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News

The Future of JERITT: Living the Change

by Maureen E. Conner

JERITT was begun by dedicated members of our profession and will continue because of that same dedication. Michigan State University (MSU) and the National Association of State Judicial Educators (NASJE) along with the State Justice Institute (SJI) have for nearly seventeen years shared the same vision of advancing the administration of justice through excellent, comprehensive, and timely education and training of judges and court personnel designed to enhance skills, challenge beliefs and past practices, introduce new concepts and knowledge, revisit the foundations of the rule of law, and reflect on guiding principles that continue to give meaning to our work. The vision has not changed, but how we actively pursue it will.

It was inevitable that one day SJI would withdraw funding from JERITT. JERITT was notified in 2002 that, as a continuation grant, the last possible year it would receive funding from SJI under their revised guidelines would be 2007. MSU, with SJI's good wishes, was preparing for the funding transition by engaging in discussions with NASJE and other potential partners. While JERITT was preparing for a discontinuation of SJI funding beginning in 2008, the fact that SJI funding may end before that does not change what was going to be a certainty beginning in 2008.

The current situation with JERITT is this: JERITT continues to operate all core functions under a no-cost extension from SJI through March 31, 2006 utilizing \$34,080.00 in unspent funds created primarily by a position vacancy and greater costs that MSU assumed related to the pervasive computer hacker invasion JERITT experienced early in 2005. The SJI Board will consider JERITT's application at its meeting on March 9-12. However, JERITT has been notified that the SJI Board will not entertain the part of the application that is directed at the electronic infrastructure modernization that costs \$343,000.00. The NASJE Board remains committed to working with MSU, JERITT, and SJI to build a coalition of partners that share our same interest and values and who can also share the financial costs associated with operating JERITT.

MSU has taken steps over the last several years to build institutional capacity for JERITT. One such move was the development of the Judicial Administration Program, of which NASJE is a national advisory committee member. MSU has also increasingly assumed more costs for the operation of JERITT, which not only provides services to judicial branch education, but also to SJI through the operations of its grants and products databases and hot products index. The most recent action was when the MSU Board of Trustees in December, 2005 named John Hudzik, JERITT Project Director Emeritus, the Vice President of Global Engagement and Strategic Projects for MSU. John negotiated that a portion of his time be devoted to strengthening JERITT and the Judicial Administration Program at MSU as part of the institution's longer range strategic plan, and to help plan the transition of JERITT from SJI funding during 2006 and 2007.

I am happy to announce that John will become the chair of the JERITT Management Panel and that his first priority is securing the future of JERITT. He will be aided in this endeavor by Patti Tobias, Liz Strong, John Meeks, and Kay Palmer.

As a person who has always welcomed change and encouraged you to do the same, I will not reverse course in the face of this challenge to JERITT's future viability. Rather, just as JERITT has increased our collective knowledge and improved our individual practice by giving us a vehicle through which we can share what we know and do, it can and will continue to do the same through this transition. We will learn together about the effects of change and the inevitable chaos and promise of rebirth that it brings. JERITT will become our shared laboratory, the teachings from which we can apply in our personal and

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professional lives.

Change is change and nothing more. It provides an opportunity to reinvent and recommit. It does, however, come with loss as JERITT has recently experienced. The pain of the losses have been softened by the rapid show of support from the NASJE Board, which invigorated our membership and the rest of the court community to show its support for a project that has served NASJE, SJI, and the courts honorably and steadfastly. MSU's motto is "Advancing Knowledge and Transforming Lives." With your support and enthusiasm, JERITT intends on living the MSU motto for many years to come.

Look for JERITT updates in future NASJE News editions and on the NASJE list server. Read the **NASJE JERITT Resolution** (PDF:169k).

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Transitions

Please join us in welcoming the following new NASJE members:

- **Crystal L. Banks**, Assistant Director for Judicial Education, District of Columbia Courts, Washington, DC
- **Janica Bisharat**, Clerk of the District Court Education Coordinator, Idaho Supreme Court, Boise, Idaho
- **Alison Chambers**, Director, Judicial Education, Supreme Court of Appeals of West Virginia, Charleston, West Virginia
- **Ellen Chilton**, Program Attorney, National Judicial College, Reno, Nevada
- **Dale Kasperek**, Director of National Programs, Institute for Court Management, Williamsburg, Virginia

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Also, please join us in congratulating longer-term members on promotions:

- **Kathleen Gross** of the Administrative Director of the Courts office in West Virginia has left her position as judicial educator to become the Deputy Administrative Director. Congratulations Kathleen.
- **Pam Lambert** is the new Director of the New Mexico Judicial Education Center, succeeding Paul Biderman. Congratulations Pam.

And last but not least, NASJE News Quarterly is losing one of its originators and part of its soul:

- **Pam Castaldi**, the primary developer and one of the driving forces of the online version of the NASJE News, has taken a new position with the University of New Mexico's Health Sciences Center as project manager of the newly created Learning Design Center. She will remain part of NASJE's website and technology team until the online curriculum builder prototype is completed in May. In the meantime, Joseph Sawyer of the National Judicial College will be taking over as the leader for that project. Pam says that leaving NASJE is her only regret in taking the new job. "It's been a great experience with a real community of wonderful people whom I will miss very much." We will miss her, too. Good luck, Pam!

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From the President

by Liz Strong

Dear NASJE Members:

As many of you know by now and as was stated in the latest edition of the State Justice Institute (SJI) e-News, "after 16 years and \$4.5 million, SJI and the Judicial Education Reference, Information and Technology



Liz Strong

Transfer (JERITT) Project find themselves at a crossroads. SJI's support of JERITT will soon be coming to an end (SJI guidelines limit grants to no more than 5 years)." The NASJE Board is very appreciative of SJI's support of JERITT for the past 16 years and understands that ongoing funding of this project would not meet the Congressional mandates for the State Justice Institute.

NASJE values its many partners whose goal is to enhance the performance of the judicial system as a whole. In 2002, NASJE members and the Board mounted a vigorous campaign to help reinstate funding for SJI. Just as NASJE showed its support for SJI when funding from Congress was precarious, the Board took action and now is anxious to find a way to fund and maintain the important services provided through the JERITT Project.

As of this writing, JERITT remains operational via a no-cost extension from SJI through March 31. This extension allows JERITT to maintain core functions for the field. However, the question remains: What can NASJE do to maintain the product and services provided by JERITT that are so important to our members?

We have begun to address this question by asking members to articulate the benefit of JERITT to their state leaders. JERITT has offered a unique resource to the judicial branch education community, a resource that has greatly enhanced the quality and direction of state and local programs around the country. Not only has this project developed extensive and reliable databases that we all consult almost daily, but it has also produced some of the most valuable and progressive materials that people in our field can access. Experienced judicial branch educators rely routinely on JERITT's monographs, project summaries, and directories, to name just a few published materials. New judicial educators have found these materials invaluable as they enter a field for which virtually no one is specifically prepared by their education and experience. We need to let our leaders know of this funding crisis as we investigate alternative sources.

"The NASJE Board is very appreciative of SJI's support of JERITT for the past 16 years"

I challenge each and every member to continue this discussion within your office, state and region. The NASJE Board will meet February 3-4, 2006 for our mid-year Board meeting and we welcome any ideas you may have. It remains my privilege to serve you and I look forward to hearing from you.

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Designing on a Dime

by Barbara Sweet

In 2006, under a Bureau of Justice Assistance grant, The National Judicial College (NJC) will present six programs in six different states. The NJC has identified the six states as Colorado, Illinois, South Carolina, Tennessee, and Washington and is currently in negotiations with them. The NJC anticipates designing programs specially tailored to each of the six states, consisting of two- to three-hour segments presented as part of these states' annual conferences. The programs in development for these states are (1) Practical Approaches to Substance Abuse; (2) Co-occurring Mental and Substance Abuse Disorders; (3) Cultural Competence; (4) Handling Pro Se Litigants; (5) Scientific Evidence; and (6) Decision Making.

William Brunson, the NJC's director of special projects, stated, "Because of limited state budgets, the NJC is looking for ways in which it can assist states with their educational programs." While the NJC's in-state programs may not enable judges to share ideas with and gain new perspectives from other judges across the nation, these programs will provide a sampling of the NJC's innovative and nationally-recognized offerings.

While the NJC does not plan to make public its materials or faculty list for these programs for use by state educators, in the future the NJC hopes to offer these type of program segments at annual in-state conferences for an honorarium and the expenses to bring it to the states.

To participate in the program in the future state judicial educators should contact Director of Special Projects, William Brunson, at (800) 255-8343 or Brunson@judges.org. He will work with the educator to ascertain if there is a suitable subject matter for that state's needs.

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Implementing Adult Education Theory in Law School ¹

by John H. Reese² and Tania H. Reese³

I. Introduction

This paper consists of two parts. The first part addresses my course goals, my course book, and my thoughts on teaching methods. The second part consists of a brief report on a three year research project into law student preferred learning styles that my wife and I conducted at the University of Denver College of Law; and a law faculty teaching methods workshop document developed from the research project, which also refers to a law student intervention workshop.

II. Part One: History and background from the teacher's perspective

A. Teaching-Learning Goals

My primary Administrative Law teaching-learning goals are quite straightforward. I attempt to teach my students flexible process models for analyzing administrative law problems that legally-related professionals may expect to encounter. Thus, in general terms my goals are academic and professional, and in specific terms they are to instill clarity and efficiency. These goals have evolved out of my thirty-three years of teaching this basic course, which is required of all students who graduate from the law school.

The focus on "process models" emerged from my earlier career disappointments with the professional skills students were learning (or not learning) in my course. I am confident I taught a more useful course than I experienced as a student. Even so, many of my students did not really understand how to apply their theoretical and content knowledge of administrative law in professional problem contexts.

That led me to rethink my approach, and the MacCrate Report⁴ on lawyering skills convinced me that I should make changes. Thus, my goal also could be expressed as an effort to apply relevant MacCrate Report recommendations in the Administrative Law context.

