary approach. Mental health professionals (divorce coaches), collaborative family lawyers, financial specialists and child specialists may be involved, depending on the unique needs and circumstances of the family. There is no “package price” for the service – the parties pay each professional separately, usually based on their customary hourly rate.

As CL grows, will all attorneys be expected to inform their clients about the option? In the medical community, doctors have an obligation to tell you about all reasonable options and to review the pros and cons. Perhaps soon lawyers will have the same “informed consent” requirement.

Some dissenters wonder if couples are somehow screened for the appropriateness of the CL method. Obviously, CL does not rectify power imbalances in a relationship, or remove the dynamics that exist in a domestic violence situation. On the other hand, nobody screens couples for the appropriateness of the litigation process. Others are concerned that CL is still a lawyer-driven process that will therefore be promoted by attorneys, in situations where mediation would be the preferable option.

CL has been a hot topic at conferences for attorneys, much more than it has been for judges. There are some alternative dispute resolution options that need to have court involvement. CL isn’t one of them. However, CL has the potential to positively affect judges’ caseloads (and mental health!). In communities where this service is not yet available, judges have the convening power to assemble the local bar and examine the feasibility of the process.

Is it the responsibility of judges and the courts to do more than simply provide a battlefield for warring litigants? Many think so. All over the country, great programs are being implemented to give people alternatives to the traditional adversarial process. Take Santa Clara County, for example. There are several steps that parties in a contested custody case must go through before they can litigate. The steps include a 3-hour parent education program, screening for domestic violence, mandatory mediation, conferences with a judge, and a written assessment/evaluation. Of contested cases, less than 2% go to trial. Of all custody cases filed, only 0.7% go to trial. Santa Clara believes that a responsible court system gives families options.

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Whether Collaborative Law is THE solution or just ONE solution, it definitely shows a positive evolution in the family court system toward a workable range of alternative dispute resolution options for our families.

Joy Ashton, B.A., LL.B., is a Project Attorney with the Continuing Judicial Education Department of the National Council of Juvenile and Family Court Judges (NCJFCJ). She is responsible for planning and implementing numerous national and state-level judicial training programs each year, with a concentration in the area of family law, judicial ethics, evidence, custody, juvenile drug courts, and child support.

Ms. Ashton's background is in educational and legal environments. Before joining NCJFCJ, Ms. Ashton practiced law with an emphasis on family law and the representation of juveniles in the justice system. Ms. Ashton's experience includes divorce, custody, separation agreements, pre-nuptial contracts, property division settlements, alimony, and child support - negotiated and adjudicated resolutions. She also has experience in criminal and civil litigation, real estate transactions, lease disputes, will and estates. Ms. Ashton has extensive experience in moderation, facilitation, faculty development, and adult-learning processes.

Ms. Ashton earned her Bachelor of Arts degree with Honors in English Literature from the University of Saskatchewan, College of Arts and Sciences, Canada, and her law degree from the College of Law, University of Saskatchewan.

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Collaborative Divorce

By Hon. W. Ross Foote, 9th Judicial District Court, Alexandria, Louisiana (judgefoote@centurytel.net)

Tired of the Domestic Court carnage? Frustrated by having to make big decisions with little information? Wondering why we, the Family Court Judges, are called on for solutions for people who can't acknowledge the problem? Ever think the judiciary can be a leader in beneficial social change?

As a District Court Judge with family jurisdiction I answer yes to all of the above. Now there is an alternative becoming available that removes the emotional and psychological aspects of divorce from the litigation arena leaving us to deal with recognizing the legality of agreements reached. It is the collaborative process.

The idea is simple. Parties, lawyers, mental health professionals and experts agree at the beginning they will not proceed to court. All efforts are spent on defusing the emotional tensions and collaborating on what the best resolution should be. If it fails parties can become litigants, but with other counsel. Emphasis is on zealous collaboration, not adversarial pursuits.

It may sound radical, but it works. Lawyers feel threatened at first, but quickly realize the benefits of controlling the case free from court directives. Courts may be skeptical, but the movement is sweeping the country and it is time we learn about the process.

I write this letter to introduce you to the concept of judicial involvement in this divorce/custody alternative. We know lawyers are resistant to change. We also know lawyers will listen to **and try** what a Judge suggests. We are agents of change and this is the chance to lead from the bench.

In the space of one letter I cannot start to explain the emotional, psychological, financial and health benefits to the clients, lawyers, and judges. I can tell you that a successful collaborative divorce handles custody, support, visitation and property issues with less than an hour of judicial time invested. We can clear dockets and better the lives of children at the same time.

The International Academy of Collaborative Professionals is sponsoring a forum to explore and develop this emerging field. The site is Vancouver, B. C. and the dates are October 17-19, 2003. Details will be posted at <http://www.collabgroup.com> under the events link. Save these dates now as you learn more about the movement.

