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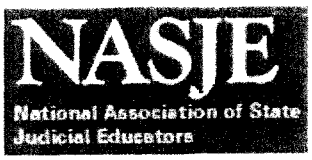

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The National Association of State Judicial Educators (NASJE) was founded in 1975 to provide a clearinghouse for an emerging body of specialized judicial education materials and techniques, and to enhance state judicial education programs.

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Michigan State University Extends Academic Credit for Your In-State and National Court Administration Programs

by Maureen E. Conner
Director, Judicial Administration Program
Executive Director, JERITT Project

Those of us who have dedicated our lives to ensuring timely and just resolutions to disputes through the courts have thought of ourselves as professionals dedicated to a higher calling. Yet, many groups and individuals both inside and outside of the courts only recognize the judge as belonging to a profession. They are less inclined to see the thousands of court managers, clerks, and others as professionals. There are many reasons for that and most can be explained by a lack of understanding about and exposure to the knowledge and skill sets needed to perform court administration and management with excellence. There is another very critical reason: a fundamental of professions is a recognized academic course of study offered through a major college or university. Michigan State University (MSU) is offering just that.

Armed with both a passion and a plan for advancing academic opportunities for court supervisors, managers, administrators, clerks, and leaders across the United States and elsewhere, John Hudzik (Dean of International Studies and Programs and Founding Director of the JERITT Project) and Maureen Conner (Executive Director of the JERITT Project), approached MSU President-Elect Lou Anna Simon about providing seed money to explore the field's interest in judicial administration certificates and a masters degree with a specialization in judicial administration. It was the unique approach of the proposed program options that sparked her interest and are the hallmark of the program.

It is unique because MSU will extend to working professionals the opportunity to begin building their credentials while attending their in-state (or national) judicial branch education programs and completing internet-based instruction under the tutelage of an MSU faculty member. If successful, the learner will have earned a noncredit certificate in judicial administration. If the learner chooses to continue, he or she can apply the contact hours earned in the noncredit certificate to a credit bearing experience—either an academic credit-bearing certificate that results in twelve graduate credits or a masters degree in criminal justice with a specialization in judicial administration. Once involved in any of the three educational opportunities, the learner will join a community whose goal it is to offer support for a lifetime via networking, mentoring, research, publications, and electronic communication and information sharing.

Organizations are invited to collaborate with MSU as partner/providers by offering administration and management courses that meet the subject matter and contact hour requirements. The subject matter requirements are based on the National Association for Court Management's Core Competencies and MSU's contact hour requirements that would seamlessly move the programs you offer to a credit-bearing experience for the court personnel you train and educate. If you have been looking for an avenue to launch a certificate program or provide academic credit for an existing certificate program, this may be your answer.

Over a five-year period, the learner would need to complete 60-contact hours in caseflow management; information technology management; human resources management; leadership; purposes and responsibilities of courts; resources, budget and finance; court and community communication; education, training, and development; essential components of the courts; and visioning strategic planning. If you find that you are unable

to provide all 60 contact hours within the five years, the learner could fulfill the requirements by registering for online courses offered by MSU. They may also take courses through other partner/providers such as the National Association for Court Management, Federal Court Clerks Association, and the National Conference of Bankruptcy Clerks. The list of partner/providers continues to expand as discussions are ongoing with other state and national providers. Over the summer, 184 court personnel attended MSU-approved judicial administration courses. The State of Michigan offered the first course at the 2004 Michigan Court Managers Conference.

If you are interested in further information or partnering with MSU, please contact:

Maureen E. Conner, Ph.D.
Director, Judicial Administration
connerm@msu.edu

Sharon L. George, Ph.D.
Academic and Students Services Manager
georges@msu.edu

Telephone: 517.432.1716
Fax: 517.432.3965

http://judicialadministration.msu.edu

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NASJE Strategic Plan Priorities and Implementation

by William Brunson

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On Tuesday, August 10, 2004, fourteen NASJE members gathered to discuss the NASJE strategic plan. The facilitators, William Brunson and Kenny Miller, requested that the participants provide input on the priorities in the strategic plan and for ideas about short and long term implementation of the plan. The facilitators set the room with only chairs in a circle to allow for a free and open exchange of ideas.

Next, the facilitators provided an overview of the major components of the plan and discussed them. They are:

1. NASJE as a principal partner in enhancing the growth and development of the judicial branch.
2. NASJE as the prime resource for the professional development of judicial branch educators.
3. NASJE as the prime resource for standards, measures, and evaluation strategies that address judicial education work.
4. NASJE as the prime resource for innovative, original research, design, and model development for judicial branch education.
5. NASJE as the prime resource to immerse, acculturate, and acclimate people into the judicial branch education profession.
6. NASJE as a model of effective organizational structure and function, reflective of the new and ever-changing environment and of evolving judicial branch education needs.
7. NASJE as a fully accessible resource for all members.

The group first focused its attention on the importance of ensuring that NASJE remains financially strong. Consequently, they identified component 6 as a priority. One method of ensuring financial stability that the group offered was to increase membership and therefore the dues and annual conference fees. Suggestions for improving the number of members centered along concrete items such as the development of a NASJE membership brochure. Participants also suggested that NASJE invite chairs of judicial branch education committees to once again become members. For this to happen, the group recognized that the NASJE conference would need to contain sessions directly relevant to that market. Also, one participant suggested that perhaps the association could consider giving a free membership to the member who recruited the most members for the association. The American Judges Association has used this method successfully.

The group was pleased about the development of the core competencies and thought that this was a great step forward in accomplishing component 2. The participants felt that it would be beneficial to devote a NASJE committee to the competencies to ensure that they are the source of educational content at annual conferences.

Some participants expressed concern about the possibility of establishing “professional practice parameters for judicial branch education.” They were concerned that many of those currently working in the field of judicial branch education would not meet the educational and background requirements that could ultimately be established. Other participants explained that the professional parameters would be aspirational in nature. Indeed, no one would meet all of the areas of competence, but rather they would provide goals for further education and training.

The group recognized the importance of the association's annual meetings for educational content. One participant recommended that there be additional electives and perhaps shorter sessions to address a greater variety of topics. Another participant suggested that the educational committee considered that strategy but ultimately decided to have longer, more in-depth sessions. All participants recognized the need for constant needs analyses in designing the content of the annual conference to ensure its meeting the needs of the membership.

All of the members recommended that the seven statements be prioritized as to their importance and then addressed in a deliberative, measured manner. They agreed that the strategic planning committee should continue to exist to ensure that the plan is implemented.

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Teaching Judging in Law Schools

by Paul Biderman

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Since beginning my work in state judicial branch education nearly thirteen years ago, I have been impressed by the success of our profession in creating a wide array of new techniques for educating and providing valuable resources to judges and court personnel. Through our new judge orientation seminars, publications, and mentoring programs, most of us have also recognized and addressed the need to prepare judges for their role even before they take the bench.

Yet for some time now, I have had the nagging concern that we have been missing opportunities to educate judges at a still earlier point in their careers— law school. As good a job as law school does to train lawyers, every judicial educator knows that law school only partially prepares the judge to take the bench. As new judges quickly learn, it is not always so easy to transfer from the role of advocate to one of impartial decision maker. Students in some European countries even take a whole course of study dedicated just to becoming a judge, apart from their training to be a lawyer, essentially acknowledging judging as a distinct avocation from lawyering. While American judicial educators can hardly aspire to revolutionize judicial education to conform to the European model, I believe we can incorporate their approach to a limited and very worthwhile degree.

That is why I have begun development of a seminar on judging to be offered at the University of New Mexico School of Law in the spring semester of 2005. The objective of this two-hour seminar will be to offer law students and attorneys a uniquely judicial perspective on trial work and related issues. The seminar will explore issues including reasoned decision making, judicial ethics, consideration of values in judicial decisions, writing opinions and framing jury instructions, cultural sensitivity, exercising discretion, and comparative legal systems. In accordance with UNM School of Law practice, attorneys from the community will be eligible to take the course along with law students. If any should choose to do so, this will create an interesting mix of upper-class students immersed in legal education with practitioners who have experienced the real world of the courtroom.

We (I will be privileged to co-teach this course with a master professor, Ted Occhialino) will br using for our primary text the 1999 edition of Keeton on Judging in the American Legal System (Lexis). In that text, Judge Keeton poses clearly most of the essential questions and provides a framework for analyzing them. We intend to balance that text with perspectives from other legal writers, however, to promote lively discussion. We will also be inviting experienced judges to offer their views from the bench. Our first invitations will go to those who have undertaken advanced study as judges, such as our state's graduates from the master's program offered by the University of Nevada (in coordination with the National Judicial College and the National Council of Juvenile and Family Court Judges), and the program formerly offered by the University of Virginia. Students will be graded by analyzing a real or hypothetical case according to the principles we explore in class and in the readings.

Through this seminar, we intend to offer an opportunity for law students and lawyers who aspire to the judiciary to acquire knowledge and skills that would prepare them to take the bench. But we also hope that lawyers and future lawyers who plan to serve in clerkships or simply to practice in front of judges will find this seminar beneficial as well.

Since the seminar will be offered during the spring semester, I will report on our progress in each edition of NASJE News for the coming academic year. You can look forward to

reading about changes in direction, unexpected challenges faced (and hopefully overcome), and strategies that will emerge as the seminar proceeds. For my own part, I am looking forward to yet another exciting new chapter in my career in judicial education, and am grateful that my program's association with our state's only law school has given me this opportunity.

Paul Biderman has been director of the Rozier E. Sanchez Judicial Education Center at the University of New Mexico School of Law since the Center's inception in late 1991. He was NASJE president in 2001-02 and NASJE News editor for three years prior to that. He is an attorney whose past service has included a term as the state's Secretary of Energy and Minerals, as well as years working in the Attorney General's Consumer Division, legal services programs and private law practice.

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The Solutions Project rolled out this summer and is poised to deliver a wide array of technical assistance to courts across the country. Under the aegis of the National Center for State Courts and the Center for Effective Public Policy, the new **Center for Court Solutions** is focusing its work on five issues that court leaders have identified as the most important challenges facing State courts nationwide: Diversity, Emergency Management and Security, Family and Juvenile Justice, Pro Se/Pro Bono Services, and Sentencing Alternatives. If you have questions, please contact **Pam Casey** at the National Center for State Courts.

NEW FY 04 PROJECT GRANTS ANNOUNCED
At its May 14 meeting in Cambridge, Maryland, the Institute's Board of Directors awarded 11 new FY 2004 Project Grants totaling approximately $800,000. Four of the grants support projects that will produce judicial branch educational materials.

Bench Book to Assist Judges in Running a Courtroom With Self-Represented Litigants. The Judicial Council of California will produce a benchbook that will include a "toolkit of resources" for judges presiding over courtrooms with large numbers of self-represented litigants. The toolkit will be adaptable to other jurisdictions' needs as well. Contact: **Bonnie Hough**.

California Collaborative Justice Court Judicial Education Project. The Judicial Council will develop, test, and evaluate an educational curriculum for judges and court personnel on planning and operating problem-solving courts. The pilot training will be delivered at the Summer Continuing Judicial Studies Program in August 2005. Contact: **Nancy Taylor**.

Presiding in Adult Sexual Assault Cases: A Distance Learning Curriculum. In collaboration with the National Association of State Judicial Educators and the New Mexico Judicial Education Center, Legal Momentum (formerly the NOW Legal Defense and Education Fund) will develop the first phase of a comprehensive Internet-based curriculum on adult sexual assault cases. Contact: **Lynn Schafran**.

Judicial Education on Juvenile Sex Offenders. The Center for Effective Public Policy will develop and present a one-day training program for judges on the unique needs of juvenile sex offenders at one national and three State-level judicial conferences. Contact: **Tom Talbot**.

The Board also approved a grant to continue the Institute for Faculty Excellence in Judicial Education at the University of Memphis

SJI SCHOLARSHIPS AVAILABLE
Judges and court managers who wish to attend out-of-State court-related educational programs beginning between January 1 and March 31, 2005, may submit their applications for scholarships between October 4 and November 29. Scholarships may cover tuition, travel, and lodging (up to $150 per night, including taxes) up to a total of $1,500. You may access the scholarship application forms on **SJI's website** and fill them out on line; however, you must mail them rather than submit them electronically, as the Institute requires an original signature on the application.

For complete information about the Scholarship Program, please visit **SJI's website**, 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.

JUDICIAL BRANCH EDUCATION TECHNICAL ASSISTANCE GRANTS AVAILABLE FROM SJI

The next two mailing deadlines for the Judicial Branch Education Technical Assistance Grants offered by SJI are September 24, 2004 and January 7, 2005. In addition to curriculum adaptation and consultant assistance in planning, developing, and administering judicial branch education programs, these grants of up to $20,000 may support assistance in maintaining judicial branch education programming during the current budget crisis, or development of improved methods for evaluating judicial branch education programs. The SJI Board reviews and approves requests quarterly. There is no cash match requirement for this program. For additional information about the Judicial Branch Education Technical Assistance Grant Program, please contact Kathy Schwartz at (703) 684-6100, ext. 215, or kschwartz@statejustice.org.

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The State Justice Institute is seeking an Executive Director. The mission of the Institute is to award grants to improve the quality of justice in State courts nationwide. Established by Federal law (42 USC 10701, et seq.), SJI is a non-profit corporation governed by a Board of Directors appointed by the President and confirmed by the Senate.

The Executive Director is responsible for administering the operations of the Institute; executing the policies established by the Board of Directors; representing the Institute before Congress, Federal agencies, and the State court community nationwide; and performing other duties as delegated by the Board.

Applicants must demonstrate significant experience in the administration of justice at the Federal, State, or local level; possess strong managerial and administrative skills; demonstrate excellent verbal and writing ability; and be willing to work in the Washington, D.C. area. A law degree, experience in Congressional relations, and familiarity with grant programs are desirable.

The salary is commensurate with experience, up to $128,200 (the current Federal Executive Level V salary). Excellent benefits include participation in the Federal Employment Retirement System.

Applicants should send a letter explaining their interest in the position, a current resume, and a list of references to:

Ms. Kathy Schwartz
Deputy Director
State Justice Institute
1650 King St. (Suite 600)
Alexandria, VA 22314

All applications must be received no later than December 3, 2004.

More information about SJI can be found on its web site, http://www.statejustice.org

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Please join us in welcoming the following new NASJE members:

- **Joy Ashton**, Project Attorney, National Council of Juvenile and Family Court Judges, Reno, NV
- **Cathy Brockmeier**, Court Education Consultant, Florida State Courts System, Tallahassee, FL
- **Doug Lanford**, Director, American Academy of Judicial Education, Tuscaloosa, Alabama
- **Barbara Sweet**, Staff Attorney, New Hampshire Supreme Court, Concord, NH

This in from Maureen Conner. She may have been the one to say it, but I think we all agree with her:

As of November 8, David Tevelin will leave SJI and embark on a new path. He has accepted a job opportunity with West Publishing, and we wish him well.

To say that we will miss David does not begin to express our appreciation for his leadership, guidance, and support since 1989. David has been JERITT's champion and, indeed, the champion of judicial branch education.

Congratulations, David. We will miss you!

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Midwest Regional Meeting
submitted by Philip Gould

Wednesday, August 11, 2004
Renaissance Harbor Hotel
Baltimore, Maryland

I. Attendees: Iowa: Jerry Beatty; Michigan: Kevin Bowling, Dawn Wilson; Missouri: Linda Evans; Nebraska: Philip Gould; Ohio: John Meeks, Phil Schopick, Christy Tull, Debra Weinberg; Texas: Mary Kay Bickett, Ann Blankenship, Dottie McDonald, Kenneth Miller, Roger Rountree.