Aside from its general recommendations for legal education, the MacCrate Report also had a significant impact on my law school because of the nature of the market for our graduates. Most of them seek legally-related professional positions in the Denver metropolitan area, for it seems that Denver is a desirable place to live. Graduates of other law schools and professionals from other states seek these positions also. Thus, the local market is highly competitive.

We have found that our graduates fare better in the competition if they have more professional skills than many of their competitors. As a private, tuition-driven institution, the placement success of our graduates also plays a role in influencing our teaching goals. My experience is that there is yet a niche in our market for graduates with professional skills in administrative law, for our bar is quite weak in this area. Persons being interviewed for a legally-related position commonly are asked what they can do, and I am attempting to supply part of the answer for my students.

I would probably pursue the same primary teaching and learning goals if I were in another market area. It seems to me that law schools are obligated to produce qualified graduates for the legally-related professional market. I understand that the reality of other markets

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also is that most employers are no longer willing to employ graduates to become apprentices.⁵ It seems that law graduates are expected to "hit the ground running." If that is the reality, it seems useless to debate the MacCrate Report's recommendations in an attempt to allocate responsibilities.

B. The Course Book

I authored an administrative law course book (casebook) that was published by West in 1995⁶. It reflects my primary teaching and learning goals, as described above. The Preface elaborates on what I have included here, and I will not repeat it. The book is designed to be learner-friendly, for it is based on validated research into adult learning theory conducted by Professors Stephen Brookfield,⁷ K. Patricia Cross,⁸ James Davis,⁹ and David Kolb.¹⁰

I used the Administrative Procedure Act (APA)¹¹ as an organizing principle for the casebook¹². The topics were presented sequentially as they appear in the APA sections, along with a quotation of the relevant statutory language. The purpose, however, is not simply to teach or learn the APA, but to teach and have the students learn how to deal competently with administrative law. Therefore, I added important topics that are not addressed adequately in the APA. They include, for example, state APA summaries, separation of powers, agency authority, agency choice of means, court-imposed choice of means, equal protection, procedural due process, standing, exhaustion of administrative remedies, primary jurisdiction and "legal" facts.

The casebook offers other tools as well. Edited federal cases for student study are, of course, included at appropriate points. At student request, I also included clarifying notes after each major case to further guide ("coach" is the term used by the learning theory scholars) student understanding of the basis of the court's action and its reasoning. I did so because the learning theory scholars say we should not withhold from students any information that is relevant to the teaching and learning experience.

In order to provide an alternative to constant intake of information by the reading of text, I included, where appropriate, graphics, Venn diagrams, flow charts, checklists, and process sequencing statements. Again, this is based on the findings of the learning theory scholars that a variety of methods of presenting information should be employed. As our study of one of his topics concludes, I remind students they should make use of Bill Andersen's CALI materials to verify their understanding of the topic by experiencing it from another perspective and another method of presentation.¹³

C. Teaching-Learning Methods

The research scholars have found that we should use a variety of methods in our classes.¹⁴ Accordingly, I attempt to do so by including case discussion, lectures, problems, group work, and interactive exchanges in my course.

1. Inquiry and Discovery

The term inquiry and discovery is used by the research scholars to describe methods of teaching critical thinking, reasoning, problem solving, and decision making.¹⁵ It includes, of course, the so-called "Socratic method" of teaching. Along with most law professors, I engage in class discussion of the major cases in the course book. I discuss some cases with a single student, and at other times I include groups or the entire class in the discussion of a case.

Although we discuss the cases carefully, I do not use much "Socratic method." Speaking candidly, I find it frustrating, unduly time-consuming, and I do not believe I am particularly good at it. I also share some of the concerns others have voiced about the case method of teaching law. Further, I find it misleading in Administrative Law, for the material is essentially statutory. I want students to recognize that Administrative Law is unique. Since agencies differ, the course will not necessarily "come together" ultimately in the same fashion as do courses in Torts, Contracts, and Property.

The primary means by which I use this method is through problem solving. Students are assigned eight problems on a variety of topics. They are required to analyze them and write a memorandum on each (no longer than three typed pages). Due dates for these memoranda occur about one week after study of the related material has been completed. On its due date, the problem is discussed in class for fifteen to twenty, and sometimes thirty minutes. Students are encouraged to ask questions, explain their interpretations, and support their conclusions. If the class is not too large (about forty-five maximum), I write comments and feedback on the papers and return them to the students. To be eligible to

take the final exam, the student must complete these analytical exercises. Most students complete all of them, and I make a judgment call in situations where that is not accomplished.

In addition to these eight individual problem solving exercises, students also complete four in-class problem solving assignments. They work in groups on these problems and report their results to the other groups in a general discussion (twenty to thirty minutes) held at the end of the class.

2. Lecturing and Explaining

I prefer to lecture and explain when my goal is efficiency and when the material can be well organized, not too complicated, and clearly focused. Through the years I have learned that if a lecture is to succeed, I must first get and hold the students' attention. It is essential to avoid distractions. For example, my colleagues and I have noticed that today's students think nothing of coming to and going from the classroom as they please. Then there is the pager, the dropping of some object, and the chatter of the laptops. It can all be very distracting.

Student attention span being relatively short, I attempt to avoid lecturing and explaining for a full class session. I prefer to include about twenty minutes of lecture and explaining at some point and then switch to some other method. If the subject is new or difficult, I attempt to point out what is important as distinguished from what is not, and avoid giving them so much information that they cannot make the distinction. Finally, I attempt to make the lecture as uncomplicated as possible, focused, and well organized.

Auxiliary to my lecturing and explaining, I attempt to assist student memory, primarily by projecting overhead transparencies as the lecture proceeds. I commonly distribute prints of the transparencies to the class before they are used. Many students annotate the printouts as the lecture occurs.

3. Training and Coaching

To further my professional skills goals, I apply this method of teaching-learning to appropriate topics. Student learning is measured by proficiency or competency in performing the task according to stated criteria. I do this to avoid norm-referenced evaluation, for example, comparing a student with other students by grading on the curve. For some topics there is no "norm." A competent professional simply must master the elements of and the process for APA "notice and comment" rulemaking and "on the record" rulemaking. The same is true of APA "formal" adjudication and "informal" adjudication.

On the other hand, in my judgment, there are administrative law topics that are not well adapted to this teaching-learning method. For example, how could one employ this method to teach "Chevron deference?" We may refer to the "two-step," "the precise question at issue," "silence," "ambiguity," "a permissible construction," and so forth, and we may construct a flow chart of the process. But to express this precisely and attempt to apply these normative terms as criteria for evaluation of proficiency or competency in understanding "Chevron deference" seems to me to be impossible.

How could one use this method to teach separation of powers or procedural due process? I will admit it is a matter of degree, and, perhaps, if one would "soften" the evaluation criteria somewhat on topics that are so highly normative, training and coaching might be a useful method. For a good example of this process method in an electronic, interactive format, see Bill Andersen's CALI materials.¹⁶

4. Groups and Teams

As indicated, I use classroom groups to complete four exercises. The scholars say groups are not effective for teaching-learning situations in which the assignment could be performed just as well, or better, by an individual. They are most useful where the goal is an output that is greater than the total of individual outputs.

For example, upon completing the introductory material, i.e., the agency concept, separation of powers, the separate powers, legislative design choices, legislative process, and administrative procedure legislation, I assign a classroom problem. The assignment is for each group to design a state administrative agency (state for simplicity purposes) having powers appropriate to regulate some activity on the basis of stated goals. The groups are told not to focus on drafting legislation.

During the semester, other classroom group work problems concern the rights of persons and parties, designing a teaching-learning program for new law firm associates on court jurisdiction to provide review of agency action, and preclusion of review.

Finally, my course exam consists of six equally weighted essay questions. It is a take home exam distributed after the last class meeting, and it is to be completed in two weeks. Students are allowed to network the exam in teams or study groups, if they wish, but they can discuss the exam only with members of the class. After networking, students must write individually composed and typed answers to each exam question. They are reminded that to do otherwise is a violation of the College Honor Code.

The reality is that networking is precisely what new lawyers do when they are exposed to an unfamiliar problem. It seems to me students may enhance their learning by networking the exam and discussing it in their own terms and from different perspectives. Furthermore, having used this approach for ten years, I find the array of scores to differ little from the array of scores under my earlier blue book, monitored exam approach. The only appreciable difference is that the median score seems to be higher.

II. Part Two: From the learner's perspective

A. The Three Year Student Learning Styles Research Project

I became interested in a learning styles project as I noted the increasing diversity among students in our entering first year classes. Gradually, more women and minorities became law students. Many of them were highly successful professionals. People of different generations became more numerous, and this year women comprise fifty-eight percent of our entering class. I was struck by the fact that a significant number of these people were having difficulty in law school. Further, it was common for them to have lower LSAT scores than I would have expected. Some became so discouraged that they dropped out of school. Of those who graduated, some had difficulty passing the bar exam.

I began to wonder if we were failing to approach women and minorities with appropriate teaching methods. Perhaps women and minorities preferred to learn differently from traditional law students. Discussions with my faculty colleagues, other faculty, and participation in AALS programs led to nothing more than anecdotal information about "good teaching," and lists of good teaching techniques that appeared not to have been evaluated.

I attended an AALS presentation by a panel of so-called "great" law teachers, and wondered, as the program continued, what criteria had been used to identify them. Everything was anecdotal. In short, I found there was little interest in learning more about teaching, although most of us have had no training to be teachers. When I began, I was simply handed a book and told to teach well! I suspect that is true of the vast majority of law teachers.

It was obvious that any teaching methods research project would have to be credible, by which I mean based on validated research methodology, if it were to avoid being rejected by faculty as just more anecdotal information. Thus, with the aid of my wife, who holds a Ph.D. in adult learning, I began the search for an appropriate methodology.