I have been working for over a year and have learned both the power of the court to positively introduce social change, and the difficulty in changing the popular culture of domestic conflict. Central Louisiana is pioneering a court-based model for collaborative divorce.

I will be hosting a judges-only workshop at the Vancouver meeting. We will discuss the good politics that come from public perception of judicial outreach, procedures for starting local groups, problems to anticipate and protocols for staying in touch with each other as we blaze new trails. We will have our own brainstorming time as well as access to all of the other workshop sessions

This has been one of the more exciting opportunities to come along since I have been on the bench. If you answered yes to more than two of the first questions, you should consider coming to the forum and think about bringing some of your local family lawyers as well. We can make a difference!

Forum information is available at www.collabgroup.com (direct link is www.collabgroup.com/vancouverconference.htm) or from Paula Jackson, paula@gneo.net

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FastRead© Book Summaries for Busy Managers

Today's Book:

Follow This Path by Curt Coffman and Gabriel Gonzalez-Molina, Ph.D.,
The Gallup Organization, Warner Books, Inc., 2002.

Over half of the U.S. workforce is not engaged in their work.

This conclusion was reached by the Gallup Organization after intensive and extensive research and analysis of data gathered from over 200,000 managers, 3,000,000 employees (from 1995-2001), and over 300,000 business units from hundreds of organizations in a wide range of industries worldwide.

A **not engaged** employee meets the basic requirements of a job with little enthusiasm and minimal commitment. On the other side of the coin, approximately 30 percent of the workforce has been described as **engaged**, employees who use their talents every day to achieve consistent levels of high performance and are emotionally committed to their work.

But, the authors point out, that leaves 16% of the workforce who are considered to be **actively disengaged**, workers whose normal reaction starts with resistance, are isolated, and, through their actions and inactions, may actually sabotage any real progress made by engaged workers. Even more alarming, the disengaged figure may be as high as 29% in the government sector.

Active disengagement costs from \$254-\$363 billion annually.

The lost productivity cost of active disengagement represents \$3400 per \$10,000 of salary, based on a model described in the book. Therefore, an actively disengaged employee earning \$30,000 costs the organization \$10,200; the cost of a \$50,000 employee is \$17,000.

Emotional engagement drives productivity and loyalty.

To simplify a very convincing and much more thorough rationale on the positive impact of emotional engagement on the bottom line: Customers recognize and resonate with the passion and commitment of engaged employees, which bonds the customer more tightly to the organization than price, alone, and leads to greater customer loyalty, sustainable growth, and greater profitability.

How does a manager influence emotional engagement?

Managers can set the stage for emotional engagement by allowing employees to use their natural talents on the job every day and creating a culture that meets twelve very specific conditions – factors that emerged through a mammoth research effort by the Gallup Organization. These conditions are thoroughly explained in *First, Break All the Rules* (by Marcus Buckingham and Curt Coffman, Simon & Schuster, 1999) and summarized in chapter five of *Follow This Path*. The factors, together, create a strong foundation for management training in any organization.

Start with talents.

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Based on the premise that knowledge and skills can be learned but talents are natural predispositions, the authors suggest that hiring for talent is a more predictable indicator of superior performance. Because *everyone* has a unique set of talents, a manager's challenge (and obligation) is to identify those talents and to find the role in which they can be put to their best use.

What exactly do the authors mean by talents? You'll have a better idea after exploring their thirty-four talent themes, or "routes to superior performance," which are divided into four groups: relating, impacting, striving, and thinking. This list (summarized in chapter two) is an updated version of the original talents described in *Now, Discover Your Strengths* by Marcus Buckingham and Donald O. Clifton (The Free Press, 2001).

Manage emotions.

Great managers have a personal relationship with each employee. That means they know what motivates and what stifles the individual. They let this knowledge guide their management style and interactions.

Using the engagement profiles described in the book, a manager can identify the engagement level for each employee. For example, not engaged employees concentrate on tasks rather than actual goals, while engaged employees focus on the ends more than the means. With this information, a manager can focus on specific strategies for influencing engagement, several of which the authors share in chapter six.

Follow This Path is the third book published by management and organizational development experts from the Gallup Organization. It is filled with sobering statistics about productivity leaks and excellent advice for stopping them.

Marguerite Stenquist, President of Support Systems Group, Inc., is a corporate trainer and curriculum developer working with a wide range of businesses, associations, and government agencies. She can be reached at ssgroupinc@aol.com, phone 303-639-5704, fax 303-639-5708.

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Qui Tacet Consentire

. . . or the dog ate my course evaluation

By Hon. William P. Williams

One more confession

My last column was a confession. I confessed my fondness for judicial education. Unfortunately, I am now compelled to confess conduct of a darker sort -- for the past five years I have been attending various educational programs without turning in any course evaluation forms.

