

# NASJE NEWS

*Winter 2005*

## ***Teaching Judging in Law School Part II***

Paul Biderman  
New Mexico Judicial Education Center

In the last issue of NASJE News, I discussed our rationale and ideas for presenting a seminar on Judging at the University of New Mexico School of Law. I have spent the last few months reading our primary text, *Keeton on Judging in the American Legal System*, along with a number of articles providing contrasting viewpoints. The seminar will begin in January, and I am looking forward to spending my winter break deeply immersed in arcane texts produced by scholars from Holmes to Dworkin. Until that effort is completed (and it will undoubtedly take until the day of each class session to do so), I can at this time only identify a sampling of the emerging questions that we expect to explore through esteemed authors, visiting jurists, and lively class discussions.

*Legal reasoning: How do judges decide?* Judge Keeton discusses two primary intellectual approaches that judges use to decide legal issues: deductive and informative reasoning. I understand the former to be the fairly familiar and comfortable legal process of ascertaining the law through statutes and precedents, and then applying the resulting principles to the facts presented in the case. Informative reasoning is the more discretionary (and therefore more tenuous for some people's taste) process of thinking through the consequences of the ruling, and particularly its implications for future cases. Our seminar will explore these two approaches, and attempt to achieve some idea as to how each works and when each is appropriate. We will also learn to recognize common errors in logic that judges make.

*Values:* This will hopefully open up some of the most controversial discussion of the seminar. Issues include:

- How much of a judge's decision-making rests upon an election among competing values? In what circumstances does our legal system call upon a judge to make such choices, and when would that be unacceptable?
- When may (must?) a judge choose among competing values, what standard applies? Must the judge apply the values of the community regardless of his/her own preferences? If so, how may s/he authentically ascertain those community values? Or may the judge apply his/her own values in some circumstances—indeed, does our legal system require that s/he do so? How does a decision like the Massachusetts ruling upholding a constitutional right to gay marriage conform to these standards?
- How does a judge properly communicate the values that have entered into his/her decision? Should the application of values be openly discussed both as to how and when they were used? Or should all such value judgments be presented as the inevitable application of legal principles to preserve faith in the system?

*Public confidence:* Speaking of faith in the system, how does each judge contribute to the public image of the judiciary and the confidence that the public places in that branch as the ultimate impartial arbiter of public and private disputes? What precepts must a judge observe in terms of official and unofficial statements, ethical conduct on and off the bench, communications with jurors and even management of the court to ensure that the public does not lose confidence in their elected decision-makers?

These are just a few of the issues we expect to explore in the coming months. We will offer the students multiple perspectives not only through our reading selections, but also through the guest lectures by distinguished judges I mentioned in my initial article. By the next issue of *NASJE News*, we will have conducted our initial class sessions, so we'll see how your correspondent fares after more than a decade away from any formal classroom experience!

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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.

## **Transitions**

Please join us in welcoming the following new NASJE members:

- Meredith Hofford, Director, Center for Education, Training and Development, District of Columbia Court Systems, Washington, D.C.
- Renee S. Lorda, Asst. Circuit Executive, U.S. Federal Courts, Ninth Circuit, San Francisco, CA
- Susan E. Nunnally, Administrative Secretary, The Institute of Continuing Judicial Education of Georgia, Athens, GA
- Kelly Tait, Communication Consultant, KT Consulting, Reno, NV
- Curtis J. Thames, Jr, Program Administrator, Texas Justice Court Training Center, Austin, TX

### **-----Original Message-----**

From: NewsFromNCJRS@ncjrs.org [mailto:NewsFromNCJRS@ncjrs.org]

Sent: Friday, January 14, 2005 12:45 PM

To: SchopicP@sconet.state.oh.us@ncjrs.org

Subject: OJJDP Releases "National Estimates of Missing Children: Selected Trends, 1988-1999."

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces the availability of "National Estimates of Missing Children: Selected Trends, 1988-1999." This 8-page Bulletin, part of a series summarizing results from the second National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART-2), was written by Heather Hammer, Ph.D., Principal Investigator; David Finkelhor, Ph.D., Advisor; and Andrea J. Sedlak, Ph.D., Advisor, NISMART-2; and Lorraine E. Porcellini, Temple University Institute for Survey Research.

The Bulletin presents results of an analysis comparing selected findings from NISMART-2 and its predecessor, NISMART-1. The analysis, which is based on household surveys of adult caretakers and covers victims of family abductions, runaways, and children categorized as "lost, injured, or otherwise missing," highlights trends from 1988 to 1999. The most important finding is the absence of increases in any of these categories. For some types of episodes, the incident rates decreased.

Resources:

"National Estimates of Missing Children: Selected Trends, 1988-1999" (NCJ 206179) is available online at <http://www.ojjdp.ncjrs.org/publications/PubAbstract.asp?pubi=11937>.

A limited number of printed copies are available from the Juvenile Justice Clearinghouse (JJC). Copies can be ordered online at <http://puborder.ncjrs.org/> or by calling JJC at 800-851-3420. Please use the document number when ordering.

For full-text publications, information on OJJDP or JJC, and other juvenile justice matters, visit the OJJDP Web site at <http://www.ojp.usdoj.gov/ojjdp>.

## **PRESIDENT'S COLUMN**

Dear NASJE members:

At the first of the year, it is always a good idea to reflect upon what we are thankful for. As I look back over the past four months as NASJE president, I have much to be thankful for. I belong to an excellent association of members who truly care about improving justice and ensuring that our justice system is the envy of the world.

I would like to thank all of those who have invested so much time in making NASJE the success that it is. The problem with listing individuals is that inevitably someone will be forgotten, but I hope that my list is complete. If I've forgotten anyone, please send me a reply, and I'll be sure to publicly thank them for their efforts on behalf of NASJE. Frankly, I don't know how Santa does it.

I thank the following individuals (in alphabetical order) for their tremendous efforts:

Judith Anderson, co-chair, international task group  
 Joy Ashton -- member, newsletter and website committee;  
 Michael Bell -- member, nominating committee  
 Mari Kay Bickett -- member, membership committee  
 Paul Biderman -- member, mentor committee; member, strategic planning committee  
 Kevin Bowling -- member, futures advisory committee  
 Carrie Brooks -- member, education committee  
 Hon. Russell Canan -- member, international task group  
 Sherry Carson – treasurer; vice-chair, education committee; board liaison, membership committee;  
 Pam Castaldi -- member, newsletter and website committee  
 Maggie Cimino – member, diversity committee  
 Maureen Conner – past chair, competency guidelines; co-chair, strategic planning committee  
 Diane E. Cowdrey – director, western region; board liaison, diversity committee;  
 Mollie Croisan -- secretary; member, education committee; board liaison, standards committee; board liaison, technology committee; board liaison, strategic planning committee  
 Denise Dancy -- chair, futures advisory committee  
 Jim Drennan – member, competency guidelines committee; member, membership committee  
 Linda Evans, member, bylaws revision committee  
 Claudia Fernandes, co-chair, international task group; chair, standards committee  
 Ray Foster -- chair, technology committee; member, newsletter and website committee  
 Philip Gould -- member, international task group; member, mentor committee  
 Kathleen Gross -- member, newsletter and website committee  
 Franny Haney -- chair, nominating committee; Judicial Education Project  
 Verdene Johnson -- member, membership committee  
 Dennis Jones -- member, strategic planning committee  
 Hon. Ken Kawaichi – member, diversity committee  
 Martha Kilbourn -- member, newsletter and website committee; member, nominating committee  
 Caroline Kirkpatrick -- member, competency guidelines committee  
 Debra Koehler -- member, membership committee  
 Thomas Langhorne, III -- member, international task group; member, nominating committee  
 Pamela Lizardi – member, diversity committee; member, strategic planning committee  
 Hope Lochridge -- member, mentor committee  
 Michael Losavio -- member, international task group  
 Ellen Marshall -- member, international task group; member, standards committee  
 John Meeks -- vice president, bylaws revision committee chair; board liaison, education committee; board liaison, nominating committee  
 Kenneth W. Miller – past-president; board liaison, mentor committee  
 Karen Moen -- member, membership committee  
 Marna Murray -- member, nominating committee  
 Mary O'Connor -- member, newsletter and website committee;  
 Kay S. Palmer – director, southeastern region; chair, membership committee; board liaison, competency guidelines committee; JERITT review panel  
 John Ramsey – NASJE secretariat  
 Rich Reaves – chair, competency guidelines; member, international task group  
 Linda Ryea Richard – director of the northeastern region; board liaison, international task group;  
 Michael Roosevelt, chair, diversity committee  
 Joseph Sawyer -- member, technology committee  
 Phil Schopick -- chair (editor), newsletter and website committee; member, technology committee  
 Kathleen Sikora – chair, mentor committee; member, diversity committee; member, education committee  
 Liz Strong -- president-elect; member, education committee; board liaison, newsletter and website committee; JERITT review panel  
 Marty Sullivan -- member, international task group  
 Blan Teagle -- member, strategic planning committee  
 Karen Thorson – co-chair, competency guidelines creation; co-chair, strategic planning committee; NACM professional development advisory committee; COSCA education liaison committee  
 Guy Tower -- member, education committee;  
 M. Christy Tull – director, midwestern region; chair, fundraising committee; member, mentor committee  
 Peggy Vidal -- member, international task group  
 Debra Weinberg -- member, nominating committee

Skip White – member, bylaws revision committee  
Brenda Williams – NASJE secretariat  
Carolyn Wilson -- member, futures advisory committee  
Michael Wise -- member, futures advisory committee  
Robin Wosje -- member and past chair, education committee; member, newsletter and website committee

I look forward to working with all of you in the coming year.

Yours truly,

William

William Brunson  
NASJE President

## ***Judicial education goes to the movies***

Hon. Peggy Fulton Hora  
Superior Court Alameda County, California

I am the last of a dying breed. I was born in 1946 and still remember the delivery of our family's first television. It was a community event; neighbors dressed up for the evening to come to our house and watch television. I am among the last set of judges who has not lived their whole life inundated with the flickering images on a daily basis. As the population of my cohort leaves the judiciary, the new breed of judge will have grown up on MTV and with Game Boy® players. Judicial educators must respond to this trend by incorporating educationally appropriate technology into judicial education programs.