II. Agenda Items:

A. Exceptional Programming: The bulk of the meeting was a discussion of exceptional programming which we had heard and wished to share with others inside and outside the region. From the list below, the region recommended the following to the general business meeting:

- Bridges out of Poverty—Ruby Payne and Philip DeVol
- Cultural Awareness/Diversity—"You don't know me until you know me" Michael Fowlin http://www.michaelfowlin.com 1-person play
- Hearsay/Evidence/Judicial activism—Brian Goodell/Ohio
- Judicial Ethics—Ex Parte Communication tape
- Vicarious Trauma—Isaiah Zimmerman (consultant in JERITT consultant database).

What follows is the entire list arranged by of who suggested what programs:

1. Mary Kay

- Vicarious Trauma—Isaiah Zimmerman (consultant in JERITT consultant database).
- Cultural Awareness/Diversity—"You don't know me until you know me" Michael Fowlin http://www.michaelfowlin.com 1 person play
- Hearsay/Domestic Violence—Linda Thomas (Dallas Court of Appeals)
- Constitutional Issues—Irwin Chemerinsky (Duke)
- Appellate Writing—Law Writers (team) Nancy Tutin
- Shaken Baby Syndrome—Shaken Baby Alliance Bonnie Armstrong, Ft. Worth
- Stalker Profile—Judy Jacobs/Wayne Porter (from Florida)
- Myers-Briggs—2004 NASJE presenters

2. Dottie

- Strategic Planning/Customer Service/MBTI/Communication—Jan and Steve Bouch, Napa, California
- Courts/Community/Media Relations—Tom Hodson, Marietta College, Ohio
- Court Management/Administration—Mark Van Beuer, (Florida Court Administrator)

3. Roger

- Domestic Violence Panel—(Susann Schwab) Target audience court clerks; panel composed of victims, someone who knows the situation or victims. Moderator should know state laws/processes related to domestic violence.
- Parents of Murdered Children—organization
- Cultural/Socio-Economic Status Awareness—Philip DeVol (Ohio researcher) Social work approach.
- Bridges out of Poverty—Ruby Payne

4. Phil S.

- Technical issues related to integrating a responder system software with power point.

5. Ken

- Court Security Awareness—Robert Williams (Texas)
- Personal Safety/Stress—ASTEP—discussion class format

6. John

- New Judge Orientation—Mock trial format 1 hour session on bench … judicial education faculty play parts (25 minutes) then review/discussion. Scripts include outline of situation (Arraignments for limited jurisdiction judges/trials for general jurisdiction judges) Scripts from: MJI (with Video), also Professor Simon from University of Minnesota, and Florida

7. Debbie

- Judicial Ethics—two tapes Ex Parte Communication and Conscientious judging (family law context)
- Legal Writing—Judge Mark Painter, author of
- Hearsay/Evidence/Judicial activism—Brian Goodell

8. Christy

- Child and Brain development—Dr. Bruce Perry
- Juvenile Judges—2 year project to help judges lead in improving way abuse/neglect/dependency cases are handled.
- Cultural Diversity—Shane Salter (Washington DC)

9. Philip G.

- Evidence—Federal Magistrate F.A. Gossett (Omaha)
- Juvenile Judges—Judge Doug Johnson (Omaha)
- Cultural Diversity/Awareness—Judge Wadie Thomas (Omaha)

10. Jerry

- Institute format using law professors on rule of law and international law.
- Risk assessment adult/juvenile offenders—Ed Letesa (Cincinatti)

11. Linda

- Wendell Maurice/Tom Crowley (St. Louis)
- Stress Management/Customer Service—Lola Freeman good for front line staff

B. NHTSA Programming . Judges Karl Grube and Robert Pirraglia presented

information on NHTSA's programming and their ability to vary their programming to specific state needs. Brochures were provided to attendees.

C. JERITT. Dawn presented a number of items about JERITT, noting that a new graduate program at Michigan State University in judicial education is about to get under way.

D. Regional Meeting. It was suggested that there be a NASJE regional meeting in Columbus, Ohio, sometime in March, 2005. Roger, Mary Kay, Christy, and Philip will form a planning committee to work on this issue. This would be a time to present topics of interest in depth, perhaps do some mock presentations or do some preparation and training for future programs.

E. 2006 Annual Meeting. The region split on whether to recommend Chicago or Minneapolis as the site for the 2006 annual meeting. The final recommendation was left to the general business meeting.

Midwest | **Northeast** | Southeast | West

Northeastern Regional Meeting
submitted by Mary O'Connor

NASJE members from throughout the Northeast gathered at the end of the conference in Baltimore to share information and plan a spring meeting in New York. Present were Bunny Baum (Pennsylvania), Laurie Canty (Vermont), Lynn Carson (PA Coalition Against Rape), Franny Haney (Delaware), Ellen Marshal (National Albanian American Council), Cathy Morrison (PA Coalition Against Domestic Violence), Mary O'Connor (Connecticut), Linda Richard (Vermont), Joseph Sawyer (National Judicial College), Lisa Swaim-Parker (Delaware), Barbara Sweet (New Hampshire), Damaris Torrent (New York), and Michael Wise (National Judicial College)

The group shared information about innovative programs in each state and recommended faculty experts, identified uses for the STOP funds appropriated to the states under the Violence Against Women Act, and submitted suggestions to be presented to the NASJE Board of Directors.

Members agreed to plan a regional meeting. The meeting is tentatively scheduled to be held in New York on April 4, 2005.

Midwest | Northeast | **Southeast** | West

Southeast Regional Meeting – Best Practices
submitted by Kathleen Gross

On the last day of the 2004 NASJE Conference, the Southeast Region met over coffee and renewed friendships, shared ideas, learned about national programs, explored additional ways to work together, and looked for ways to better communicate. The meeting was led by Kay Palmer (AR) and attended by Susan Leseman (FL), Richard Reaves (GA), Skip White (FL), Michael Losavio (KY), William Brunson (NJC), Kathy Mitchem (GA), Marty Sullivan (AR), Dawn Wilson (JERITT), Becky Elkins (GA) and Kathleen Gross (WV). The Honorable Karl B. Grube (FL) and Robert Pirragalia (RI) shared information about the ABA's Traffic Safety Program which includes information on profiling.

After completing a survey for JERITT, a round table discussion about specific programs was held and ways to partner were explored. Among the programs discussed were:

- a campaign conduct program for persons seeking a judicial office;
- an advanced judicial college;
- a capital cases program;
- a diversity program;
- a media conference;

- a personal security session;
- several drug information programs;
- domestic violence sessions;
- a technology security, including evidence considerations, program;
- a mock trial program;
- assessment tools for judges;
- recusal rules and considerations; and
- many other ideas to improve judicial branch education.

The Southeast Region decided to have each state share a specific program with the entire group. Information on these programs was provided to Robin Wosje (NJC).

All of the purposes of NASJE were met in this best practice session. I really enjoyed the sharing of ideas in a relaxed informal atmosphere. The smaller group encouraged creativity and fostered cooperation both locally and nationally. The Southeast Regional Meeting was an excellent program thanks to all the members and their willingness to share.

Midwest | Northeast | Southeast | **West**

Notes from Western Regional Meeting
submitted by Diane Cowdrey

Diane Cowdrey, Regional Director, opened the meeting by welcoming everyone. She asked everyone to sign in, and encouraged them to fill out the evaluation survey for the JERITT Project. Diane let everyone know that the majority of the meeting today would be an opportunity for everyone to share their successes during the year, and to highlight special programs and/or faculty members. These would be shared with the larger group immediately following the Regional Meeting.

She also included time to discuss activities and communication within the region during the upcoming year, and was interested in any issues that members had for the Board.

Colorado. Liz talked about using the JERITT threaded discussion tool for management training for staff. She has a workbook and a facilitator to assist in the mostly independent work of participants. There is one conference call to kick off, then the work is all independently done. She is happy with this program, and passed out more detailed information on it.

Hawaii. Andrea, a new NASJE member, talked about the electronic criminal benchbook developed with grant funding. Judges used this resource, although using it on the bench is less frequent. It is a CD ROM/internet hybrid resource. She mentioned that education does not have a budget per se, in part to prevent cuts; however, this makes it difficult to plan for the year since much of her funding is based on grants or one-time funds.

Arizona. Pam has been certified to teach “Who Moved My Cheese” and is willing to travel to nearby states to conduct this training, for travel costs only. In Maricopa County, they created a civil page website, with links to resources in the Administrative Office of the Courts. There is an “Ask the Expert” link which allows judges to ask questions and get research. She is also connecting with Maureen Conner to develop a local certification program on the NACM Core Competencies.

Roxanne Ong briefed everyone on some of the many activities of the COJET Committee, which is the education committee in Arizona’s Administrative Office of the Courts. She mentioned a yearly staff conference, in which they featured a Holocaust survivor.

Sue talked about WENDALL, the webpage for education in Arizona. They also have a benchbook, which allows judges to check on citations at the bench and get them through WestLaw. They also publish this in hard copy. She talked about their education portal which connects to their interactive calendar and registration system. Sue has recently used Lectora (by Trivantis) to develop computer based programs. She found it to be much easier than using other programs.

Julie discussed staff education for the approximately 5000 court employees in Arizona.

This year, they are doing customer service training, and are working on accreditation issues with their local training liaisons. She mentioned that Diane Sweeney is putting together New Judge Orientation for limited jurisdiction judges in Arizona. It's a three-week program and the judges are tested.

Tim is a Probation Education Specialist and discussed their 40-hour defensive safety program. Recently probation officers were allowed to carry firearms, and about 20% of them currently do. So they have included a gun safety program as part of this training, and have trained about 3000 officers thus far.

Nevada. Evie reported on a conference entitled "Judging in the 21st Century" which featured a speaker on the Japanese internment, as well as a Holocaust survivor. Both of these were powerful speakers. She asked for assistance from the group on developing their website and in court staff training.

California. Karen briefly discussed the curriculum development process that is being conducted in California. She focuses on leadership training for management in seventeen different areas. She is happy to share the objectives, goals and resources in these areas. She also mentioned a Presiding Judge workshop that is for presiding judges and court executives. This year they included a "hot topics" session, which was done via broadcast. They plan to pilot a similar program for supervising judges and mid-level managers.

Michael talked about fairness issues in the state. They recently hired an ADA Program Specialist to develop a day-long conference for ADA coordinators within the courts. He is doing broadcasts on some programs that include a 30-minute call-in segment after the program. He is also working on a statewide conference for clerks in the area of diversity. Michael also talked about "Leadership Expedition" which is a four-month program for staff who are interested in moving into management.

Montana. Karen reported that judicial education in Montana is "under construction." The limited jurisdiction judges have some programs in place, and they are using an SJI grant to develop a curriculum for district court judges. She is also developing orientation programs. At the moment, there is not any staff training.

National Council of Juvenile and Family Court Judges. Joy talked about the programs that the National Council does; currently, they are focused in three major areas: relocation issues (move-aways); same-sex marriages, and developmental issues in the area of visitation.

New Mexico. Debbie said this year, they are doing a lot of updating manuals and benchbooks. They have also been asked to develop some programs on water issues. Their website, http://jec.unm.edu, is open for everyone to view. They are also training judges and staff on mediation in magistrate courts.

Beth mentioned that the NASJE DUI website is up and running, and can be accessed thru their site (above) or at the NASJE website (http://nasje.unm.edu). She talked about the DWI online program and noted that they are developing a phase two, which will be more complex. Colorado is adapting the clerks' ethics program for their state. Beth also said that they are developing a staff orientation program online.

National Judicial College. Dennis passed out materials and let everyone know that he is the liaison with COSCA. He is interested in learning about NASJE's needs. He also mentioned that they are beta testing a new judge development assessment, and asked if people were interested in helping with that testing. Dennis also mentioned foundation program for judges and that money was available for programs.

Peggy talked about the international program focus at the Judicial College. There is a National Tribal Justice Center, which helps with tribal issues in other countries. She is using distance education, and also developing leadership training. Peggy also talked about the Judicial Studies Program, with two majors. She is interested in collecting outreach materials for use in other countries.

Utah. Diane talked about the safety training that they have recently developed for probation officers in Utah, where officers do not carry firearms. She also let people know about Dr. Valerie Hale, a clinical psychologist who is an outstanding instructor, who can teach in many areas related to children and domestic issues.

Oregon. Mollie talked about the budget issues in Oregon, where there have been pay cuts and furloughs for staff. During the past year, they created a database of programs, and now have registrations online. She has a law clerk who works on benchbooks. They adopted standards for programs for judges and court staff, and is happy to share those with other states. She is conducting regional programs for judges, often around events, and people seem to like the smaller conferences. She held a large conference focused on meth, which included an ER doctor, a treatment panel, law enforcement, and a sentencing component. The judges liked having this as a theme.

Carl Grube and Robert Pirraldi talked briefly about the role that the National Highway Safety Traffic Association can play in judicial education in each state. There are courses at the National Judicial College, and each state has a Highway Safety liaison that can help in generating funds for judicial education. They encouraged people to log on to www.nhtsa.dot.gov for information.

Dawn Wilson, of JERITT, wanted to encourage people to give her input on re-design of the JERITT databases. They will be doing some work on them, and are interested in NASJE members' thoughts about improvements.

2003 Regional Meeting and New Regional Activities
Kathleen Sikora reported on the regional meeting that was held this year in California, March 8-9, 2003. The program was a success, with about 20 people attending (one even outside the region!). With some small donations from the Judicial College and ICM, lunches were funded for the program. Some staff members allowed participants to stay in their homes, keeping costs down for everyone.

Diane asked if people were interested in holding a regional conference this year, and got support from the group. One suggestion was to hold the program in Reno. Those interested in planning such a program were:

- Pam Lizardi (AZ)
- Mollie Croisan (OR)
- Beth Gillia (NM)
- Peggy Vidal (NJC)
- Kathleen Sikora (CA)
- Evie Lancaster Bosch(NV)

Dennis Jones will find out if the National Judicial College would be able to host the event this year. March was noted as a good time for such a program.

Diane also suggested holding training calls, every other month, which would allow for some in-depth discussion of a particular program. Several people signed up to "host" a training call, and Diane committed to getting the complete schedule out for everyone. There were several issues that interested members, so more calls may be scheduled. She will use www.freeconference.com to hold the calls, so each person will only be responsible for their long-distance charges. Different regional members are hosting the calls on a particular topic that they choose - a specific program of their state, a particular interest, etc., and anyone in the regional can call in, listen and participate in Q&A.

The regional members were also interested in hearing about Board meetings, so conference calls will be set up to provide this information.

In Attendance at the Meeting:

- Diane Cowdrey (UT)
- Dennis Jones (NJC)
- Debbie Bogosian (NM)
- Karen Sedlock (MT)
- Tim Hardy (AZ)
- Karen Moen (CA)
- Julee Bruno (AZ)
- Sue Latzko (AZ)
- Roxanne Song Ong (AZ)
- Evie Lancaster Bosch (NV)
- Pamela Lizardi (AZ)
- Andrea Rinaldi Wood (HI)
- Beth Gillia (NM)

- Kathleen Sikora (CA)
- Liz Strong (CO)
- Mollie Croisan (OR)
- Peggy Vidal (NJC)
- Dawn Wilson (JERITT)
- Michael Roosevelt (CA)

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NASJE
NEWS

News

From the President

by William Brunson

News

- MSU Extends Academic Credit for Your In-State and National Court Administration Programs
- NASJE Strategic Plan Priorities and Implementation
- Teaching Judging in Law Schools
- SJI Update: The Solutions Project
- SJI Seeks Executive Director
- Transitions
- Regional Reports
- From the President
- From the Editor

In 1973, NASJE began with only six directors of judicial education. Today, NASJE has 164 members from a variety of backgrounds. We have directors, associate directors, program attorneys, program managers, judges, professors, researchers, distance learning experts, human resource professionals, clerks, and public information officers who belong to the association, all with varying needs.