Based on the research literature, we selected the Learning Styles Inventory (LSI-IIa) developed by Professor David Kolb of Case Western Reserve University.¹⁷ It differs from similar instruments in that it focuses on student learning preferences at cognitive level. You may have heard of the Myers-Briggs Type Indicator,¹⁸ for it has been used in several law schools. Myers-Briggs approaches student preferred learning styles at the psychological-personality level, as is depicted by the "onion" in the faculty workshop document.¹⁹

With no disrespect intended for the Myers-Briggs instrument, I chose not to use it, for there is very little that can be done in the classroom in one semester to adapt specific teaching methods to a class on the basis of personality traits. Hence, my goal of attempting to develop specific intervention methods for classroom use by teachers could be best addressed at the cognitive level through use of the Kolb LSI-IIa. The National Center for Adult Learning provided partial funding for the project.

The "Experiential Learning Cycle," developed by Professor Kolb, and his related model of learning style preferences, theorizes that students whose preference for learning is lineal and abstract are those who traditionally have been thought to be the strongest learners of legal material.²⁰ Thus, such skills as reading, abstract analysis, and synthesis have been thought to be the hallmarks of great, good, or acceptable legal minds.

This bias was established long ago when few women, minorities and adult learners became law students. Research during the past two decades confirms that there now exists a greater diversity of learning style preferences in any given classroom and that the most effective approach is to use multiple strategies for teaching-learning.

I have come to believe that success in legal education should be achievable by a large percentage of adult learners with all types of learning preferences. If law students were permitted to experience legal education in a multi-dimensional fashion, it seems to me that more of them would be successful in their academic and professional pursuits. If that were to happen we would have established that LSAT scores and GPAs do not necessarily predict success or failure as well as we currently assume.

In January 1999, my wife and I presented an abbreviated workshop to about 250 law faculty and staff in the Teaching Methods Section at the annual AALS meeting. About 350 copies of the prepared material were distributed by the end of the annual meeting.

The Appendix is a law faculty teaching methods workshop document which we used at a Vermont Law School Conference in March 1999. The research project data and findings are summarized on the last two pages. In Part VI, you will find a brief explanation of a law student intervention workshop that we developed and presented at the University of Denver. Without exception, the student participants urged that we repeat it.²¹

At this point I would like to add something we learned fortuitously about the research methodology. On the last page of the appended materials, you will find a plotted scattergram of sixty-six students in one of my classes. Plotting their scores brings out more precisely the intensity of the two dimensions of their learning preferences. If merely categorized by quadrants, twenty-six percent of the students are in the top quadrants, about equally divided horizontally. Seventy-four percent of the students are in the bottom quadrants, again, about equally divided horizontally.

Recognizing that there was a one to three split in student preferences, heavily biased toward traditional abstract intake, I had no doubt that the traditional approach should predominate. I found, however, that I was having difficulty with this class and its responses to the manner in which I was presenting the material (Constitutional Law).

Upon examining the plotted scores, I realized that the bias toward abstract intake was actually quite weak, for there was clustering toward the top of the traditional intake quadrants. The point to be made is that it is not sufficient simply to count percentages and assume you really know enough to design teaching-learning methods for that class. In many situations it may be necessary to "tweak" the data by examining plotted scores.

In mid-September 1999 we made a summary presentation of the Kolb learning styles concept and our research results to law faculty and staff at the University of Barcelona, Spain. Attendees also included representatives from other law school faculties in the Barcelona area.

It was exciting, for my friend on the Barcelona faculty had translated into Spanish our presentation materials. To make it really meaningful, we also distributed several explanatory pages from the Kolb workbook materials printed in Spanish. One group of faculty later administered the Kolb instrument to themselves and discussed how they differed in learning styles preferences. I hope to continue this work with my contact professor, who is interested in making a study of his students, as we did at the University of Denver.

In summary, I believe change in our teaching-learning methods is essential. Students also believe it, and support for it continues to accumulate in educational research. We must give it serious attention.

Notes

1. This article originally appeared in the Brandeis Law Journal under the title of Teaching Methods and Casebooks, Winter 2000 (38 Brandeis L.J. 169). It is printed with permission from the authors.

2. Professor of Law, University of Denver College of Law; B.B.A., LL.B. 1954, Southern Methodist University; LL.M. 1965, George Washington University; S.J.D. 1969, George Washington University.
3. Learning Consultant; Ph.D., Adult Learning and Development, 1993, University of Denver; M.A. 1989, University of Denver; B.S. 1986, Metropolitan State College of Denver.
4. Legal Education and Professional Development - An Educational Continuum, 1992 A.B.A. Sec. of Legal Educ. and Admissions to the Bar Rep. 3. Robert MacCrate was the chairperson for this A.B.A. section at the time of this report, hence it is referred to as the MacCrate Report. See, e.g., Peter A. Joy, Political Interference With Clinical Legal Education: Denying Access to Justice, 74 Tul. L. Rev. 235, 265-66 & nn. 149-55 (1999).
5. See, e.g., Rodney J. Uphoff et al., Preparing the New Law Graduate to Practice Law: A View From the Trenches, 65 U. Cin. L. Rev. 381, 412 (1997).
6. See John H. Reese, Administrative Law: Principles and Practice (1995).
7. See Stephen Brookfield, The Skillful Teacher (1991).
8. See K. Patricia Cross, Classroom Research (1996); K. Patricia Cross, Adults as Learners (1981).
9. See James Davis, Better Teaching, More Learning (1993).
10. See David Kolb, Experimental Learning: Experience as the Source of Learning and Development (1984).
11. See 5 U.S.C. § § 551-559 (1994 & Supp. IV 1998).
12. See Reese, *supra* note 3, at 92.
13. These materials can be ordered from the Center for Computer-Assisted Legal Instruction, University of Minnesota, 1313 Fifth Street S.E., Minneapolis, MN 55414. They are also available on the internet. See Center for Computer-Assisted Legal Instruction Homepage (visited Feb. 19, 2000) <[http:// lessons.cali.org/cat-dDM.html](http://lessons.cali.org/cat-dDM.html)>.
14. See *supra* notes 4-7.
15. See, e.g., Ardra L. Cole & Gary J. Knowles, Researching Teaching: Exploring Teacher Development Through Reflexive Inquiry (2000); Gerald W. Foster, Elementary Mathematics and Science Methods: Inquiry Teaching and Learning (1999); Mildred Z. Solomon, The Diagnostic Teacher: Constructing New Approaches to Professional Development (1999).
16. See *supra* note 10.
17. See discussion of Kolb's learning style model *infra* App. Part III.
18. Isabel Briggs-Myers & Mary H. McCaulley, Manual: A Guide to the Development and Use of the Myers-Briggs Type Indicator (Consulting Psychologists Press 1985). See, e.g., Thomas G. Carskadon et al., Compendium of Research Involving the Myers-Briggs Type Indicator (1987).
19. See discussion of learning styles *infra* App. Part II.D.
20. See discussion of Kolb's learning style model *infra* App. Part III.
21. Appendices are omitted from this reprint.

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Resources

Family Law: Child Support Dockets Benefit from Using Problem-Solving Court Principles

by Joy Ashton

AUTHOR'S NOTE: This article is a product of the Federal Office of Child Support Enforcement's National Judicial/Child Support Task Force, which is comprised of state and tribal child support enforcement directors, judges, court administrators, and other

*professionals who are working on collaborative planning between the OCSE and the courts to solve common problems and improve performance. It originally appeared in the Winter 2006 edition of NCJFCJ's **Juvenile and Family Justice TODAY**. The Task Force is interested in hearing from courts that are using or want to use problem-solving techniques with their child support dockets. Please contact Joy Ashton at NCJFCJ, at jashton@ncjfcj.org or Larry Holtz, OCSE, at lholtz@acf.hhs.gov.*

Many thanks to Judge Karen Adam, Tucson, Ariz.; Justice Maura Corrigan, Michigan Supreme Court; Judge Chester Harhut, Scranton, Pa.; Dennis Jones, National Judicial College, Reno, Nev.; Chief Magistrate Peter Passidomo, New York, N.Y.; and Judge Kristin Ruth, Raleigh, N.C., for their assistance with this article.

Problem-solving courts are dockets that bring together resources to address a specific problem. Some examples of problem-solving courts include adult drug courts, juvenile mental health courts, tribal drug courts, girls' courts, family drug courts, and gun courts. In 2004, the Conference of Chief Justices and Conference of State Court Administrators passed Resolution 22, which supports the use of problem-solving court principles and methods in all courts. Those principles include:

1. Integration of treatment and rehabilitation services with justice system processing;
2. Team approach with judge as the team leader;
3. Ongoing, frequent judicial interaction with case participants;
4. Frequent monitoring of behavior and application of rewards and sanctions;
5. Partnerships with public agencies and community-based organizations to facilitate the delivery of services;
6. Strategic use of standard and alternative sanctions; and
7. Ongoing training of judges and staff.

Although problem-solving court principles are more usually associated with criminal cases, it is possible to be responsive to the Chief Justices and apply problem-solving court principles to child support dockets. By adapting several of these principles, courts can increase the amount of money collected for children, reduce arrearages, facilitate parental involvement in the lives of their children, and increase judicial job satisfaction. This article will describe some creative measures being implemented by problem-solving judges around the nation to help ensure that children receive the emotional and financial support of both parents.

According to President Judge Chester Harhut of Lackawanna County in Scranton, Pa.,

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“Child support is not a stand-alone system and cannot be totally successful without taking a holistic view of other factors that affect some of our clients. Drug and alcohol, work issues, and custody and visitation disagreements must be addressed in order for some clients to become better non-custodial parents. In Lackawanna County, the judicial staff has taken a hard stance on non-payment of support, while also realizing that not all delinquent payers are “deadbeat” dads/moms. Some of them are facing difficult circumstances in their lives and need help, not harsh punishment.”

A key principle of problem-solving courts is **ongoing judicial leadership**, which includes a judge’s ability as community leader to convene meetings that will be attended by IV-D workers, the bar, community service providers, and other stakeholders who can collaborate in systems change.