I love movies. I can still remember the magic of seeing the film turn from black and white to color as Dorothy entered Oz. And don't get me started on those flying monkeys. Since I started teaching over 15 years ago, I've incorporated movie clips into my judicial education.

A short film clip or a recognizable advertisement can sometimes best illustrate your point in the classroom. **[A short film clip can sometimes best illustrate your point in the classroom.]** What better way to illustrate judicial demeanor than to show Fred Gwynn in "My Cousin Vinny" saying to Joe Pesche, "Are you mocking me? Are you mocking me?" Or Jack Warden firing a gun from the bench to maintain order in the courtroom in "...And Justice for All." Ethics and conduct issues may be illustrated in almost any movie that shows judges. It seems every courtroom scene raises ethical issues to the point that I can hardly watch them in a movie theater without making comments out loud. I can barely resist shouting, "Sustained? Are you mad?" "Intolerable Cruelty" with George Clooney and Catherine Zeta-Jones illustrates "hometowning" by showing the female judge compliment Clooney on his tan, the fact that he looks rested and other personal comments no judge in her right mind would utter (at least out loud!) on the bench.

Spike Lee's "Clockers" has a scene of a drug deal that is a perfect teaching tool for Fourth Amendment suppression issues. Other movies showing actual crimes could be screened for other criminal law issues. Civil discovery discussions cry out for a scene or two from "A Civil Action" based on a book by John Grisham.

A faculty development workshop on gender, race and cultural issues could begin with negative images found in the media such as the ending credits of "Bamboozled" or the ubiquitous scene in "Treasures of the Sierra Madre" when the bandit says, "I don't have to show you no stinkin' badges." These negative images could be transposed with film clips showing "model minorities" such as the anti-pollution crying Indian from the 70s or the studious Asian American student. This could be used to generate a discussion of stereotypes both negative and positive.

I do a lot of teaching on issues involving alcohol and other drugs, mental health disorders and domestic violence. Movie clips are invaluable to me as they bring home far more realistically the points I would like to make. A heroin overdose is shown in graphic detail in "Pulp Fiction." A movie like Ellen Burstyn's "Requiem for a Dream" shows amphetamine addiction more clearly than I could ever explain it. "Spun" has wonderful scenes demonstrating methamphetamine addiction; "Trainspotting" is a great illustration for heroin use. Nothing will top "Leaving Las Vegas" for showing the horrors of alcoholism or watching an out-of-control, drunken Sandra Bullock fall into her sister's wedding cake in "28 Days." "The Dark End of the Street," an HBO documentary on heroin addiction, shows the interview of a young woman

who was raped by her grandfather when she was 5. She holds a photograph of herself at that age while she tells her story. Nothing could illustrate more clearly the link between childhood sexual abuse and the risk factors for addiction.

Women who survive domestic violence sometimes act in puzzling ways that can be explored by using films that show family violence. The true story of Tina Turner's final abuse which led to her leaving Ike is beautifully illustrated in "What's Love Got to Do with it?" "The Burning Bed" could be used to explore legal issues in a Battered Women's Syndrome defense. The link between substance abuse and domestic violence is shown with horrifying clarity in a British film, "Ladybird, Ladybird."

Ordering compliance with medication regimen for defendants with mental disorders always brings up the issue of non-compliance and probation violations. Who could forget the scene in "One Flew over the Cuckoo's Nest" where the patients line up to receive their little Dixie<sup>®</sup> cup of medicine? Obsessive compulsive disorder is exemplified by Jack Nicholson's arrival home in "As Good as It Gets" when he goes through a variety of rituals that illustrate his anxiety disorder. "Girl Interrupted" is another true story in film form of a person's mental health issues.

A film clip can describe a painful event, provide a humorous interlude or drive home a particular teaching point. **[A film clip can describe a painful event, provide a humorous interlude or drive home a particular teaching point.]** It can act as a springboard for a group discussion and a participant can take exception to an issue without it becoming personal to the instructor. Film clips provide a much-needed respite for an instructor in a multi-day course and can even become the basis for a contest (identify name, star, director, year, etc.) for a prize at the end of a long week.

Go rent a movie, join Netflix<sup>®</sup> or go to a theater tonight and have fun at the movies doing your judicial education homework.

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Judge Peggy Fulton Hora has been a judge for the Superior Court of California, County of Alameda since 1998. She was elected to the Municipal Court of Alameda County, California, in 1984. Previously, she served as dean of the B.E. Witkin Judicial College of California. Judge Hora has been active in the teaching of substance abuse, mental health disorders, domestic violence, and other subjects for many years. Judge Hora has taught for many entities throughout the United States including The National Judicial College, American Judges Association, National Association of Women Judges and the U.S. Department of Justice.

## ***Use of Film Clips for Educational Purposes***

Robin E. Wosje

The United States guarantees that any work created and published is protected by copyright for a number of years from the date of its publication. If someone wishes to reproduce, perform or display copyrighted work, he or she must first gain the permission of the owner of the copyright and such owner may charge a fee for such usage. However, the copyright principle of fair use allows in limited circumstances for people to reproduce, perform or display copyrighted work for limited purposes. Limited circumstances are when a copyrighted work is used for purposes such as criticism, comment, news reporting, teaching, scholarship or research. (17 U.S.C. § 107).

With regard to printed material, there are significant limitations about how much of a piece may be used while remaining within the provisions of fair use. (For extensive information about the fair use doctrine with regard to printed and audio material see *Circular 21*, UNITED STATES COPYRIGHT OFFICE (June 1998) at <http://www.copyright.gov/circs/circ21.pdf>.) However, with regard to videos played in the classroom, instructors may play these materials without restriction of length, percentage or multiple use. (17 U.S.C § 110(1)). The only limitations of this use are that the material must be a legal copy, it must be a face-to-face teaching activity and it may not be used as entertainment or reward. In other words, the film must be used as a teaching tool for the classroom and not as a substitute for going to the movies. Thanks to the fair use exception, you are free to include film clips in your judicial education without any infringement issues.

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Robin E. Wosje joined The National Judicial College as a Program Attorney in November, 2000. She has been the Assistant Academic Director of The National Judicial College since January 1, 2005. She presents educational courses to judges on topics such as criminal evidence, scientific evidence, substance abuse, co-occurring disorders, mental illness and problem solving. Ms. Wosje was admitted to the California State Bar in 1997 after receiving her J.D. from William

Mitchell College of Law in St. Paul, Minnesota. She is a member of the American Bar Association, the National Association of State Judicial Educators and the National Association of Drug Court Professionals.

## ***Transcendental Technology for Judicial Branch Educators***

Ellen Marshall

From a hotel in Prishtina of the former Communist Yugoslavia, this author<sup>1</sup> clearly sees the potential of technology as a vehicle transcending geography. This article postulates that the world wide web closes other traditional gaps between learners and teachers that our profession has struggled with since 1975. I owe the inspiration for this article to Dr. Maureen Connor's article on a related topic in the last issue of **NASJE News**. (Note: Connor, Maureen E. "Adult Education: Blended Learning Experiences Using JERITT." **NASJE News**, Spring 2004)

Classical adult learning theory teaches us that education takes place in the fertile atmosphere of a vacuum, a gap between what the learner knows or can do now and what the learner must know and do in the future. That space (Note: Malcolm Knowles, the father of adult education or andragogy, says that the adult learner must immediately see an application of learning and be engaged in the learning process. Younger learners necessarily delay the practical application of their lessons until they are independent.) is filled more completely when an adult educator uses tools like distance education, satellite conferencing and web-based threaded discussion groups to enrich the learning environment.

The following essay surveys the history of NASJE and the progression of adult education practice to arrive at a call to use technology as the vehicle for the future growth of the profession.

### **The Learning Space**

Within the universe of the world-wide web, the entire discussion of creating the best learning environment exists in a fresh dimension. (Note: 'Awake from your slumber, arise from your sleep, A new day is dawning for all those who [teach].' Adapted from "The City of God", a liturgical song written by Dan Schutte.) When once educators spoke of the proper position of seating in a classroom to match the teaching methodology, now we assemble learning groups outside of the constriction of time and space. Learners can engage in discussions concurrently, but more often than not there is a time warp among learners in cyberspace. Such distance can be filled by the intervention of alternative learning experiences between the question posed and the answers. Research now can be a seamless transition from query to response in a way that the 1975 adult educator never imagined. Cyberspace, after all, is measured in terms of nanoseconds, not minutes. Response time's only barriers are bandwidth and the time it takes to key in a response. That barrier will soon be removed when implants simultaneously transmit thought into spoken or written language. H.G. Wells comes to adult education in a way never envisioned by our predecessors.

### **Sharing language in an education forum**

Prior to satellite conferencing, the cost of international conferences precluded many otherwise interested learners from participating. Air travel and hotel costs drove the costs out of the reach of many potential conferees. An added cost to international participants was the salary of interpreters and the rental of listening devices. No more.

With the flick of a rocker switch and the positioning of a satellite dish and video camera, conferees from all over the globe can be "beamed" into a shared learning space. Once we had to search for diversity in our participants; today many cultures and languages come to us through this medium. What richness this brings to the interchange while the much lower cost of interpretive programs significantly brings down the cost of international participation.

At the faculty level, the differences can be even more exciting. No one adult learning organization has to bear the entire cost of flying in a "guru". Costs can be leveraged among wired learning organizations and the class benefits from the opportunity to sit at the feet of a renowned expert. Not only the cost, but also the exposure to best practices from another business culture, enriches the facilitator-participant exchange a hundred-fold. How many of us have yearned to study ethics from a Tao master? Make it so.

## **The Time Continuum**

Concurrent or consecutive learning provides the freedom to participate when the student is at her most productive or free point of the day. Media memory devices allow the perspective trainee to store the presentation for later or additional viewing when the mind is free to assimilate the learning. No need to choose between an important work meeting and a learning experience with technology-based learning. One can be “present” at both.

