

NASJE NEWS

Spring, 2008

The International Organization for Judicial Training

You may have heard about IOJT - The International Organization for Judicial Training which was established to promote the rule of law by supporting the work of judicial education institutions around the world.

This is achieved through conferences and other exchanges that provide opportunities for judges and judicial educators to discuss strategies for establishing and funding training centers, designing effective curricula, developing faculty capacity, and improving teaching methods.

The IOJT is a voluntary, non-profit organization and relies upon the efforts and good will of its members.

You are invited to visit our website at: www.iojt.org

This website includes an overview of the organization's history and structure, updates on activities held by the IOJT and its members as well as information of how to join the organization. Visitors will also find links to member organizations, materials from past conferences, and other judicial education-related resources.

We hope you enjoy the website and we invite you to join the IOJT.

Please note that currently, joining the IOJT does not involve any membership fee.

Please feel free to contact us at the e-mail address indicated below, if you have further questions.

We look forward to hearing from you.

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OJJDP Update

OJJDP Report Reviews Title V Program

The Office of Juvenile Justice and Delinquency Prevention has published "2004–2005 Report to Congress: Title V Community Prevention Grants Program." Established by Congress in 1992, the Title V Program supports state and local efforts to reduce risk factors associated with juvenile delinquency and enhance protective factors that promote healthy personal and social development. This Report reviews the background of the Title V Program; highlights Federal, state, and local activities in 2004–2005; and outlines OJJDP's plans for enhancing the impact of Title V.

Resources:

1. Print copies of "2004–2005 Report to Congress: Title V Community Prevention Grants Program" (NCJ 215559) may be ordered at <http://www.ncjrs.gov/App/Publications/AlphaList.aspx>. For quick access, search by document number.
2. The Report is also available online at <http://ojjdp.ncjrs.gov/publications/PubAbstract.asp?pubi=237144>.

OJJDP News @ a Glance, March/April 2008

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces the availability of "OJJDP News @ a Glance," March/April 2008. The bimonthly newsletter provides readers with news about OJJDP activities, publications, funding opportunities, and events.

This issue's lead article features recent OJJDP conferences that reached out to faith-based and community organizations. The issue also reports on OJJDP Administrator J. Robert Flores' remarks to the National Symposium on Child Abuse and a working group promoting Internet child safety and describes OJJDP's upcoming National Youth Gang Symposium.

Resources:

1. "OJJDP News @ a Glance," March/April 2008 (NCJ 222388), is available online at http://www.ncjrs.gov/html/ojjdp/news_at_glance/222388/index.html.

Transitions

Please join us in welcoming the following new NASJE members:

- Ms. Brondi Borer, Judicial Trainer, The Williams Institute- UCLA School of Law, Los Angeles, CA
- Ms. Kimberly DaSilva, Publications Attorney, Administrative Office of the Courts, San Francisco, CA
- Ms. Lisa M. Galdos, Special Consultant, Education Division, Administrative Office of the Courts, San Francisco, CA
- Ms. Ileen D. Gerstenberger, Court Services Educator, Administrative Office of the Courts, Olympia, WA
- Ms. Joy Lyngar, Academic Director, The National Judicial College, Reno, NV
- Hon. Mark R. Schweikert, Executive Director, Ohio Judicial Conference, Columbus, OH

From the President

I have the great pleasure in this column to share with you a sneak peak at the upcoming conference. The dates of the conference this year are **August 10-13, 2008**. It will be held at the Double Tree Hotel in Philadelphia, Pennsylvania. Rooms are \$159 plus tax per night.

The conference registration information is available elsewhere on this website. Soon we will be sending out full information about the conference, but I wanted to spend this column covering some of the highlights. As in past years, the first day, Sunday, will be our new member track *Fundamentals of Our Profession*. Although the entire agenda is really quite exciting, there are a few things, in particular, that I wanted to highlight.

The first is a very exciting keynote speaker who we having coming. She is Judy Shepard. She is the Executive Director of the Matthew Shepard Foundation. As I am sure you will recall, Matthew Shepard was a gay man and a student at the University of Wyoming who was fatally attacked near Laramie, Wyoming on the night of October 6, 1998. Shepard died from severe head injuries a few days later. His murder brought national attention to the issue of hate crime legislation at both the state and federal levels. Judy Shepard travels across the nation speaking to audiences about what they can do as individuals and communities to make this world a more accepting place for everyone, regardless of race, religion, ethnicity, sex, gender identity and expression, or sexual orientation. Speaking from a mother's perspective, Judy focuses her efforts on the prevention of hate crimes and respect for everyone.

The evening following Ms. Shepard's keynote speech, we will also be showing the movie *Laramie Project*. The film follows, and in some cases re-enacts, the chronology of Shepherd's visit to a local bar, his kidnap and beating, the discovery of him tied to a fence, the vigil at the hospital, his death and funeral, and the trial of his killers. It mixes real news reports with actors portraying friends, family, cops, killers, and other Laramie residents in their own words. It concludes with a Laramie staging of "Angels in America" a year after Shepard's death.

Another great part of the conference is our dinner event, which will be held at the National Constitution Center. The Center is the first-ever museum dedicated to the U.S. Constitution and is the perfect place to hold our dinner. The Center contains 75,785 square feet of exhibit space that includes: *The Story of We the People* – the permanent exhibit in DeVos Hall and *The Freedom Exhibit Gallery*, which opened in June 2005, featuring changing exhibits including the Center's own *Lincoln: The Constitution and the Civil War*; the Ben Franklin 300th anniversary exhibit, *Benjamin Franklin: In Search of a Better World*; *Sports: Breaking Records, Breaking Barriers from the Smithsonian Institution*; *9/11: A Nation Remembers*; *Eyewitness: American Originals from the National Archives*; and *First Ladies: Political Role and Public Image*.

Lastly, on Saturday and Sunday the Phillies will be playing the Pirates at the Citizens Bank Park. Information about getting tickets and attending those games will be a part of the registration packet and is part of the website packet of information about the conference.