At the same time that our membership is expanding, we have seen an expansion in those we educate. Originally, the judicial educators were only concerned with educating judges. Today, many judicial branch educators are responsible for educating all court staff as well, including probation officers in some states. These changes have resulted in a larger, more diverse and interesting association.

During the conference, I extolled the benefits of serving on committees. In essence, I told you that the more that I've put into NASJE, the more I received in return in terms of work satisfaction, knowledge about my profession, and most importantly, interaction with wonderful colleagues from all over the country. My requests for you to join committees did not go unanswered. Indeed, many of the committees had too many interested persons. In those cases, I found other committees that the persons would enjoy. While there remain committees that would benefit from greater membership, the committees are strong and poised to do great things on your behalf and through your efforts.

NASJE President William Brunson

All membership organizations rely upon the volunteer efforts of their members to accomplish their goals, and NASJE is no different. The purpose of our association is to educate the membership, provide networking opportunities (and moral support for what we do), enrich our professional lives, serve as a resource both nationally and internationally and finally, to make new friends.

I look forward to working with you this year, and I hope to see you in beautiful Savannah in August.

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NASJE NEWS

News

From the Editor

News

- MSU Extends Academic Credit for Your In-State and National Court Administration Programs
- NASJE Strategic Plan Priorities and Implementation
- Teaching Judging in Law Schools
- SJI Update: The Solutions Project
- SJI Seeks Executive Director
- Transitions
- Regional Reports
- From the President
- From the Editor

This year begins a period of growth for NASJE News. The size of the editorial board has been increased to allow us to broaden the potential areas of interest in which we can keep you informed.

We now have full-fledged editorial members who focus on electronic and distance learning, problem-solving courts, and issues of interest to new judicial educators.

In addition, we will see articles relating to educating law students to be judges. And we are still fortunate to continue our guest editor series that focuses on such areas as mentoring, technology, and communities of practice.

Editor Phil Schopick

Something new this year will be reprints from past issues of NASJE News, from before we went electronic. If you would like to suggest specific articles to re-publish, please email me.

One last point: at the top of every page of the newsletter is the opportunity to click on "comments?" and send us your feedback. We would like to invite more of you to take advantage of this opportunity.

I look forward to seeing as many of you as possible next year in Savannah from August 21 through 23. In the meantime, have a good year.

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NASJE
RESOURCES

Pushing a Rope: Maneuvering through an Instructional Session

by Meggin McIntosh, Ph.D.
Emphasis on Excellence, Inc.
Reno, NV www.meggin.com

Resources

- "Pushing a Rope: Maneuvering through an Instructional Session"
- Examining Drug Courts
- The Sky (Is)(Is Not) Falling: Crawford v. Washington and the New Law of Confrontational Hearsay
- The National CASA Association and the NCJFCJ Partner in Educating Judges and Child Advocate

Have any of your recent presentations been like pushing a rope, i.e., you were holding one end of the rope (knowledge, skills, and/or information) and trying to push it toward your audience, but unfortunately, it kept doubling back on itself or at least not moving in the direction you wanted it to? Presenting without having the audience engaged (and giving us help) is like pushing a rope (or even a string). It can be done, but the effort is draining, the path is fairly circuitous, and the results are not as definitive as they would be if we had someone on the other side of our rope, pulling.

Regardless of whether you have been hired to share your knowledge, skills, and information with judges, attorneys, court reporters, clerical staff, or any other such group, in order for the learning experience to be positive and powerful, you must know how to maneuver skillfully through the instructional session(s). NASJE is pleased to offer a series of articles that will offer tips, tools, and techniques that will allow you to steer strategically through your classes, seminars, and presentations. These articles will provide ways to engage your audience so that they help you—and themselves—to move the rope.

The topics in this series will include (but won't necessarily be limited to) the following:

- Strategic course planning
- Beginning with the end in mind
- Opening powerfully
- Closing for impact and retention
- Engaging learners throughout the sessions
- Evaluating the learning

In brief, here is what you can expect from each of the upcoming articles in this series:

1. Strategic course planning

"In order for the learning experience to be positive and powerful, you must know how to maneuver skillfully through the instructional sessions."

The philosophy threaded throughout these articles will be that the goal of learning requires us to think more strategically than ever before about our teaching and the learning we intend to foster. Teaching strategically means that there is a plan and a customized design for ensuring that we accomplish specific, valid learning objectives in our curricula. It means that each instructor's courses articulate with others within a specific curriculum to eliminate critical gaps, and minimize excessive overlaps. The goal of strategic, accountable instructors is to design and build quality and accountability into each course, workshop, or presentation. The following three definitions will be employed throughout these articles:

- Strategic teaching: instruction that is deliberately and intentionally designed to achieve a particular effect or learning goal. Although course participants can (and do) learn through serendipitous experiences in the classroom, they learn more—and more of what we want them to learn—when we have carefully considered the learning outcomes we desire and then have deliberately planned our instruction so that these learning outcomes are achieved. Strategic teaching will increase learner achievement in our presentations.

- Strategic learning: learning that is deliberate and conscious. Participants who are strategic learners are mindful of their strengths and weaknesses as learners, and of what is required to be effective and efficient during the learning process. As instructors, we can expedite our students' learning by making sure that they know how to learn and are intentional in their learning. Ensuring that our "students" are strategic learners will serve them while they are in our courses as well as throughout the rest of their lives.
- Strategic course planning: course planning that is deliberate, intentional, and considered, with the overall objective being to ensure learning. Strategic course planners focus on their destination, and then think through how to get all participants there efficiently and effectively.

2. Beginning with the end in mind
Part of planning strategically is being clear on what your target is, i.e., what is it that you want your participants to know and be able to do as a result of being in your workshop or seminar? This article will suggest specific ways of determining your objectives and then how to plan "backwards" from those objectives to design the most effective learning session.

3. Opening powerfully
" Hello, Wisconsin!" (or wherever the comedian might be). This is not exactly a powerful opening, so I won't be encouraging you to greet your participants in this fashion. I will, however, be sharing particulars about starting your classes, speeches, and seminars so that participants' attention is drawn immediately to you and so that your learning session actually begins from the first moment.

4. Closing for impact and retention
So if you are going to start powerfully, you certainly don't want to fizzle out as the class moves along—so that by the end no one even notices that you have ended because they were long since disengaged! You want people talking and thinking about what you have taught them—and one way to ensure that this happens is to end with impact. Expect to learn some simple and some complex ways of doing this—which will also aid in compelling your learners' retention of the material.

5. Engaging learners throughout the sessions
" Pushing the rope" through a class of learners who are otherwise occupied (tuned out, doing other work, sleeping, or just unfocused on their learning) is painful—and is actually a waste of time. When we are teaching, it's not for us, it's for the learners. This article will provide the means to keep participants involved in the lecture and other learning experiences. It's surprisingly simple to do—and difficult to try. I will work to encourage you to take small steps toward radically changing the look and feel of your sessions.

6. Evaluating the learning
Gosh, did anyone learn anything? That's a scary question. Sometimes there are state or federally mandated tests that "measure" what people have learned in our classes, but there are other means as well, that may be more useful and more meaningful. We will take a look at a few of these in this article.

Who knows what else might come up as this series moves along? Feel free to contact me with suggestions, questions or comments. I look forward to hearing from you!

Meggin McIntosh, Ph.D., is Professor Emerita, University of Nevada, Reno and President, Emphasis on Excellence, Inc., Reno, NV. You may email her through her website at www.meggin.com or contact her via phone (775.853.5510) or fax (775.853.5584). Her latest book is Teaching College in an Age of Accountability (Allyn & Bacon, 2003).

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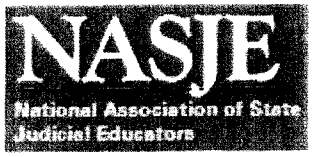

NASJE
RESOURCES

Examining Drug Courts

by C. West Huddleston, III
Executive Director, National Drug Court Institute

Resources

- "Pushing a Rope: Maneuvering through an Instructional Session"
- Examining Drug Courts
- The Sky (Is)(Is Not) Falling: Crawford v. Washington and the New Law of Confrontational Hearsay
- The National CASA Association and the NCJFCJ Partner in Educating Judges and Child Advocate

The 1989 experiment by the Dade County Circuit Court to develop an intensive, community-based, treatment, rehabilitation, and supervision program for felony drug defendants to address rapidly increasing recidivism rates has blossomed into a national phenomenon. The drug court movement, now over a decade old, has had a significant impact on the management of drug-related offenses and the drug abusing offender.

By increasing the direct judicial supervision of offenders, coordinating public resources, holding service providers accountable, reducing duplicate services, and expediting case processing, drug courts provide an innovative approach that further communities overall anti-drug strategy. The National Association of Drug Court Professionals (NADCP) and the National Drug Court Institute (NDCI) have led the charge of providing research and training to courts to help support this movement.

In May 2004, NDCI published *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States*. This report represents, for the first time, data, results, and outcomes compiled from numerous sources providing the current state of drug court research as well as results from the National Survey on Problem Solving Courts, conducted by the National Drug Court Institute in the last quarter of 2003. *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States* is a product of the National Drug Court Institute (NDCI) and was made possible by the Office of National Drug Control Policy (ONDCP), Executive Office of the President, in conjunction with the Bureau of Justice Assistance (BJA), U.S. Department of Justice.

This report, intended to be published twice a year, seeks to present information regarding the impact of drug courts as stated in the current scientific literature as well as to provide an aggregate summary of survey results from each state detailing the number and type of all operational problem solving court programs in the United States (Table II). Specific to this inaugural volume, sections have been dedicated to national, state, and local drug court research findings as well as state-specific drug court legislation and the amount of each state's appropriation supporting such court programs (Table III). In addition to a regular report on the state of current drug court research and the number of problem solving courts by state, future volumes will also focus on drug court population capacity, treatment services, drug use trends, monitoring technology, and team composition.

To obtain a copy of this publication visit NDCI's website.

Another project on which NDCI is working is a publication series on sustainability strategies that jurisdictions are utilizing to maintain and sustain all types of drug courts in their communities. This publication series is supported by the Office of National Drug Control Policy to promote the long-term viability of drug court models by promoting individual jurisdictions' strategies for sustainability.

The inaugural publication of this series will focus on "unique and creative funding strategies" that jurisdictions employ to sustain court operations, to build additional program components, to improve service provision and supervision, to enhance incentives, to provide additional drug court practitioner training or to support any number of critical elements of successful problem solving courts.

Drug courts are being encouraged to share sustainability strategies they have employed to

effectively supervise and treat drug court participants to promote recovery and improve outcomes.

Please take a moment to describe your sustainability strategy and send your submission to Dennis Reilly, NDCI Project Consultant at sustaindrugcourt@aol.com or call (203) 500-0993.

By sharing innovative sustainability strategies with other jurisdictions, drug courts can help to sustain each other and better serve those in need. Thank you for your help and for your commitment to building sustainable drug courts.

Mr. C. West Huddleston is presently the Director of the National Drug Court Institute in Washington, D.C. He is a board-licensed substance abuse counselor with thirteen years of clinical experience working with misdemeanor and felony offenders. Mr. Huddleston has also served as the director of two community corrections programs and co-designed and implemented the first two drug courts in the State of Oklahoma. Mr. Huddleston has a B.A. in Counseling from Oklahoma State University. He has taught Drug Court Training for five years at various institutions including the Drug Enforcement Agency and the Bureau of Justice Assistance and is a member of the Substance Abuse Committee of the American Correctional Association.

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The Sky (Is)(Is Not) Falling: Crawford v. Washington and the New Law of Confrontational Hearsay

by W. Dennis Duggan, F.C.J.

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We've all heard of mission creep. Some task or policy starts out with one–usually limited—goal and ends up either doing something entirely different or something so much broader that we forget what the original purpose was. For example, in foreign policy we often see a limited police action expand into nation building. The Judiciary, not to be outdone by the Executive Branch, has sometimes engaged itself at both ends of the creep spectrum. For example, there is the phenomenon that could be called "mission jump." To go along with the principle of procedural due process, the courts invented the concept of "substantive due process." This became the Louisiana Purchase of judicial review. With the tool of substantive due process, courts could review all laws to determine if they were good social policy (**SEE NOTE**).

"With the tool of substantive due process, courts could review all laws to determine if they were good social policy."

So, you might ask, doesn't substantive due process review protect us from arbitrary legislative action? Well, yes it does. But what protects us from arbitrary judicial action? Not the voting booth to be sure. One should remember that during the "Lochner Era," (1905-1937) the Supreme Court protected us from work place safety, racial and gender equality and other social legislation—all based on our freedom to contract to work twelve hour days in an unvented bakery or six days per week in a dust filled coal mine. All the ideas that the Lochner Supreme Court rejected, we now take for granted as sound public policy. (**SEE NOTE**)

"A broad principle of constitutional law is eroded by exceptions."

With judicial review, we also see something quite the opposite of mission creep—let's call it "mission shrink." This happens when a broad principle of constitutional law is eroded by exceptions "discovered" by the Supreme Court. For example, the Fourth Amendment requires that search warrants must be based "on probable cause supported by Oath or Affirmation..." and that the right of the people to be secure "against unreasonable searches and seizures, shall not be violated." However, there are so many exceptions to the warrant requirement that a police officer needs Westlaw™ in the cruiser or she acts at her peril. So, it is surprising when the Supreme Court says "whoa!" and reins in this mission shrink process, as it did recently in *Crawford v. Washington* (541 U.S.___, March 8, 2004.) If you are a due process freak you will love this decision. If you want to lock up all abusers of women and children and throw away the key, you will hate it.

This case involved the Sixth Amendment's confrontation clause: "In all criminal prosecutions, the accused shall enjoy the right...to be confronted by the witnesses against him." Since this clause would seem to prohibit the admission of any evidence at trial not produced by a witness, *Crawford* gives us a good excuse to review how the confrontation clause was eroded by the Supreme Court. It was eroded when the Supreme Court "discovered" exceptions to the Framers' intent. These exceptions allowed hearsay to be admitted at trial if the hearsay was "firmly rooted" in the law of evidence or possessed "indicia of reliability." This made the law of hearsay co-extensive with the confrontation clause, which *Crawford* now holds was a mistake.

So what's wrong with hearsay anyway? After all, even our knowledge of our own birth date is based on hearsay. We make most of the important decisions of our lives and the lives of our children based on hearsay. As we shall see,

"The confrontation clause was eroded by the

there is nothing inherently wrong with hearsay and the Constitution permits a lot of it to be used in criminal prosecutions. The confrontation clause is a procedural device meant to insure fairness, reliability and prevent governmental overreaching. The first ten amendments to the Constitution reflect the well grounded fear held by the American people who ratified the Constitution that government, given the chance, will oppress the governed. Our ancestors knew their English and European history.

The right of the accused to confront the witnesses against him not only enhanced the reliability of criminal verdicts, but provided a brake on the power of government. It should be noted that the Constitution does not state that criminal verdicts must be by a unanimous vote of the jury or that the jury must be twelve in number or that verdicts must be beyond a reasonable doubt. The beyond a reasonable doubt standard did not come into play until the mid-1800's. It does say, very clearly, that the accused gets to face his accusers.