Technology also provides the doorway to self-paced learning. How often have you wanted to “rewind” to an important lecture point or recapture an interesting dialogue among learners and teachers? Learners can now savor and process new information at a pace better suited to individual lifestyles and professional demands.

And, speaking of demands, learning via technology opens up learning opportunities to new parents who cannot readily travel to another coast, to persons with disabilities who cannot navigate using traditional transportation, and to more persons with limited finances who have access to public internet use. Also, since many of those individuals face time constraints others do not, giving them the freedom to choose learning times, widens the doors to opportunities they would otherwise miss.

What does all of this mean to the profession of judicial branch education?

## **When Dreams Slip Into the Waking World**

NASJE began in 1975 as primarily a networking organization for professionals who worked in judicial education offices for state court systems. (Note: The premier meeting to establish an organization for court educators attracted Paul Li (CA), Safron Nijelski (WI) and Anthony Fisser (CT). By the first official conference, New Jersey, Michigan and Maryland each sent a representative.) In its 29 year history, NASJE has grappled with ways to include more professionals into its membership without leaving its base constituency. The first major group to join the association was colleagues who provided training to other judicial branch professionals. Today university-based personnel, judicial branch trainers, consultants who teach for court systems and international experts have been joined by educational technology experts to create a more inclusive profession. An annual conference became the vehicle for approving such documents as *Principles and Standards of Judicial Education*. (Note: *Principles and Standards of Judicial Education*, NASJE, was adopted in 1991. The 2001 version was adapted to current professional practices and retitled *Principles and Standards of Judicial Branch Education*.)

The NASJE Education Committee, the vehicle for annual conference planning, struggled with various formulas for addressing all of the learning needs of this varied constituency. And, as new members joined with credentials in adult education rather than law, the focus of the educational program turned to best practices of adult education. For several years NASJE has used a track system to organize the practical training to reflect the major competencies of this emerging profession: directors of programs, senior staff who manage programs for judges and court personnel, curriculum planners and national organizations.

More and more state and national programs rely on technology to support the dissemination of learning to the judicial branch. States in the western United States were early experimenters with satellite conferencing and computer-based instruction so that wide geographic distances would not preclude participation in learning. Consequently NASJE added programs at its annual conference to model how technology can be used to deliver programs, support interaction in a classroom, evaluate the effectiveness of programs and manage the administrative tasks of judicial branch education.

It is time for NASJE to use technology to expand professional learning opportunities to its members. The day has come when NASJE should invest resources in broadcasting web-based practical training throughout the year to its members. Wake up - our profession thrives past 1984 and is moving toward 2121. Through JERITT and other national organizations, NASJE members must begin to lay the framework for such delivery of the tools of our trade. NASJE must acknowledge that the learning needs of professionals engaged in judicial branch education change rapidly. It has a responsibility to address these needs as they arise outside of the three day meeting.

In the near future NASJE should move from its base of annual conference programming to broker the exchange of programs between states and national provides via technology. JERITT has initiated that process through its listserv for information exchange and its threaded discussion groups for best practices. We must be ready to take that exchange further if we are to maintain the role of the proponent of best practices in judicial branch education.

Economics surely will determine the speed with which this vehicle of best practices is driven. As most state court budgets have been trimmed to offset the drain on state tax revenues, our profession has born the brunt of those cuts. Limited



resources are necessarily dedicated to support in-state mandated training. Therefore, NASJE may have to initially rely on donated resources from universities or government entities that have already invested in distance learning technologies.

### **Imagine this...**

The Spring 2006 edition of *NASJE News* will publish a calendar of offerings via web transmission. Registration will be free to dues paying members and open to others for a fee to offset broadcast fees and faculty expenses. A course in running a curriculum planning meeting will be broadcast from CJER (California's Center for Judicial Education and Research) with video cuts of a meeting-in-progress to illustrate the process. Before the broadcast, registered participants will receive an electronic version of the meeting materials and the law or procedure that is the content of the course being planned. Participants log on through a video cam and are introduced by a facilitator to her local committee. Our video facilitator will have previously set the stage for her viewers by explaining how the committee functions and the roles of the participants. At an appropriate break, through a picture-in-picture feature, she will appear on screen to explain the meeting interactions and to propose a model for similar committees in the viewers' jurisdictions. When the camera returns to the meeting, the California committee can invite reactions and planning suggestions (like faculty and methodology, for example) from the viewing audience.

A second course in Leadership Training will be sponsored by NASJE with similar registration procedures. Each registrant will have purchased Leadership Challenge by Kouzes and Posner and the first learning exercise will be a problem-solving discussion on "Commitment Number 3: Envision the Future by Imagining Exciting and Ennobling possibilities." Discussion will be supported through video cam broadcasts to each learner's office or home computer. From that discussion the group is led through a brainstorming session resulting in a checklist of best practices for leadership training in the courts.

A NASJE web host coordinates a discussion group on a specific judicial branch education topic, like customer service. NASJE members hold a joint curriculum development meeting in cyberspace. Agenda, bibliographies and videotaped scenarios of clerk office interactions or judicial hearings could be downloaded onto the site. The meeting participants would then react to and evaluate the materials for use with their audiences ( a market research group, so to speak). Participants of the on-line meeting would be invited to recommend faculty. Then results of the meeting could be distributed via JERITT to all NASJE members.

To supplement the efforts of NASJE members sharing best practices throughout the globe, an on- line course about the components of an effective judicial branch education program could be offered to international members in several languages. Such a course could include a narrated video stream demonstrating a caseload management program using adult education methods. Also, the written materials for the course could include a bibliography of classical adult education theorists, articles and monographs on best practices in caseload management, and a list of NASJE members who are willing to consult on various practice topics.

### **And, then there are natural technological uses for NASJE's core business practices...**

How about a threaded discussion specifically for new judicial branch educators? Upon joining the organization new members would still be assigned to a mentor from another state. That mentor would introduce his mentee to the organization by an introductory email and ask all in the organization to support the new member. Then the new educator could post specific questions about best practices in a dedicated portion of the JERITT listserv. Veteran members could log on with recommendations to that most closely fit the new person's challenge.

Constitution and By-Laws changes could be vetted on-line before a face-to-face conference. Debate and discussion could be scheduled for a specific time frame. With an amendment to the current by-laws, an electronic vote could be registered. Such a procedure eliminates a major change occurring with the limited input of those in attendance at conferences.

### **The Fourth Decade of Judicial Branch Education**

From its inception in 1975, NASJE has determined the shape and content of judicial branch education. Maximizing the use of technology for the planning and transfer of core skills of our profession is a challenge and will require careful research and some targeted investment of our member's shared wisdom. Such creativity can push the organization and the profession of judicial branch education into a place and time only limited by our collective imaginations.

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Ellen Marshall, former director of education for the Maryland and District of Columbia Courts, has been Project Director of the Hope Fellowship Program since 2003. Hope Fellowship provides leadership development to women leaders in Kosovo.

## ***Judicial Training in the Handling of Death Penalty Cases***

Richard D. Reaves, Esq.  
The Institute of Continuing Judicial Education of Georgia

The Institute of Continuing Judicial Education (ICJE) of Georgia is the principal agency of the State's judicial branch tasked to design and deliver basic and continuing judicial education. Among the ICJE's yearly educational offerings is a Death Penalty Specialty Course that is intended to support Georgia trial court judges in handling the judicial administrative as well as adjudicative tasks attendant upon presiding in a first degree murder case in which the State seeks the Death Penalty. The course incorporates a foundation of 12 hours of classroom activity, conducted by judges who've recently presided in death penalty cases. The classroom discussion is supplemented with study of illustrative court orders, notices, letters, and checklists that are incorporated into a notebook that also includes references to pertinent statutes, uniform rules, case law and jury instructions.

This annually conducted specialty course was initiated for judges in the mid-1990s, partly in recognition of the fact that, by court rule, lawyer's involved in death penalty cases had to participate in a regimen of experiences to prepare them to serve as lead counsel. At about the same time public attention was being focused on the effective prosecution and judicial handling of death penalty cases because of the publicity generated by the final appeals and imminent execution of defendants in several decades-old cases involving the murderers of a southwest Georgia family. The ground was thus laid for the implementation of an elective Death Penalty Specialty Course. But unlike attorneys who must achieve certain standards of training and experience before serving as lead counsel in a death penalty case, Georgia trial judges are not required to be either classroom or experientially pre-qualified to preside in these cases.

In addition to a cadre of Georgia trial court judges experienced in presiding over these types of cases, a principal intellectual capital resource used in development of the Georgia specialty course was Professor Penny White of the University of Tennessee College of Law. Professor White formerly served as a Justice of the Tennessee Supreme Court as well as a Judge of Court of Criminal Appeals. Prior to her appellate court and law school work she also served as a Criminal Court Judge.

On average, a death penalty case is likely to land on the docket of a Georgia Superior Court Judge about once every three to four years. Such a frequency is just enough time for an evolution in the prosecutorial and defense litigation theories about how to proceed with these cases, or changes to the guiding appellate case law. As a result, preparing to preside requires a complete review of all phases of judicial duties for these proceedings as well as potential new legal questions likely to arise in a death penalty case.

For example, the correct norms for conducting jury management, from summoning to qualification through voir dire, sequestration as well as supervision during the trial, present the court with critical elements of its responsibility. Typically, the most complex testimonial issues arise in how to handle mental health questions, e.g., state of mind at the time of the crime alleged, ability to assist counsel in preparation of a defense or competency to stand trial. Novel questions of evidentiary admissibility are likely to arise during the trial phase, as are questions of adequate time and financial resources related to trial preparation. Fashioning the proper role to be given to statutorily defined aggravating and mitigating circumstances surrounding commission of the crime, along with the appropriate weight and manner for receiving victim impact testimony in the penalty phase of these cases, frequently proves challenging. Promoting effective assistance of counsel at every phase of these proceedings is always a matter of primary interest to the court.