I cannot thank the NASJE Education Committee enough for putting together such a great agenda for this year! I hope you all can attend.

Robin
Your President

Guide for Continuity of Operations

The National Center for State Courts is pleased to announce a new Web site and Guide for Continuity of Operations (COOP) planning: http://www.ncsconline.org/D_Research/coop/. A COOP plan helps a court continue its mission essential functions when normal court operations are impaired because of a natural or man-made emergency. The Guide also includes information on planning for a pandemic. The Web site and Guide were developed with the assistance of a National Coalition for Emergency Management, representing 16 court and emergency management organizations, and support from the Bureau of Justice Assistance. The Guide walks a court through the process of developing a COOP plan and includes worksheets, a COOP plan template, and numerous links to online resources on COOP planning. Please take a moment to forward this announcement to those in your organization who might be interested in these new resources.

We also are in the process of developing an online distance learning program to augment the Guide. When completed, the program will be available under the "curriculum" tab on the Web site. We welcome feedback on these resources--please let me know if you have any suggestions.

Many thanks,

Pam Casey

Challenges for Judicial Branch Educators Ellen Marshall

Judicial Branch Educators (JBEs) not only plan training programs to support performance enhancement, but also to prepare judicial employees for litigation trends and re-engineered processes that keep pace with societal expectations. Like Janus of Greek mythology, we must look forward and backward simultaneously. This article will discuss tools that can make the forward-facing JBE more effective in spotting job demands. It will also identify some of the training topics courts must address in this increasingly technology-driven world.

The Office of Occupational Statistics and Employment Projections publishes data on employment trends. Its most current publication analyzed occupational data from 25-44 year olds in "High Wage, High Growth Occupations" taken from the **Current Population Survey or CPS**.¹ These figures apply to public and private sector employment.

Within this data set are some occupations found in many of our court systems. The growth projections span the years 2004-2014. Consider the following:

1. It is projected that there will be a 25.9% growth in the occupation Training and Development Managers from 2004-2014.
2. There will be a 24.1% increase in HR and Training Specialist occupations during this period.
3. Lawyers will increase by only 15%.
4. Network systems and data communications analysts will grow by 54.6 %. Court reporters will increase by 14.8%.

Court budgeting and planning is traditionally driven mainly by caseloads. Although this driver works for clerk of court operations, it is not always the best fit for budgeting for support occupations within the court system. Courts should consider other data, like occupational growth, to project how to allocate its fiscal and human resources.

These projections carry some alerts also for judicial branch educators and human resource professionals in our state, local and federal courts. While JBEs will be concerned about allocating a portion of their training budgets for these faster growing job classifications, human resources professionals might also be considering retention strategies for those professions so as not to risk losing experienced staff to private companies paying higher salaries and offering better benefits.

While many government entities, including court systems, cut back on money allocated to training during the past two decades, corporate America is recognizing that continuing professional education and workplace training is worth the investment. At the 2003 American Society for Training and Development's conference, Sandra Price, vice president of human resource development at Sprint, cited

her organization's philosophical shift from viewing the learning department as an operational, revenue-making center to one that is value-driven. Investment in education for the company's 72,000 employees has steadily risen over the past decade to \$120 million. The shift, Price recalled, "rocked our foundation" and changed how the learning function operated.²

¹ Source: "High Wage, High Growth Occupations..." Table 1-5 derived from the Current Population Survey, Office of Occupational Statistics and Employment Projections. Survey sample from 25-44 year olds, 2000-2004.

² "Training budgets said to be withstanding companies' economic troubles", *HR Magazine*, July 2003.

Another major influence on the JBE budget is the increasing use of technology in trials. Counsel more frequently use multi-media to demonstrate a scenario similar to one introduced by counsel as evidence in a medical malpractice case or major tort litigation. How do JBEs prepare courtroom personnel – judicial officers, courtroom clerks, bailiffs and court reporters – for their use and introduction as evidence? What instructions, if any, does a trial judge give to a jury when one well-financed party uses multi-media demonstrations to reinforce its case, in order to balance the positive effect of its use against its value for truth-telling? Do media techniques such as animation and introversion place new demands upon the trier of fact and courtroom personnel? Is it reasonable for a judge to bar such exhibits and how does the judge or jury evaluate their similarity to the situation it is intended to demonstrate? How does a court reporter capture the demonstration on the transcript? How does a bailiff maintain security in a courtroom where lights are dimmed for viewing such exhibits? What court rules must be in place to allow such demonstrations? Short of a visit to the Courtrooms of the Future in Williamsburg or Reno, how does the facilitator of these programs bring these technologies to a court audience?

Reproductive and DNA technology has advanced more rapidly than the law has been able to address its effects upon litigation. Courts have already grappled with the property and human issues these cases raise, and many state courts have been forced to turn to national and regional providers to meet training needs in these highly complex trials. Specialty courts and dockets grow as judges try to comprehend the scientific underpinnings.

Federal court JBEs continue to witness a rise in class action lawsuits against pharmaceutical companies as well as environmental and workplace litigation involving complicated scientific evidence. And, they will continue to grapple with the constitutional questions arising from federal detention and immigration questions since September 11, 2001.

It seems as if the entire educational landscape has moved from the more classic issues of search and seizure and hearsay to those involving a special set of knowledge and skills for which undergraduate and law school education has not prepared judicial branch personnel. JBEs must fill in those gaps.

For the past three decades, JBEs have grappled with the need to allocate increasing dollars on technology training for information technology and communications personnel working for the courts. Often those programs drink heavily from an education budget's consultant font, sometimes at the expense of leadership training and procedural updates. When there is intense competition for these funds, how does the manager of judicial branch training make a fair allocation of the money set aside for education?

In a court system dedicated to strategic planning, the disbursement of education funding, as posed above, becomes easier. Any of these training needs becomes a priority when it contributes to achieving the court system's strategic goals.

However, in the absence of strategic planning, JBE managers have become increasingly dependent upon the advice or direction of their boards or curriculum committees for investment in training. Many have walked the thin ethical line of accepting training provided by the industries that litigate these cases against the need to bring these cutting-edge courses to their state judges.