Chief Magistrate Peter Passidomo, New York, N.Y., witnessed a successful collaborative process take place in his jurisdiction when the court and child support agency got together to write a bill “that both parties could live with” to implement telephone testimony. Telephonic hearings are permitted for those who live an hour or more away from the court and farther than an adjoining county, which has made people more involved and connected to a case and has resulted in better compliance. Participation was prohibited unless they had provided all financial documentation requested (tax returns, pay stubs, etc.).

Another facet of judicial leadership is case management. Judges who apply a problem-solving approach to their child support docket know that you don’t achieve success without investing some time in supervision and oversight. Judge Karen Adam of Tucson, Ariz., says, “The case management techniques I learned while serving as a juvenile court judge have served me well in my current assignment on the family law bench. Both caseloads demand judicial intervention and involvement, and the best results occur when a judge is willing to roll up her judicial sleeves and become actively involved in the progress of the case.”

Judges should exercise leadership in ensuring that child support is ordered in every type of case where it is appropriate. By taking the initiative to ask questions in dependency, delinquency, guardianship, and family law cases, judges can assure that the important issue of a child’s financial support is not overlooked.

Another principle of a problem-solving court is **close monitoring of and immediate response to behavior**. Judge Adam describes this process of regular review hearings: “Within the first week of my assignment to the family law bench, I began a process of scheduling regular review hearings at which I monitor the parties’ progress in staying straight and sober, honoring custody and parenting time orders, distributing debts and assets, and paying child support and spousal maintenance.”

“If orders are not obeyed, sanctions follow immediately,” says Judge Adam. “The sanctions range from...the imposition of a fine for late drop-off or pick-up or continued drug or alcohol testing to incarceration for contempt.”

According to Judge Kristin Ruth, who presides in the Child Support Courtroom in Wake County (Raleigh), N.C., “The key to the problem-solving child support courtroom is the need for frequent reviews of the cases and the consistency of having one or two judges who will spend the majority of the time with these parents. The consistency of the dispositions, getting to know the parents and following their progress is imperative to solving some of their problems and helping them fulfill their financial obligations.”

In Wake County, electronic monitoring has proven to be particularly cost effective. “Electronic house arrest provides a monitoring service by using an ankle bracelet to ensure the non-custodial parent’s participation in the conditions set forth in the judge’s order,” says Judge Ruth. “The judge orders that the parent be ‘hooked up’ to an ankle bracelet so that the parent’s location will be constantly monitored. The parent is allowed to go to work, substance abuse classes or employment program classes, but otherwise will be confined to the four corners of his or her house. This program has been very successful, as a violation of the EMS will result in the parent being arrested and taken to the county jail. Not only does this program provide motivation to work, but saves the county millions of dollars each year. The cost of the EMS program is approximately \$10 per day and the cost of housing an inmate in the county jail is \$68 per day!”

There is a saying, “Programs don’t change people; relationships change people.” Not only

does close case supervision allow for quick interventions where needed, but it also allows the development of a relationship between the non-custodial parent and the judge. Parents who know they have to show up and report their progress to the judge on a bi-weekly or monthly basis are often highly motivated to fulfill their responsibilities. The judge knows the parent's name, and his or her children's names, takes an active interest in the case, and offers words of encouragement when appropriate.

"This system works particularly well in the child support establishment and enforcement arena," says Judge Adam, "where the cases might otherwise be lost in the bureaucratic morass attendant to programs associated with government agencies. It is one thing to be dismissive of a case manager or collection agent, and quite another to face a judge every month and answer questions about child support payments, especially when the judge has offered assistance and support from the start."

Other principles of problem-solving courts are integration of services with judicial case processing, multidisciplinary involvement, and collaboration with community-based and government organizations.

President Judge Harhut describes some of the services available in Scranton: "Lackawanna County Court and the Domestic Relations Section refer these clients to the Family Center for assistance. The Center does an assessment of the client and recommends the appropriate course, meeting or workshop. Programs such as the Fatherhood Initiative, Parenting Program, and Employment Services help the client to become a better non-custodial parent by assisting them in getting and maintaining a job, having supervised visitation, and referrals to other community resources." Judge Harhut reports that two years ago, 60% of the non-custodial parents who completed the recommended courses significantly reduced their arrears and 14% maintained more consistent payments. The Center can assist clients to develop a parenting plan, set goals to maintain or increase child support, or improve their scores on parent profile/assessments. Judge Harhut attributes the success to "the collaboration with community-based organizations whose mission it is to help families in the crisis of separation or divorce."

In Tucson, the Responsible Parent Program helps obligors obtain employment, improve their job skills, locate housing, and arrange transportation. If there are substance abuse, alcohol, or mental health issues, Judge Karen Adam makes the appropriate referrals, and tracks progress at the regular review hearings. As with other family law cases, the consequences of non-compliance are delivered swiftly and surely. If child support has not been paid as ordered, without good cause, the obligor goes to jail from the courtroom. Sometimes, it is simply the requirement of a court appearance every month or a payment every week that prompts an obligor to become compliant.

Raleigh's Working for Kids (WFK) program offers employment-related assistance to non-custodial parents who are having difficulty making required child support payments. The judge will order the non-custodial parent to participate in the program, adhere to any requirements for drug testing or life skill classes, and follow through with any possible employer interviews. The program assists the parent in overcoming many barriers to employment, such as a criminal record, substance abuse, transportation issues and job skill requirements. If the parent refuses to participate, he or she will be sentenced to a period of incarceration.

Parties are often given assistance sorting out disputes about visitation. Judge Ruth says, "One of the most common complaints that I hear as a judge in the child support courtroom is that the non-custodial parent is not allowed to see his or her children. If a parent is allowed to see their child or children they may be more inclined to pay their child support." Through the use of the local mediation service, Carolina Dispute Settlement Services (CDSS), Wake County collaborated with CDSS and created a free service to provide mediation for parents who wanted visitation with their child or children. If the parties could not agree to mediate, then CDSS provides a "self-help" visitation packet that enables the parent to file their own complaint with the court system without bearing the cost of legal fees. This has proved to be very helpful and successful in a court where any money needed to be spent should be for the children's necessities, not legal fees.

Justice Maura Corrigan, Michigan Supreme Court, recognizes that child support cases would benefit from a systemic change that facilitates collaborative settlements in family law cases. "Tinkering with child support formulas will do nothing to prevent the damage that our traditional adversarial process inflicts on a disintegrating family," says Justice Corrigan. "Worse, courtroom warfare actually makes it less likely that the noncustodial parent will

provide future financial and emotional support to the children.” On this point, many of the courts described in this article provide non-adversarial ways for parents to resolve their disputes and reach their own agreement about child support and parenting plans.

Job satisfaction comes from the knowledge that you have made a difference for children and families. A problem-solving approach helps to reduce judicial burnout by highlighting the success stories.

In Wake County, N.C., an excited young man with a big smile says, “Judge Ruth, I got a job!” He is standing up straight, his clothes are neat and he looks the judge in the eye. Without saying anything more, his smile tells the judge that he feels good about himself and is proud to be able to financially help his children and himself. For Judge Ruth, it doesn’t get any better than that. She says, “If you’re looking to take a pro-active role in the disposition of cases, provide alternatives to incarceration, make use of your local community resource programs, and increase total collections and consistency of payments, then I challenge you to step into the world of the ‘problem-solving’ child support court.”

Managing the child support docket as a problem-solving court is effective on many levels. Through judicial and child support collaboration with public and private partners, resources are brought to bear on child support enforcement. Child support is paid and children and parents have a chance at establishing and maintaining relationships that might not otherwise have been encouraged and fostered. And, last but not least, judges have the opportunity, through intensive case oversight, to see the positive results of their efforts. By following the example of these judges from around the country, it is possible to apply problem-solving principles to your child support docket and see the results.

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Problem-Solving Courts: Is the General Public Buying-In?

by David B. Rottman and Chantal G. Bromage

The rapid increase in the number and variety of problem-solving courts owes something to the appeal they appear to hold for politicians across the ideological spectrum. Conservatives are attracted by the close monitoring of court participants and the stress on individual accountability. Liberals are attracted by the emphasis on treatment and rehabilitation in the same courts.

What does the general public think about problem-solving courts? This article marshals the findings from several public opinion surveys to look at the public's acceptance of problem-solving principles and methods in the abstract and as manifest in a specific problem-solving court. The key research concern is the extent of public support for the problem-solving approach. The conclusion of the article reviews some implications for judicial education programs that focus or touch on the phenomenon of problem-solving courts.

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Public support of the Midtown Community Court

In 1993, the Midtown Community Court opened in the Times Square area of Manhattan as a demonstration project designed to test the ability of criminal courts to forge closer links with the community and develop a collaborative problem-solving approach to quality-of-life offenses like prostitution and illegal vending. In early 1998, nearly five years later, telephone interviews were conducted with 562 residents of neighborhoods that the court serves. Survey respondents were asked to rate the desirability of the innovative features of the court and if they were willing to pay for those features through additional taxes. The survey generated some interesting findings:

- Only one in five Midtown residents had heard of the Midtown court, with awareness increasing by the extent of community involvement and geographic proximity to the court. However, few of those aware of the court reported being "very familiar" with its activities even after five years of intense public outreach. It appears that a community court, even one as heavily publicized as the Midtown Court, has difficulty in becoming a community institution.
- On the other hand, respondents rated the court's innovative features as very important once a description of the court was provided. It is interesting that despite their lack of familiarity with the court, respondents rated neighborhood location as its most important feature.
- Generally, individual features of the Midtown Community Court were rated highly. Respondents were asked: "On a scale of one to seven, with one being very important and seven being not at all important, please tell me how you would rate the importance of each characteristic." Court features such as "court located in the area it serves", "community service compliance rigorously monitored by the court", and "the judge has information on offender's underlying problems and previous compliance" were rated as the most important. Court features such as "treatment and social services in court building", "offenders arrested in Midtown area likely to face the same judge", and "offenders spend a short time in custody after arrest before coming before a judge" were rated as the least important of

the features that were presented to the survey respondents.