The topical time allotments for a death penalty specialty course routinely break down as follows:

- seminal cases on jurisprudence of constitutionally proper death penalty policy and practice (1 hour);
- pre-trial management of jury summoning and qualification, venue choice and media regulation, legal counsel and expense issues, evidentiary motions *in limine* (3 hours);
- mental health status of defendant (2 hours);
- jury voir dire, including use of pre-filed questionnaires as well as for-cause and peremptory disqualifying strikes (2 hours);
- guilt-innocence phase practices, particularly with regard to evidence and jury management, as well as jury instructions and receiving the verdict (2 hours);
- sentencing phase practices, including aggravating and mitigating circumstances, victim impact evidence, and scope of counsel argument (3 hours);
- post-conviction procedures, encompassing review of motions for new trial and preparation of the uniform rule-required, presiding judge's report on conduct of the death penalty trial for the Georgia Supreme Court (1 hour).

In all these areas, **[many trial court judges have experienced either federal appellate courts or the State Supreme Court changing the rules after the fact of the trial, which explains the frustration and anxiety felt by trial judges when faced with these cases]**. So, a review of both recent Georgia and federal habeas corpus case law becomes an important component of the instructional units in this course.

There has been no thorough effort to evaluate the impact of this Georgia specialty course for its effectiveness, due to a lack of funding for this type of analysis. Nevertheless, the ICJE's Death Penalty Specialty Course is as popular as well as seriously regarded elective among the continuing judicial education options afforded the State's trial court judges.

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## ***Will distance learning be an option for me?***

Ray Foster

So here's the problem. You want to deliver a program but the participants are scattered geographically and you have no travel budget that could possibly bring them to a central location to deliver the training. Additionally, you have very limited turn-around time for the training.

Sound familiar? If so, here is a possible solution that may save the day. Let's begin with a few assumptions. First, you have a presenter familiar with the topic who is available to do the training. (A nice feature of this presentation scenario is that the presenter can be in a remote location.) Second, the "materials" created for the training have been developed and used for face-to-face training in the past. (I assume here that these are PowerPoint slides, Word docs, Excel docs, etc.) Finally, you have some or all of the following: computer with high speed internet connection, telephone, some technical expertise and a modest budget. (More about budget later.)

An inexpensive and quick option that can turn your face-to-face training into an eLearning program is the use of software such as WebEx, PlaceWare or Astound. These software products generally have several things in common. They are inexpensive, available online, require no purchase of the actual software (you pay by the minute for usage), easy to use and utilize technology that almost all courts would have available. Namely, a telephone and a computer connected to the internet. Typically these programs facilitate the creation of a Webinar (web + seminar) by connecting an audience through a telephone conference call while logging into an online software program to view presentations in the form of a PowerPoint slide show. Interactivity and discussion is accomplished through the telephone conversation. Most of these software products allow the presenter to use tools that highlight text, view web pages, share documents, poll the participants and do online chats.

How does this work? In practice I would recommend the following. A technically savvy staff member serves as the "Host" of the meeting. This person is responsible for scheduling the meeting, sending participant logins and passwords, setting up the telephone conference call and loading the presenter materials. The presenter need only have a basic familiarity with the software, something which can be learned in an hour or so practice session. At the time of the meeting, participants log into the software and join the audio conference using a meeting password. In opening the meeting it is best to have the Host do a brief explanation of the software and provide ground rules that will serve to make the class function smoothly and then turn the program over to the presenter. The Host then takes a background "seat" and monitors the meeting to solve any technical problems.

The class can be dynamic if the presenter engages the participants using techniques similar to those that work in face-to-face presentations. Creating polling questions, invites responses and discussions, calling on participants to share their experiences expands the conversation and creating slides that encourage participation by typing in information (the software permits this). Lacking visual cues (facial expressions and body language) it is important to be more aggressive and call on people whose "voice" is not being heard in the phone conversation. This is actually easier because there seems to be less self-consciousness on the part of web participants. With practice and planning, these Webinars can include pre-class assignments that are reviewed online, participant demonstrations of their work and polling questions that gather data useful to the group.

A bonus feature of these meetings is the ability to “record” the presentation and archive it online. Staff or participants unable to attend the live presentation can log in and view the file which includes all of the visual and audio components of the program. At the Institute for Court Management we use [WebEx](#) for these programs which can be readily recorded. There are many similar products available and a comprehensive listing can be found at: <http://www.thinkofit.com/webconf/realtime.htm> .

Will these be as effective or dynamic as a face-to-face presentation? Perhaps not, but with practice, refinement and an audience of motivated learners, it can be used for training that would otherwise be unavailable to your staff or judicial audience. The evaluations may also be a surprise. Some may rate this training as the equal or near-equal of the face-to-face version. Keep in mind that there are practical limitations on the number of people that can effectively participate in a Webinar. I have found that 15 -20 is a manageable group but additional participants hinder interaction and often create technical problem with the phone bridge. It is also wise to spend time formatting PPT slides for the computer screen and keeping the finished file sizes to less than 500Kb. Doing so will ensure that participants using modem connections will not have problems downloading the slides. It is advisable to keep the class short. Ninety minutes works well, keeping in mind that typically ten minutes or so will be necessary to “organize” the meeting when everyone is arriving on the phone bridge and loading the software. With practice, this may require only half the time.

There are a number of costs involved, first and foremost is the cost of the software and phone connection. It varies from vendor to vendor but it is realistic to budget for .30 to .35 per minute for each participant. This includes both the use of the software and the telephone line charges. I would recommend using a vendor that sells both the audio conferencing service as well as the online software used for the Webinar. This consolidation reduces the number of passwords or codes for participation, produces one bill for all of the services and in the best vendor products, integrates the functions to make it easier to record the program. Most vendors have good technical support and offer both live and archived online training demonstrations. Try several and find one that feels comfortable and offers the features you want. If you are considering archiving the presentations, discuss this with your IT or MIS staff. File sizes are typically large and dishing these off of your web site may raise some issues that they will be asked to solve.

If you plan to record the presentations a PC Telephone interface is needed. This device attaches to the phone for recording the program. A good option is the [DynaMetric TMP-636](#) (<http://www.dynametric.com/productDetails.asp?ProductID=138>) which sells for around \$80.00. Easy to install and use, it is compatible with most home and business phone systems. The computer used for the recording must, of course, have a soundcard. Typically, most computers come with a soundcard that is adequate for this purpose.

Using the above cost estimates, it is easy to calculate the cost for doing a 90 minute Webinar for 20 people. Using the base cost of .30 per connection minute, the total would be \$540.00 for the class. Including the one-time cost of the recording device, the course would cost \$620.00. This does not include staff development time, not an inconsequential number but one which would be associated with any course development. Consider too, that the “product” can be archived and delivered asynchronously without incurring additional expense. Not a bad deal.

While this delivery method may not meet every need for creating a quick, affordable online course, considering the cost and development requirements, it can be a useful option for many courts.

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## ***Voices from the Past - Spring 1991***

### ***How do you control speakers who go beyond the established time limits?***

Editorial Committee: Jim Drennan, North Carolina; Frank Gregory, Alabama; Betty Ann Johnson, Minnesota; Maureen Lally, Washington; Kay Palmer, Arkansas; Chair; Mike Runner, California; Jim Toner, Nevada  
NASJE President: Jerry Beatty, Iowa

#### **Educator's Corner Controlling Speakers**

Speakers are at times unpredictable. No matter how well a conference is planned, something backfires. *NASJE News* asked several NASJE members if they would share how their programs deal with problems that commonly arise with guest speakers. Their responses follow.

The Arizona Supreme Court, Education Service Division, asks speakers to complete a three-page form regarding their session/topic. It asks for an outline of their presentation, the methodology to be used, and the estimated time for each portion of their outline. At the faculty meeting and in writing they ask faculty to adhere to the allotted time frame.

The National Judicial College works with their faculty in advance to make sure speakers are not trying to cover too much or too little information. Participants in their faculty development programs learn how to summarize material visually as well as other techniques to reduce or extend a presentation in more meaningful ways than simply a lecture.

Several respondents mentioned using a designated staff member to signal faculty two to five minutes before the end of a presentation. The National Judicial College sometimes signals faculty with a bell.

In addition to a designated staff member, conference-planning committee members in Arizona are assigned to politely interrupt the speaker if time frames aren't being honored.

The Georgia Institute of Continuing Judicial Education holds a faculty development program for speakers, strongly emphasizing the importance of staying within their planned times.

#### **When the Speaker Ends Too Early, What Do You Do?**

At the Mississippi Judicial College when the speaker ends the session more than 15 minutes before schedule, the judicial educator (in this case the staff attorney) decides to either accelerate the program and have the next speaker start or allow questions from the audience. The additional question-and-answer period often gets the agenda back on track.

Arizona relies on its three-page form, which includes an outline with time frames for each component, as a preventative measure. When the form is returned, the educator reviews it and offers suggestions if too much or too little time appears to have been allotted for the topic. One time they made an exception to the normal procedure and allowed a speaker to ignore the outline form. They regretted it.

#### **How Do You Light a Fire Under Presenters Who Don't Honor Deadlines for Materials?**

Most if not all judicial educators give speakers a deadline for submitting written materials. The Mississippi Judicial College sends a reminder card two weeks before the established deadline, and if materials still do not appear, a final reminder is sent a day or two before the deadline. In some cases speakers are reminded by telephone that staff are available to help them prepare materials.

The Georgia Institute of Continuing Judicial Education and the office of the administrator for the courts in Washington State require speakers to make copies of their handouts and bring them to the session if the deadline for submitting materials has passed.

Arizona explains at the faculty meeting and in writing why materials are needed by the specified date. Their tracking system shows at a glance which faculty members have and have not submitted materials. If materials are not in, staff call and offer to do whatever is necessary to get the materials.

### **How Do You Organize Materials for Conference Participants?**

The National Judicial College uses three-ring binders with the width and number of binders dependent upon the length of the course. The binder color is always the same. The name of the course and session-specific information is inserted in clear plastic sleeves on the front and spine of the binder. For short seminars, materials are spiral bound. For a few courses, the college publishes bound texts in lieu of course notebooks.