I should feel guilty, and I do. Still, I hope that the following will somehow explain my egregious shortcomings.

First of all, it's important to know that, in my younger days, I turned in evaluation forms with unerring reliability. My favorites were the "circle the number" and the "color in the bubble" types. It seemed that these forms were designed to mathematically objectify virtually every nook and cranny of the educational experience. Indeed, everything from the legibility of the written materials to the ambient room temperature could be assigned a numerical score, usually on a scale ranging from a high of seven to a low of one. I imagined a score of seven to be comparable to a sublime experience -- an afternoon on the beach in Tahiti or perhaps a bracing swoosh down the slope at Jackson Hole. Conversely, a score of one implied something unhappy -- a root canal, the heartbreak of psoriasis or an agonizing itch.

My first evaluation lapse came when I had to venture beyond coloring and circling, confronted with a form calling for "helpful comments." I couldn't think of any "helpful comments." To make matters worse, the course administrator, head presenter, boss, etc., proceeded to explain that comments were expected. "Your comments make it possible for us to improve this course for future students," the boss said. Wow, talk about pressure. Not only was I devoid of anything to say, but my silence was likely to be harmful. Future students would be stuck with an unimproved course, and I was culpable. Rationalizing that I would become a competent evaluator in time for the next educational event, I palmed my naked form and skulked out the door.

Going to the well

I decided that I might be able to cure my writer's block by studying the evaluations prepared by other judges. There was an uncomfortable sense of voyeurism or snoopiness at the outset, but this feeling quickly changed to one of relief. It turned out that I was not the only judge guilty of evaluation evasion -- often as many as one third of the judges would fail to supply evaluations.

Moreover, of the evaluations that were completed, many did not contain written comments. And, of the comments presented, most were pretty general. I felt as if a great weight had been lifted. I went around whistling to myself for a week, knowing that I was not the only impediment to the improvement of future courses.

Still, there were a few instances where I found comments suggesting an effort to be chatty, if not instructive ". . . missed a spot shaving, genuinely fine face though . . . power point slides visually stunning, detract from mundane subject matter . . . brown tap water at hotel seems OK for bathing . . . my

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first experience with a presenter wearing sandals, rethinking my position on black toenail polish....” I had to concede that the experiences giving rise to such comments might not be afforded adequate articulation within the “circle the number” and “color the bubble” formats. A question remained, however, as to whether the accumulation of such sparse comments was particularly helpful.

Ultimately, my review of other judges’ evaluations was a disappointment. I just couldn’t find my muse. It seemed that the majority of my colleagues viewed the process as a meaningless ritual.

Why we fail

So, why are most of us so inept at articulating responses to various presentations? Well, first of all, it’s important to realize what is occupying the conscious thoughts of students during the course of every educational presentation. The subject matter is always vying for the center ring of attention, but the competitive acts can be compelling.

For example, the thoughts of male students may periodically focus upon the subject at hand, but only as a stop inserted into the rotation of sequential musings upon life’s most vital subjects: sex, food, money and cars. And, while I lack the experience to know if the vital subjects considered by women are similar to those of men, I am told with some reliability and consistency that most women could adopt an amended version of the men’s list if (1) sex were afforded marginally less emphasis and (2) cars were scratched in favor of shoes. Also, beyond the usual distractions, individual men and women are likely to be thinking about any number of unique and imminent concerns -- “I think I forgot my room key . . . If my son throws a party while I’m gone, the house will be trashed . . . Whoa, I shouldn’t have had those Huevos Rancheros for breakfast!”

The point is that there’s a lot of information to process during an educational presentation. Just absorbing the gist of the subject matter is a lot to expect from someone already encrusted with the memories and experiences of at least half a lifetime. Moreover, no one (except possibly another educator) approaches an educational presentation with the intention of becoming a reliable historian. Similarly, no one (except possibly a dyspeptic dweeb) approaches an educational presentation with the intention of becoming a critic.

Qui tacet consentire

Given the prevailing laconic bent of the judiciary, it’s possible that the best evaluation might be silence. There is lasting wisdom in the Latin phrase, *qui tacet consentire*, silence gives consent. After all, judges begin as lawyers -- regular contestants in the tournament of kvetch, trained to pulverize smugness and complacency with an arsenal of whiny weapons of mass destruction. For such a group, so armed and so trained, to respond with silence is a supreme compliment. Silence should be celebrated by educators as evidence of a job well done.