- However, the only features able to predict whether a resident was willing to pay more taxes to keep the Midtown Community Court open related to keeping defendants accountable for their adherence to the court's orders.
- Accountability was indexed by features like "short time in custody before seeing the judge post-arrest", "compliance with community service monitored", "same judge if return to the Midtown Community Court", and, "judge has information on previous compliance/problems."

Perceptions of the Importance of Midtown Court's Characteristics

A. Treatment

	Not Important <-----> Very Important							Total	N=
	1	2	3	4	5	6	7		
Offenders receive treatment & social services	54%	14%	8%	8%	6%	4%	6%	100%	531
Services provided in court building	30%	12%	17%	12%	11%	5%	12%	100%	501
Services begin same day as sentencing	48%	15%	13%	7%	7%	3%	7%	100%	512

B. Orientation

	Not Important <-----> Very Important							Total	N=
	1	2	3	4	5	6	7		
Community Advisory Board	48%	17%	13%	8%	6%	3%	5%	100%	517
Offenders perform community service	51%	18%	12%	7%	6%	3%	5%	100%	523
Midtown Community Court located in service area	63%	12%	8%	4%	5%	2%	7%	100%	511
Neighborhood Mediation	38%	18%	18%	10%	8%	3%	6%	100%	522

C. Accountability

	Not Important <-----> Very Important							Total	N=
	1	2	3	4	5	6	7		
Post-arrest, short time in custody before seeing judge	38%	15%	15%	11%	8%	5%	9%	100%	505
Compliance with community service monitored	55%	16%	10%	6%	7%	2%	4%	100%	517
Same judge if return to Midtown Community Court	36%	16%	13%	12%	8%	4%	11%	100%	489
Judge has information on	55%	16%	12%	6%	5%	3%	4%	100%	517

previous
compliance/problems

Please refer to Sviridoff, et al. (2001) for the complete methodology and results of this survey.

A National survey reveals the appeal of problem-solving principles to racial and ethnic groups

From March-May 2000, approximately 1,600 American adults participated in a telephone survey designed to better understand the effects of race, ethnicity, and experience with the court system on perceptions of courts. One part of the survey focused specifically on the public's support for a change from the traditional to a problem-solving orientation on the part of the criminal courts. Specifically, respondents were asked four questions after listening to the following preamble:

"Some people think courts should stick to their traditional role of looking at the facts in a specific case and then applying the law. Other people think that it is now necessary for the courts to go beyond that role and try to solve the problems that bring people into court. I am going to read you a few statements about the role of the court. Do you strongly agree, somewhat agree, somewhat disagree, or strongly disagree that courts should. . ."

- Hire drug treatment counselors and social workers as court staff members?
- Order a person to go back to court and talk to the judge about their progress in a treatment program?
- Take responsibility for making sure local agencies provide help to people with drug abuse and/or alcohol problems?
- Consider what psychologists and medical doctors know about the causes of emotional problems when making decisions about people in court cases?

Respondents were overwhelmingly positive in their reactions to all four proposed changes to the traditional role of courts. African-American respondents tend to be the most supportive of change, followed by Latinos. Whites are distinctly less enthusiastic in their support of new roles for judges and courts. The lowest level of support, across all three groups, is for hiring of treatment counselors and social workers. That change also marks the sharpest racial and ethnic difference: Whites are the least supportive, although a majority still supports the change.

Should Courts Hire Treatment Counselors and Social Workers as Court Staff Members?

Should Courts Hire Treatment Counselors and Social Workers as Court Staff Members?

	White	African-American	Latino
Strongly agree	35%	59%	55%
Somewhat agree	33%	22%	24%
Somewhat disagree	13%	10%	7%
Strongly disagree	20%	9%	13%

Should Courts Solve Problems by Having the Offender Report Back to the Judge on his or her Progress?

	White	African-American	Latino
Strongly agree	55%	67%	68%
Somewhat agree	31%	23%	23%
Somewhat disagree	7%	5%	4%
Strongly disagree	7%	4%	5%

Should Courts Solve Problems by Coordinating the Work of Local Agencies?

	White	African-American	Latino
Strongly agree	52%	72%	67%
Somewhat agree	30%	18%	22%
Somewhat disagree	8%	4%	6%
Strongly disagree	10%	6%	5%

Should Courts Solve Problems Using the Knowledge of Psychologists and Doctors?

	White	African-American	Latino
Strongly agree	45%	61%	58%
Somewhat agree	44%	35%	33%
Somewhat disagree	8%	2%	3%
Strongly disagree	3%	2%	5%

Overall, the survey establishes strong, national support for a change away from the traditional role of the courts in criminal cases. One interpretation of the findings is that problem-solving courts respond to some of the concerns that the public, and particularly minority group members, have about the performance of the state courts.

Please refer to Rottman, Hansen, Mott, and Grimes (2003) for the complete methodology and results of this survey.

A California poll shows increasing public support for features of problem-solving courts

Additional public support for problem-solving court methods may be gleaned from a recent survey sponsored by the National Council on Crime and Delinquency. In May 2004, over 1,000 California adults were polled about their attitudes toward criminal punishment and rehabilitation. The results of the poll indicate that the majority of Californians favor using state funding for rehabilitative efforts both during incarceration and after a prisoner's release.

In November 2000, California voters passed Proposition 36 with 61% of the vote, which changed state law to mandate probation and drug treatment in the place of prison time for the possession and use of illegal substances. The 2004 poll revealed that the majority of Californians likely to vote (73%) are still in favor of this policy. Finally, more Californians now believe that rehabilitation efforts outside of prison reduce the crime rate compared to when the same question was asked in a poll conducted 23 years ago.

Please refer to Krisberg, Craine, and Marchionna (2004) for the complete methodology and results of this poll.

Judicial support of problem-solving courts

Another survey affords an opportunity to compare the public's view with those of judges. In 2001, the Center for Court Innovation surveyed 500 criminal court judges and found overwhelming support for the principles of problem-solving courts, including: treatment as an effective alternative to incarceration for addicted, non-violent offenders; the notion that the judiciary should be involved in efforts to reduce the number of drug-addicted defendants; that more information is needed about past violence when making sentencing and bail decisions in domestic violence cases; and that judges should be more attentive to neighborhood safety and quality-of-life concerns.

Please refer to Berman and Gulick (2003) for the complete methodology and results of this survey.

Implications for judicial education

All of these survey findings have implications for those charged with designing judicial education programs that deal with problem-solving courts, the problem-solving approach, or therapeutic jurisprudence (that a judge should select the option that promotes the emotional and physical well-being of litigants, consistent with due process and other legal norms).

First, problem-solving principles and practices enjoy strong support both among judges and among the general public.

Second, problem-solving practices are seen as enhancing the role of the judge by providing better information and greater leverage in ensuring compliance with court orders.

Third, problem-solving courts appear to offer a partial response to general public discontent with the courts as they are traditionally defined and especially to the estrangement of some members of minority groups from the courts.

Fourth, in the public mind, problem-solving courts are not a "soft on crime" option. The public merges a desire for more effective court intervention to change the lives of people who are repeat offenders with a trust in the ability of judges to hold offenders accountable for their participation in treatment programs.

Sources

Berman, Greg and Anne Gulick. Just the (Unwieldy, Hard to Gather but Nonetheless Essential) Facts, Ma'am: What we know and don't know about problem-solving courts. *Fordham Urban Law Journal*, Vol. 30, No. 3, March 2003, p. 1027-1053.

Krisberg, Barry, Jessica Craine, and Susan Marchionna. Attitudes of Californians toward Effective Correctional Policies. *NCCD Focus*, June 2004.

Rottman, David B., Randall Hansen, Nicole Mott, and Lynn Grimes. *Perceptions of the Courts in your Community: The Influence of Experience, Race and Ethnicity*. Williamsburg, VA: National Center for State Courts, 2003.

<http://www.ncjrs.gov/pdffiles1/nij/grants/201302.pdf>

Sviridoff, Michelle, David B. Rottman, Rob Weidner, Fred Cheesman, Richard Curtis, Randall Hansen, and Brian Ostrom. *Dispensing Justice Locally: The Impacts, Cost and Benefits of the Midtown Community Court*. Center for Court Innovation and National Center for State Courts, 2001. <http://www.ncjrs.org/pdffiles1/nij/grants/196397.pdf>



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Resources

Answering the Call to International Work

by *Ellen Marshall*

As we judicial branch education officers consider our New Year's resolutions, it is a wonderful time to take stock of our professional goals and consider new avenues for our skills. Many of our colleagues have followed the call to international work because of the intrinsic rewards such work brings to our lives.

Allow me to entice you to seriously consider a short term consultancy in the international rule of law programs or as a career after your retirement.

I know that all of you reading this column have those "magic moments" in our careers where we know we've touched lives by our programs. I recall the newly-appointed judge who told me that his entire sentencing philosophy in DWI cases was changed after a program I helped develop showcasing the stories of ex-offenders. Or the experienced appellate judge who thanked me for introducing adult education techniques into our programs because he now realized how much better an instructor he had become. And then there's the courtroom clerk who stopped me in front of the courthouse to remark how much improved the trainings had become since I became director. These events reminded me of the power of continuing education to change lives.

Now that I have been working with women leaders in Kosova for over two years, I see tangible results of how an effective training intervention can not only enrich their lives, but also uplift an entire country through their leadership practice. Every time I travel to Southeastern Europe, I experience the inspirational energy of a country with a new vision for its future. To know that I played a small part in creating those visions is immensely gratifying.

These types of challenges exist all over the globe. There are more and more opportunities for judicial educators who want to make a difference to become involved. Let me list a few.