The Mississippi Judicial College's needs are met by using brieffolios, which are folders with pockets for holding course materials. At other times, the college uses three-ring binders.

The Arizona Supreme Court, Education Services Division, varies the method according to the volume of materials. For mandatory sessions, large three-ring binders are used, organized by tabs and outlined by a table of contents. Canvas tote bags are provided for carrying materials to and from sessions. For concurrent sessions, handouts are three-hole punched with a cover sheet that includes the conference name, date, session, and faculty. Materials are fastened by staple or comb binding. To ensure that all judges get the mandatory information and have a place to keep other session materials, a vinyl portfolio printed with the conference name is provided. Small conferences use folders with pockets and three-hole brads.

The Georgia Institute of Continuing Judicial Education uses inexpensive, open-pocket, accordion/expandable folders for hand-out materials. Persons who want materials in vinyl binders must obtain them from their counties.

The office of the administrator for the courts in Washington uses three-ring vinyl binders for large conferences. Smaller workshops have pocket folders. Court personnel are asked to recycle their three-ring binders by bringing them to the conference. Cover and spine inserts are provided along with the inside contents. One Washington educator issues a large four-inch binder in the fall and hands out the tabs and specific materials at their seasonal conferences. On returning to their courts, the participants place the handouts in their notebooks.

The West Virginia Supreme Court of Appeals and many other providers use three-ring binders.

## ***“Pushing a Rope: Maneuvering through an Instructional Session”***

### ***This month’s topic: “Strategic Course Planning”***

Meggin McIntosh, PhD

If you will remember, in the previous issue (*NASJE News*, Fall 2004, Volume 19, Number 4), I asked whether any of your recent presentations felt like you were pushing a rope, that is, you were holding one end of the rope (knowledge, skills, and/or information) and trying to push it toward your audience, but instead of moving forward, the “rope” kept doubling back on itself or, at the very least not moving in the direction you wanted it to. My sense is that presenting without strategic planning is like pushing a rope or even a string. Although it can be done, the effort is draining, the path is circuitous, and the results are not as definitive as we want them to be when we are presenting and teaching.

This month, we will explore the concept of “strategic course planning,” which is defined as *course planning that is deliberate, intentional, and considered, with the overall objective being to ensure learning.*

Some might question dedicating an article to this topic, because they might think, “Well, of course. Who doesn’t want learning to take place when they present?” My response is that just because we want it, doesn’t mean that it’s going to happen...and wanting it doesn’t mean we have strategically planned for it. Strategic course planners focus on their destination, and then think through how to get all participants there efficiently and effectively.

The following list provides considerations for someone who cares enough about the learning of his/her participants to engage in strategic course planning. Take the time to read through and contemplate each of these ideas and the

applicability of the suggestion to your situation.

### 1. Title

First identify the official name of the seminar, course, or workshop, so that you remain focused in your planning. [Remember, strategic course planning involves identifying a target and then considering potential tactics for reaching that target.] If you are the person who is titling the session you will be teaching, work at being creative—at least in the subtitle. It's one of the ways to hook learners into your topic.

### 2. Official Description

If you are teaching a seminar, course, or workshop that has an “official” description, keep that handy. If people have signed up for your class based on that description, you need to know what they are expecting. If you plan to deviate from the official description, be sure to let the participants know that.

### 3. Your Description

Most official descriptions are limited to a few words. Even if you are planning to teach exactly what the description says, expand that description so that it no longer sounds like a telegram. Use words that your participants will easily understand. In a succinct paragraph, identify the nature and overall objectives of the course. While primarily for the benefit of learners, this tactic also helps you stay focused on your target in planning and teaching the course.

### 4. Purpose

You may eventually fold the purpose of the course in with its description but at this point specify (again, for participants and for yourself) the purpose on its own. Is the purpose to build writing skills? To enhance critical thinking? To explore career options in the legal professions? The possibilities are endless, of course, but in a sentence or two, tell why this course is being taught. You may find this easy to do or you may find it difficult, but either way, invest the time to do it.

### 5. Prerequisites, Co-requisites, and Other Requirements

Find out if there are prerequisites, co-requisites or other requirements for the seminar you are teaching—and if they are only “published” or if they are “real.” If your class has official prerequisites, identify their names and numbers (if applicable).

### 6. Description of the Participants

Your work on the preceding issues should enable you to identify what kinds of participants will likely enroll in your course. If you have taught the class before, you may be right on target with your description. If not, you may or may not be able to predict who your participants will be. Either way, you should write a description for yourself and to share with others so that you know who your target audience is—and so the members of your audience know whether they belong in your session.

### 7. Goals and Objectives

Identifying learning objectives is one of the most difficult yet necessary aspects of strategic course planning. Some learners are not as attentive to the course goals and objectives as you might wish them to be. However, that fact should not diminish your commitment to this core process of strategic teaching.

For the aims of this article, I define goals as “the *broad purposes toward which your teaching is directed*”. Objectives are defined as “the *more specific learning outcomes you are seeking*”. Although there are some who use these terms interchangeably, I think there is value in thinking about them separately.

If you are teaching a half-day or even full-day course, you may only have one goal, whereas if you are teaching a multiple day class or a course that lasts throughout several weeks or even months, you will have more goals.

To begin your strategic planning on this step, write down one to five goals you have for your class, remembering to think broadly. Complete this sentence: “As a result of being a participant in my seminar, class, or session, learners will \_\_\_\_\_.” Examples might be, “develop an appreciation for the law,” “realize that accounting is not just about numbers,” “develop a sense that they are capable of speaking in public more effectively than they thought they were,” “find out whether they are suitable for supervision work.”

While you may identify only one or just a few goals for your class, you will probably have many objectives. You may

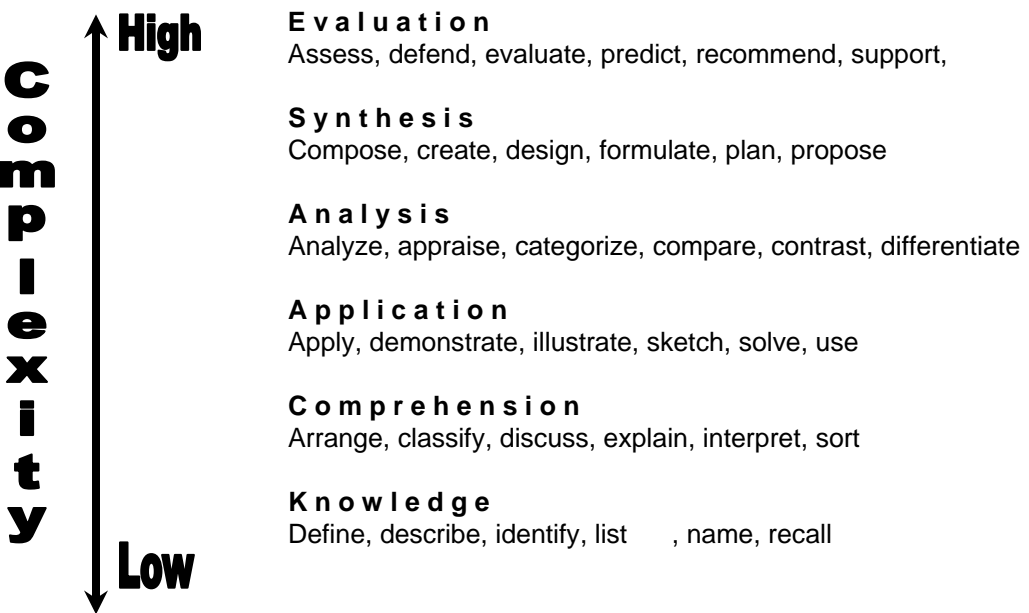
have from one to five (or even more) objectives for each main topic that you will address. The stem sentence for writing your objectives is very similar to the one given to help you write your goals, but there is one difference, and that is the addition of the phrase “be able to,” which yields a useful abbreviation in setting objectives: “As a result of being a participating member in my class, learners will be able to (LWBAT) \_\_\_\_\_.”

Whatever you put in the blank must be a *measurable* activity or ability. A professor of a management class may write: “As a result of being participating members of my course, participants will be able to design a business plan for a small business that is legally sound and suitable for presentation to bank officers.” That professor would be able to measure whether or not individual participants have written such a plan (or were making progress toward writing meeting it). Knowing that this is one of the objectives of the course, the professor would continue the course plan accordingly. This is the “strategic” aspect of planning.

Before you begin to formulate your objectives, think about the levels of learning that you will expect of the people in your class sessions. The most widely accepted system of learning objectives was formulated by Benjamin Bloom (1956) and his colleagues at the University of Chicago. Their “*taxonomy of educational objectives for the cognitive domain*” (more popularly, “Bloom’s taxonomy”) delineates six levels of cognitive complexity, ranging from knowledge level (lowest), to the evaluation level. The figure below depicts the taxonomy and some common behavioral words for each level. Take a few minutes to write some objectives for the course on which you are focusing, using LWBAT, followed by a behavior that is measurable.

1. LWBAT \_\_\_\_\_
2. LWBAT \_\_\_\_\_
3. LWBAT \_\_\_\_\_

**Bloom’s Taxonomy of Cognitive Objectives**



**8. Schedule**

At this point in your strategic planning, it is helpful to at least think about what you will do each session, if your class meets more than one session. It might be useful to take some individual pieces of paper and number them according to the number of sessions your will be teaching, or to create the same number of pages in your electronic file.

Review your objectives and begin to think about their logical sequence. That is, what should be taught first, second, third, and so on, and why? The objectives may display a discernible pattern that allows you to identify the topic you want to address in each particular class period. To be most strategic, you should write in the



objectives on the pages you numbered for each session. Keep these pages handy because you will need them as you work through upcoming portions of this chapter.

### **9. Books, Course Packs, and Other Resources**

Consider dedicating a shelf, file drawer, or storage crate to resources for each course, e.g. books, journal articles, notes for ideas, handbooks, software. As you proceed with your detailed course planning and your individual sessions, you can use this resource collection to finalize your planning. It also makes sense to set up a file in your computer for pertinent materials and Web addresses that you have identified for potential use.