So, rather than trolling for insightful written evaluations, educators might do better to simply learn what all judges already know. Indeed, every judge already knows the “Top Ten Signs that you’re at a Bad Educational Program,” and educators are certain to succeed if they avoid common pitfalls. The “Top Ten Signs” are:

10. You’re instructed to bring your gavel for the “Whack – A – Mole” competition.
9. During check-in at the event hotel you’re supplied with a bottle of Pepto Bismol and a fly swatter.

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8. The first presenter employs the Socratic Method, responding to questions posed by the voices in his head.
7. The second presenter gives a “pop quiz.”
6. O.J. appears to update his progress in finding “the real killers”
5. The guys from Utah sit in the back and throw spitballs.
4. The Responder System is rigged to emit electric shocks for wrong answers.
3. The after-dinner entertainment is a “Texas Cage Match” between Tonya Harding and Justice Ruth Bader Ginsburg.
2. Justice Scalia insists upon taking the rookie judges on a snipe hunt.
1. Statements like “...the dog ate my evaluation form...” get you a whack from a nun with a ruler.

Judge Bill Williams has taught at the National Judicial College, and he is a frequent speaker and lecturer at law schools, CLE programs, public forums, and legislative hearings. Additionally, he has chaired the Education Committee for Virginia Juvenile and Family Court Judges, and is co-editor of the Benchbook for Virginia Judges. As a passionate advocate for the protection of children, Judge Williams serves on the Board of Directors for the Child Abuse Program at the Children's Hospital of the King's Daughters. He is also a member of the International Society for the Prevention of Child Abuse.

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The NASJE Mentoring Program and You

By Kay Palmer (Arkansas) and Liz Strong (Colorado)

“Transition to something new and unfamiliar can create feelings ranging from excitement to terror. This is especially true when someone makes a transition into a new professional position. For most people, transitions take time and any assistance or support in becoming familiar with the new environment is greatly welcomed. It is in this spirit of supportiveness that mentoring gains its meaning.” Karen Thorson, then NASJE president, wrote this in a letter that accompanied the NASJE mentor manual written in 1997.

Now fast forward to the year 2003, where most state judicial branch organizations are facing unprecedented fiscal challenges. Changes and challenges force us to rethink the whats, whys and hows of our jobs. In a time when we are all searching for ways to make our education dollars stretch while maintaining the integrity of our programs, mentoring is the solution to shortening the learning curve and socializing new judicial branch educators into the profession. Whether we are young to or seasoned in the profession, we all benefit by talking with someone else who walks in similar shoes. The fact that we are all busier than we were is one of the growing pains of a developing profession. That barrage of activity may leave us unable to provide the necessary time and energy to cultivate the new judicial educators and support the very ones who have built this organization. In “the early years” of NASJE, judicial educators relied heavily on colleagues to learn how to do their jobs. This informal mentoring process grew into what is now a value-added benefit of being a NASJE member. By participating in the NASJE Mentoring program, new judicial educators, in particular, develop priceless relationships in addition to being given the tools they need to develop necessary skills.

The NASJE Mentoring Program is a benefit that can assist members’ progress through the many changes and challenges facing our profession. As Karen Thorson put it, “the mentoring process can change the stress of transition into building friendships, learning about the challenges of what is new and gaining knowledge of one’s own capabilities....”

For more information on the NASJE Mentoring program, please contact Ellen Marshall (Marshknop@aol.com) the Chair of the Mentor Committee. Ask her about attending the optional mentor training on Friday afternoon, August 22 in Reno.

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Traffic Issues In The 21st Century: Judicial Education on Racial Profiling and Pretext Stops by Mary Ann Aguirre, Program Attorney

What is something that 60% of communities believe exist and something that 60% of our nation's police chiefs do not believe exists? Racial profiling and pretext stops. A case in New Jersey garnered national attention this year and is illustrative of the problem.

Two white state troopers in New Jersey avoided prison earlier this year by pleading guilty to lesser charges in a shooting of three black men. The police officers alleged that they had been trained and encouraged by their superiors to target minorities. The officers plead guilty to official misconduct and providing false information and were each fined \$280 dollars, after being initially charged with aggravated assault, and in the case of one officer, attempted murder.

To avoid litigation by The United States Department of Justice, an agreement was reached and New Jersey agreed to several reforms, including steps to monitor the race of motorists stopped by troopers. Under the terms of the settlement agreement it was reported that the state and not the troopers acknowledged responsibility for the environment that led to the shootings. The police fired eleven shots at a van that was pulled over for speeding. The police said that the van was trying to run them over. The case sparked accusations that state police targeted minority motorists for searches.

The National Judicial College is offering several new cutting edge traffic safety courses for our nation's traffic judges in 2003. Most recently, on May 5-9, 2003, traffic judges from across the country joined together to attend the *Traffic Issues In The 21st Century* course. The course touches on several new and dynamic topics, including judicial education on the issue of racial profiling and pretext stops. An incredible panel of experts led the discussion on this hot topic.