In *Crawford*, a husband, out to revenge an attempted rape of his wife, stabbed the attacker with a knife during a fight. He claimed self defense. His wife, who accompanied him to the face-off, gave the police a sworn deposition that was mildly at odds with her husband's description of the fight. At trial, the prosecution sought to introduce the wife's deposition. The wife was not available to testify because the husband asserted his marital privilege. However, Washington State law had an escape valve for the marital privilege restriction that allowed spousal testimony into evidence if it met some other hearsay exception. The prosecution relied on Washington's declaration against penal interest exception to get the wife's statement before the jury. Crawford was convicted and he appealed.

On appeal, Crawford argued a confrontation right violation. That brought into play the Supreme Court's decision in *Ohio v. Roberts* (448 U.S. 56 [1980]). *Roberts* held that an out of court statement of an unavailable witness was admissible if it fell within a "firmly rooted hearsay exception" or bore "particular guarantees of trustworthiness." The Washington Supreme Court sustained the verdict on the trustworthiness issue. The United States Supreme Court reversed the Washington Supreme Court and overruled its *Roberts* holding, 9-0. (**SEE NOTE**)

Justice Scalia, writing for the Court, traced the origins of the confrontation clause back to Roman Law. (**SEE NOTE**)

"Gone is the Roberts' indicia of reliability rule."

The Jewish authorities asked for his release so they could execute him. Paul, being a Roman citizen, asked that his case be heard by authorities in Rome. In explaining the situation to King Agrippa (the Roman ruler in Israel), Festus (the Roman Provincial Governor) stated: "There is a certain man left prisoner by [the last governor] and, when I was at Jerusalem, the chief priests and elders of the Jews presented their case against him and asked for his conviction. But I told them that Romans are not accustomed to give any man up before the accused has met his accusers face to face and has been given a chance to defend himself against the charges." Paul was kept in prison in Israel for two years, shipped to Rome and released two years later, only to be reimprisoned several years later. He was beheaded in Rome in the year 67.) up through the treason trial of Walter Raleigh in 1603, in which Raleigh was convicted based on evidence contained in un-confronted depositions. (**SEE NOTE**)

Scalia concluded that if "testimonial" evidence was to be used at trial, the defendant must have been afforded a prior opportunity to cross examine the witness. Gone is the Roberts' indicia of reliability rule. If the Pope gives a statement to the police or testifies "ex cathdra" (i.e. with infallibility) before a grand jury, that statement will never be admissible in an American criminal trial because the accused had no opportunity to cross-examine. While out of court statements made in the furtherance of a conspiracy will still be admissible, because they are part of the criminal enterprise, the interlocking confession rule is also out the window. That rule permitted a co-defendant's confession to be admitted at a joint trial if the statements were so similar that they "interlocked." The ludicrousness of the interlocking confession rule is in plain view in the *Crawford* case.

The Washington Supreme Court approved the use of the wife's out of court statement because, "...when a co-defendant's statement is virtually identical to that of a defendant, it may be deemed reliable." (54 P. 3d 656, 663). This was the argument of the State on appeal. However, at trial, the State had argued out of the other side of its mouth. It claimed that the wife's statement was "damning evidence" that "completely refutes" the defendant's claim of self defense. (This must be the interlocking-refutation-confession corollary exception to the hearsay rule.)

According to the Supreme Court, the flaw in their *Roberts* holding was this:

The *Roberts* test allows a jury to hear evidence, untested by the adversary process, based on a mere judicial determination of reliability. It thus replaces the constitutionally prescribed method of assessing credibility with a wholly foreign one...Dispensing with confrontation because testimony is obviously reliable is akin to dispensing with a jury trial because a defendant is obviously guilty. This is not what the Sixth Amendment prescribes. (*Crawford*, p. 27)

"Crawford now requires our judge to determine if the statement is testimonial."

Crawford closes the *Roberts* door which required the judge to weigh the reliability of out of court statements of an unavailable witness. However, *Crawford* now opens another door, which requires the judge to determine if the statement is testimonial. If it is, it's out. If it's not, it's in—assuming it's the good type of hearsay. How wide the "testimonial" door will swing, no one knows. *Crawford* does not reach, and therefore prohibit, the longstanding exceptions to the hearsay rule such as for business records or dying declarations. It is not all that clear why this is so. Since there is no debate material available for this particular clause, Scalia must resort to a contemporary dictionary and a search for the evils that the Framers were presumably attempting to prevent. The best explanation offered is that the Framers could not have intended to abrogate the entire body of hearsay law by means of the confrontation clause, but no Framers ever said that and the law of hearsay was both fluid and inchoate at the time, so how could we know what the Framers intended? (**SEE NOTE**)

"If it's testimonial, the accused gets to cross-examine it."

The Confrontation clause, the Court explains, is addressed only to witnesses. Scalia notes that according to the 1828 edition of Webster's dictionary, a witness is one who "bears testimony." "An accuser who makes a formal statement to government officers bears testimony in a sense that a person who makes a casual remark to an acquaintance does not." If it's testimonial, the accused gets to cross-examine it. So, what is testimonial? The short list would include affidavits, custodial examinations, confessions, depositions, prior testimony that the defendant was unable to cross-examine, "or similar pretrial statements that the declarants would reasonably expect to be used prosecutorially." (p. 15) "Where testimonial evidence is at issue, however, the Sixth Amendment demands what the common law required: unavailability and a prior opportunity for cross-examination. We leave for another day any effort to spell out a comprehensive definition of "testimonial." (p. 33)

Crawford has raised some alarm bells among prosecutors who fear that it will impede their ability to prosecute domestic violence and child abuse cases. No doubt, the Constitution and the Bill of Rights sets a high bar for prosecutors. But *Crawford* will not cause the sky to fall. A large majority of domestic violence and abuse cases are prosecuted in Family Courts. The confrontation clause does not apply to civil cases and the more generalized due process clause gives the law of evidence a wide playing field. Vulnerable witness statutes, which allow children to testify by video outside the courtroom have passed constitutional muster. (**SEE NOTE**)

The Court also noted the continuing validity of the rule of "forfeiture by wrongdoing." For example, a defendant who makes a witness unavailable by threats may find himself confronted by that witness' uncross-examined grand jury testimony. (See Fed. R. Evid. 804 (b)(6).) Neither does *Crawford* restrict expert testimony on such topics as the battered woman syndrome or child abuse accommodation syndrome which is used to explain counter-intuitive behaviors or statements of victims of certain types of crimes. 9-1-1 calls will still be admissible if they constitute excited utterances.

On the other hand, specific DV hearsay exception statutes, such as those enacted in California (O.J.'s Law) and Oregon must be brought back to the drawing board. (See Cal. Evid. Code §§ 1370 and 1109. OR Evid. Code § 803(26).) Domestic Violence Incident reports will not pass the *Crawford* rule. (**SEE NOTE**)

No doubt, prosecutors will be challenged in their efforts to prosecute domestic violence cases without the cooperation of the victim. (Ironically termed "evidence based prosecutions.") However, this might not be a bad thing if it results in structural changes in the way we address family violence.

A victim of family violence refuses to cooperate with the prosecution for two basic reasons.

First, she may be making a very considered and intelligent decision that she does not want that level of State intrusion into her private life. In these cases, for the State to say: "We know better than you what's best for you," is arrogant. Second, if the victim is refusing to cooperate because she is fearful that the State cannot protect her, then the process is broken because the State is failing in its first duty to protect its citizens from both crime and the fear of crime. (Twenty witnesses have been murdered in New York City over the past fifteen years.) In both cases, the State can find itself in violation of the Hippocratic rule that applies to all human endeavor: first, do no harm.

Woody Hayes, the great Ohio State football coach, once explained his fondness for the running game by saying: "When you pass the ball, three things can happen and two of them are bad." The same thing can be said of the victimless prosecution of family violence cases. Sooner or later the batterer will get out of jail. In the case of the victim who has made an intelligent decision not to seek prosecution, that prosecution may have permanently terminated the family healing process. In the case of the fearful victim, she will be at a heightened risk when her attacker has been released and she will be in no better position to protect herself. Having been cast into permanent victimhood, she will be provided with no more help than a direction to follow the yellow brick road which will lead not to Oz but, more likely, to a relationship with a new person who will batter her. The circle will remain unbroken.

"Prosecutors fear that it will impede their ability to prosecute domestic violence and child abuse cases."

The admissibility of the out of court statement of a young child who is the victim of abuse is also a nettlesome problem. No one has come up with a very good solution that balances the protections provided by the confrontation clause and the societal need to punish the perpetrators of serious crime. For example, in a larceny prosecution, we would not let a social worker testify that she interviewed a child witness who stated to her: "I saw my next door neighbor steal the car." Why then would we let the same social worker testify in a sex abuse prosecution that the child stated; "My daddy hurt my pee-pee." Don't the same confrontational issues come into play?

At another level, the unreliability of young children as accurate reporters of past events is well known. The absence of uniformly applied, scientifically based interview techniques is wide spread. Most often, by the time a child victim of a sex crime is interviewed by a competent evaluator, the child has been previously questioned by a half dozen unqualified interviewers. The videotaping of the taking of a child's statement is the exception, not the rule. The "testimonial" test offered by Justice Scalia stumbles badly when the witness is a child. Under that test, the statement of the child given to a trained state sex abuse investigator would not be admissible because it would be the equivalent of a police interview. However, the same statement made by the child to the mother-in law who hates the father could be admissible as a non-testimonial "casual remark."

"The "testimonial" test offered by Justice Scalia stumbles badly when the witness is a child."

What about statements made to a physician for medical treatment? A notation in the medical chart of a shooting victim that "my boyfriend shot me with a shotgun," would be redacted to eliminate the reference to the boyfriend because the identity of the assailant is not germane to treatment. But, what if the notation stated: "child stated that her father touched her vagina." Isn't the identity of the perpetrator relevant to how a psychologist might treat the child? No doubt that it is. However, the medical records hearsay exception assumes that a person will tell his doctor the truth because he wants to receive the right medical treatment and, therefore, such out of court statements are reliable. (**SEE NOTE**)

This assumption is strained when the information comes from a young child who would not have that same awareness as an adult of the importance of conveying accurate information. In fact, why is the child's disclosure to a physician more reliable than that made to the sex abuse investigator, which would not be admissible under the Crawford test?

The Supreme Court looked at this situation in Idaho v. Wright (497 U.S. 805 [1990]). In Wright, the Court held that the confrontation clause was violated when a pediatrician was allowed to testify about a remark made to him by his three year old patient. "When I asked her 'Does daddy touch you with his pee-pee,' she did admit that." The Court analyzed the issue under the Roberts firmly rooted / indicia of reliability test. First, it agreed with the state courts that the child was "unavailable" because, at three years old, she was not able to communicate in court to a jury in a meaningful way and, accordingly, was not available

to testify. Second, it agreed that the residual hearsay rule of Idaho was not a "firmly rooted" hearsay exception. (SEE NOTE)

In finding that the child's statement did not meet the reliability test the Court held that reliability must be measured by the circumstances surrounding the making of the statement and could not be bootstrapped by other evidence, external to the making, that corroborated the statement. The Court went on to say: "Out-of-court statements made by children regarding sexual abuse arise in a wide variety of circumstances, and we do not believe the Constitution imposes a fixed set of procedural prerequisites to the admission of such statements at trial."

"How do child sex abuse victims get their voice before a jury?"

So, how do child sex abuse victims get their voice before a jury? Both Crawford and the reliability test provide significant hurdles. I am not sure what direction the analysis will take, but if the following protocols are met, I believe the Courts will find a way. First, the child's testimony cannot be polluted by multiple untrained interviewers. Second, the interview must be done using a Daubert tested interview protocol. Third, the interview must be video taped. Fourth, prosecution based interviews will never pass the Crawford rule. To insure neutrality, the interviewing agency should be attached to a medical facility and not be an arm of the prosecution. One need only recall the massive breaches of justice that took place a decade or more ago with runaway day care child abuse prosecutions. In some of those cases, the children were awarded with toy Deputy Sheriff badges if their statements implicated the defendants.

In the case of child victims of crime, we must recognize that the policy expressed in the confrontation clause is probably irreconcilable with an attempt to establish a sound evidentiary basis for placing into evidence the out of court statements of children who are too young to testify under oath. Searching for ways to end run the Constitution or the laws of evidence in child abuse cases, because our stomachs turn at the thought of allowing a child sex abuser to go free, will only increase the chance that the innocent will be convicted without significantly raising the probability that the guilty will be punished.

When the Supreme Court came down with the *Miranda* ruling in 1966, the police community warned that the sky would fall. It didn't. In fact, despite the dire predictions that the police would never get another person to confess and they would never again solve a crime, just the opposite occurred. The police became better investigators, better interrogators and better crime solvers. Crawford can provide the same impetus to the investigation and prosecution of family violence crimes that Miranda did.

"Expect to see a greater and more expansive use of the hearsay exceptions that don't implicate constitutional protections."

Crawford will be a big shock to the system. I predict that the Courts will take some of the edge off Crawford by narrowly interpreting what statements are "testimonial." Those are now the only type of hearsay that kick the confrontation clause into gear. Also, expect to see a greater, and more expansive use of the hearsay exceptions that don't implicate constitutional protections. These would include excited utterances, declarations against penal interest, present sense impressions, state of mind and statements made for medical treatment.

The legislatures should also weigh in with procedures that allow prompt, pre-trial, videotaped depositions of victims to be taken in a neutral and protected setting that provide the opportunity for cross-examination. These should be admissible under the Crawford rule. They will also serve the salutary purpose of lifting the weight off victims' shoulders caused by the enduring of long trial delays and the prospect of having to testify in a public setting before a jury. (SEE NOTE)

Crawford is nothing more than a return to basic constitutional principles that a jury not a judge should assess credibility and that credibility should be established by a witness, under oath, before a jury, facing the accuser, and who is tested by "the greatest engine ever invented for the discovery of the truth,"—cross-examination. (Wigmore, Evidence, § 1367, 1976 ed.)

W. Dennis Duggan has been a Family Court Judge since 1994. Prior to that he was Deputy City Attorney for the City of Albany and in private practice for 18 years. Judge Duggan is a Trustee of the National Council of Juvenile and Family Court Judges, President of the New York State

Family Court Judges Association where he serves as its Legislative Chair, and is a member of the American Judges Association. Judge Duggan is also a founding Board Member of the New York Chapter of the Association of Family and Conciliation Courts. Within the New York State Judiciary he serves on the Judicial Institute Committee, the Family Court Advisory and Rules Committee and the Family Law Curriculum Development Committee. He is a member of the New York State Bar Association, the Capitol District Women's Bar Association, the Black and Latino Bar Association and the Albany County Bar Association. He is a graduate of the University of Notre Dame, Albany Law School of Union University, the National Institute of Trial Advocacy and the Judicial Economics Institute. Judge Duggan is a frequent lecturer at International, National and State judicial and legal conferences. He also writes a monthly column for the Bar Association Newsletter on topical issues on the History of the Law.

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· "Pushing a Rope: Maneuvering through an Instructional Session"
· Examining Drug Courts
· The Sky (is)(Is Not) Falling: Crawford v. Washington and the New Law of Confrontational Hearsay
· The National CASA Association and the NCJFCJ Partner in Educating Judges and Child Advocate

The National CASA Association and the National Council of Juvenile and Family Court Judges Partner in Educating Judges and Child Advocates

by Hon. J. Dean Lewis

The court appointed special advocate (CASA) cause—often known as volunteer guardians ad litem (GAL)—was established by a judge. Judges continue to play a key role in the development of new programs, in sustaining existing CASA/GAL programs, and in helping the CASA network grow. With this collaborative history in mind, the National CASA Association and the National Council of Juvenile and Family Court Judges (NCJFCJ) entered into a partnership to establish a joint Judicial Liaison Committee in 2003. The committee is dedicated to identifying all judges who hear child welfare cases in an effort to make technical assistance and education offered by both national organizations available to them. Members of the Judicial Liaison Committee include NCJFCJ judges, National CASA board members, CASA state directors, and staff from both national organizations.