Rule of law projects are operating in Eastern and Southeastern Europe, South and Central America, new democracies in the former Soviet Republic, Southeast Asia, and on the continent of Africa. These projects include developing judicial education systems, supporting modern court administration, instituting ethical guidelines for judges and other public officials, and creating entire ministries of justice. ABA-CEELI, Chemonics, East-West Management Institute, United Nations Development Program, DPK Consulting and IREX manage some of the larger rule of law grants. They routinely advertise full time in-country staff positions as well as short term travel consultancies. A quick look at their websites listed below will describe their current projects:

- www.abanet.org/ceeli
- www.chemonics.com
- www.ewmi.org
- www.undp.org
- www.dpkconsulting.com
- www.irex.org

Resources

- Implementing Adult Education Theory in Law School
- Child Support Dockets Benefit from Using Problem-Solving Court Principles
- Problem-Solving Courts: Is the General Public Buying-In?
- Answering the Call to International Work
- Thiago Newsletter

In addition to projects directly related to our current work, there are also exciting opportunities to assist women to take their place in emerging democracies. The United States, mainly through USAID grants, is supporting International Women's Issues Initiatives all over the world. Our program, the Hope Fellowship Program operates in Kosova but will expand to Macedonia, Albania and Serbia-Montenegro during the next three years. In Afghanistan, the State Department has initiated a U.S.-Afghan Women's Council, which is operating literacy and job training programs in over half of Afghanistan's provinces. In Iraq, the U.S. has targeted \$10 million to assist Iraqi women in political organization, election preparation, coalition building, leadership training, and entrepreneurship. The Middle East Partnership Initiative has budgeted \$293 million for women's empowerment. Among other projects, it sponsors a 'Women and the Law' workshop with a regional association for women in the legal profession and is operating a public education campaign on women's rights and equality.

There are also dozens of programs that might appeal to those of you who are invested in domestic violence prevention and quality of life crime reduction. The U.S. in 2004 funded 271 programs to the tune of \$82 million to combat trafficking in persons. This has become a major global problem in Southeast Europe, Southeast Asia, and Africa. The European donor community is also sponsoring major grants in an attempt to turn the tide on this horrendous violation of human rights.

So, spend some time in this new year thinking about how you might become actively engaged in making this world a better place for our children and grandchildren.

Ellen Marshall is the Program Director for the Hope Fellowship Project. She is a past president of NASJE and 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 Kosova. She is currently preparing for a six-week stint working in Cambodia.

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Thiagi Newsletter - January 2006



Hello! I am happy to announce the January 2006 issue of my free electronic newsletter, "Play for Performance".

You can retrieve it [here](#).

This issue contains--

- Useful suggestions from 23 experienced gamers.
- A ready-to-play game, ADULT LEARNING PREFERENCES, by Ida Shessel.
- An invitation to create your own GROUP GROPE games.
- A ready-to-play cash game, THE GREAT \$10 GIVEAWAY, that explores some aspects of trust.
- A pithy saying related to the types of games that benefit from debriefing.

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- Implementing Adult Education Theory in Law School
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Enjoy this issue. Read it and play it!

Playfully,

Thiagi

Sivasailam "Thiagi" Thiagarajan
www.thiagi.com

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Features

Acting with Impunity: A Three-Part Series on Peacekeepers' Involvement in Trafficking in Women in Bosnia and Herzegovina (Part 1 of 3)

by *Pauline White*

Features

- Trafficking in Women in Bosnia and Herzegovina
- Stop Setting Goals...Now!
- Inside the Minds of Judges

Although the mission of peacekeeping operations is to rebuild state institutions in the aftermath of war and the breakdown of social structures, various characteristics of peacekeeping missions have allowed for trafficking in women to not only exist, but flourish, in post-war states. In this series, I analyze the role that civilian police have played in trafficking in Bosnia and Herzegovina. The first installment addresses how peacekeeping missions have changed since the end of the Cold War using the peacekeeping mission in Bosnia and Herzegovina as an example of this shift. The second installment examines trafficking in women both in general and in the specific case of Bosnia and Herzegovina. Peacekeeper involvement in trafficking will be explored in this section. The third and final installment discusses the gendered implications of trafficking in women and how trafficking in women in Bosnia and Herzegovina could have been predicted and thus avoided. This section calls for a clear gender perspective in peace negotiations and in peacekeeper training in order to reduce the demand for trafficked women.

With the end of the Cold War, United Nations (U.N.) peacekeeping missions have become more prevalent ¹ and traditional peacekeeping has often been transformed into a new form of involvement, peace-building.² These missions, unlike traditional forms of peacekeeping, involve the rebuilding of various state institutions, necessitating the participation of U.N. civilian police officers and relief workers in the rebuilding process. At the same time, the end of the Cold War brought economic and social change in Central and Eastern Europe leading to the increased vulnerability of women to trafficking from this region. The presence of foreign troops and international organizations in post-conflict countries, including Bosnia and Herzegovina, has heightened demand for sexual services, leading to the importation of trafficked women into these areas. Peacekeeping personnel, including civilian police recruited to rebuild judicial and law enforcement systems, have been accused of various human rights abuses centered on trafficking in women. These activities range from frequenting brothels in which women are held in slavery-like conditions, selling and buying women, and working with organized crime bodies to recruit and facilitate the movement of trafficked victims.³

Although the U.N. Charter did not envision peacekeeping as part of the U.N.'s duties, peacekeeping itself "can rightly be called the invention of the United Nations."⁴ Peacekeeping developed out of necessity in dealing with conflict during the Cold War period.⁵ Since 1989 and the subsequent end to the Cold War a few years later, however, peacekeeping has evolved from its traditional military focused function of overseeing ceasefires and separating warring parties to its more modern inception where military and civilian personnel work together in order to demobilize military, assist in rebuilding state infrastructure, train local police, and repatriate and assist internally displaced persons and refugees.⁶ These traditional forms of peacekeeping treated the symptoms and not the source of conflict, leading to sustained peacekeeping efforts lasting sometimes as long as fifty years.⁷ Because the U.N. does not have its own peacekeeping forces, it relies on individual nations to supply participants for these missions. In order to fulfill their peacekeeping duties in the face of financial and institutional constraints, some countries, including the U.S., have outsourced these duties to privatized military firms (PMFs).⁸ PMFs are part of a new international industry composed of private firms that sell military services.

The U.N. mission in Bosnia illustrates the clear progression from traditional peacekeeping to more modern peace-building. The United Nations operation in Bosnia first began in

February of 1992, following the traditional model of peacekeeping. The United Nations Protection Force (UNPROFOR) stationed in the area was given the mandate to oversee the cessation of hostilities and monitor demilitarized zones. The UNPROFOR mandate was strengthened and enlarged over the course of the next few years to include delivery of humanitarian aid via the Sarajevo airport, monitoring of 'no-fly zones' and 'safe areas.' The Security Council also authorized the use of force in order to insure the delivery of humanitarian aid.⁹

In November of 1995 a peace agreement was brokered between the warring parties.¹⁰ Part of the peace agreement, the General Framework Agreement for Peace in Bosnia and Herzegovina (GFA), commonly referred to as the Dayton Peace Agreement, called for the establishment of the U.N. Mission in Bosnia and Herzegovina (UNMIBH) in order to oversee the implementation of peace-building in the area. The UNMIBH was composed of several divisions: the International Police Task Force (IPTF), a human rights division, a civil affairs unit, and a division that assessed the condition of the Bosnian judiciary system.¹¹ Under Annex 11, the International Police Task Force (IPTF) worked to train local law enforcement personnel as well as advise government officials in order to further the democratization process.¹² The IPTF's priority was to work with local law enforcement to create a new police force that would protect all individuals in the community without prejudice or participation in human rights abuses.¹³ Many problems occurred, however, that hampered the fulfillment of the IPTF mandate. After three months, the U.N. had been able to field less than half of the pledged officers because member countries were not sending their quota of individuals or were sending individuals that were simply unqualified.¹⁴ In addition, about half of the international police stationed in Bosnia were working in Sarajevo, leading to complaints from other regions that their needs were not being met.¹⁵ In areas where IPTF members were working, individuals were accused of acting without sensitivity to Bosnian culture and the Bosnian legal system, as well as doing little to curtail the continued human rights abuses by the local police.¹⁶ Some IPTF members were even accused of involvement in human rights abuses themselves, including trafficking in women.

The second installment of this series, which will be in the next issue, will focus on trafficking in women with specific emphasis on peacekeeper involvement in trafficking in Bosnia and Herzegovina.



Pauline White received her master's degree in social science with a concentration in human rights from the University of Chicago and her bachelor's degree in international relations from Wellesley College. She became interested in the international trafficking of women while working as an AmeriCorps VISTA volunteer in Salinas, California. The subject then became the focus of her graduate studies at The University of Chicago. Pauline is currently the grants manager at The Women's Fund of Central Ohio, a foundation working to create social change for women and girls. She can be reached via email at pauline@alum.wellesley.edu.

Notes

1. There have been fifty-seven peacekeeping operations since 1948, only thirteen of which occurred between 1945 and 1987. United Nations, United Nations Peacekeeping Operations: Background Note, ONLINE (April 4, 2004, United Nations) Available: <http://www.un.org/Depts/dpko/dpko/home.shtml> [May 16, 2004] and United Nations, An Agenda for Peace: Preventative Diplomacy, Peacemaking and Peace-keeping, Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on Jan. 31, 1992, U.N. GAOR, 47th Session, U.N. Doc. A/47/277-S/24111(1992) par 47.
2. Peace-building is "a term of more recent origin that...defines activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war...includ[ing] but...not limited to reintegrating former combatants into civilian society; strengthening the rule of law; improving respect for human rights through monitoring, education, and investigation of past and existing abuses; providing technical assistance for democratic development; and promoting conflict resolution

and reconciliation techniques.” United Nations. Report of the Panel on United Nations Peace Operations. U.N. GAOR, 55th Session. U.N. Doc. A/55/305-S/2000/809 (2000) [Brahimi Report] Par 13.