Law Professor David Harris, is the nation's leading expert on racial profiling and author of the book: *Profiles In Injustice: Why Racial Profiling Doesn't Work*. He begins the discussion with an overview of the studies that have been conducted in our country on the issue of racial profiling and demonstrates how racial profiling is ineffective as a law enforcement tool and, in fact, detracts from effective police work.

Captain Ron Davis, of the Oakland Police Department, is a dynamic speaker and his message is a strong one. He defines racial profiling as biased-based policing. Biased-based policing occurs when race is considered as **a factor** in deciding to stop someone or be suspicious of someone. Captain Davis is in a unique position to comment on the topic since he says he has "engaged in it" and he is now responsible for overseeing police departments and their efforts to combat racial profiling. Captain Davis tells of a recent situation in California where 900 arrests for drug possession were made. It was determined, however, that 34,000 motorists (mostly Black and Hispanics) were stopped to yield 900 arrests. Those arrests amount to about a 3% hit rate. Captain Davis discusses two major themes. First, how good police work should focus on "suspicious behavior" and not someone's race. Second, how racial profiling interferes with the police's need to foster good relations with the minority communities within their jurisdiction.

Maria Blanco, Senior Counsel for the Mexican American Legal Defense and Education Fund in Sacramento, shared several key cases involving Hispanics and the use of roadblocks as a pretext for local law enforcement officers to determine the immigration status of individuals. She also addresses cases, where Hispanic American citizens have brought litigation under the equal protection clause, not due to the initial stop (i.e. a broken headlight) but for the officer's inquiry into the immigration status of the Hispanic citizens in the vehicle. It has long been the policy of the Immigration and Naturalization Service

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that local law enforcement officers do not have jurisdiction to inquire into the immigration status of individuals. However, this policy is currently under review and may be changed.

Judge David Matthew Krashna served as lead faculty and was instrumental in putting the panel on racial profiling together. Judge Krashna was elected to the Superior Court, County of Alameda, California in November of 2000. He previously served as a Court Commissioner of that court from 1992 to his election. He practiced law for 17 years as a legal services and private attorney. Judge Krashna earned his BA from the University of Notre Dame and his JD from Boalt Hall School of Law at the University of California at Berkeley. Judge Krashna joined the faculty of The National Judicial College in 2000.

During the California Traffic Adjudication Seminar in San Francisco, California, Judge Krashna was presented with an award from The National Judicial College, on June 9, 2003, for his outstanding efforts in judicial education on the issue of racial profiling. He was instrumental in leading the panel on racial profiling that is part of the *Traffic Issues In The 21st Century* course.

For more information regarding the college's traffic safety courses, please contact Program Attorney, Mary Ann Aguirre at 1-800-25-JUDGE (Ext. 210).

Mary Ann Aguirre joined The National Judicial College in December of 1998. Her work at the College relates to projects conducted on behalf of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration. She developed the "Courage To Live Program" an award winning national outreach and judicial education and training program to combat underage drinking and driving. Ms. Aguirre graduated from the University of California at Berkeley with honors and is an honor graduate of Hastings Law School in San Francisco.

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Websites, the discussion continues

In the Spring, 2003 issue of *NASJE News*, the Tech Corner briefly discussed websites and their usefulness to judicial educators. The discussion continues, yet here the focus is what information websites may, should, or could disseminate to constituents through the use of a website. Websites, of course, are incomparable when looking at the speed in which information can be disseminated. Information can be posted on a website in a matter of minutes, versus using paper which many times takes days, if not weeks, to do. This is particularly vital in judicial education. The information we teach changes, whether it be a new precedent set by an appellate court or a change the legislature has made, our constituency needs to know the instant that the information is available.

Before we go on, a little more introduction may be helpful. In 2001 Texas Municipal Courts Education Center (TMCEC) realized that their website was outdated. A committee of various persons throughout the agency was formed to evaluate what other websites were doing, if what they were doing was working, and if what they were doing was appropriate for our website, given our mission statement of *instant access to information*. Having completed this extensive overview of website structure and only applying it within our organization, I would now like to share with you what our committee decided were the best website structure ideas. Whether your agency does not have a website, or has one and it is time to update it, the following information should be useful.

What's New

I mentioned above that the speed at which we disseminate information is vital. This was our first challenge as a committee: how do we let our constituents know what is new, what they need to know now, or what has changed? We decided that on the left side of our home page we would have a *What's New* section. As you can see below, we post various types of information: what TMCEC is doing now, the latest Texas Attorney General Opinions, and upcoming seminars. We quickly found that the use of this section decreased the amount of money it was costing to do mail outs. Often, the information is so important that posting it on the website is not enough; a mailing of the information still needs to be done, but instead of a large brochure or information packet, we instead mail out a postcard notifying our constituents that the change has taken place and to visit our website for more information.