The National CASA Association and the NCJFCJ jointly sponsor the Judges' Page, a quarterly educational e-mail newsletter located at the National CASA website. Both organizations encourage those judges who handle child welfare cases to be well informed on case law, best practice, and nationally recognized dependency programs. The Judges' Page was cited by the American Bar Association Center on Children and the Law as:

> "...a useful resource not just for judges, but for any child advocates involved in child abuse/neglect related cases. There are quick links to the National Court Appointed Special Advocate Association and National Council of Juvenile and Family Court Judges websites.... There are featured commentary items by juvenile court judges, case law articles, news entries, and other material that you may find nowhere else."

To view and subscribe to the Judges' Page, go to http://nationalcasa.org/JudgesPage. Subscription is open to anyone and can be an important educational opportunity for attorneys and volunteer advocates in addition to judges.

Judge J. Dean Lewis was appointed to the Bench in 1986. She served as a judge of the Juvenile and Domestic Relations Court for the 15th Judicial District of the State of Virginia serving the Fredericksburg area. She sat primarily in the County of Spotsylvania until July 1, 2003 when she retired from the Bench. Judge Lewis has been active in Virginia, having been appointed to the Governor's Commission on Violent Crime in 1992 and having received an award from the Governor's Council on Child Abuse and Neglect Prevention in 1989. On the national level, she served as President of the National Council of Juvenile and Family Court Judges (NCJFCJ) from July, 1998 to July, 1999. Judge Lewis was named the 1997 Judge of the Year by the National Court Appointed Special Advocate Association (NCASAA). She has served on the NCASAA Board of Directors since 1998. Judge Lewis volunteers with the National CASA Association in her retirement and is currently editor of the NCASAA-NCJFCJ e-mail newsletter.

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Conference Recap

The Guide on the Side: The Art and Craft of Group Facilitation

Presentation and summary by Kelly Tait

Conference Recap

- The Art and Craft of Group Facilitation
- Changing the Culture of the Courts To Support Innovation
- Ethics for State Judicial Educators
- The Business of the Courts & Probation: A "How To" Model for Judicial Staff Education
- The Art of Customer Service through the Looking Glass
- Using the Myers-Briggs Type Indicator for Leadership
- The Importance of Stress Management
- Finding Your Way in the Maze of Change

This plenary session launched the 2004 Annual Conference of the National Association of State Judicial Educators which was held in Baltimore, Maryland, August 9-11, 2004.

The trend is for people to be involved in more groups for a shorter period of time. If you have to work in groups, how can you gain the most benefit in the least amount of time? "It is better to be a guide on the side than a sage on the stage."

Why work in a group?

- If you are looking for buy-in on a decision or to facilitate change,
- To get more commitment for and satisfaction with the decision, and
- If the diverse resources and perspectives of the group can lead to better results.

Lay the Foundations
Set norms, or "rules" for behavior, at the outset. Then, you don't have to be the enforcer. Some examples:

- cell phones off
- start and end promptly
- no personal attacks
- respect everyone's opinion

When to be directive? When to be laissez faire?
As the leader, you have a wide range of skills at your disposal. Exhibit flexibility! Be non-directive if the goal is varied input or perspectives, high levels of participation, building cohesiveness in the group, or in-depth discussion. In particular, you might use the laissez faire approach when you are generating ideas in a problem-solving approach. Be more directive in approach when time is limited and tasks are explicit. In particular, when you are starting and stopping, eliciting resources, getting back on track, or dealing with problems.

Be an Intuitive Leader

- Allow a few seconds for a response if you ask a question. Americans tend to want to fill any silence immediately. (Studies show university professors only allow one second before they launch into answering their own questions.)
- Observe nonverbal signals in others and control your own nonverbal signals.
- Recognize that the group will have a task and a socio-emotional dimension, and that both are necessary. Some people will not be comfortable sharing their ideas unless they have achieved a personal level of comfort with other group members. Ice-breakers are recommended.

Getting Input From Everyone
Use structured turn-taking. One way to effect this is to have each individual silently jot down their ideas. Then, elicit input from each member of the team.

If someone in the group is being quiet and not providing any input, find out why. Are they

shy, are they intimidated or are they angry about something? You may want to utilize small groups, or silent generation of ideas, to get their input. Or, ask an opinion-based question. There is no right or wrong answer, so it may be less intimidating.

Dealing with the Trouble-Maker
Use "I" language when possible to diffuse defensiveness. Example: Instead of saying, "You are being completely disrespectful of others' ideas," say, "I'm sensing some negativity."

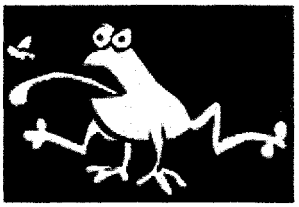
If a problem arises, you need to decide how to diffuse it. You can address it during the meeting (public forum), one-on-one at a coffee break, or bring in a higher authority to manage the situation.

When you address the trouble-maker, acknowledge his or her good intent. Use paraphrasing to repeat back the essence of his or her communication (both content and feelings) in your own words. To win a debate, Abraham Lincoln always started out with an area of common ground.

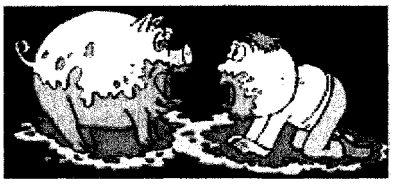
No Hoggin'
If someone is monopolizing the conversation, be appreciative of his or her input, but interrupt if they are going on too long. Actively seek input from others in the group. You may want to give the monopolizer a job. Or, you may have to speak to them privately.

Avoid being the hub of the wheel, where everything has to come to you or be addressed by you. You can ensure this doesn't occur by the way you set up the room. Don't stand at the front of the room. Also, deflect the response to somebody else in the group – "I'm going to let John answer that question…"

No Froggin'
This rule is for the team member who is the Rambler, or the War Story Teller. Ask the group members to focus their responses on relevant points; ask them how the points relate.



If you have a grouch/critic in the group, ask fact-based questions, as opposed to opinions (keep the negativity to a dull roar). You may want to ask him/her to delineate the reasons for his negativity in front of the group, or in private.



No Boggin'
This applies to the members who want to endlessly debate, or have side conversations. For the debaters, intervene and paraphrase their perspective. Have them paraphrase the other side. Actively seek the input of other members of the group. For those having side bars, you may want to change the seating assignment, or talk to them privately, or stand up and walk over behind them (using a powerful nonverbal).

What if you have an inappropriate joker? You need to be firm, but tactful. If it is bad enough, you'll need to be vocal about the inappropriateness in front of the group, so your silence isn't read as consent.

If someone in the group is being an interpersonal aggressor, describe the offensive behavior and reaffirm the group's ground rules. Support/defend the victim. Collectively confront the attacker. Seek help from outside authorities.

In conclusion, Professor Tait provided many great reasons to utilize groups, and practical ways to manage groups so that they are productive.

Ms. Kelly Tait is a communication consultant and speech communication instructor at the University of Nevada, Reno. Ms. Tait specializes in the application of adult learning theory to judicial education. Ms. Tait is a faculty member of The National Judicial College.

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Conference Recap

Changing the Culture of the Cou ts To Support Innovation

Presentation and summary by Chuck Claxton

Editor's note: This session was a follow-up to Chuck Claxton's keynote presentation at NASJE's national conference in Reno in August 2003 and was experiential and highly reflective. Through a series of questions and small group sharing, the participants were given the opportunity to develop key insights concerning change, institutional culture, and the linkage between individual change and organizational change.

Conference Recap

- The Art and Craft of Group Facilitation
- Changing the Culture of the Courts To Support Innovation
- Ethics for State Judicial Educators
- The Business of the Courts & Probation: A "How To" Model for Judicial Staff Education
- The Art of Customer Service through the Looking Glass
- Using the Myers-Briggs Type Indicator for Leadership
- The Importance of Stress Management
- Finding Your Way in the Maze of Change

This workshop had two premises: (a) significant change in the courts is impossible without changes in organizational culture; and (b) each of us has an immunity to change that prevents us from making changes we are committed to.

Researchers typically define culture as "the norms, values, beliefs, assumptions, rituals, and symbols that characterize an organization." But how in the world do you "get your arms around" anything so large and amorphous as that? Through my work over the years with change projects, I began to see that the most successful ones shared a common trait. They provided participants with an opportunity to re-examine one aspect of their organization's culture: their own assumptions. I wondered if there were more explicit ways to support people in surfacing their assumptions, a sometimes difficult task since some assumptions are beneath our level of awareness.

Robert Kegan and Lisa Lahey, authors of Seven Languages for Transformation (2001), provide assistance in this regard. They outline a series of deeply reflective questions that can help us ferret out assumptions that hold sway over us, but which we are not aware of. Here's an example of how the process works (adapted from pp. 27-78):

A unit director is asked to identify a commitment he deeply holds but which is not being fully realized. He says his work load keeps increasing and he needs more staff. His commitment, he says, is "Securing sufficient resources and additional personnel support to thrive (rather than barely survive in my job)." He acknowledges that he sometimes behaves in ways that work against his stated commitment: "I don't or can't say NO!" When asked if there is a competing commitment, one which arises from a fear if he were to behave in ways other than what he's just described, his answer is: "I may also be committed to avoiding all conflict, at all costs."

If we stop for a moment, we can see the interlocking nature of the director's responses. His competing commitment ("Avoiding conflict at all costs") leads to certain behaviors ("I don't or can't say NO!"), which in turn undermine his original commitment ("Securing sufficient resources and additional personnel support"). This, say Kegan and Lahey, is his immunity to change. The director, of course, is a stand-in for the rest of us. Each of us has an immunity to change which sometimes sabotages the very change we say (sincerely) that we are committed to. As a result, deep change in our organization is hard to come by because the members are the carriers of their own immunity to change.

What to do? It turns out that each of us has assumptions (Big Assumptions, actually, that we may not be aware of) about ourselves, about others, and about the world that hold in place our immunity to change. These Big Assumptions are usually tied up with fear, feelings of insecurity that can often be traced to childhood. When asked about a possible

assumption he holds, the unit director responds as follows: "I assume that if I did not avoid conflict, then I will find myself becoming uncontrollably angry." The director's response is not only candid but also courageous. It takes guts to say what we fear to say and to acknowledge the shadow side of our personality which, according to Carl Jung, is a part of being human.

The three-hour NASJE session provided an opportunity for the participants to discover their own Big Assumptions and to use them as a resource for their learning. Such a process helps us move beyond our immunity to change and thereby contribute to the re-shaping of the culture of our work setting. The session reminded us that, at bottom, an organization is a human community, one that reflects not only the members' strengths but their vulnerabilities as well. The series of questions helps us move beyond the notion that simply changing procedures or even securing more resources necessarily leads to significant change in the organization's culture. Those things are important, certainly, but they are not sufficient. Change leaders in the court can be more effective if they also embrace the demanding but rewarding inner work that is part of a genuine change in the culture of the courts.

Chuck Claxton, Ph.D., is Professor of Adult and Higher Education at Appalachian State University. He is the founding director of the Leadership Institute in Judicial Education and served as director from 1990 to 1994.

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Conference Recap

Ethics for State Judicial Educators

Presentation by Susan Leseman and Blan Teagle
Summary by Kathleen Gross

Conference Recap

- The Art and Craft of Group Facilitation
- Changing the Culture of the Courts To Support Innovation
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- Finding Your Way in the Maze of Change

Right! Wrong! Right in This Case! Not Quite Wrong! Not wrong but a good idea? Almost every day, each of us face ethical questions, and ethics is an important component of judicial branch education programs. The intricacies of ethics for a state judicial educators were explored in this session for the 2004 NASJE Conference by Susan Leseman, Chief of Court Education for Florida and Blan Teagle, Deputy Court Administrator for Florida. Beginning with a role play, Susan and Blan discussed an employee of the court wearing a campaign button while serving the public. The session participants identified various values involved, such as freedom of speech and the importance of the appearance of impartiality for a court, and the ethical considerations.

Armed with copies of various codes, each group explored several factual situations. Some fact patterns involved gifts. Should the seasonal wreath given by a lawyer to the judge's office be returned? Should a bonus (free) tape recorder be returned to the office supply store? What if the recorder is available for general office use? Other fact patterns concerned office acts, such as disparity treatment of the public as apposed to lawyers. Still others concerned political acts, such as "Vote for -----" bumper stickers or political buttons.

Each group reported to the entire session about their discussions and comments from everyone were encouraged. Susan and Blan led the discussions and helped incorporate the various codes, and case law. . At the end of the session, Susan and Blan provided a written explanation for each factual scenario.

I left the session armed with better insight into ethical questions, with increased knowledge of the codes of conduct from others states and an excellent collection of factual situations. I am in the process of adapting this session's materials, especially the factual scenarios, for an upcoming conference for judicial branch staff. This session was especially helpful in providing a different interactive way of presenting the important but sometimes dry topic of ethics.

If you would like a copy of the material, please contact either Susan or Blan.

Ms. Susan Leseman is chief of court education for the Office of the State Courts Administrator, Florida Supreme Court. She has been a judicial educator for 19 years. She has served on several NASJE committees and held the position of southern region director from 2000 to 2002.

Mr. Blan Teagle is the Deputy Court Administrator for the Office of the State Court Administrator for Florida. Mr. Teagle was previously the director for the Center for Professionalism for The Florida Bar since March 2001.

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The Business of the Courts & Probation: A "How To" Model for Judicial Staff Education

Presentation and summary by Tammy L. Quinn

This course introduced a model for delivering often difficult or "dry" material (typically introduced in a new employee orientation) in an interesting way to court and probation staff members. The model that used for this demonstration was a full-day course designed for adult learners and took the four adult learning styles into consideration. This model looked at the functions, roles and objectives of the courts and probation, and illustrated the "Business of the Courts and Probation" using unique and fun games and projects to deliver case statistics, basic civics, myths and realities about the courts and probation, and the roles of other players in our judicial departments. The presenters outlined the entire course (which may be adopted for other uses) including curriculum delivery methods and exercises, and will model some of the portions of the actual course. Course performance objectives included:

- Basic information about the 3 branches of government and the role of the Judicial Department (both Courts & Probation)
- Have participants understand the relationships of the 3 branches of government to one another and the relationship of the State government to the Federal government
- Understand some of the history of the Colorado Courts and Probation
- Participants will understand the roles and duties of some of the people in the Judicial Department and how they are inter-related
- Understand the importance of the Courts and Probation in society
- Understand the "little known" sectors of our business (DA, PD, Jury, Law Enforcement)
- Basic issues that are "unique" to the Judicial Department (Appointment & Retention of Judges, Statewide funding etc.)
- Get a statewide picture of the "product" of our business (statewide filings and probation caseload)
- Have participants understand some of the "myths" and realities of Courts and probation
- Understand the resources that the Judicial Department has to "do the work" – particularly to understand the financial aspects
- Understand trends that will affect the Courts and Probation into the future

Ms. Tammy Quinn works as a Human Resources Specialist with the State of Colorado Judicial Department (Colorado's Court System). Since 1990, Ms. Quinn has worked at various levels of the Judicial Branch to include county court, district court, the court of appeals, and the state court administrator's office, and on virtually all case types.

SUMMARY

by Liz Strong

"How do I make dull material interesting to adult learners?" Do you struggle with this question as a judicial educator? Apparently you are not alone. The "Business of the Courts & Probation: A 'How To' Model for Judicial Staff Education" was one course that brought this struggle to the forefront of the NASJE Conference. This module was in keeping with

the theme of addressing staff training needs for judicial educators nationwide.