3. Jennifer Murray, Note: “Who Will Police the Peace-Builders? The Failure to Establish Accountability For the Participation of United Nations Civilian Police in the Trafficking of Women in Post-Conflict Bosnia and Herzegovina,” *Columbia Human Rights Law Review* 475(2003): 477.
4. Agenda for Peace, Par 46.
5. Roy S. Lee, “Peacekeeping, Peacemaking, & Peacebuilding: The Role of the United
6. Nations in Global Conflict: The Historical Evolution of the United Nations in Global Conflict: Creating, Defining, & Expanding the Role of the United Nations: United Nations Peacekeeping: Development and Prospects,” *Cornell International Law Journal* 619(1995): 620.
7. Brahimi Report, par 12; Lee, 624; Elisabeth Rehn and Ellen Johnson Sirleaf, United Nations Development Fund for Women, Women, War, and Peace: The Independent Experts’ Assessment on the Impact of Armed Conflict on Women and Women’s Role in Peace-building (2002) [Online Report]; Available from UNIFEM <<http://www.unifem.org> > (accessed May 16, 2004) 62.
Brahimi Report, par 17.
8. P.W. Singer, “Corporate Warriors: The Rise and Ramifications of the Privatized Military Industry,” *International Security* Winter (2001-02) 186.
9. Murray, 485.
10. Murray, 485; Cynthia Cockburn and Dubravka Zarkov, *The Postwar Moment: Militarities, Masculinities and International Peacekeeping* (London: Lawrence & Wishart, 2002) 15.
11. Murray, 486.
12. Human Rights Watch, *Bosnia and Herzegovina: Beyond Restraint*. Volume 10 (No. 5)
13. June 1998 [Online Report]; Available from Human Rights Watch <<http://www.hrw.org/reports98/bosnia/>> (accessed May 16, 2004).
14. Human Rights Watch, *Beyond Restraint*.
15. Barbara Crossette, “United Nations Members Slow to Send Bosnia Police,” *New York Times* (Mar. 21, 1996) at A11.
16. Crossette, U.N. Members Slow to Send Bosnia Police.
Murray, 487.

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Features

Stop Setting Goals...Now!

by Marguerite Stenquist

I don't know about you, but I've maxed out my goal-setting genes. I'm not going to waste another nanosecond planning to increase savings or reduce spending. I'm opening the drain on turn-coat goals, like losing weight or finding clients in New York, well-intentioned goals that drift off into never never land, leaving me wrinkled and flattened in their wake. I am so off goals!

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- Stop Setting Goals...Now!
- Inside the Minds of Judges

Goals have had entirely too much good press.

What about that flabby goal to "lose 10 pounds." Does it mean if you lose nine, you've failed? Or you're not allowed to lose 11? And what happens when you actually lose those 10 pounds? A weight-loss goal is as predictable as the waxing and waning of the moon: for 15 days it shrinks and the next 15 days it expands, over and over again. There's about a 15-day window for staying 10 pounds lighter. Where's the glory?

How many singles have silently vowed to "find a great date"? Now there's a goal that'll challenge your self-esteem. One friend in her sixties receives "winks" from interested Internet partners. The wink may lead to an e-mail, which may lead to a phone call, which may lead to a coffee date, which better be a smashing encounter for both parties, who drag so much baggage into a crowded Starbucks they can barely store it under the tiny tables. Because, if it isn't smashing...well, at least Internet dating allows more than 10 minutes of chit-chatting to make that next-step decision, as in speed dating. Think carefully before making high-tension goals that pull at your ego like a taut rubber band.

Put one step in front of the other and sliiiiide.

I'm subscribing to the "progress not perfection" affirmation from here on out. Perhaps aiming for something "better" gives more wiggle room and greater potential for success. For example, what if a "better" body is one that isn't necessarily thinner but is, in fact, healthier, passing cholesterol tests like an honor's student? A better body could even be one that no longer carries around those cumbersome tonsils. And who knows how much those darned tonsils weigh!

Start with passion and watch a pathway unfold.

After I had been a corporate writer for way too many years, I decided to teach writing. I knew nothing about the field or the career path for someone with my background. I just felt passionate about two things: doing more with my writing skill and finding a better way to spend my time in the world of work. So I got a master's in education, and watched opportunities reveal themselves along the path, as though they had been waiting for me to show up. Awesome!

The writing workshops turned into communication workshops, and finally into a successful business with better money and more flexibility than I'd ever experienced in the corporate world. These were never my goals; they were byproducts of choices and risks that began with passion. When unrealized passions scratch at you, get out of the way. They're like pods growing in the basement. Be kind to them.

Choose rituals that feel good.

Once you settle on a passion, commit to supportive rituals that feel so good you can't resist building them into your life, unlike those slippery disciplines that slink away in tough times: "I'll get up every morning at 4:30 a.m. and jog to the park." When we were kids, we ran outside after dinner and worked off all the mashed potatoes, not because we wanted to lose weight, but because we wanted to play hide-and-seek. Fun was our passion. "I play catch in the park with my guy instead of showing up for treadmill duty." Or "I light candles and incense, play soft music, and write one scene in my novel once a week." Unlike disciplines, rituals are personal and sacred, friendly and inviting. So there's a greater

chance they'll survive procrastination and abandonment.

Choices empower and energize. They never intimidate; they allow us to turn back without reproach: "It was the right choice (maybe the only choice), and I took it as far as it was meant to go." No judgment, just an experience to add to your life/work repertoire: material for a story, a learning experience, never wasted.

Below are a few questions to help you make choices that position you on a path where progress outranks perfection:

1. What do I enjoy doing (or want to do) that could be described as a passion?
2. What choices can I make to feel better physically, emotionally, or mentally?
3. What choices will move me forward in my work?
4. What choices will help me feel more peaceful?
5. What choices will move me closer toward my passion?

Realizing that I could stop setting goals was as compelling a revelation as learning about the health benefits of dark chocolate. When you choose a path, shine light on it regularly to stay alert to the possibilities. And remember to reward your progress, the only reliable measure of success.



Marguerite Stenquist is president of Support Systems Group, Inc. She teaches classroom and online workshops on supervisory skills and relationship management to businesses and government agencies in the metro-Denver area. For more information about these programs, check www.onthejoblearning.com.

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Features

Inside the Minds of Judges: Who Are They? What Are They About? How Do I Reach Them?

by Hon. David M. Gersten

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- Stop Setting Goals...Now!
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Part II: The New Judge

In **Part I of this series**, I discussed the three qualities that all judges possess. These qualities are: 1) All judges have a big ego; 2) All judges want to be right; and 3) All judges have an agenda. These qualities run the gamut from the lowest tier judge to the judge on the highest court in the land. However, before these qualities become part of a judge's psyche, it is essential to examine judges just as they enter the rarefied atmosphere of judging.

A brief juxtaposition on the process of getting there

Basically, there are two ways to become a judge. The first and generally most prevalent way is by election. The second way is by appointment. Both procedures have their pros and cons. Whilst the tempest rages on about the best way to select judges, I can at least speak with experience about the process of both. I have been both elected and appointed (elected to the trial courts and appointed to the appellate court). Neither process produces the absolute best judges nor does it produce the worst judges. Actually, they produce about the same quality of judges. Agree or disagree, this is the writer's opinion based on politics.

First, the election and appointment processes are both steeped in politics. The elected judge, who presses the flesh, raises money, preaches justice from a stump, and in general grovels for votes, is just another person who seeks elected office. Generally, elected judges are legally trained and have their innate sense of justice. Generally, they will be decent judges. Generally, it will not make a tremendous difference if they or their opponents get elected. Because there is only one winner, that winner will experience, first hand, what it is like to mingle among the public they will serve. That person will know the responsibility that they must accept and face the people that expect the judge to deliver justice. It is a process of face-to-face politics.

The appointed judge enters a different world of politics. This kind of politics is more of a back room, deal making, non-responsive to the general public needs, and the good ole' boys "wink of an eye," type of politics. Judge-makers, by and large, feel that they will elevate good people to important positions of judgeships. Yet, they have to please some people more than others, and they have to look to their own future as well. The appointment process, I believe, generally separates the nuts from the judicial cake but does not guarantee that the public will get the best possible judges. The appointment process also produces judges who are legally trained, with an innate sense of justice and who are decent people. Therefore, the appointment process ultimately produces the same type of judge that is elected.

"This kind of politics is more of a back room, deal making, and the good ol' boys 'wink of an eye' type of politics."

The day before the new judge takes the bench: on the inside

The day before a new judge takes the bench is both an exciting and frightening experience. It is exciting because the new judge will finally experience sitting in judgment of another person and also experience the prospect of doing justice. It is frightening because they have no idea what to do or how to do it. Now, some judges are more intuitive at the job of judging than others but, nonetheless, they have no real experience or idea of the mechanics, the norms or the practicalities of what has to be done. It is not just a matter of granting, denying, overruling or sustaining.

Rather, it is a matter of getting the lay of the land and navigating the fine line between law, justice and management of people. No matter how much judges think they know, there is no book like "Judging 101" or "The Idiot's Guide to Judging" to brush up on the art of judging. Instead, it is a "learn as you go" and "fly by the seat of your pants" experience.

For example, day one, before a judge sits on the bench, some important issues need to be tackled: How do you set up your office? Where do you find a judicial assistant to hire or get furniture from this century? How do you obtain updated statute books? Who teaches the unwritten rules of your jurisdiction?

"It can be an ordeal just to find out how to get a box of paper clips."

What paperwork needs to be filled in? How do you meet the people who you will depend on to carry out the rulings of the court? Actually, it can be an ordeal just to find out how to get a box of paper clips. From day one, new judges are totally unprepared to hit the road running with the wealth of knowledge that will enable them to be effective judges.

Therefore, on the inside on day one we have a scared, confused, overwhelmed yet happy judge. There is sometimes a difference between what the new judge feels and what the new judge shows on the outside.

Day one on the job – What we see on the outside

The first day on the job for a judge can be a telling one. It tells two things: 1) It tells a judge that they are not as brilliant, smart, funny or great as they thought they were; and 2) It tells the careful observer what kind of potential the new judge has as a person and how the new judge will administer responsibility.