To avoid the labor of Sisyphus, state, local and federal court systems must recognize the importance of investing in attracting and retaining a talented professional pool and training those individuals for the demands of this technology-driven society.

Lessons From and For Experts

Kelly Tait, M. A.

Experts are examples of what successful learning looks like. Yet, as students and as educators, we know that experts are not necessarily good teachers. “Expertise can sometimes hurt teaching because **[many experts forget what is easy and what is difficult for students]**” (Bransford, et al, p. 44). While expert performance often depends on a depth of knowledge that gets people to the place where information and experience coalesce into “gut instinct,” the people who have gotten there may not be able to communicate what is actually happening at that intuitive level in a way that others can learn to do it, too.

In his book *Blink: the Power of Thinking Without Thinking* (2005), Malcolm Gladwell discusses when it's a positive attribute to follow your intuition -- with the caveat that “intuition” is actually a deep understanding based on prior experience. Most of the experts he describes had difficulty verbalizing how they knew something at this level. And even if they *can* describe it (perhaps more likely in our field than in others), that doesn't necessarily make them good teachers. So what does?

Research about expert performers can be used to improve judicial branch education sessions both by providing specific targets for successful learning from experts and by suggesting strategies to help experts become better teachers. I'll align some principles of experts' knowledge with practical tips on design of curriculum and training of faculty to take advantage of the window into learning and the brain that this research provides.

Key Principles of Experts' Knowledge (Bransford et al, p. 31)

1. **Meaningful patterns:** Experts notice features and meaningful patterns that are not noticed by novices.
2. **Organization of knowledge:** Experts have acquired a great deal of content knowledge that is organized in ways that reflect a deep understanding of the subject matter.
3. **Context and access to knowledge:** Experts' knowledge cannot be reduced to sets of isolated facts or propositions but, instead, reflects contexts of applicability; in other words, the knowledge is connected to when, where, and why they would use it.
4. **Fluent retrieval:** Experts are able to flexibly retrieve important aspects of their knowledge with little attentional effort.
5. **Experts and teaching:** Though experts know their disciplines thoroughly, this does not guarantee that they are able to teach others.
6. **Adaptive expertise:** Experts have varying levels of flexibility in their approach to new situations and their approach to continued learning.

Meaningful Patterns

Experts and novices approach the same content differently. Experts' extensive knowledge and experience affect what they notice and how they organize, represent, and interpret information. By “chunking” information into meaningful patterns, experts enhance their short term memories. All of this then positively affects their abilities to remember information, analyze situations, and solve problems.

Novices' short term memories fill rapidly, and novices tip easily into information overload. This is partly because they don't have a highly organized structure for the information or the sensitivity to meaningful patterns, so they can't “chunk” it the same way experts do. Also, the size of a chunk is

smaller for novices, who are likely to treat each detail as an individual chunk as opposed to combining related details into one chunk, for instance.

Since meaningful patterns are readily apparent to experts, and since people often assume that something that's obvious to them also will be obvious to others, experts as teachers might not:

- understand that novices likely don't see the pattern(s)
- realize that novices probably will have to work hard to find a pattern (if they are able to at all)
- be able to explain the pattern and/or how to find the pattern to novices

These are important points for improving instruction. **[Educators need to provide students with learning experiences that specifically target their abilities to recognize meaningful patterns of information.]**

- 📌 TIP: Teach the categorization frameworks to novices and test for recognition of problem types that involve applying the frameworks.
- 📌 TIP: Include some rationale for the patterns and assess the students' understanding of the rationale as well as the patterns.
- 📌 TIP: Start with what the learners bring to the learning task. Design training that builds on previous learning -- start new platforms from existing frameworks.

Organization of Knowledge

While experts' abilities to think clearly and solve problems quickly depend on a rich body of knowledge about the subject matter, a key element is that it needs to be *usable* knowledge. What makes it usable is that it's connected and organized around important concepts. These organized conceptual structures (or schemas) guide how problems are understood, represented, and responded to. Usable knowledge is not the same as a list of facts, but much teaching overemphasizes facts. Superficial coverage of a large amount of facts is a poor way to develop competencies in learners.

"Knowing more" means much more than having a large amount of knowledge about a subject. It means having more conceptual chunks in memory, more features defining each chunk, more interrelationships between chunks, and efficient methods for recalling related chunks as well as processes for applying them to problems in particular contexts (Bransford et al, p. 38).

Often there is an optimum "time for telling" – a point at which learners get much more from an organizing lecture, perhaps after they've had a chance to process some specific topic-related information. Because this might be at different times for different learners, it increases teaching effectiveness to return to organizing concepts throughout training to ensure a deeper understanding of those ideas and how individual ideas or pieces of information relate to them.

- 📌 TIP: Consider providing models of how experts approach problem solving. This can be particularly effective if the learners also get coaching in how to use similar strategies.
- 📌 TIP: Have instructors teach the core concepts or "big ideas" that guide the thinking in their field, revisiting them periodically during training and making the connections to them clear.

Context and Access to Knowledge

Teachers need to **[teach not just the information but WHEN it's appropriate to use it]** — in other words, the conditions under which something is useful. Don't let instructors forget that retrieval of knowledge can be as important as acquiring knowledge. Being able to access the information/strategy/principle at the *relevant* time in the *appropriate* context is vital, otherwise the knowledge is considered "inert." Highly knowledgeable learners are more likely than novices to make connections with prior knowledge and adapt that knowledge to new circumstances without prompting.

It's well established that people remember more when they have the opportunity to process what they've learned. "The advantage of spread out learning is large and reliable. Two study sessions with time between them can result in twice as much learning as a single study session of the same total length. Spaced training works with students of all ages and ability levels, across a variety of topics and teaching procedures" (Aamodt and Wang, p. 81). This is even more important for novices who usually do not have a systematic way to make sense of large amounts of information.