The Business of the Courts & Probation is Colorado's version of a basic introduction to the Colorado Judicial Department and its Probation function. This course was instructed by Tammy Quinn and is an example of how Colorado has taken standard curriculum and made it "teach around the circle" with the implementation of adult learning principles.

"How do I make dry material interesting to adult learners?"

The session began with an illustration of how to introduce participants, complete an icebreaker, and kick off the session, all with an activity designed to create an atmosphere for adult learning. Participants arranged themselves in a "continuum" (a single line) according to how experienced they felt as an educator of adult students. Members then shared what they hoped to learn from the session and those goals for the session were charted and posted for all to see. This exercise helped the participants understand the "scope" of the instruction as well as helped the instructor better understand the needs of the judicial educators in the audience.

Ms. Quinn highlighted the importance of using variations in delivery to reach all adult learners when dealing with particularly "dry" material (as is so often the case in judicial education). One of the main goals for this informal session was to highlight the David Kolb adult learning model, which describes the four different adult learning styles. The Kolb model presents these four styles in a circular graphic where each quadrant represents a separate adult learning style.

In introducing the four "adult learning styles" the instructor first drew an illustration of the circle and asked participants to speculate on what the drawing would become. Shortly, after several guesses, the instructor revealed a chart which showed participants each learning style and the characteristics of each style. Participants inquired about the characteristics of each style and the activities that a judicial educator can incorporate into training sessions to speak to each style. Class participants exchanged ideas in small groups about ways they had implemented unique and fun activities in their curricula.

After significant discussion about the adult learning model, Ms. Quinn walked her fellow judicial educators through the curriculum that had been created in Colorado for the Introduction to Courts & Probation course. She pointed out each individual activity and the adult learning style to which it was designed best to speak, as well as variations to the exercises that could be implemented. Ms. Quinn highlighted several of the activities present in *The Business of the Courts & Probation* curriculum by having participants in the NASJE session complete several components as if they were students in the Colorado course. NASJE educators got a "taste" of activities such as the "Three Branches of Government" (newspaper reporting exercise), Probation "Alphabet Soup" (an exercise to help with judicial acronyms), and "How is this gadget like…." (a reflective game) which brought home several unique ways to deliver tedious information.

The question and answer session with the NASJE participants was particularly helpful in allowing judicial educators to ask questions unique to their staff education dilemmas. A highlight of the interactive instruction in this course was the discussion surrounding how to support and encourage kinesthetic learners with "something to touch" while at the same time keeping background noise to a minimum. Additionally, interesting dialogue ensued about how to apply the "adult learning styles" model to judicial officer training. Participants brainstormed with the instructor about ways to teach a judicial officer who is not a traditional learner.

Finally, the instructor for this module asked participants to share their "favorite" new idea as presented by the Business of the Courts & Probation model and awarded "SPOT IT" prizes to the NASJE students for their participation. Ms. Quinn offered additional resources to judicial educators by way of a resource table for more information. She encouraged the NASJE participants to exchange ideas with one another for unique and different ways to present material, and offered to assist new judicial educators in transforming their curriculum into one that "teaches around the adult learning circle"!

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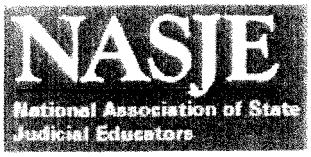

NASJE
RESOURCES

The Art of Customer Service through the Looking Glass

Presentation by Mollie Croisan
Summary by Joy Ashton

Molly gave an expedited version of a four-hour course developed for court judges and staff in Oregon.

Objectives
The court system requires a unique model of customer service. You will learn specific skills that will help you cope with and better serve the public when they arrive at your court site. You will be able to identify who your customers are, describe the difference between giving information vs. legal advice, and explain the ART and HEART models.

The Business Model of "Customer Service" Doesn't Apply
The people who come into our courthouses every day are our customers. However, they are not like the customers who go into Nordstrom. Nor can we simply apply business models to the court system. We don't want to "do whatever it takes to get the customer's repeat business." And, the customer isn't always right. So, Oregon designed a customer service model specifically for the court system.

Why Provide Excellent Customer Service?

- Our mission requires it
- Our customers deserve it
- Staff can benefit from it

The WIFY Payoff (What's In It For You?)

- Reduce stress and anxiety
- Decrease the potential for you to experience counter rage or "going postal"
- Increased confidence
- Personal satisfaction

Who Are Our Customers?
"A customer is anyone who is affected by your work output," says Karl Albrecht. An "external" customer is a person outside the Oregon Judicial Department who is affected by your work: victims, family, friends, loved ones, litigants, and police. An "internal" customer is a judge or staff person of the Oregon Judicial Department who is affected by your work.

When we deal with internal customers, we can be more personal. We should be more neutral with external customers. Most of the training program is about face-to-face dealing with external customers.

Four Stages Experienced by the Customer

1. Wants: how the customer wishes to be treated.
2. Expectations: the product, service, and treatment the customer thinks he/she will receive. The customer's expectations may come from experience, marketing, or the media. Think of all of the shows on TV which don't bear a resemblance to what we do. You never see a clerk's office on

TV. It isn't sexy. Customers come in with pre-conceived ideas. We have to re-educate and re-set the customer's expectations.
3. Delivery: the actual treatment, produce or service the customer receives.
4. Satisfaction: how the customer feels about what he/she received.

Providing Excellent Customer Service Without Giving Legal Advice
In Oregon, statute prohibits clerks from giving legal advice. In the training manual, participants complete an exercise where they indicate whether a staff member's response is appropriate or inappropriate.

What about when the customer asks which lawyer you recommend? What about recommending which book store to get certain forms at? It is best to give people options.

Try to avoid being put in the position where you are asked for legal advice by posting a big, friendly sign in front of the clerk's counter stating, "We can't give legal advice," and provide examples of what the clerk is allowed and not allowed to do.

The Basics of Customer Service
We say the same thing 20 times each day and forget the impact we have. We should send a message that we are competent professionals and we respect and dignify all the folks we deal with. (We don't have to LIKE them.)

First Impressions Count! You become the standard against which all of their other contacts with the system will be measured. You set the expectation for future contacts. You determine whether the word of mouth is positive or negative (what they tell their friends & family).

Studies show that we form a first impression in the first 7 seconds of contact. Also, 55% of how we communicate is non-verbal: eye contact; facial expressions; gestures; posture; space/distance. 38% is the voice: volume; pitch; pronunciation; tone; rate. 7% is in the actual words we use: content and vocabulary).

Stop, Look, Smile, Greet, and Listen
6 essential rules to remember

1. Always be polite and courteous.
2. Avoid using jargon.
3. Use positive, not negative language – there is an exercise in the book for the student to reframe negative statements. "I can't get this in the mail until tomorrow," becomes, "I'll get this in the mail FIRST THING tomorrow morning."
4. Do not tell customers what they have done wrong.
5. Make sure your words, your tone, and your body language all send the message that you want to help the customer.
6. Apologize, even if it was not your fault.

The customer states that another court employee was rude. Instead of saying, "Yeah, you should try working with her." Say, "I'm sorry that you felt you didn't get the service you expected. Is there something I can help you with."

What if they want to blame the judge? This often happens in a custody or criminal case. Usually they are just venting. You can ask if they want to write a letter. Don't give them the paper; send them home and sometimes it will dissipate.

The ART Model
This model applies in routine customer service situations.

A = ask questions and affirm your understanding
R = respond appropriately
T = thank them and take action to follow-through

A = ask questions and affirm your understanding
Ask questions to learn about the customer's situation, check your understanding of what the customer said, and check that the customer understands what you have said, and to

empower them. Asking, "Is it better for you to come back on Tuesday or Wednesday," is empowering because you've given the customer a choice.

There are two kinds of questions to ask – closed and open. Examples of a closed question: "Do you have your citation with you?" "What is your address?" This keeps you in control of the flow of information.

If you need more of the story, or aren't sure what they are talking about, move to open-ended questions. They focus on feelings and elicit detailed responses (sometimes lengthy). You can use these questions to lower the emotional level. What are you here for today?

R = respond appropriately
Give accurate information. Maintain neutrality. Move briskly. Give information, not advice. Explain what you are doing, why, and how long it will take.

T = thank them and take action to follow-through
Thank folks – it completes the whole transaction. Thanks for being so patient. Thanks for putting your case number on the check – it makes it easier to process. Don't thank them for committing the crime to give you job security.

Emotionally Charged Situations
The court system can take away their life, their kids, their home, their income. It is no wonder sometimes the customer is emotionally charged. Remember the three C's: "I am calm, competent, and in control." Stand with your feet apart (planted) and make eye contact. Stand, rather than sit, because it's easier to get away, if you have to.

The HEART Model
This model applies in challenging customer service situations.

H – hear them out (let them vent)
E – empathize
A – ask questions / affirm understanding
R – respond appropriately
T – thank them and take follow up action

What if the customer says, "You're a public servant. I pay your salary, so provide some service"? This is a bait phrase; they cast it out there to bait you. It's no fun to be upset when no one else is upset. If you say, "You're right, what can I do for you," it can diffuse their anger.

In the full four-hour training, the participants view four video-taped examples of customer service situations. One is a rambling customer. The second is a more demanding customer. The third is an irate man who has been served with a "re-training" order. The fourth is an upset, crying woman.

Sometimes you may encounter a customer who can't read. This is a very difficult thing to admit in our society. Look for cues and help them out.

Don't go too far. Don't say, "We'll get through this together." They'll expect you to find them alternative housing.

The training also highlights disability and pertinent information from the Americans with Disabilities Act. Don't just grab their wheelchair. Talk to a blind person as you approach them.

In conclusion, the session met its objectives by teaching specific skills to enable court staff to better serve the public.

Ms. Mollie A. Croisan has been the education manager for the Oregon Judicial Department, Salem, Oregon, for five years. Previously, she worked as a management assistant for the Education Division.

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Conference Recap

Using the Myers-Briggs Type Indicator for Leadership

Presentation by Martha Martin, John Meeks and Phil Schopick
Summary by Kathleen Gross

Conference Recap

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Can a person be described by four letters? ESTJ, INFP or some other combination? By the end of the half day session on the Myers-Briggs Type Indicator (MBTI) at the 2004 NASJE Conference, the group was using letter shorthand to describe themselves. Guided by Martha Martin, Senior Supervising Attorney for the Florida Supreme Court, John Meeks, Director of the Ohio Judicial College, and Philip Schopick, Program Manager of the Ohio Judicial College, the group learned that our psychological type preference influences many of the choices we make every day. The MBTI is one way to come to an understanding of personal preferences and personality types.

Before the session, most of us completed a series of 93 questions designed to show preferences. Allowances were made for those like me who did not return the answer sheet before the sessions. The MBTI is based on four psychological concepts: (1) the direction of energy - extraversion (E) or introversion (I); (2) the tools of perception – sensing (S) or intuition (N); (3) the tools of judgment – thinking (T) or feeling (F); and lifestyles – judging (J) or perceiving (P).

In the session, Martha, John and Phil took turns presenting the attributes in each concept. A reality check was provided by a group exercise, based on one of the four psychological concepts. The exercise on lifestyles involved planning for a vacation; some would start months in advance and others would wait until closer to the time of the trip itself. The advance planners preferred to make decisions, a J, and the delayers are generally more flexible and adaptable, a P.

The presentation emphasized how information on personal preferences could be used to understand leadership, to create effective programs, and to have increased self knowledge.

At the end, each person was given the results of their own written questionnaire along with the range of where they fall on the continuum between the two pairs. For example, there are 21 points on the E/I (extravert/introvert) continuum. Some persons could have anywhere from a clear preference for E (for example E ,18 points and I, 3)or a slight preference for introvert (for example E, 10 and I, 11) or any other combination. My preferences were slight in two concepts and clear in the other two.

The session closed with information on the management implications for the various types. For example, a SF (sensing/feeling) manager may focus on the day-by-day human relations but might miss possibilities by shortsighted focus. An NT (intuitive/thinking) manager may focus on broad, impersonal concepts and issues but might overlook realities and people's feelings. The MBTI allows for 16 possible combinations or types and information was given each type's values and attributes. The group discussed the implications for judicial branch education and how to use this information for better programs and better working relationships.

My written results were very close to my self-described results. On a personal level, I now understand why my husband and I have totally different approaches to planning a vacation.

I want to start months ahead; yes I am a J (judger). He just delays and delays; my new insight is that he is a P (perceiver). Can we vacation together? Yes, some days are heavily scheduled, and others are left open for new adventures.

This excellent and enjoyable session was enhanced by the lively conversation and friendship of the presenters. Martha, John, and Phil are all qualified to administer the Myers-Briggs and have lots of experience presenting about it in a variety of judicial branch settings. If you would like more information about the Myers-Briggs Type Indicator or would like to plan a session on it, please contact Martha, John or Phil directly.

Ms. Martha Martin has been the senior supervising attorney for the Office of the State Courts Administrator, Florida Supreme Court, for four and half years. She has taught Myers-Briggs Type Indicator faculty training.

Mr. John Meeks is the Director of the Supreme Court of Ohio Judicial College. He has served on numerous committees and was Midwest regional director of NASJE from 1996-1998. He has taught the Myers-Briggs Type Indicator to judges, magistrates, and court personnel throughout Ohio and is currently NASJE's vice president.

Mr. Philip Schopick has planned continuing education programs for judges and magistrates in Ohio since 1991. His experience is in on-site and distance learning media. He has also taught the Myers-Briggs Type Indicator to judges, magistrates, and court personnel throughout Ohio. Mr. Schopick is currently editor of the NASJE News.

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Conference Recap

The Importance of Stress Management

Presentation by Hon. Adam Fisher
Summary by Mary O'Connor

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In the final plenary session of the conference, Judge Adam Fisher of the Municipal Court in South Carolina sorted through various health studies to help us pay attention to ourselves. He led us through the science of stress and laid a foundation that supported his approach to personal wellness through stress management.

Judge Fisher reminded us that stress is "the application of force to the mind." He outlined the effect this force has on our bodies. His description of the chain reaction of blood pumping, muscles tightening, sweat pouring, pupils dilating, blood sugar soaring and blood pressure rising was enough to stress us out. He knew better to leave us in such a state. Instead, he started us on the road to catching the stress early and getting rid of it as soon as possible.

Breathe. Right now. Take a deep breath. You're on your way to using relaxation to get rid of stress. You are controlling one of the factors the stress chemicals affect. Controlling just one of these factors can bring the rest of them under control. Throughout the program, Judge Fisher gave us practical tips to start this process that he called reverse engineering.

On a broader note, he helped us to establish the context in which we could set priorities. He coached us through two exercises that yielded our own life priorities and encouraged us to begin to live consistently with the priorities.

He called for us to DRESS, that is to use Diet, Relaxation, Exercise and Support GroupS to achieve the goal of personal wellness. He emphasized relaxation because of a Duke University study that claims the group that used stress management techniques scored twice as well as the exercise group. So, breathe. Think about what you will eat, breath again. Stretch. Burn 150 calories through exercise each day and stay in touch with those who support you.

The greatest value of this type of program is that we take the time to do what we know we should do. For a few minutes in Baltimore, we did just that.

Breathe. Choose one technique. Do it. Got it? Choose another!

Judge Adam Fisher, Jr. has been on the municipal court bench in Greenville County, South Carolina, since 1973. He lectures regularly on stress management at the Greenville Hospital Fitness Center, New Horizon Health Care, and The National Judicial College. He has taught stress management to more than 4,000 participants throughout the United States and Russia.