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Constituent Pages

As the committee continued to brainstorm, we liked the idea of drop down menus—areas that when your cursor is on the word, a menu appears of more options—and we continuously chanted our mission statement, *instant access to information*. We wanted to do whatever it took to make our website easy to navigate. Our resulting answer was to break the subject matter into constituent groups and to have a drop down menu for each of the constituents that we educate (for us that meant judges, clerks, prosecutors, and bailiffs). Therefore, if a judge is on our homepage and wants to access information regarding some aspect of our judicial training, a menu (see below) allows him or her to easily find that information.



Seminar Information

Again, a website should be a place on which your constituents can find all the information they may need. We found that many of our daily calls were questions about our training, dates, locations, directions, etc. We devoted a drop down menu to seminars, but according to the amount of information that you need to disseminate, one page may be sufficient, particularly if all of your seminars are handled at one training site. We mail out an academic schedule at the beginning of each academic year with all of our training information for the year. For the last few years, we have also posted the academic schedule on the website. Simply by posting this information we have eliminated the faxes and mailings that we were doing regarding this one document. The committee found websites useful when they linked to a map of the training site and when directions were on the website. We have attempted to incorporate this as much as possible, without it being too time consuming.

Publications

Access to information was important to our committee. Information to us included our publications. If your agency mails any publications, they should all be available on the website, if not in its complete form, then an order form with instructions on how to order the publication. We often we get calls from constituents, other training centers, and the public requesting copies of articles that were in our newsletter. Sending them to the website for access is easier than locating a hard copy of the article in question and then faxing or mailing that article. Although TMCEC has not incorporated this tool yet, the committee also found that a search tool that specifically searches the publications would be helpful.

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Links

The committee liked websites that listed relevant links. Why? Because if we were a constituent to that agency, we could make their page our homepage on our computers and almost always get where we needed to go on the world wide web from that one page. For our constituents, whether they are looking for links to other government agencies, the Code of Judicial Conduct, or just going to *Google*, they can start at www.tmcec.com and link to all of the above information.

About Us

Contact information for your organization may be the most important aspect of your website. There is little that frustrates me as much as when I finally find the organization I want on the web and there is no contact information! The committee all agreed that a useful and friendly website should contain the basics: address, phone number, and a map to the listed address. But you can go further, listing who does which duties and how to contact those persons directly, bios for your staff, or whatever you are comfortable providing to the world. Remember, though, your constituents aren't the only ones who have access to your page.

A few final thoughts: be careful not to use colors that are displeasing to the eye, don't make the site too busy, and keep it simple (not the information, getting to the information). These are just a few of the ideas that we found when revising our own website. If your agency does not have a website yet, building one is as easy as 1-2-3. Look for software that is easy to use, such as *Microsoft FrontPage*. There are other issues to consider, such as who will host the website and who will maintain the site. For more information on building a website, look at *Launching Your Court on the Web* in the February 2002 issue of *The Recorder* at <http://www.tmcec.com/recorder.html> (see how easy that was). We look forward to your visit.

Jo Dale Bearden is the Program Coordinator for the Texas Municipal Courts Education Center. She was brought up in a rural area outside of Birmingham, Alabama, but came to Austin for its fine higher education institutions. She graduated from Saint Edward's University with a Bachelor of Arts in Criminal Justice. She went on to receive a Masters of Science in Criminal Justice from Southwest Texas State University. Ms. Bearden has authored several articles for The Recorder, a TMCEC publication, including the Tech Corner and court security articles.

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360-Degree Feedback: Are You Using This Tool in Your Court Organization?

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Introduction

360-degree feedback – or multi-rater, full circle feedback – is used in most Fortune 1000 companies today to develop executives, managers, and staff. Increasingly, public and smaller, private sector organizations are using 360-degree feedback due to the proven benefits, ease of administration resulting from technological advances, and reduction in overall costs of 360-degree feedback surveys.

Courts too can benefit from using 360-degree feedback with judges, court administrators, managers, and staff. Human resource professionals, judicial educators, and other leaders in court organizations can be instrumental in integrating 360-degree feedback into existing development, mentoring, and coaching programs. This article presents a brief overview of 360-degree feedback including: (1) what it is; (2) how the 360-degree feedback process works; (3) uses of this effective feedback tool; (4) benefits of 360-degree feedback; and (5) suggestions for getting started.

What is 360-Degree Feedback & How Does the Process Work?

360-degree feedback is a tool that systematically collects opinions about an individual's performance and behaviors from multiple sources. It is a process of soliciting anonymous feedback on key competencies and desired behaviors of an individual from a wide range of coworkers, providing the individual with a full circle, panoramic view of his or her performance. Used as a developmental tool, 360-degree feedback helps individuals identify and/or validate their strengths and areas for improvement including blind spots. Ultimately, 360-degree feedback helps an individual enhance his or her performance, and improve behaviors and overall effectiveness in key competency areas.