Training should connect to what the novices already know, an important element in the discussion of some of the earlier principles of experts' knowledge, as well. According to Dr. James Zull in his book *The Art of Changing the Brain: Enriching the Practice of Teaching by Exploring the Biology of Learning*, "The best way for teachers to help learners gain knowledge and understand is to find out what the learners already know ... and link the new information to the old, in essence wiring it to an existing neural network" (2002).

Experts as teachers often don't focus on the processing and application of the information and ideas in training because they focus overly on "covering" the content — and they know a *lot* of content. They need to know that covering too much actually buries it and makes it difficult to access. They also need to see *transfer* as a goal of teaching -- enabling learners to extend what has been learned in one context to other contexts.

- ✚ TIP: Encourage teachers to include contextual elements — the when, where, and why of using information and ideas. Also have them build in assessment techniques that test for these contextual elements. For instance, contrasting cases could be used to help learners notice features and to determine which features are relevant in different contexts.
- ✚ TIP: Caution instructors that it's easy to overwhelm learners with information, and encourage them to use teaching strategies that allow more processing. Use spaced training (training distributed over time) when possible.
- ✚ TIP: Use "prompting" — teachers should explicitly point out the connections between sets of information then move to graduated prompting and encouraging the *learners* to find and state the connections. For example, asking learners, "What does this make you think of?" "Does some part of this (new) information resonate with you?"
- ✚ TIP: Encourage "what if" thinking: What if this element changed? What if that part of the situation were changed? (etc.)
- ✚ TIP: If application of the information/ideas will be required after the program, require some application to be built in to the training.

Fluent Retrieval

"Knowing" at a deep level allows achieving tasks with less conscious effort partly because of fluent (relatively effortless) retrieval of information, which frees space in experts' working memories.

Novices have to expend significantly more attentional effort, and their focus is frequently on remembering rather than on understanding. Consider learning to drive a car. At first it takes full attention – novice drivers often can't drive and carry on a conversation at the same time. With experience, it's easy.

However, experience itself is not sufficient for expert performance, and sometimes it can actually hurt. When a person is on “auto pilot,” some errors are more likely to occur, including reacting on the basis of implicit biases, where a person might respond to categories rather than individuals and leap to “most likely” – but not necessarily correct – conclusions.

“Most doctors actually perform worse the longer they are out of medical school. Surgeons, however, are an exception. That's because they are constantly exposed to two key elements of deliberate practice: immediate feedback and deliberate goal setting” (Ericsson et al, 2005). The lowered need to consciously focus can allow distractions and encourage over-reliance on habitual thinking patterns.

To take advantage of the powers of fluent retrieval while balancing the potential down side, add in monitoring of performance as well as motivation to do something *better*, not just more efficiently. Design programs that build toward fluency and competency in appropriate stages.

- 🚧 TIP: Include instruction about some of the practices from the field of social cognition that help guard against over-reliance on habitual thinking—paying active attention, thinking about your thinking, looking for patterns of responses, etc. (In *How Doctors Think*, Dr. Jerome Groopman discusses challenges like these that have clear parallels in the judicial field.)
- 🚧 TIP: Be realistic about how much time it will take to learn complex subject matter and achieve fluent retrieval. (World class chess masters practice for 50,000-100,000 hours to reach that level.)
- 🚧 TIP: Build programs for novices in steps – have “stretch goals” that challenge the learners at a level that requires effort but is achievable. Encourage instructors to test out the level of challenge in their sessions ahead of time (with novices).

Experts and Teaching

While people often defer to experts even in areas that aren't their specialty (such as teaching, perhaps), experts' abilities do not necessarily cross domains. For instance, master chess players have a consistently higher recall of the set-up on a chess board than novices (about four times higher) **if** the board is set up in patterns meaningful to chess. When the board is set up in a random pattern, chess experts have no better recall of it than novices do (Cloud; Branson et al). So, we return to meaningful patterns and accessible knowledge as keys to expert performance.

Often much of experts' expertise comes from having learned how to do something mostly by *doing* it (procedural knowledge). But almost always those experts are asked to teach what they know by *talking* about it (declarative knowledge). Then the learners have to convert the things they were *told* about in the training (declarative knowledge) back into the *doing* of it (procedural knowledge). “Research on learning tells us that what we learn declaratively cannot readily be transformed into procedural knowledge unless we already possess similar procedural knowledge” (Stolovitch and Keeps, p. 34). Here's where the saying “easier said than done” comes into play ... for novices. For experts, though, it's often “easier done than said.”

- ✚ TIP: Have experts ask themselves, “How do I do things now compared to how I did them when I was first learning this area?”
- ✚ TIP: Consider pairing an expert with an “accomplished novice” – a good learner who doesn’t have content area expertise. The accomplished novice’s job is to continually question the expert – giving the expert some insight into the learning process and teaching techniques for novices to his or her area.
- ✚ TIP: During faculty development, emphasize the need for *active* learning techniques to encourage higher retention of information, deeper understanding, and a greater likelihood of application after the class.

Adaptive Expertise

The Cambridge Handbook of Expertise and Expert Performance (2006) concludes that great performance comes mostly from deliberate practice. *Deliberate practice* involves more than just repeating a task. It includes setting specific goals and getting quick, regular, accurate feedback on performance. It focuses on learners actively monitoring their learning experiences, both seeking and using feedback to improve. This drive to continue to improve is fundamental to maintaining expertise.

In a chapter called “The Uncertainty of Experts” in his book *How Doctors Think* (2007), Dr. Jerome Groopman talks to one of the most respected experts in children’s cardiology, Dr. James Lock, Chief of Cardiology at Boston’s Children’s Hospital. Asked how he continually improves upon practices and develops innovative techniques in his field, Dr. Lock said, “I keep an ongoing tap on how I know what I know. What we know is based on only a modest level of understanding. If you carry that truth with you, you are instantaneously ready to challenge what you think you know the minute you see anything that suggests it might not be right” (p. 134).

Many people define an expert as “someone who knows all the answers.” This static approach constrains new learning by the expert – who should have a willingness to seek new information and draw on others as resources rather than being overly concerned with looking knowledgeable all the time. It can be empowering to let experts know that continual improvement is fundamental to expert performance. Resources such as *The Cambridge Handbook of Expertise and Expert Performance* and others listed at the end of this article provide in-depth information in this area.