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Conference Recap

Finding Your Way in the Maze of Change

Presentation and summary by Liz Strong

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- The Art and Craft of Group Facilitation
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This session presented by Liz Strong looked at how people deal with change and the stages of transition that naturally follows a change event

The first part of the session had participants identify how they react to change by viewing the video titled "Who Moved My Cheese?" The video describes a parable that takes place in a maze. Four beings live in that maze: Sniff and Scurry are mice, non-analytical and non-judgmental; they just want cheese and are willing to do whatever it takes to get it. Hem and Haw are "little people", mouse-size humans who have an entirely different relationship with cheese. It's not just sustenance to them; it's their self-image. Their lives and belief systems are built around the cheese they've found.

"We have to be alert to changes in the cheese and be prepared to go running off in search of new sources of cheese when the cheese we have runs out."

Most of us reading the story will see the cheese as something related to our livelihoods--our jobs, our career paths, the industries we work in--although it can stand for anything, from health to relationships. The point of the story is that we have to be alert to changes in the cheese and be prepared to go running off in search of new sources of cheese when the cheese we have runs out.

The second part of the session was based on William Bridges' book "Managing Transitions." The author describes the process as follows:

> "Transition is not just a nice way to say change. It is the inner process through which people come to terms with a change, as they let go of the way things used to be and reorient themselves to the way that things are now. In an organization, managing transition means helping people to make that difficult process less painful and disruptive."
>
> "Transition as the Way Through"
> by William Bridges

William Bridges describes in the book a three-part model or process that most people need to move through before fully accepting and engaging in the new change or behavior. These stages are identified as Endings, Neutral Zone, and Beginnings.

In the "Endings" stage, it is important to ask the question "Who stands to lose what because of this change?" This may relate to a loss of meaningful work, status, control destiny, relationships, power or Influence, personal identity, and/or feeling of being valuable.

As a person begins to acknowledge and accept what is ending, they move into the "Neutral Zone." This stage is characterized by feelings such as everything is up for grabs, confusion, and of being lost and isolated. It can also be a time of great creativity as the "old ways" are tossed out and we can begin "from a clean slate" to create anew. The

participants discussed several ways to help people move through these first two stages.

Finally, the transition to “Beginnings” is the easiest part if the other two stages are dealt with well. Characteristics of this stage include fine tuning the new picture and plan, translating changes into new behaviors, supporting new behaviors through recognition & reward, focusing on early successes, and symbolizing, ceremonializing and communicating new identities.

Ms. Elizabeth Strong is the Staff Development Administrator for the Colorado Judicial Branch’s Administrative Office of the Courts. She is responsible for setting the overall direction for trial court staff and judicial officer education. Ms Strong has served on several committees of NASJE in is currently the president-elect of NASJE.

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Features

Using Technology in Delivering Education

Features

- Using Technology in Delivering Education
- Thiagi Newsletter
- Workplace Writing for the Dot-Com Reader: Ready, Aim, Write, Revise
- Icebreakers: Tools for Creating a Comfortable Learning Climate

This "column" is a new addition to the NASJE News and its purpose is to provide judicial educators a place to share ideas for the use of technology in delivering education and training. Hopefully we can keep the focus on practical and affordable ways to use technology in the education arena. In opening this dialogue it might be useful to discuss the concept of technology as it is used in Education.

Many organizations and not a few individual "learners" may hesitate to initiate technology-driven education or training, theorizing that the courts are not ready for eLearning. A good response to this theory is to ask the question, "What is the largest eLearning platform in use in the world today?" When I first heard this question my mind raced to the formal education platforms such as BlackBoard and WebCT.

The answer I would now propose is "Google," where 250 million searches are done each day. This answer provides a clue to the nature of a world where technology is extensively used by individuals to increase their understanding and knowledge without the assistance of instructors, presenters or teachers. In most instances our eLearning is self learning. Isn't an Automatic Teller Machine an eLearning device? How many people have received formal instruction in the use of an ATM? Yet each day thousands use this technology in one of the most influential areas of our lives, money.

Ever more frequently our learning experiences are guided by technology and our desire for immediate information, assistance or guidance. Any frequent flyer can attest to this changing world in which eLearning is quickly utilized by the motivated learner. Over the past six months I have learned that standing in line to check in for an airline flight is not always necessary.

Recently, I was waiting in a long line at the ticket counter when I noticed that others were using a kiosk and whisking past me. Leaving the line I went to the kiosk (eLearning device) and followed the on-screen instructions to obtain a boarding pass and proceeded to luggage check. During this process my reluctance to use a credit card for identity verification was eased when my Costco membership card swipe yielded a screen announcing that I was "Raymond Foster". (I will not start a discussion of my fear of a "system" that has so much information on any electronic card that they can read our name on any one of them.) Suffice it to say that I now hesitate not at all to proceed directly to the electronic check-in for flights. I was a motivated learner who wanted to get to my flight faster and avoid the long check-in line.

"Ever more frequently our learning experiences are guided by technology and our desire for immediate information, assistance or guidance."

What does all this have to do with eLearning? A lot, I think. The traditional arguments of avoiding travel costs and days out of the office to access education and training opportunities have become almost too trite to repeat, mostly because they are true. The reality of our lives is that we are all being retrained all the time. Not always by choice or interest but definitely by necessity. Today, if you want to wait in the long airport line you have the option. Tomorrow there may be no option. The job we do today may not exist tomorrow. How would you do your work without access to the internet, to a search engine, to a computer? It would be difficult to imagine work without Google, AltaVista, Lycos, Excite and yes, DogPile. (Try it you may like it!)

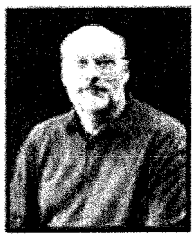
Having said all this, it is also true that eLearning was over-hyped and has not lived up to the promises of both

"The reality of our lives is that we are all being retrained all the time."

the education and investment community. Few of the grand experiments in eLearning at the university level have succeeded if the metric is ROI (Return on Investment). Using this metric, we may miss the mark but ask any large, thriving corporation if they use eLearning for training and the answer will be an overwhelming yes. (In the year 2000 IBM reported that it saved $200 million through the use of eLearning for corporate training and a study by Training Magazine states that corporations save 50% to 70% of their overall training cost by replacing traditional training with online delivery.)

For the most part this corporate training relies on global delivery that can be accessed continuously, developed quickly, and be counted on to address critical learning needs in an organization. Much like these corporations, the courts face the challenge of a changing work environment and depend upon judges and staff to recognize often complex situations and make correct choices depending upon statutory, court rule, or court procedural requirements.

The question then is not, "Should we use technology in judicial education?" but "How do we use technology in judicial education?" In every area of court operations the complexity of information and the speed with which it must be processed will demand that the entry level jobs and previously dead end jobs of court employees will require training that translates into a better educated, more engaged and effective staff. While eLearning is not the magic bullet to solve all the problems of judicial educators, it does offer tools that may leverage efforts to create a workforce more capable of managing the complex demands of our courts. How we leverage technology to increase the effectiveness and availability of education and training can be a rich conversation. I look forward to having that conversation with you.



Ray Foster is the Education Technology Director for the National Center for State Courts. In this position he is responsible for the maintenance and development of technical capabilities that support the Education initiatives of the NCSC and the Institute for Court Management. He has extensive technology experience including the development of educational programs and video productions for NASA, PBS, the U.S. Department of Education and the Old Dominion University Research Foundation. His program, The China Voyage was the first web delivery of an international program and utilized satellite links connecting students world wide to a live event, the crossing of the Pacific Ocean in a bamboo raft. He has done faculty and curriculum development under grants from the U. S. Department of Education, NASA and SJI. He has served as faculty for both ICM and the National Judicial College. His video productions have won recognition, including the New York Film Festival's Silver Medal and Medal of Distinction awards and been shown nationally on PBS and NASA Select TV. In addition to AV and web based productions, his background includes extensive photography experience including the publication of several photographic books. He has served as Program Reviewer for the NASA Office of Space Science and been a presenter for PBS Learning Link.

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I am happy to announce the September issue of my free electronic newsletter, "Play for Performance".

You can retrieve it **here**.

I am very excited about this issue because it introduces our contributing editor from the United Kingdom, Roger Greenaway.

This issue includes

- A practical article on debriefing by Roger Greenaway
- An Interview with Lauren Ukens, a prolific game designer
- PILE UP, a game with playing cards by Lauren Ukens
- Another two-person card game called THREE SETS

All this plus a book reviews by Matt Richter, a report from the International Game Expo from William C. Wake, and a pithy saying about games and facilitators.

Enjoy this issue. Read it--and play it!

Playfully,
Thiagi
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Features

Workplace Writing for the Dot-Com Reader: Ready ... Aim ... Write ... Revise

by Marguerite Stenquist

Features

- Using Technology in Delivering Education
- Thiagi Newsletter
- Workplace Writing for the Dot-Com Reader: Ready, Aim, Write, Revise
- Icebreakers: Tools for Creating a Comfortable Learning Climate

Millions of people have decided they cannot write: a self-fulfilling prophecy that strangles confidence. Blame it on bad genes or the school system, this attitude has led to fear and anxiety among workers in a workplace that boasts of computers on every desk. When fear takes over, thinking shuts down, and that's when the problem begins.

Four Tips until "Think Check" is Available
So far, no one has introduced a computer with "think check" as an option. Until someone does, you're on your own. The following tips will help you write documents that are focused and organized.

1. Accommodate the reader.
Try this exercise: write a short grocery list and give it to a friend to do the shopping for you. Picture your friend standing in the produce section reading "lettuce" on your list. Would this be a head of lettuce or a pre-washed package? Are we talking romaine, iceberg, escarole, or field greens? Unclear writing leads to misunderstanding, wrong results, no action, or frustration.

Think about your own writing habits. Do you have a tendency to write to yourself instead of to the reader? If you do, print the following statement in big letters and paste it on your computer: The Reader Rules! Part of planning a document includes tailoring your message for a specific reader or group of readers. The following questions will help you get started.

- How much does your reader already know? (Be complete but concise.)
- How important is the message to your reader? (Open with a point that is relevant and meaningful to this specific person or group.)
- What do you know about your reader's mood? (Use soothing words for an angry reader, empathetic words for a distraught reader, etc.)
- What is your relationship to the reader? (Be as formal as is appropriate.)

2. Lead with the bottom line.
Talented wordsmiths, advertisers who have tested millions of messages on a reading-resistant public, know that today's readers want the bottom line on top, and they read what jumps out at them. Browse through your own mail to see these truths in action.

Journalists, too, structure an article with the key point clearly stated at the top. Scan the front page of your newspaper tomorrow. Just below the headline of most articles, in italics or bold face type, is a clear statement of the key point or major theme. This is the bottom line. Take a look at a recent document you've written. What is the bottom line, and where is it placed?

"Today's readers want the bottom line on top, and they read what jumps out at them."

To establish a bottom line, ask yourself "Why should the reader read this?" For example, in a message to a customer service representative about a damaged copier, a clearly stated bottom line might be "I need a replacement for the damaged platen on my SJ401 copier." That's the reader's bottom line and the writer's starting point.

Many writers spend too much time winding up: "Making copies is extremely important to the members of my team. We have tough deadlines to meet and rigorous demands from

clients and internal departments. It's difficult to operate in this environment without a copier for even one day, blah, blah, blah." Today's information-overloaded reader will not tolerate whining or overblown explanations. The options are too easy: toss or delete. Sometimes the bottom line is more clearly stated in the second paragraph; if that's the case, start there and eliminate (or re-position) everything before it.

3. Broadcast the short story for a fast scan.
E-mail and the Internet have produced a nation of e-readers, so now we must become a workplace of e-writers. Here are a few guidelines on how to format your document for scanners (use this article as an example):

- Turn your key points into headline statements.
- Bullet or itemize support points under a headline, but don't overdo it.
- Keep paragraphs short to break up dense copy blocks.
- Don't sacrifice white space or resort to an unreadable font size to accommodate the one-page theory. Instead, consider a brief summary page and a more detailed attachment, or revise the document to say more with fewer words.
- Simplify complicated information by converting it into charts or graphs and including examples.

4. Edit, revise, edit, revise…
No matter how clearly you structure and format your document, punctuation and grammar errors minimize its effectiveness and mess with credibility. It is dangerous to entrust grammar and spell checks with the role of editor. Here's an example: "The supervisor quit saying he had new goals." vs. "The supervisor quit, saying he had new goals."

The integrity of our language suffers from a pierced-tongue view of old and honorable standards. It goes something like this: Putting the comma inside the quotes doesn't "look right," so it must be wrong. Or this: "The report was delivered to him and me" doesn't sound right, so it must be wrong. In the end, these opinions don't mean squat. Some of your readers will recognize the error, and others will not. You decide if this is a risk worth taking.

Every writer needs a reliable reference guide for easy access to the rules, not to mention their many exceptions. Invest in one and use it…over and over and over again. By reading good writing and practicing to improve your skill, you will develop an instinct for good mechanics. Strengthen this instinct by editing, proofreading, and revising. Stop and investigate questionable punctuation, sentence structure, or grammar. Over time you will learn to trust yourself more than the red and green squiggles under words and phrases on your computer screen.

There is something rewarding about reading good writing, especially when it is yours.

Marguerite Stenquist has helped improve the writing skills of workers in government agencies and many businesses and organizations throughout Colorado. Her popular reference guide, Easy Writer at Work, is in its second edition and is based on her experience as a corporate writer and college teacher. Check Marguerite's web site (www.onthejoblearning.com) to learn more about her writing workshops and online option; call 303-639-5704; or e-mail her at ssgroupinc@aol.com.

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Icebreakers: Tools for Creating a Comfortable Learning Climate

by Maureen Lally

Editor's note: This is the first in a series of articles reprinted from past editions of NASJE News. Who we are and what our profession is today are results of the learning and sharing we did in the past. This series of articles will let us look at some of our past issues and struggles and help us today with thoughts and perspectives we had then.

In the summer of 1994, when this article was first published, Michael Runner (CA) was chair of the editorial committee. Committee members were: Maureen Lally (WA), Franny Haney (DE), Rich Reaves (GA), Blan Teagle (FL), and Jim Toner (NV). Larry Stone (OH) was president.

Webster's dictionary defines icebreaker as "a sturdy ship for breaking a channel through icebound waters." Similarly, icebreakers at education sessions are vehicles for "thawing" participants. Exercises are designed to get people talking, connecting, or engaging their cooperative spirit.

Warm-ups, icebreakers, get-acquainted exercises: there are many names for the techniques, but the goal is the same, to stimulate interest, motivate, and create transition into the lesson.

In addition to providing means for getting acquainted, icebreakers enhance communication skills, promote creativity, increase cooperation, and build esprit de corps among participants.

Sue Forbess-Grenne states in the "Trainer's Introduction" of *The Encyclopedia of Icebreakers* that "icebreakers are tools that enable the group leader to foster interaction, stimulate creative thinking, challenge basic assumptions, illustrate new concepts, and introduce specific materials." Yet, in working with the judiciary, educators often shy away from using such techniques. Why? Judicial education specialists fear criticism of too many activities that are "touchy-feely." "Game playing is a big waste of time" or "judges wouldn't put up with such frivolity" are frequent comments. When such activities are planned and implemented, 99.9% of the participants become receptive and committed to them.

At many education sessions, five to ten minutes are allotted on the agenda for welcoming and opening remarks, meaning that people introduce themselves by name, organization, and, if time permits, why they decided to attend that particular session. Based on the theory that learning is best enhanced by an atmosphere of comfort and enthusiasm, warm-up techniques or icebreakers could be used instead. Judicial educators are depriving participants of teachable moments by not including these activities in the overall curriculum.