In recent years, many teachers have created "course packs," or collections of instructor-developed materials and/or articles from journals and other sources that are more current or more detailed than the typical session content. Creating a course pack involves making selections and securing permission to reproduce the items for participants. To save time, you may use the services of a company that specializes in securing permissions, preparing documents, and printing and binding course packs.

### **10. Possible Assignments and Activities**

Once you have identified your session goals and objectives, you can begin to design assignments and activities. One way I have found useful is to write down different ideas for assignments on separate Post-it notes and attach these to the numbered pages I previously set up or to appropriate pages in the session content material. This allows for easy rearrangement of the ideas. You may also just type your ideas into the computer in a list, but actual or electronic Post-it notes are even easier to move around than text is. Whatever medium you choose, be sure to look back occasionally at your course goals and objectives.

Note: This topic will be addressed in a future article in this series.

### **11. Assessments**

Having written your objectives in measurable terms, you should design your assessments to match. The saying "What gets measured gets done" applies to crafting a course. Participants often assume that a concept that goes unmeasured must not be very important and therefore is not worth learning. If they do spend time learning information and never feel the learning is assessed, they will likely complain about this on the evaluations. It is not enough for you to say, "Well, someday you'll be glad you learned this, but I'm not going to assess it now." In the consumer-oriented environment in which we live, both real and perceived values count.

### **12. Speakers/Guest lecturers**

Consider bringing in colleagues, community members, or prior participants to contribute their expertise. List their names and how you see them contributing e.g., speaker for an hour, panel discussant, small group facilitator. In reaching your decision, consider whether the potential speaker will contribute meaningfully to the achievement of course goals and objectives; if a speaker just fills time, your class participants will rightly perceive that time as a waste.

Invite your chosen speakers early so that they have enough time to respond. Once a particular speaker has accepted your invitation, add the name, date, and topic to your course plan. Having several strategically chosen guest speakers during your sessions adds value to your course in participants' eyes.

### **13. Other Learning Opportunities**

As you look over your goals and objectives, think about what learning experiences you want to offer your participants. Are there Experiential Learning Opportunities (ELO's) (eg. Relevant "field trips," books, etc?) that would enhance the learning? What experiments or role-playing would enrich participants' understanding of critical concepts? What videos or interactive Web sites would enliven their learning experience? How about small-group activities? Are presentations appropriate for achieving synthesis and evaluation objectives? For now, just list ideas that come to you as you peruse your goals and objectives. You may also consider learning experiences that you have experienced as a learner, either when you were a student or that you have learned about at conferences or workshops.

### **14. Description of Yourself as a Teacher**

When you were in college, you and your classmates probably exchanged information about professors as you tried to decide which courses to take. I hope you would agree that expending energy on the class content is more

profitable than using it to figure out the instructor. So, in the materials you provide to your learners, give a short autobiographical statement that provides some insight into your teaching style, beliefs, biases, and expectations, as well as your professional background.

Describing yourself also helps to establish your credibility. Emphasize achievements that the particular participants in this course are likely to value. You can write the bio in narrative form or in bulleted points. Fill in some details during the first class meeting, and reveal others gradually in subsequent sessions (if there are any).

#### **15. Communication Channels**

It is likely that your participants will need or want to communicate with you either before, during or sometime after a session. What communication channels do you prefer? Appointment? Phone? Email? Tell participants how to contact you and what kind of response they can expect. Do you get back to people within twenty-four hours of their leaving a voice-mail or e-mail message? Do you have obligations throughout the day that preclude you from returning phone calls and emails except in the evening? Are you more responsive to seeing things in print than you are to hearing them? Generally, if you will tell participants what works for you, they will try to comply.

#### **16. Additional Information**

Many facilitators have found it helpful to include such key information as support for participants with disabilities, procedures for withdrawal from the course, etc. While it is not necessary to reprint long portions of documents that are located elsewhere (e.g., on the internet or in other printed material that participants have ready access to), it is worthwhile to include selected excerpts, with references to where participants can go for additional information or clarification.

#### **17. Attendance Requirements/Expectations**

You should decide on your attendance policy only after careful consideration, and once you have determined what it is, specify it in language that is as specific as possible without completely taking away your flexibility.

I recommend that you have attendance policies spelled out as clearly and that you consider the answers to these questions: Is attendance required or expected? Do you want excuses or reasons when participants are absent? Will those excuses or reasons make any difference to you as far as penalties are concerned? Do you want to be notified when participants know ahead of time that they will be absent? If so, how should they notify you? Are participants allowed to make up for missed time? If so, how? Do a certain number of absences constitute reduced credit for the session, if applicable? What is your philosophy about late arrivals?

### **Additional Considerations**

Other items that you may want to consider and prepare prior to the beginning of the class include the following:

- Title page for packet. A title page can display the course title, a graphic related to the course, your name, a place for the student's name, the time and location of the course, and any other quick-reference information you consider important. It serves as a welcome page or an entry page into the packet and the course, so make it attractive and inviting.
- Table of contents. With a large packet of materials, which includes handouts or other support materials, you and your participants will want a way to find information quickly. A table of contents allows for this. It takes only a few minutes to create, but it can save you and your learners much time. Making the packet easy to navigate will show the participants that you are aware of their time constraints and their need for fast retrieval of information. Going the extra mile for participants can set you apart from others instructors.
- Letter to participants. Consider writing a letter to your participants. Introduce yourself (using some of the information you've previously generated), the course, your expectations, and so on. This letter may be the very first item in the packet and can set a positive tone for the whole course.
- Resources. Often there are resources instructors know about or have learned about from previous participants that would help new participants pursue the goals and objectives of the course. List these for participants—and

make the point that although these requirements are not requirements, you endorse them.

- Calendar. You may choose to create a lengthy, detailed calendar or a concise one, but either way, if it's a multipart course, create a calendar.
- How to learn in this class. One of the best ways to compile this section is to have participants who have successfully completed your classes write some suggestions for how to do well in it. Not only do they reveal ideas and clues that you would not think of, but they write in such a way that it is "heard" by the current participants. The suggestions *sound* real because they are real. Obviously, if you are a first-time instructor, you will have to write this section yourself. But you can let participants know that you'll be asking for their input at the end of the course.
- Teaching methods. Adult learners operate with a consumer mentality, and they want and deserve a clear idea of the instructional methods you intend to employ, especially if those methods are likely to be perceived as somewhat unusual.
- Time estimates. If your course requires work outside of the face-to-face time, attempt to provide an estimate for them. Participants need to know up-front if a particular class's time requirements are going to exceed the time they have allotted. This information can help them in their planning; they can choose to take the class another time or they can clear out adequate time in their schedule. If the class appears that it will take less time than they had expected, they can increase their commitments in other areas. Give your own estimates, but also use previous participants' comments to give a sense of student perspective.
- Professional organizations. For at least four reasons, you should identify and provide essential information (e.g., places, times, membership dues), for professional organizations available to your participants. First, they may not receive this information otherwise. Second, it shows that you value learners' decisions about their discretionary time. Third, membership in organizations promotes the development of social and leadership skills, which in turn contributes to academic success. Finally, such organizations help participants network and develop stronger ties to the professional community in which they are involved.

As I mentioned in the previous article, the philosophy threaded throughout this series is 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.* This month, I presented information on "strategic course planning," which is *as course planning that is deliberate, intentional, and considered, with the overall objective being to ensure learning.*

Use the ideas presented to think—or to rethink—an upcoming presentation. You will develop fresh ideas and your learners will benefit from your thinking.

As always, feel free to contact me with suggestions, questions or comments. I look forward to hearing from you!

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## **DOMESTIC VIOLENCE AND GUN OWNERSHIP: PROTECTION ORDERS OR CRIMINAL CONVICTIONS = NO GUNS**

BY JUDGE DAVID M. GERSTEN

Picture this scene: Your pregnant daughter is married to a man who is often drunk and abuses her emotionally. Even though she denies it, you believe that he beats her and the children as well. Your son-in-law has now threatened to kill her with his Model 19 and states that he has a .357 bullet with her name on it. He stated that he will use it the next time

his dinner is cold or if she mouths off to him one more time.

You live 500 miles away and feel that there is nothing that you can do to protect her on a twenty-four hour/seven day a week basis. She is scared for her life and seeks an order of protection from the court. The court gives your daughter the order of protection. You wonder: How does the law protect her from being shot by her husband?

First, what is your daughter's order of protection? Basically, it is an injunction, or restraining order, which prohibits specific activity. Here, your daughter fearing for her life, wants her husband out of her life . . . way out of her life. If your daughter proves her case, the court will enter a qualified order which protects your daughter from any actions that her husband may engage in that threaten the well-being or safety of your daughter or your grandchildren.

The order may contain stay-away provisions, no contact provisions, custody and/or child support provisions. The order may also limit or prohibit child visitation, and even provide your daughter with sole use of the home. A court can also fashion other restrictions that it feels appropriate. The law further prohibits the possession of all firearms and ammunition. Violations of the protective order can result in immediate arrest and incarceration. These orders of protection are valid from state to state by virtue of the "full faith and credit" provisions of the U.S. Constitution and the "Violence Against Women Act."

### **BUT WHY IS THIS A FEDERAL CASE, I LIVE IN IOWA?**

This article explores the applicability of Federal law in barring gun ownership where the circumstances involve domestic violence. Because it is Federal law, it applies to all states. The Federal law, or United States Code, will be referred to as "U.S.C.". The Federal law's genesis on this topic is found in the Gun Control Act of 1968, technically known as 18 U.S.C. Sections 921-928; as amended by the Brady Handgun Violence Prevention Act, technically known as 18 U.S.C. Section 922; and ultimately amended by the 1996 Lautenberg Amendment (Lautenberg), technically known as 18 U.S.C. Section 922(g)(9).