- ✚ TIP: Emphasize that one of a teacher’s tasks is to *draw out* the resources in the class. This takes some of the pressure off of teachers to be The Expert and to have all of the answers.
- ✚ TIP: Encourage experts to keep adding to their repertoire and to evaluate their schemas and their responses. Build in opportunities for them to get feedback on decisions/performance. (Example: recording performance and reviewing it with constructive feedback)
- ✚ TIP: Encourage a more dynamic view by both faculty and students – that “experts” are *accomplished life-long learners*.

CONCLUSION

As judicial branch educators we would love to have and/or to be instructors who are both experts and expert teachers. By drawing on research about learning and how the brain works, we can provide training that increase *all* learners’ competencies and moves us closer to that goal.

Expert Teachers:

- ◆ Anticipate, acknowledge, and address the difficulties students are likely to face;
- ◆ Know how to tap into learners' existing knowledge and perspectives to make new information more meaningful;
- ◆ Are aware of and build into the typical paths that learners follow to achieve understanding;
- ◆ Know how to assess students' progress and can provide feedback to learners in a constructive, non-threatening way; and
- ◆ Consider themselves learners, as well.

["A well-educated person is someone who is well-informed, acts wisely, and continues to learn. But being well-educated also means going beyond facts. It means placing knowledge in its larger context and discovering the connectedness of things." Roberta S. Lacefield.]

RESOURCES AND RECOMMENDED READING

Aamodt, Sandra and Wang, Sam *Welcome to Your Brain: Why You Lose Your Car Keys but Never Forget How to Drive and Other Puzzles of Everyday Life*. New York: Bloomsbury, 2008.

Bransford, John D., et al, editors *How People Learn*. National Research Council, Washington, D.C.: National Academy Press, 2000.

Cloud, John "The Science of Experience." *Time Magazine*, March 10, 2008, 30-33.

Ericsson, K. Anders, Ed. *The Cambridge Handbook of Expertise and Expert Performance*. Cambridge: Cambridge University Press, 2006.

Gladwell, Malcolm *Blink: The Power of Thinking without Thinking*. New York: Little, Brown, and Company, 2005.

Groopman, Jerome *How Doctors Think*. Boston: Houghton Mifflin Company, 2007.

Stolovitch, Harold and Keeps, Erica J. *Telling Ain't Training*. U.S.A.: American Society for Training and Development, 2002.

Zull, James *The Art of Changing the Brain: Enriching the Practice of Teaching by Exploring the Biology of Learning*. Sterling, VA: Stylus Publishing, 2002.

Thiagi Newsletters available online only.

Being White Most of My Life: Pondering NASJE's Commitment to Diversity³

Thomas Nelson Langhorne, Esq.
NASJE Past President

I've been white most of my life.

My "whiteness" was suddenly and uncomfortably transformed when unexpected recent events crashed my cultural consciousness. The sudden succession of losing several family members within eighteen months led to my inadvertent discovery of closely held family secrets: My Floridian Grand Mother was Cherokee. Some of my cousins were "*Oh My God-Black.*"

Why had no one told me of Katie Missouri Lightfoot?

And how in the heck didn't I know of Barry, among others, who surprised me at my front door's threshold. It seems "cousin" Barry was researching *his* family tree. Except for his dark skin and tight, wavy black hair, we were eerily similar in build and stature (or lack thereof, which Barry would later refer to as the "*Langhorne Curse*").

Barry's green eyes were mine.

My face must have instantly screamed, "*Are you sure you have the right Langhorne?*" Yes, he assured me as his genealogical records placed on my kitchen table soon proved.

Those and other recent life events irrevocably altered the lens through which I view my cultural "connectedness." Perhaps it was those events that prompted me to critically re-examine my commitment to advancing "diversity" within NASJE's membership specifically and, within our states' courts, generally.

What Is NASJE's Commitment to Diversity?

I recently asked the following three questions of myself: (Ask yourself what your honest answers to the following questions would be?)

1. Why should NASJE care about diversity and/or why does this issue fall within judicial educators' professional charge?
2. What concrete steps have I, or NASJE, actually taken to advance our association's diversity and to value diversity within our state courts?
3. What additional, practical efforts might I/we undertake and how might we measure those efforts' positive outcomes?

Why Should NASJE's Members Care?

In my attempt to answer the foregoing three questions, I first reminded myself that NASJE does not operate in an organizational vacuum. Most of NASJE's membership reports directly to their respective Administrative Officer of the Court or to their Chief Justice. Accordingly, we might want to first examine the relevant actions COSCA/CCJ have taken. Specifically, in 2006 COSCA/CCJ passed the following Resolution:

³ The opinions expressed herein are solely those of the author and do not necessarily reflect the view of NASJE or any of its committees.

WHEREAS, this project will produce a national compilation of promising practices to achieve racial and ethnic fairness in four key areas:

- Diverse and representative state judicial workforces and juries
- Fair and unbiased behaviors on the part of judges, court staff, and others in court interactions
- Comprehensive, system-wide improvements in racial and ethnic fairness through inter-branch and inter-agency dialogue and action, including elimination of inappropriate racial and ethnic disparities in the criminal and juvenile justice systems
- The availability of timely and high-quality court interpretation services to non-English speaking persons, and of legal services, especially to recent immigrants.

Setting aside appeals to our higher personal callings, for the most jaded of us, the above COSCA/CCJ resolution, alone, sufficiently answers, “Why should judicial educators care?”.

On a more pragmatic note, Tom R. Tyler’s compelling research into why people obey the law conclusively instructs us as to why we must care about improving diversity in our court systems.

Tyler interviewed thousands of people who had interactions with police and their local courts. His research concludes that we obey the law, even when the judicial *outcomes* are contrary to our personal interest, when we can see that the *process* leading to the outcomes was fair. A critical factor shaping citizens’ conclusions that processes are fair is whether one feels he/she had equal access to the process and was treated with dignity and fairness, regardless of race or economic station. As a corollary, one might come to believe the judicial process was fair if those with whom it interacted reflected the community’s demographic.