I have used the "Wanted Posters" listed in *The Encyclopedia of Ice breakers* for a conference for court managers in Washington State.' The opening session was "Putting Your Best Foot Forward-Ensuring Public Trust and Confidence." I wanted to evoke new ideas from participants and to find out what activities they used to build public trust and confidence.

So, to introduce participants and kick off the topic of perception, I asked them to take three minutes to describe on paper (in the format of a "wanted poster") their perceptions of the qualities they exhibit to increase public service, trust, and confidence and what his or her own court is known for. I then used the Wanted Poster exercise to illustrate the point that court personnel may have a very different perspective of their court than the public at large.

I listed what colleagues had to say about a gentleman by the name of Thomas Howard and then followed up with the public's description of the same individual, aka Jesse James. We hung the court manager posters (8.5" x11") on the walls and left them there throughout the conference for all to read. Jim Toner, associate director for training at the National Council of Juvenile and Family Court Judges, used the same exercise for a "train the trainer" course.

Another icebreaking technique is a **participant profile**. On the program registration form, attendees answer a series of 12 questions. (See sidebar below) The responses are distributed at the beginning of the conference to help participants get acquainted and to facilitate networking.

Participant Profile

Please complete the following profile. Your responses will be distributed at the conference and will be used to provide participant profile and facilitate networking.

1. How long have you been in the court system?
2. Who supervises you (title please)?
3. Unique programs that work in my court.
4. Tasks streamlined in my court
5. Court accomplishments I'm proud of:
6. Court-related committees I sit on:
7. If I could have one additional item in my court, it would be
8. Relating to my court, I'd like to be able to.
9. I'd like to discuss over coffee:
10. Specific areas of interest in court-related topics:
11. What's a favorite book you'd recommend?

Choosing Appropriate Exercises
Who will facilitate the exercise? What is the total number of participants? Who will compose the audience--what are their characteristics; that is, age, cultural background, gender, education?

- What are the audience's expectations, needs? What motivates them?
- What are their attitudes and values toward the learning experience?
- What is the length of the session- hours? days? weeks?
- What is the purpose of the workshop? Is it knowledge or understanding? Skills or behavior patterns developed? Personal growth enhanced?
- What pressures or constraints are at work?
- Do most attendees know one another?
- What is the physical layout – room size, seating arrangement, lighting, etc.?
- What is the program sequence? What precedes and what follows your exercise? Will folks be in a plenary session or in tracks or choice sessions? At the end of the exercise, what configuration is desired? Consider the transition into the following time period.
- What time of day will the activity take place? First thing in the morning? After lunch?
- What do you want to accomplish? Get people energized? Get acquainted? Reduce tension? Prepare for a more intensive session?
- Are there desired objectives to be developed? What is the desired frame of mind or mood of the participants? What is the level of interaction/ degree of openness?

Roles of Facilitators

- Model what you are asking others to do by sharing your experiences first.
- For the exercise to be successful, you must make a connection between the particular activity and what is to follow.
- Help learners build associations between new information and what they already know.
- Help participants debrief. Give them time to think about the meaning of the exer¬cise. Help them translate the learning from the exercise to real world application.
- Encourage learners to examine the process for information, values, or creative ideas.

Very much like the technique of brainstorming, certain ground rules apply:

1. Participation is voluntary. Individuals have a right to "pass," without coercion or pressure to participate.
2. Information obtained during the exercise should stay in the room. Participant responses are confidential and specific to that particular time and place.

Getting Folks into Small Groups

- Have people group themselves by the primary color they are wearing. You will be amazed at the energy that is generated by this simple exercise.
- Have people form a line in order of their birth month. People with January birthdays begin the line. Once people have assembled, folks count off to form groups of six, eight, or any other number you desire.

Getting Folks Talking

- Use nametags or signs creatively to identify each person.
- Use descriptive verbal introductions with emphasis on . . .
- List workshop expectations, personal experiences, anxieties, etc., and form dyads or small groups to share thoughts. For example, subgroup people and ask them to brainstorm getting-acquainted ideas. They then select a representative who meets in the center of the room with other subgroup representatives to plan an activity. (The center of the meeting room can be used by the remainder of the group for group process observation.) After a break, the representatives conduct their design.
- Another successful technique used at a statewide orientation for new court employees was to have the entire group generate a list of information that they would be interested in knowing about others at the program. Participants then told who they were in reference to selected items. People introduced themselves and stated their previous position and why they decided to work for the courts. Of particular interest to the group was discovering that most of new court employees came from the banking or insurance industries.
- Try an energizer to prepare - participants for the session. These should be nonthreatening and - involve physical movement. Try relaxation, breathing, and meditative exercises such as 'Whoosh." Have participants stand up, reach their arms up, and breathe deeply in unison. Then tell folks to bend forward at the waist, drop their arms as if touching their toes, and exhale the air from their lungs. Repeat several times.
- Use values clarification exercises to facilitate prioritizing, assess needs, and plan strategically.
- Try word association games as catalysts to free-up thinking.
- Provide materials or play objects to induce a comfortable environment for sharing information.

We get so caught up in the tasks involved in group development that the process issues easily get brushed aside. In addition, games and role plays have gotten a bad reputation. So, call the techniques something different. Take people through "an activity," a "self-learning," or ask people to "try cooperative learning." Then be prepared to have an energized group that is ready to get on with the goals and objectives that brought them together in the first place!

Resources for Further Reading

Ken Jones, *Icebreakers: A Sourcebook of Games, Exercises, and Simulations* (San Diego, Calif.: Pfeiffer and Company). (619) 578-5900.

Steve Sugar, *Games That Teach* (Amherst, Mass.: Human Resource Development Press). 1-800-822-2801. Book to be released in October 1994.

Andy Kirby, ed., *A Compendium of Icebreakers, Energizers, and Introductions* (San Diego, Calif.: Albrecht Publishing Company). (619) 622-4884.

Sue Forbess-Grenne, L.M.5.W., *The Encyclopedia of Icebreakers: Structured Activities That Warm-up, Motivate, Challenge, Acquaint, and Energize* (San Diego, Calif.: Pfeiffer and Company). (619) 578-5900.

J. William Pfeiffer, ed., *The Encyclopedia of Group Activities: 150 Practical Designs for Successful Facilitating* (San Diego, Calif.: Pfeiffer and Company). (619) 578-5900.

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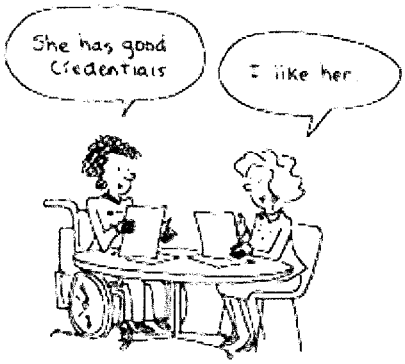
Manager's Briefcase

Interviewing

by Martha Kilbourn

Your best education specialist just announced that he is leaving the state to move to Montana to spend his days fly-fishing. His wife has been offered a fabulous job there, and they have decided to take advantage of the opportunity. You are pleased for him, but there is a knot in your stomach as you panic about finding a replacement. How will you ever fill his position with anyone nearly as competent as he is?



You can do it! Using a technique called behavioral-based interviewing, you can evaluate candidates' skills for your job opening based on how well they performed in previous jobs. According to Richard H. Beatty, author of Interviewing and Selecting High Performers, "Past performance (or behavior) in the same or similar work is the single most reliable predictor of future performance (or behavior) in a given job." "Of course this is true," you say to yourself. "Why should I take my precious time to read an article that just states the obvious? I have a job to fill, you know!" But how often have you hired someone based on little more than a gut feeling that the person had the skills and was a good fit? Did that work out for you? Maybe, maybe not. Research indicates that high performers are capable of producing between 25 to 50 percent more than their poor-performing counterparts. With judicial branch education budgets so lean, you cannot afford to hire one of the poor performers.

But there is a way you can more accurately predict that the person you hire is the right person for the job. This article will take you through the steps of analyzing the competencies needed for the job; writing fair, effective, and legal questions; and conducting the interview. I also highly recommend a video called "More Than a Gut Feeling" that is available from many suppliers if you do a search for it on the Web.

JOB ANALYSIS

An effective interview starts with a clearly defined job description that identifies the needed knowledge, technical and job skills, abilities, and personal characteristics necessary for a candidate to be successful in the position. An analysis of your education specialist position might determine that the person would need the following attributes (this list is illustrative, not exhaustive):

- **Knowledge**—learning styles, effective adult education methodology, business of the courts
- **Technical skills**—computer skills for creating documents, with being able to create PowerPoint presentations as a plus
- **Job skills**—planning, instructional design, communication, organizational skills to manage multiple projects
- **Abilities**—lead from behind (in the work with committees), work independently and with others
- **Personal characteristics**—flexibility, good sense of humor for when things go wrong (and they will)

These attributes will be the source of the questions you ask in the interview. If you have a long list of attributes, you may want to prioritize them in terms of what you know will be most important for job success. This weighting will be particularly valuable if you find two or more candidates with similar qualifications, allowing you to compare their attributes objectively. Hopefully your decision will not be based on a gut feeling, like the woman on the right in the cartoon who simply states, "I like her."

DEVELOPING THE INTERVIEW QUESTIONS

During the interview, a candidate is asked a series of standardized questions based on the attributes needed for success in the job. There are three types of interview questions: informational questions, behavioral-based questions, and situational questions. All can be helpful in determining a candidate's qualifications for the job, but I would recommend focusing your interview on behavioral-based questions that ask, "How did you…?" or "Tell me about a time when you… " or "Describe a situation in which you…" Behavioral-based questions are designed to draw out the person's past experience with examples of behaviors desirable for the job you are seeking to fill. For each behavioral-based question, a candidate is asked to describe the following:

- **Situation/Circumstances**—the context in which the behavior or action took place
- **Behavior/Action**—what the candidate actually did in the situation
- **Results/Outcomes**—the results or outcomes of the behavior/action
  For example, to find out about a candidate's experience in working with committees, you might ask, "Tell us about an education program you planned and implemented through the work of a committee. What was your role and what was the outcome?"

The Internet has many more examples of behavioral-based questions. Here are a few links to get you started:
http://www.wetfeet.com/employer/articles/behavioral_interviewing.asp
http://www.unl.edu/careers/prepare/behavioral.htm
http://www.careerfair.com/tips/behavioralinter.asp
http://www.ksu.edu/hr/emp_tips_behav_inter.html
http://www.careerservices.ius.edu/tips/interviews/behavioralstylequestions.html

Another type of question is the situational question: What would you do if you disagreed with the committee chair about a faculty member (or another aspect of the program)? The problem with situational questions is that some people are great actors and can put on brilliant performances about the way they would perform in a given situation. As one of the managers in our Human Resources Division said, "If you give me a good hypothetical question, I'll give you a good hypothetical answer."

A different technique is to ask the candidates to perform the same tasks in the interview that they will be doing in the job. For example, to determine a candidate's knowledge of adult education methodology, you might ask him or her to take a minute and develop three learner objectives for a course on faculty development (or another specific topic with which they have experience).

Of course, it is essential that all questions be legal. Be careful about the questions you ask. You obviously know not to ask about their age, religion, sexual orientation, or marital status. But how about, "Where did you learn to speak Spanish?" Would that get you in trouble? Our HR division made up this list of legally acceptable questions and requirements. You should also refer to Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), and the American with Disabilities Act (ADA).

SUBJECT	ACCEPTABLE	UNACCEPTABLE
Name	For access purposes, you may ask the applicant whether his/her work records are under another name.	Is that Ms. or Mrs.? What's your maiden name?
Residence	Current and previous addresses and length of time. Applicant's phone number or how applicant can be reached.	Is that in the Castro district? (In San Francisco, this question might identify a person's sexual orientation.) Is that on the east side of town?
Age	After hiring, proof of ability to perform the job (*e.g.*, driver license).	How old are you? What is your birth date? When did you graduate from high school?

National origin	None.	Are you a U.S. citizen? Where were you born?
Race	None.	Your complexion is so light—what are you?
Religion or creed	None.	What religion are you?
Citizenship	Require appropriate work authorization (U.S. or other country, if applicable), *after* hiring.	Were you born here? Where are your parents from?
Marital status	Status (only married or single), AFTER hiring, for insurance and tax purposes. Number and ages of dependents and age of spouse, *after* hiring, for insurance and tax purposes.	Are you married? Do you have children? Do you have reliable childcare? Do you plan to have children?
Military service	Service in the U.S. armed forces, including branch and rank attained. Any job-related experience. Military discharge certificate (if applicable) only *after* hiring.	What branch of the military were you in? Did you get an honorable discharge?
Education	Academic, professional, or vocational schools attended. Job-related language skills, such as reading and writing foreign languages.	Where did you learn to speak Spanish?
Criminal record	List of job-related felonies and convictions.	Have you ever been arrested?
References	General and work references not relating to race, color, religion, sex, national origin, or ancestry.	Can you provide a reference from your church?
Organizations	Organizational memberships—both professional and social—as long as affiliation is not used to discriminate on the basis of race, sex, national origin, or ancestry. Offices held, if any.	Do you belong to a sorority/fraternity? Do you belong to a union?
Work schedule	Willingness to work the required work schedule (including any required overtime).	Can you work on Rosh Hashanah?
Disability	Describe the essential job functions, *then* ask "can you perform these job functions?"	Do you have any disabilities? Have you ever filed for workers' comp?

CONDUCTING THE INTERVIEW

Experts in the field suggest the following format for an interview:

1. Introduction of panel members
2. Rapport-building questions
3. Interview questions
   a. Informational questions
   b. Behavioral-based questions
   c. Situational questions
4. Applicant questions
5. Interview close

Rapport-building questions are designed to put the candidate at ease and gain his or her confidence. They show that you and your organization care about the people you are interviewing and demonstrate that it is a good place to work. Be warm and engaging. You might chat about the weather, an interesting place they have lived that you notice in their application—anything to put them at ease. A good transition between this and the next part of the interview is to tell the person the format of the interview: how long you have together, how many questions you will be asking so that he or she can better time the answers, that you will be taking notes and invite the person to do so if desired, etc.

Beginning with informational interview questions is a nice way to ease into the more challenging behavioral-based questions. An example of this would be, "What attracted you to apply for this position?" This question also gives you an idea of how much research they have done about the job and your organization. I often follow this up by asking if they have accessed our Web page. The response to this question is also very telling in terms of finding out how much initiative the person takes.

Next, you will ask the behavioral-based and situational questions that you developed based on the attributes needed for the job, as described in the Developing the Interview Questions portion of this article. Make sure you allow time for silence so the person can think of a specific example for the question you are asking. If you think that you are getting only one side of the person's qualifications, you might ask a question that brings out some contrary evidence. For example, "Describe a situation in which you had to deal with a difficult colleague and it didn't work out the way you wanted it to."

It is important to allow time for the applicant to ask you questions about the job and your organization. You can learn a great deal about a person by hearing his or her questions. This is also a great time to "sell" your organization. Your answers to the questions can let the person know that you think your organization is a great place to work.

Close the interview by letting the candidate know what the next steps are. Be candid if asked about the number of candidates being interviewed or when you hope to have the job filled. Thank the person for coming.

You've done it. You've conducted an interview that elicited all kinds of information highly predictive of the candidate's future performance on the job. Now, you're ready to evaluate your candidates and select the best one—based on more than a gut feeling.

Martha Kilbourn is the manager of executive, management, and staff education for the Education Division of California's Administrative Office of the Courts, otherwise known as CJER, the Center for Judicial Education and Research. Her unit provides education to the courts on many management issues, including interviewing. Prior to her move to California, she was the assistant director of the Ohio Judicial College. Martha served as NASJE's Western Regional Director from 2000-2003. She traveled to Macedonia last year to consult on staff education for the judicial branch.

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