The basic premise in enacting all domestic violence laws, as all states have them, is that everyone has the right to remain free of violence to their person in their own homes. Actually, it is a premise that civilized society is based upon. I do not believe that anyone would disagree. Although domestic violence can be committed by either gender, for the purposes of this article we will assume that a man is perpetrating domestic violence on a woman.

When it comes to guns and domestic violence, the Federal Government has gathered statistics to tie in domestic homicide to guns. For example, nearly one-third of all women murdered in the U.S. in 1999 were killed by their current or former partners. Guns were used in about two-thirds of those domestic homicides. (U.S. Department of Justice). Other information gathering organizations also support this government data. As an example, as early as 1993, the New England Journal of Medicine determined that households with guns are 7.8 times more likely to have a firearm homicide at the hands of a family member or intimate acquaintance than homes without guns. There are many more published statistics that bear out similar numbers. Therefore, let's move on to the substance of the law and how it can affect gun ownership.

### **ATF 4473 IF YOU HAVE EVER PURCHASED A GUN, THEN YOU KNOW WHAT IT IS**

Question: Have you ever taken the time to look at the yellow ATF 4473 form that one has to fill out every time one purchases a gun? If so, then you will notice that questions "H" and "I" ask the following: "Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?" and "Have you been convicted in any court of a misdemeanor crime of domestic violence?" If you answer yes to either of these questions, then you are forbidden from buying or even possessing a firearm or ammunition of any type. This requirement to relinquish gun ownership is found in 18 U.S.C. Sections 922(g)(8) and 922(g)(9)(2003) which, bottom line, state that: It is a federal crime to possess a firearm or ammunition while subject to a qualifying order of protection or if one has a misdemeanor domestic violence conviction.

### **QUALIFIED ORDERS OF PROTECTION**

A "qualified" order of protection under the above law means that: the order was entered after a hearing where the accused person had notice of the charges and an opportunity to be heard by the court (excluding temporary orders). 18 U.S.C. Section 922(g)(8)(A)(2003). Next, the order must restrain the accused from harassing, stalking, or threatening an intimate partner or child, or engaging in conduct that would place the intimate partner in reasonable fear of bodily injury

to her or her child. 18 U.S.C. Section 922 (g)(8)(B)(2003). Further, the order must include a court statement, or finding, that there is a credible threat to the physical safety of the woman or child or is for the purpose of prohibiting use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily injury. 18 U.S.C. Sections 922(g)(8) (c)(i),(ii)(2003). Most states have developed form orders that meet all of the technical “qualifying” requirements.

Lastly, there is a relationship requirement for the law to apply. Specifically, the protected party must be either: a spouse, a former spouse, cohabit with or previously have cohabited with the accused, or have a child in common with the accused. 18 U.S.C. Section 921(a)(32)(2003).

There is an exception, however, that applies to law enforcement officers or active military called the “official use” exemption. The Bureau of Alcohol, Tobacco and Firearms has interpreted the exception to apply only to service weapons and not to personal weapons. 18 U.S.C. Section 925(a)(1)(2)(2003). This means personal firearms are prohibited and the service weapon is only permitted during working hours.

If a person is subject to a qualifying order of protection, they may not receive, transport or possess any firearm or ammunition. If they do, the penalty is a term of imprisonment up to ten years and a fine of up to \$250,000.

### **MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE**

The Lautenberg Amendment, 18 U.S.C. Section 922(g)(9), makes it illegal for a person convicted of a “qualifying” domestic violence misdemeanor to possess or purchase a firearm. This can be a misdemeanor under any state or federal law. Of course, if one has a felony conviction of any kind, then firearm possession is automatically prohibited.

Under 18 U.S.C. Section 921(a)(33)(A)(2003), a “qualifying” misdemeanor is defined as an offense that includes use or attempted use of physical force or threatened use of a deadly weapon. This would include crimes like assault, battery and/or child abuse. Also the offense must be committed by a current or former spouse; parent or guardian; a person who is cohabitating with the victim as a spouse, parent or guardian; or a person similarly situated to a spouse, parent or guardian of the victim; or a person having a child in common with the victim.

In addition to these definitions, 18 U.S.C. Sections 921(a)(33)(B)(I),(II)(2003) impose the following procedural requirements. A person is not considered to be convicted of a qualifying misdemeanor unless the person was represented by counsel or knowingly waived their right to an attorney. 18 U.S.C. Section 921(a)(33)(B)(I)(2003). Furthermore, if state law gives the accused the right to a jury trial for misdemeanors, then the case must either have been tried by a jury or the accused must have knowingly and intelligently waived their right to a jury trial. 18 U.S.C. Section 921(a)(33)(B)(I)(2003).

The Lautenberg Amendment applies to any qualifying conviction, including a juvenile conviction, at any time before or after the law was enacted. 18 U.S.C. Section 921 (a)(33)(B)(ii)(2003) provides an exclusion if the record has been expunged, set aside, or where the person has been pardoned or their civil rights have been restored. Yet, with the Lautenberg Amendment, there is no official use exemption if one is convicted of a “qualifying” misdemeanor. In other words, if you have a qualifying misdemeanor conviction, and you are law enforcement or military, you cannot possess a firearm under any circumstances. Hence, you may be out of a law enforcement or military position if you must possess a firearm for official duties.

Turning back to the yellow ATF 4473 form, there are harsh penalties for firearms dealers who knowingly violate the provisions of federal law. First, it is unlawful to knowingly sell or dispose of a firearm or ammunition to any person who is subject to a valid permanent order of protection (also known as a “restraining order”) as defined in 18 U.S.C. Section 922(d)(8)(2003). Similarly, it is unlawful to knowingly sell or dispose of a firearm or ammunition to a person who has been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. Section 922(d)(9)(2003).

For the firearms dealer, there is a defense. The key word in any prosecution is “knowingly.” Therefore, the transferor/dealer must have known or reasonably should have known that the purchaser/transferee was subject to a qualified order of protection or that the person had been convicted of a misdemeanor crime of domestic violence. Therefore, it would not be “knowing” if the purchaser/transferee stated that he was not subject to an order of protection or that he had not been convicted of a misdemeanor crime of domestic violence. But, on the other hand, if a background check (for a gun and/or ammunition) is required, a mere declaration of “no” will not be a winning defense. Regardless, if in doubt, why subject oneself to having to defend a federal criminal prosecution? Besides, the risk of a possible ten year sentence and a \$250,000 fine is a heavy price to pay for making one transaction.

## CONCLUSION

Federal law restricts those who are subject to orders of protection, or who have been convicted of misdemeanor domestic violence. The law then forbids gun ownership. Obviously, even an order of protection does not guarantee that a crazed individual will not commit a horrible crime. No law can protect against that event. After the fact, the law can, however, severely punish. Yet, the law determines that guns and domestic violence do not mix. Therefore, the law helps people like your hypothetical daughter.

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Judge Gersten has published articles on a variety of legal topics. His publications include: Matthew Bender: *"Florida Civil Practice Guide" (1994-present)*; Reviewer, *Florida Forms of Jury Instruction (1990 to present)*; The Florida Bar Journal: *"Evidentiary Trends in Domestic Violence" (1998)*; *"The Doctrine of Lis Pendens: The Need For A Balance" (1995)*; *Special Report: Legal Ethics in Florida, "A Consensus of Morality In Ethics - Toward A Comprehensive Code of Professional Ethics" (1991)*; *"Manifest Necessity - A Trial Judge's Responsibility to Assure Justice" (1989)*.

## **Coordinating Technology for Off-Site Training**

Jo Dale Bearden

Logistically speaking, as judicial educators, many of our jobs not only require us to develop agendas and curriculums, but also to plan and coordinate the on-site aspects of training. In respect to this aspect of our "to-do" list, I want to change gears and talk about the use of technology at our training sites.

Much of the education that we provide is done in conference or convention style, i.e., we conduct our training at hotels and convention centers. Rarely is a training session held that doesn't incorporate some type of technology (at the minimum a slideshow or PowerPoint presentation). Therefore, coordinating the audio/visual or technology needed for training could then be a task in and of itself.<sup>1</sup> In handling technology use at hotels/convention centers, there are two common practices: 1. Rent equipment from the hotel/convention center or 2. Purchase and maintain your own audio/visual (A/V).

If your off-site meetings are infrequent, renting A/V equipment from the hotel/convention center may be the best option for your agency. In general, renting A/V equipment is expensive. However, the prices are negotiable. Hotels/convention centers often offer 10%-25% discounts on the A/V overall, particularly if included in the original request for proposal. A perk of renting A/V is undoubtedly having the A/V representative on site to set up and take down the equipment for you. This leaves the program coordinator the opportunity to put his or her focus elsewhere.

If your off-site meetings are frequent, it may be more financially sound to purchase your own A/V equipment. Granted, this increases the cost of shipping to the hotel and puts the burden of setting up and taking down the technology on the training agency, but the overall cost saved from not renting from the hotel A/V department may justify the additional burden. *CAVEAT*: Hotel/convention center contracts vary, but many standard hotel contracts have a clause that states that the group will be charged to bring in additional A/V (the goal of course being that the group will use the in-house A/V company). However, this is a negotiable point, particularly if you address this issue up front in your request for proposal. Prior to bringing your own equipment to a hotel where you may not have yet signed a contract, review the contract to make sure there are no penalties.

Back to logistics: suppose that at an upcoming conference, a presenter wants to use PowerPoint for a presentation. What technology is needed? The use of PowerPoint alone translates to a need for a laptop computer, a portable LCD projector, and a screen (all standard audio/visual equipment). Additional equipment to consider: a wireless mouse and/or a document viewer (a.k.a. portable visualizers<sup>2</sup>).

A wireless mouse plugged into a laptop computer allows the presenter to change slides from anywhere in the room. This is particularly helpful if your presenter is not a “tied to the podium” speaker. It also eliminates the need for the saying, “next slide, please.” Most wireless mice connect to the laptop through the USB port. *Interlink* makes the *RemotePoint Wireless Mouse with Laser Pointer*.<sup>iii</sup> While not the smallest wireless mouse on the market, it is versatile. Specifically, it has programmable buttons that can be programmed to take the presenter to black screen or open an Internet browser. When looking to purchase a wireless mouse, also consider the range of the mouse. It is sending a wireless signal. The more range, the farther the distance the presenter can be from the computer.