Please also recall the latest public confidence in courts research. Those findings clearly indicated that people of color have far less confidence than whites that they will be treated fairly by the courts. Unfortunately, to state the obvious, one’s access to “fair” justice is all too often determined by one’s economic status. Equally unfortunate, one’s economic status in America is greatly influenced by factors including race and ethnicity.

What concrete steps have I, or NASJE, actually taken to advance our association’s diversity and to value diversity within our state courts?

Having answered the first question as to *why* we should care, what concrete steps have we actually taken to advance increased diversity in our association and in our state courts?

NASJE specifically expressed its formal commitment to valuing diversity both within our organization and within our state courts long before the above COSCA/CCJ resolution was adopted. Specifically, NASJE’s *Principles and Standards* emphasize our commitment to “...*preserve(ing) the judicial system’s fairness, integrity and impartiality by eliminating bias and prejudice, improving access to the justice system,*” and “*enhance(ing) public trust and confidence in the judicial branch.*”

Moreover, as a member of NASJE’s diversity committee, I greatly appreciate the commitment of our governing board and education committee to integrating diversity themes into our recent annual conferences’ curricula. And yes, NASJE should be lauded for forming and rigorously supporting a standing diversity committee. Significantly, NASJE’s appointed liaison to the National Center for State Court’s project on race and fairness in state courts maintains an active, visible and valuable involvement.

The above actions represent no small commitment on NASJE’s behalf. I have no doubt there was and still is a genuine commitment to diversifying our membership and to maintaining a fair and just judiciary. So, given the foregoing, we must necessarily ask the unavoidable, inescapably obvious question: *Why, according to the last*

two surveys of NASJE's membership, are virtually all judicial branch education directors and deputy directors white? Shouldn't that fact alone, cause you to query whether more work remains to be done? I also ask you to collectively ponder *why NASJE has not equally embraced a similar, formally declared principles and standards regarding sexual orientation and disabilities? Moreover, have we taken sufficiently concrete steps to diversify our court staffs so that they more accurately reflect our communities' racial and ethnic composition?*

Those questions lead us to the third question: ***How might we better advance notions of diversity in our courts and how might we measure the outcomes of those future efforts?***

As an association dedicated to improving the administration of justice and each of us as judicial educators, we can immediately take some simple, straightforward, concrete steps. Let's begin by again reviewing the COSCA/CCJ resolution's key areas for achieving racial and ethnic fairness in our courts:

Key Area One: Achieve diverse and representative state judicial workforces and juries

First, we can publish our state court position vacancies in our local "minority-owned" newspapers. For your convenience, please go to this hyper-linked website for a list of historically black, Hispanic and other "minority-owned" newspapers in your locality:

<http://news.newamericamedia.org/news/>.

Secondly, we can reach out to our respective states' historically black colleges not only by merely attending job fairs, but by developing relationships with their placement directors (See [HBCU.pdf](#) for a list of historically black colleges.). Doing these two simple steps visibly demonstrates your state courts meaningful determination to be inclusive in your outreach and hiring policies.

Key Areas Two and Three: Achieve fair and unbiased behaviors on the part of judges, court staff, and others in court interactions: (Institute) comprehensive, system-wide improvements in racial and ethnic fairness through inter-branch and inter-agency dialogue and action, including elimination of inappropriate racial and ethnic disparities in the criminal and juvenile justice systems

First, familiarize yourself with the NCSC's project devoted to achieving racial and ethnic fairness in our state courts.

The NCSC's Racial and Ethnic Fairness Initiative was established to identify and create knowledge and practices that assist courts in implementing strategies that promote race and ethnic fairness in the courts themselves and in the justice system overall. The Race and Ethnic Fairness Initiative hopes to enhance the value of what was learned through previous state and national efforts, such as the *Position Paper on State Courts' Responsibility to Address Issues of Racial and Ethnic Fairness* to promote fairness in the courts and generate new knowledge and strategies that can be applied in pursuit of the agendas of state courts.

The Initiative provides the following services: 1) makes readily accessible the findings and recommendations of the various state task forces and commissions on race and ethnic fairness in the courts, and monitors progress reported by the states; 2) develops relevant educational materials for National Center constituency associations/groups; 3) serves as a resource to state court customers on questions relating to racial and ethnic fairness matters in the state courts. ⁴

⁴ This language was taken from the NCSC's Web site devoted to this project. See http://www.ncsconline.org/D_Research/ref/.

Log onto: http://www.ncsconline.org/D_Research/ref/ and familiarize yourself with the names of your state representatives serving this project. Call them and ask what you can do. Examine, again conveniently on-line, some of that program's promising initiatives and resources

Secondly, revisit NCSC's on-line *CourTools*, which exquisitely details methodologies for gathering external feedback as to how a court is performing in this vital area. It provides "one stop shopping" for those looking for pre-packaged methods for gathering quantitative and qualitative measures of courts' performance.

Visit or consult with OJJDP's search engine friendly Web site that describes promising practices for ameliorating the disproportionate representation of minority youth in secure confinement. See, http://www.dsgonline.com/mpg2.5/mpg_index.htm .

Contact SJI and ask for the electronic copy of John Martin's "*Guidebook for Becoming a Culturally Competent Court*". This is a "must read" how to do it guidebook that walks you through basic steps courts can take.

Lastly, attend the 2008 NASJE conference in Philadelphia. We will be examining some of these and other related issues not only from an aspirational viewpoint, but from a concrete, practical one.

Key Area Four: (Make available) timely and high-quality court interpretation services to non-English speaking persons, and of legal services, especially to recent immigrants

Start by using NASJE's home page search engine for related articles and resources and past conference presentations. Follow up by making a quick call to states who lead the way in certifying court interpreters such as Virginia, Arizona and others.