The process for conducting 360-degree feedback is as follows. Once an organization has decided to use 360-degree feedback and has decided on the survey instrument, the individual receiving the feedback selects between 10 and 20 raters to participate in the feedback process. Using criteria provided by the 360-degree feedback facilitator, the individual selects raters who usually include his or her boss, several peers, several people who report directly to him or her, and others inside or outside the organization (e.g., attorneys, other department heads) who have experience working with the individual in a variety of circumstances.

Next, the raters, along with the individual who identified them, complete a paper/pencil or online survey about the individual's performance and behaviors in key areas. For a presiding judge or court administrator, the 360-degree survey might focus on key competencies and behaviors such as leadership, management, strategic planning, budget/finance, communication, and the like. For a judge, the 360-degree survey might ask questions about courtroom performance and behaviors such as

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punctuality, efficiency, impartiality, courtroom demeanor, case management practices, and knowledge of the law and procedures. A 360-degree feedback survey for managers might focus on important competencies and behaviors such as management practices, knowledge of court procedures and caseload management, and developing teams and teamwork.

The 360-degree feedback facilitator then gathers or downloads the surveys, compiles the data, and prepares the feedback report for the individual, which is given to the individual in a facilitated small group or one-on-one session. With the assistance of the 360-degree facilitator, the individual reviews and analyzes his or her comprehensive feedback report, identifies and summarizes his or her strengths and developmental areas, identifies areas where he or she needs additional or clarifying information, and completes an Individual Improvement/Action Plan. Following the feedback session and based on the feedback results, participants are provided with ongoing support, individual coaching, and challenging developmental opportunities. Finally, there is follow-up with each person to review progress on his or her Improvement/Action Plan and the 360-degree feedback survey is re-administered in approximately a year to assess improvement and change.

Uses of 360-Degree Feedback

Although 360-degree feedback is used with staff at all levels of an organization, it is most frequently used with senior executives, managers, and staff in critical positions. In court organizations, it can be used with chief judges, supervising judges, court administrators, managers, and selected key staff. It also can be used with individual judges to provide them with important feedback about their courtroom performances and behaviors.

360-degree feedback is best, and most commonly, used for developmental purposes. That is, it is a voluntary process that provides individuals with essential feedback to help them identify their strengths and improvement needs, and ultimately, improve their effectiveness and behaviors in key areas. The feedback is “owned” by the individual, not the organization. This provides the requisite trust, openness, and supportive environment needed for an effective 360-degree feedback process. Specific uses are listed in one of the highlighted sidebars.

Uses of 360-Degree Feedback:

1. Developing leaders and managers.
2. Developing individual judges.
3. Succession planning.
4. Developing teams.
5. Identifying training and development needs.

In some organizations, 360-degree feedback is being used for formal performance appraisal, job placement, pay, and downsizing. There is considerable debate over using 360-degree feedback for these purposes. The evidence shows that when 360-degree feedback is linked to pay and other personnel or administrative decisions, trust in the 360-degree feedback process is undermined, rater responses tend to be more lenient, and unacceptable bias is introduced into the ratings.

Benefits of 360-Degree Feedback: Why Court Organizations Should Use 360-Degree Feedback as a Developmental Tool for Judges, Managers, and Staff

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There are many reported benefits of using 360-degree feedback in organizations today. A few of the documented benefits are listed below.

1. Participants report receiving more meaningful feedback. 360-degree feedback is reported as being more meaningful and “developmental” than annual performance appraisal reviews because the feedback is provided anonymously, from multiple sources, and for the purposes of helping the person improve in key areas. In addition, the process is authentic; it is tied directly to relevant job competencies, results, and behaviors. Furthermore, when used for developmental purposes, 360-degree feedback is divorced from standardized performance appraisal forms and ratings and linkages to pay and other personnel decisions.
2. Participants report receiving more honest and formal feedback. Many people in organizations do not get honest feedback due in part to their position in the organization (e.g., judge, senior manager, elected official) or because the feedback is provided in a too informal or hit-or-miss process. 360-degree feedback is a systematic way to provide formal, developmental feedback to key managers and judges in court organizations. It may be the only time a judge or senior manager consciously pauses to reflect on his or her performance and behaviors in key areas.
3. 360-degree feedback is more complete, balanced, and representative than traditional performance appraisal feedback. The feedback provided through a 360-degree process is more complete, balanced, and representative than performance feedback from one person (e.g., usually the boss) because the ratings come from many sources. Feedback from a wide variety of persons provides a judge or manager with a broader, more representative view of his or her performance than traditional feedback from only the boss. The potential for bias is reduced in a 360-degree feedback process.
4. 360-degree feedback is a safe and constructive method of providing and receiving performance and behavioral feedback. 360-degree feedback helps reduce the interpersonal threat of face-to-face feedback for all parties. It is a non-threatening way for individuals to provide someone with anonymous, candid, and constructive feedback.