If the room is too large for a flipchart and you have a presenter doing a brainstorming session, you may want to use a document viewer instead. No, not an overhead projector, with an overhead projector you also need overhead transparencies and special pens or markers. A document viewer acts as an overhead projector, but is really a progressive scan camera that allows the presenter to use any type of media and have that media displayed on the screen. I mentioned brainstorming sessions because I am guilty of writing on a flipchart in a classroom of 100 when I know that those in the back can't see what I am writing. To create a more suitable learning environment, I started using the document viewer, a sheet of paper, and a small marker for my brainstorming sessions. What I wrote was projected up on the screen for everyone to see. But, its usefulness does not stop there, pictures, charts, maps, tools, etc. all can be placed in front of the camera and displayed on the large screen.

Back to logistics: training agendas typically consist of general sessions and breakouts. In planning for room assignments, it is difficult to assign breakout rooms in advanced, particularly when the rooms are of varying size. When determining room assignments for breakouts coordinators can ask for a show of hands of those who intend to attend which classes; ask participants to complete a choice form that they will turn in at the first break and you get to tally; ask participants to register for classes in advance; or just assign the rooms and hope that the sizes work out. Responder systems (real time polling devices) may also be an option. Ask the participants to vote for the class they intend to attend. This can be used solo or in conjunction with the aforementioned techniques. This technique may require more work on the coordinator's part, however, particularly creating the polling choices, handing out the responders, and of course taking the time at the beginning of the program to do this; but is most beneficial if your breakouts begin immediately following a general session. Other uses include getting numbers for meat versus vegetarian lunches or counting expected participation for extracurricular activities.

Technology is used to facilitate learning; however it should not turn into a headache for the coordinator or the presenter. Coordinators, I encourage you to take a look at the handling of your A/V. Presenters will enjoy presenting for your agency when they know that their technology needs will be handled. Hotel/convention center A/V departments will enjoy working with your agency when coordinators know what they need. If you only teach or coordinate presenters, I encourage you to consider the way you communicate your technology needs to your coordinators (i.e. never assume that the technology you need will be there, someday it might not be).

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

## **DEVELOPING A PERFORMANCE PLAN**

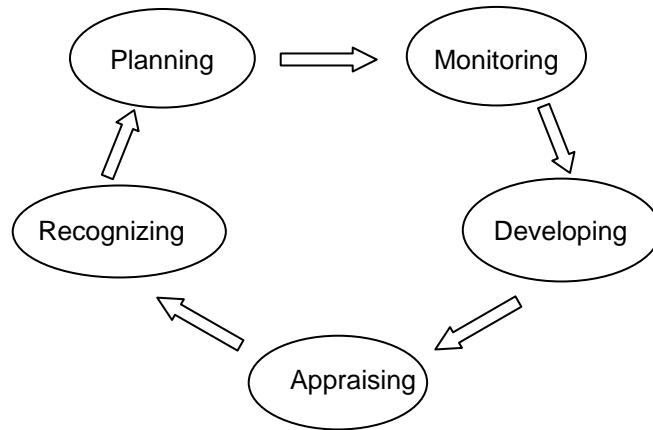
You have a new employee—congratulations!

In the last NASJE News Manager's Briefcase, I discussed an interviewing process known as behavioral-based interviewing. In my continuing scenario, you used this process to hire a highly skilled education specialist named Elizabeth who is anxious to begin working. What is the best way to help her be successful and meet the needs of your judicial branch education organization? Develop a performance plan with her.

A performance plan will help Elizabeth understand the goals of your organization and how her performance is related to these goals. It will also ensure that she knows what is expected of her. It will be tailored to her particular skill requirements and future career development plans. A performance plan is just one aspect of a performance management

system (see below), and it is the first step. I will be discussing other aspects of performance management in upcoming articles.

**Employee performance management includes:**



1. *Planning* work and setting expectations
2. *Monitoring* performance through ongoing feedback
3. *Developing* the capacity to perform
4. *Appraising* performance periodically in a summary, formal fashion
5. *Recognizing* good performance

**The First Step—the Performance Plan**

The performance plan has three components:

1. The key result areas and objectives that Elizabeth needs to achieve.
2. A listing of the knowledge, skills, and behaviors (competencies) Elizabeth needs in order to realize those results.
3. A listing of activities that will help Elizabeth grow in her job or obtain the skills she needs to do her job well.

Each of these components needs to be linked to your organization's vision, values, and strategic priorities, and assumes that training is being provided at the same time. Elizabeth will participate fully in developing her performance plan.

**The Form**

I have taken a sample form from the book by Robert W. Rogers, *Realizing the Promise of Performance Management*. I will fill in some aspects of the form as I walk you through the process.

Name: Elizabeth Sharp  
 Position: Education Specialist  
 Performance Cycle: January 1–December 31, 2005

**Part I: The Whats**

Key Result Areas	Objectives	Tracking Sources	Actual Results	Ratings

**Part II: The Hows**

Competencies	Key Actions	Tracking Sources	Actual Results	Ratings




**Part III: Development Plan**

Learning Need		Developmental Activities	By When
Competencies	Key Actions		

**Part I: The Whats**

Provide Elizabeth with the information about what the organization expects to achieve and how her position and work contribute to its goals.

Key Result Areas (KRA). These are the reasons the job exists. They are broad categories expressed as general outcomes. For example, a KRA for Elizabeth might be education for juvenile court judges. KRAs should:

- Support the organization’s goals
- Number between three and seven
- Be described in a few words that don’t indicate how much or by when
- Be within the employee’s influence
- Not change unless the job changes

Objectives. These are the specific tasks a person needs to perform and the results that she needs to achieve in the key result areas. Clearly written, specific objectives will give Elizabeth clear accountabilities so she will know what is expected and how her results measure up to those expectations. Generally, there should be one to three objectives per KRA.

Objectives should be written using the acronym **SMART**:

- **S**=Specific. Objectives should be written in very specific terms to avoid confusion. They define results to be accomplished.
- **M**=Measurable. A measurable objective defines quantity, cost, or quality.
- **A**=Attainable. Objectives should be challenging, yet attainable.
- **R**=Relevant. Objectives should indicate how Elizabeth’s work fits into the operations of the organization.
- **T**=Time bound. A deadline or frequency of occurrence should be specified.

Tracking Sources. This area of the plan includes some ways that you and Elizabeth can track her progress, such as reports, evaluations, budget summaries, certificates, etc.

Actual Results and Ratings. These columns will be completed during the review stage.

Key Result Areas	Objectives	Tracking Sources	Actual Results	Ratings
Education for juvenile court judges  (Goal V of Judicial Council Strategic Plan)	<ul style="list-style-type: none"> <li>• Recruit juvenile court judges who represent diversity of gender, race, and age, and whose courts represent diversity of size and location, to serve on an education committee by 3/1/05</li> <li>• Conduct three</li> </ul>	<ul style="list-style-type: none"> <li>• Committee roster</li> <li>• Minutes of meetings</li>   <li>• Evaluations</li> </ul>		

	high-quality conferences for juvenile court judges by 12/31/05 <ul style="list-style-type: none"> <li>• Complete curriculum planning for new juvenile court judges by 9/1/05</li> </ul>	from conferences <ul style="list-style-type: none"> <li>• Curriculum plans</li> </ul>		

**Part II: The Hows**

The second part of the performance plan refers to competencies—the hows of performance. Competencies are the knowledge, motivation, and behaviors people display to achieve results. You and Elizabeth will select between one and three competencies to work on in each performance cycle.

Competencies	Key Actions	Tracking Sources	Actual Results	Ratings
Communication	<ul style="list-style-type: none"> <li>• Establishes good rapport with juvenile court judges</li> <li>• Writes clearly and concisely</li> <li>• Creates accurate program announcements that are easily understood</li> </ul>	<ul style="list-style-type: none"> <li>• Judges' comments and participation in meetings</li> <li>• Minimal editing needed on written documents</li> <li>• Minimal number of phone calls with questions about program</li> </ul>		

**Part III: Development Plan**

Developing your employees is one of your prime responsibilities as a manager. Your interviewing techniques ensures that Elizabeth comes to your organization with many wonderful capabilities and experiences, but you will want her to build on them to increase her effectiveness on the job. In addition, developing employees is instrumental to retaining them.

Learning Need		Developmental Activities	By When
Competencies	Key Actions		
Planning and organizing	<ul style="list-style-type: none"> <li>• Establishes priorities</li> <li>• Sequences activities</li> <li>• Conducts conferences that appear</li> </ul>	<ul style="list-style-type: none"> <li>• Use to-do list to set priorities</li> <li>• Complete project management training by 4/1/05</li> </ul>	

	seamless	<ul style="list-style-type: none"> <li>• Complete time management training by 9/1/05</li> </ul>	

As stated throughout this article a concept that cannot be overemphasized is that Elizabeth needs to be a part of this entire plan. In fact, you might even ask her to write some portions of it. Once you have met with Elizabeth and you are both satisfied that this plan is a good guidepost for the year, both of you should sign and date the document. Elizabeth should now be on the road to a very successful and accomplished first year in your organization. You will need to guide her, providing coaching and feedback as necessary. This will be the topic of my next article.

Helpful links to developing a performance plan:  
[http://www.mapnp.org/library/perf\\_mng/prf\\_plan.htm](http://www.mapnp.org/library/perf_mng/prf_plan.htm)  
<http://www.opm.gov/perform/plan.asp>

Information for this article was obtained from *Realizing the Promise of Performance Management* by Robert W. Rogers and from staff of the California Administrative Office of the Courts Education and Human Resource Divisions.

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<sup>i</sup> *Preparing An A/V Presentation* from the October 2003 Meetings and Conventions is a checklist that reviews A/V and much more.

<sup>ii</sup> Visit [www.wolfvision.com](http://www.wolfvision.com) for more information on portable visualizers.

<sup>iii</sup> Available for around \$100 from most office supply stores.