Conclusion:

This article intended to demonstrate that we have a vested interest, as professionals and citizens, in advancing diversity in our association and in our state courts. All of the above resources and references are quickly accessed and easy to use. After reviewing this article, pass it and its resource references to at least one person in your organization who has formal hiring and/or public outreach responsibilities. Lastly, and most importantly, I sincerely hope this article personally demonstrates that each of us is truly connected to one another. That's *why* we really should care.

Many of our colleagues have worked in international assignments and have had amazing experiences. We polled our membership to locate JBEs working internationally to tell us how they employ their JBE skills in other cultures, how that work has changed their perspective, and how they access NASJE resources while engaged in their consultancies. This is the second of two articles (for the first article see Fall 2007 NasjeNews Quarterly [<http://nasje.org/news/newsletter0704/1>]) describing how JBEs transfer to another legal culture expertise learned through their professional development and experience in the U.S.

It's a Small World, After All -Part 2

Ellen Marshall

When NASJE polls its membership about which benefits count most toward their professional development, the two top responses are (1) networking with like professionals experiencing similar challenges and opportunities and (2) the ability to tap into resources like JERITT publications. This article focuses upon how Judicial Branch Educators (JBE) employ these same resources when consulting in another legal culture.

The author questioned NASE members working internationally. Responses from Maggie Cimino (California), Pat Murrell (University of Memphis), Mary Fran Edwards (Amid east, and formerly NJC), Debra Koehler (Maryland), Joe Silsby (Missouri), Ingo Keilitz (Consultant, formerly NCSC), Diane Cowdrey (California and formerly Utah and the JEEP project) and Ernie Borunda (California judge, DPK consultant) form the basis of this work. This author found that most of the respondents consulted with colleagues before and after their international work for specific assistance and that many used JERITT monographs and NASJE's *Standards and Principles of Judicial Branch Education* extensively.

NASJE as an organization and its individual members have played key roles in advising other nations committed to advancing the professionalism of its judicial branch staff. Often these consultancies are with justice department officials and supported through grants from USAID, the World Bank and the United Nations. The governments of Japan, Australia, France, Canada, Switzerland and Germany are also large donors to these international efforts.

Networking among NASJE Members

Judicial branch educators accept both short and long term consultancies to work as court experts in developing countries. Since the break up of the Soviet Union, many countries have sought international aid and support to help rebuild their justice systems. Other eastern countries and several African nations, suffering from the results of civil strife, also sought the help of other countries to bring their court systems up to international standards. Many of our colleagues accepted these assignments and relied upon their NASJE resources in that challenging work.

Ernie Borunda worked in Macedonia for DPK Consulting to establish the National Center for Continuous Education. Ernie brought in several NASJE members – Pat Murrell, Maggie Cimino, Martha Kilbourn (California), Tom Langhorne (formerly Virginia's JBE), William Brunson (NJC) and Diane Cowdrey – to facilitate faculty development workshops.

Mary Fran Edwards took her NASJE learning to Mongolia and Egypt. In both countries she facilitated and taught train-the-trainer workshops, assisted with developing learning objectives and other curriculum development and staff development activities. All of her work was centered upon enhancing internal capacity, the aspirational goal of most USAID-funded projects.

“I guess the key difference is that almost everything involves a training element, even if it is only on the job training, to ensure that enhancements will be sustained. “ Mary Fran goes on to explain that one of her projects in Egypt was to improve the judicial center library in which she hired an expert from the American University of Cairo to train staff librarians on coding.

Ingo Keilitz referred to his work in Kosova as follows:

...I certainly was guided and inspired by theories and processes documented in them (NASJE News articles on performance standards), as well as by NASJE friends working there about the same time. Knowing something about adult learning was particularly helpful....

NASJE publications *Principles and Standards of Judicial Education (1981)* and *Principles and Standards of Judicial Branch Education (2001)* are recognized widely in the U.S. and have subsequently been adopted by other international JBE organizations. Through the training efforts of early judicial educators Tony Fisser (Connecticut), Dennis Catlin (Michigan), Larry Stone (Ohio) and Paul Li (California), the initial publication made its way to judicial systems in China, Greece, Macedonia, the Ukraine, Khazitstan and other Russian states, Serbia, and Japan. The latest version of the standards have been discussed in Kosova, Macedonia, Egypt, Jordan, and at conferences of the International Organization of Judicial Trainers through the consulting work of current NASJE members.

Adult Education Literature and Practices

Without a doubt, all NASJE members have benefited professionally from the workshops focused on our profession at annual conferences. We went beyond the adult education theories of Malcolm Knowles and the practices modeled in Gordon Zimmerman's faculty development workshops to create our own set of judicial education practices.

Early NASJE projects like JEEP and later JERITT worked successfully to bring judicial branch educators together to share best practices. Between NASJE's founding in 1975 through the 1990s, these early publications became the professional literature of our organization. They also became the foundation of future research and publications, notably the JERITT monographs and the materials from the 1999 National Symposium on Judicial Education in St. Louis.

Like other professions establishing a professional identity, judicial branch educators began to publish articles, monographs and practice guides. Although many of these were initially generated for a state specific audience, they became part of the JBE literature through NASJE News and annual conference materials.

NASJE members use these publications extensively in their international work. The 1981 *Principles and Standards* has been translated into several languages.

Judicial branch education practice made a quantum leap when Professors Charles Claxton and Patricia Murrell started the Leadership Institute in Judicial Education, funded by the State Justice Institute. These founding faculty members adapted the David S. Kolb theory of adult education to a court environment and disseminated its practice through one week workshops. Many state judicial educators brought teams of their state's educators to the Leadership Institute and then adopted the Kolb theory for faculty development.

NASJE members since then have used the Kolb theory and the *Kolb Learning Style Inventory* when they provide adult education consultant services in other countries. Through an earlier query at the 2005 NASJE conference, and research for this article, the author discovered that NASJE members have used the Kolb theory in judicial education workshops in Egypt, the Philippines, Macedonia, Mongolia, Cambodia, Jordan, Morocco, Kosova, Australia, Siberia and Algiers.