Tips for Getting Started

Before implementing a 360-degree feedback process, it is first important to assess the readiness of your court organization. “Ready” organizations are characterized by: (1) a high level of trust in the work environment; (2) a desire on the part of judges and managers to receive honest, developmental feedback; and (3) demonstrated commitment from the court’s leadership to invest in judge, leadership, and management development and ongoing support, learning, and coaching.

Second, it is important to enthusiastically communicate important information about the 360-degree feedback process to everyone in the organization including: (1) the purposes of the 360-degree feedback process; (2) why the court organization is implementing it; (3) how the feedback data will be used; (4) who is eligible to participate; and the like.

Selecting or developing a 360-degree feedback survey, which ultimately should be designed around or include the critical competencies and desired behaviors of specific court positions that will be participating in the 360-degree feedback process, is a key step in getting started. Due to the nature of courts, a customizable survey will likely be the best choice. It will allow court organizations to adapt the survey to include unique competencies of judges, court administrators, and court managers. In addition, careful consideration should be given to the costs of the survey, ease of administration, the data that are reported and how the data are displayed in the feedback report, and benefits and limitations to the survey

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software. There are literally hundreds of surveys available for consideration ranging generally in price from \$100 - \$500 per person (it should be noted, however, that there are some standardized leadership and management surveys that can be purchased for less than \$100 per person and there are others, both standardized and customizable, that cost more than \$500 per person).

Conclusion

360-degree feedback is a powerful, proven tool courts can use to help develop judges, court administrators, and managers to bolster individual and thus, overall court performance. Used in a developmental capacity, it encourages self-awareness, which is the foundation for individual improvement, by helping individuals identify their particular strengths and improvement needs followed by challenging assignments and ongoing support or coaching. For courts as organizations, it provides an accepted and increasingly used method for translating key performance areas, goals, or values into specific individual performance expectations. In short, 360-degree feedback helps align and improve individual performance in key areas to assure organizational success.

Examples of 360-degree surveys:

2020 Insight Gold (Performance Support Systems) – customizable survey.

<http://www.teambuildingne.com/index.html?2020ig>

Leadership Practices Inventory (James Kouzes, Barry Posner, with the Tom Peters Group/Learning Systems) – standardized survey. http://www.josseybass.com/WileyCDA/WileyTitle/productCd-0787939811_descCd-authorInfo.html

Benchmarks (Executive level) and Skillscope (Manager Level) (Center for Creative Leadership) – standardized surveys. <http://www.ccl.org/cgi-local/SoftCart.exe/online-store/scstore/c-Feedback.html?L+scstore+cpkm3646ff008200+1057258020>

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i. I have sometimes used a clip from "Annie Hall" to make this point and set a tone at the beginning of a course. In the scene, the two main characters, played by Woody Allen and Diane Keaton, are standing in line for a movie while a professor behind them pontificates on a certain director's style, what themes he is working with, etc. When Woody Allen's character can take it no more and confronts the man, the professor insists that he knows what he's talking about. Woody Allen's character then says that he just happens to have the director right there, at which point he pulls over a man who proceeds to tell the

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professor that he is the director, and that the professor knows nothing of his work, that he is just a pompous blow hard.

ii. Hamlet by William Shakespeare, A Tale of Two Cities by Charles Dickens, Moby Dick by Herman Melville, Movies: Gone With The Wind, A Few Good Men, The Godfather

iii. Characters created by Harper Lee, Herman Melville, Charles Dickens, Margaret Mitchell, and Arthur Conan Doyle.

iv. I will not pretend to offer legal advice on copyright issues here, just this caveat. Make sure you seek legal advice or research the issue thoroughly on how to avoid infringing a copyright, as to literature or film.

v. By Walter VanTildenberg

vi. See Endnote #4 above.

vii. Your best library of literature and film for purposes of judicial education is the one you build yourself from personal experience. If you are looking for some guidance and direction, however, you might want to take a look at the following references: *Law and Literature - An Annotated Bibliography of Law - Related Works* - Edited by Elizabeth Villiers Gemmette; *Law and Literature - Legal Themes and Short Stories* - Edited by Elizabeth Villiers Gemmette; *Reel Justice* - Paul Bergman & Michael Asimow; *Wigmore's 'Legal Novels' Expanded - A Collaborative Effort* - New York State Bar Journal, February 1978, Richard H. Weisberg and Karen Kretschman.