As our colleagues work in other legal cultures, they have been inspired by the determination that judges and court professionals bring to the work of court reform. Most admit that they learn from their international colleagues more than they teach about the value of the rule of law. This awareness inspires JBEs in their work in the States.

Experience has taught NASJE members that, although many of the basic practices of judicial branch education are transferable even to civil law countries, other cultural variations must be respected when making education system recommendations. For example in the Kingdom of Cambodia, Japanese and Australian legal experts have had a profound influence upon the rewriting of Cambodia's Constitution and their statutory laws. This support is much more compatible with their historical legal culture and how their courts operate than the U.S. system. Recommendations such as training in the ABA Canons of Ethics for a country like Cambodia would not be appropriate.

NASJE Continues Its Support for International Justice Enhancement

NASJE established an International Task Group in 1997 to support judicial educators in other countries and to circulate information to its members about international consultant opportunities. It also seeks to expand international membership in NASJE and to plan workshops on international topics at its annual conference. This committee has included a chapter on International Judicial Branch Education Standards in the most recent revision of *Principles and Standards of Judicial Branch Education*. It continues to support the work of the International Organization of Judicial Trainers and to encourage NASJE members to attend its conferences. Task group co-chairs, Claudia Fernandez (CA) and Judith Anderson (WA) welcome your interest and participation in its work.

From its earliest days NASJE has been involved in opportunities to participate in the building and strengthening of judicial branch education throughout the globe. Technology can advance this agenda through such projects as international web-based conferences on global issues facing courts and the sponsorship of threaded discussion groups and member blogs. International JBE networking in this brave new world is just a click away.

Ellen Marshall has worked as director of both the Maryland and District of Columbia Court Education and Training Divisions. She was inspired to do international work for the Hope Fellowship Program in Kosova from 2003-2005 and to start her own adult education company, Eureka. Contact Ellen with questions or ideas for future international articles in this series at Eurekacompany@aol.com.

Blast from the Past available online only.

Stuck in the Details

Laurie Ginn
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Ants may march one by one, but details seem to march endlessly. A project's details arrive seemingly without end and can overwhelm, especially when you are working on more than one project at a time. Take the time to examine the whole picture, not just the details rushing at you, as the project is now and from a future viewpoint.

To stop the steady stream of endless details, what do you need to do?

- Stop to gain perspective.
- Do not take on too many details at one time.

When a project is started and stopped, momentum is lost, and retracing prior work is frustrating. **[When possible, systematically deal with items through to completion.]** Dealing with a detail once makes success feel possible. Prioritize the substantive details, those affecting the project's outcome, to promote the project's successful outcome.

Outcome Defining Details

The details that require the most attention are the details that define the final outcome. The majority of the details and minutia will not define the project. The details that immediately require your attention are **[the details that will set the project apart on the grand scale and make the project's accomplishments memorable.]**

Details In The Air

The first step is to sift through the details. Take the time to look at the project from a distance. When you change your viewpoint, it is easier to pinpoint the details and possibly see other details that would otherwise be missed.

Think about the project. Determine the attack and prioritize the details. Take each decision in turn and classify the details to determine their importance. Classify or envision each detail as one of three kinds of balls: a crystal ball, a tennis ball, or a super elastic ball. Reexamine the detail's classification periodically as any detail's classification can change over time.

Crystal Ball

The critical details are the crystal ball details. Crystal balls contain the most significant details and will cause devastation if not dealt with appropriately. Crystal details may be big or small but are defined by how the detail impacts you or the project. Complying with state law, grant requirements, or mandates are crystal details. Any detail that defines the project is crystal.

If you consistently think of a detail, that detail is a crystal ball detail. For example, a phone call you have put off may not be a crystal ball detail, but the fact that you are constantly thinking of that phone call elevates it to a crystal ball detail. Crystal ball details are often the keys to getting to the underlying project. When you get through the crystal ball details, you may be rewarded by working on another aspect of the project.

Tennis Ball

Tennis balls contain the details that do not require immediate attention. The tennis ball details still impact the project but can wait for another day or further consideration. The opportunity to determine the details in a sequential fashion or in a broader context allows greater perspective into the project, and is a golden opportunity. Rather than considering what you should have done in hindsight, which is painful, the tennis ball detail allows you to have a degree of foresight.

The key to the tennis ball details is the realization that everything does not have to be decided immediately. The overwhelming pressure from the details reduces. When temporarily left for another day, the tennis ball details will bounce rather than break.

The tennis ball detail, however, will not wait forever; if forgotten, may transform very quickly into a crystal ball detail.

Super Elastic Ball

Super elastic balls contain the details that are not critical and can be left for an extended time, or sometimes omitted altogether. Super elastic ball details impact the project but either do not impact the project's content, can be put off for a while, or are the final details that can wait until the project's end. The paper color, for example, may wait until a short time before the project is due. Items that you can pick up at a local store that do not need to be special ordered are super elastic ball details.

Super elastic ball details may transform into tennis balls or if neglected, even crystal balls.

Celebrate the Dividends

Dealing with a detail and knowing that the detail is finished is a major dividend. Acknowledge the dividends throughout the project. The completed project contains the dividends' profits received over the project's life. Keep the overwhelming feeling away by conquering the crystal ball details, tennis ball details, and the super elastic ball details, and celebrate progress throughout the project.

[Keep the overwhelming feeling away by conquering the crystal ball details, tennis ball details, and the super elastic ball details, and celebrating progress throughout the project.]

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Ms. Laurie Ginn became a program attorney for the National Judicial College (NJC) in March, 2006. She concentrates on the judicial writing and judicial management courses, including *Management Skills for Presiding Judges* and *Court Management for Judges and Court Administrators*. She also edited the Second Edition of *Logic and Legal Reasoning*. Prior to accepting the position with The National Judicial College she was the legal case manager for the Public Utilities Commission in Carson City, Nevada. Ms. Ginn received her Bachelor's degree at Oregon State University and her Juris Doctor at Willamette University College of Law. During law school she was a member of the Willamette University Public Interest Law Project. She is a member of the Nevada and California State Bars. She serves on the National Association of State Judicial Educators' newsletter committee.