New judge personality traits fall into three types. These categories are:

1. A deer in headlights;
2. I'm large and in charge, definitely in control and I know what I am doing, so don't tell me what to do because I'm the greatest judge who ever sat in the entire court system; or
3. A person who acknowledges that there is so much to learn.

The careful observer will spot the basic personality type of the new judge in an instant. The "deer in headlights" judge can be coddled and cared for and in time can be quite excellent as a jurist. The problem is getting the new judge to feel confident in the skin of a judge. The longer it takes, the more difficult it will be for the new judge to learn that there is more to judging than making rulings. In that respect, this kind of judge will have a difficult time earning the respect of the bench, the bar and the many support people that make for an efficiently-run system (admittedly a loose term for the court system).

The "large and in charge" new judge is a major challenge for all who work with them, from the immediate court staff to the lawyers and clerks that enter that type of judge's court (it is probably just as difficult for that type of judge's spouse). This is obviously the scariest type of new judge. The sooner that someone, such as the chief judge, can change this new judge's ways, the better it is for the whole system. Otherwise, these judges will become narcissistic tyrants who feel that they know it all (as they did on the first day).

The new judge who acknowledges that he or she has much to learn is the best candidate for becoming an excellent judge in all respects. That judge can be trained by people who respect both the new judge and the system. This type of judge, by acknowledging his or her own shortcomings, is the type who will get along with the staff, litigants and lawyers. This is the type of judge that we all want to sit in judgment of us. This is the type of judge that will continue to learn and grow both as a person and as a professional judge.

"Satisfaction comes when you know you've developed a program that leaves the judge panting for more."

The first year for the new judge

Like any job, there is a learning curve for the new judge. It is an incredibly steep learning curve during the first year and will require physical stamina and mental dexterity. This becomes particularly acute in a high volume court. Because there is so much to learn, so little time and a diverse application of law, facts and intangibles (i.e., credibility determinations), the new judge, by necessity, must learn to categorize cases into smaller

and smaller categories. By limiting categories, the new judge learns to become more efficient in administering justice. Thus, by pigeonholing cases into categories, the judge will learn to judge in familiar territory rather than re-inventing the wheel for each case.

There is a downside to efficiency. The downside is that with efficiency, the judge becomes desensitized to the human aspects of judging. By categorizing classes of cases, the new judge, by logical association, will categorize classes of people. People, however, should not be categorized. People should always be treated as individuals, and they should be treated with dignity and respect. Thus, the new judge (as well as seasoned judges) will constantly be challenged to keep an open mind and heart, even though they face a demanding, draining and de-humanizing job.

Suggestions for the judicial educator

Now that you understand the inside of a new judge's mind, it is important to take these ideas into consideration when creating effective judicial programs. The job of a judicial educator is a challenge that gives one both anguish and satisfaction. The anguish is to figure out a way to keep a judge engaged and open to new ideas. On the other hand, the satisfaction of being an educator is when you know that you nailed it because you developed a program that leaves the judge panting for more.

Fortunately, when dealing with the new judge, it is as if you are starting with a piece of clay. A piece of clay that is free of imperfections and capable of being molded into a wonderful work of art . . . the educated judge. Thus, it is imperative that the judicial educator look upon the challenge of educating the new judge as if the entire pillars of the Republic depend upon their work. This important role will pay large dividends to the public that we all serve.

Therefore, judicial educators must strive to create dynamic programs that stray far from the usual "talking head" program, where someone stands at the podium delivering a lecture. Strive to capture the new judge's eyes, ears, and emotions with programs that teach both the nuts and bolts, as well the human components of judging.

The judicial educator must be cognizant of the often quoted, but rarely adhered to, "learning wheel." I find that multi-media, highly-visual and music-clad programs, keep all judges mentally awake. When mentally awake, even the most "resistant-to-education" judge will be forced to learn, if only by osmosis.

"When mentally awake, even the most 'resistant-to-education' judge will be forced to learn."

Various programs that I have successfully presented using multi-media are: Avoiding Judicial Burnout and Dealing with Vicarious Trauma—Judicial Wellness, Ethics, Bio-Ethics, Evidence, Training Judges to Train Judges, Domestic Violence, Developing Practical Forms, Community Involvement, Civil Law Trends, Criminal Law Trends, and Constitutional Law. All of these topics can and have been creatively and effectively presented. Often, I team teach with a trial judge, and the appellate/trial judge interaction seems to stimulate judges' interests.

Thus, this first year for the new judge is the prime time to set the new judge on the proper path of judging. It is a prime time because new judges are not set in their ways, are amenable to new ideas, are able to learn new tricks, and are not constrained by the old adage, "it is the way we always do it." Therefore, consider each crop of new judges as your potential harvest. Challenge yourself with each course and strive for the following review: "the best course I ever took." *Fratres conjurati*.



Judge David M. Gersten has served as an appellate court judge since 1989, having previously served at both tiers of the trial courts since 1980. Judge Gersten served as the Associate Dean for the Florida College of Advanced Judicial Studies and is currently a faculty member lecturing on: Alimony, Domestic Violence, UCCJEA, Enforcement of Non-U.S. Judgments, Collegiality, Bio-Ethics, Constitutional Law, Criminal Issues, and Civil Issues. He also serves as faculty for the National Judicial College, Reno, Nevada, and is an Adjunct Professor at St. Thomas University School of Law. 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



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Manager's Briefcase

Giving and Receiving Feedback - Chapter 4

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News

- Giving and Receiving Feedback - Part 4
- Building and Implementing an Effective Court Performance Measurement System

Editor's note: This issue continues the fourth of eight installments of Pam's materials. If you need the next installment sooner than the next issue, please feel free to **email us** with your request. If you need to catch up, please read previous chapters using the links above..

Chapter Four - Steps for Giving Effective Feedback

Chapter Objectives

- Follow the basic steps for reinforcing effective job performance and job-related behavior.
- Follow the basic steps for redirecting ineffective job performance and job-related behavior.
- Understand how the amount of information you give your feedback recipient can help that person achieve individual, group, and organizational goals.

Preparing to Give Your Feedback

If you've done everything you can to plan your feedback, giving that feedback should be relatively easy. You can begin the process by choosing the time and place to present your feedback.

Choosing an Appropriate Time and Place

Try to give your feedback in a situation where you won't be distracted by other people or concerns. Plan ahead and make an appointment with your feedback recipient—try to choose a time when neither of you will be too tired or stressed.

Steps for Giving Effective Feedback

If you are giving redirection, you will want to choose a private place where your conversation won't be overheard. If you are giving the same redirection to a group of people, such as instructing a group of telemarketers on a better way to ask callers to hold, you can present your comments to the entire group. However, under most circumstances, you should not redirect an individual in front of other teammates.

Reinforcement can sometimes be given more informally. If your comments will be brief, you might ask the person to step inside your office for a moment rather than scheduling a formal appointment. If your organizational culture supports public recognition of teammates, you can give reinforcement in front of others, such as during a monthly team meeting. This can be an effective way of recognizing an accomplishment as well as demonstrating to other teammates the type of actions you want to reinforce.

Beginning the Feedback Session

Whether you are redirecting or reinforcing an associate or coworker, try to help that person feel comfortable as you begin the feedback session. If the feedback session is taking place in your office, invite the other person to sit down. Offer him or her coffee or a soft drink if that is customary within your organization. If the other person seems especially nervous, you might try to break the ice with some casual conversation before getting to your topic.

As your feedback session progresses, keep your own emotions in check, especially if you are attempting to redirect a problem that has frustrated you in the past. Your demeanor sets the tone for the meeting—do not say or do anything that would cause the person receiving your feedback to become emotional. Remain calm and keep your voice even throughout the session—never shout at or berate a teammate.

Presenting Your Feedback

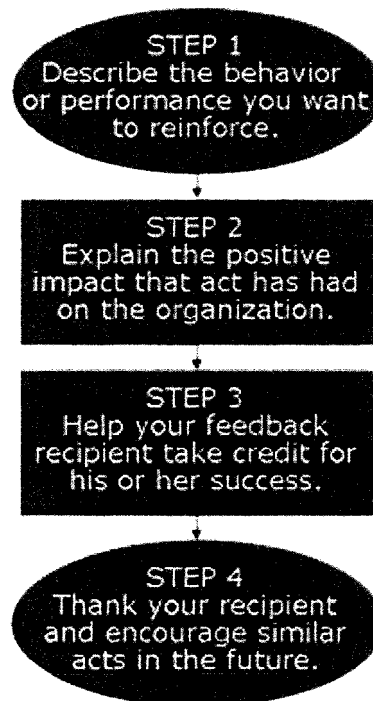
Once you have established a positive tone for the feedback session, the process should flow smoothly. Remember that your goal is to specify as much detailed, useful information as possible to help your associate or coworker be as productive as possible. You can do that easily by following some basic steps for reinforcement and redirection.

Basic Steps for Giving Reinforcement

You can give reinforcement that your associates and coworkers will remember if you follow these four easy steps:

1. Describe the behavior or performance you want to reinforce.
2. Explain the positive impact that act has had on the organization.
3. Help your feedback recipient take credit for his or her success.
4. Thank your feedback recipient for his or her contribution toward meeting group or organizational goals and encourage similar future actions.

The steps for giving reinforcement are summarized in the following flowchart.



Step 1—Describe the Behavior or Performance You Want to Reinforce

You should begin any reinforcement session with a description of the behavior or performance you would like to reinforce. Remember, the purpose of giving reinforcement isn't just to make the other person feel good, it's to describe the act you want to reinforce in such a way that the person receiving the feedback will be able to repeat it. The more detail you are able to give a teammate in the course of reinforcement, the better they will be able to repeat and build on their work. Consider these two sets of examples: Which responses do you think give the receivers of the feedback enough information to repeat their performance?

1. "Thanks for reorganizing the files, Cindy. They look great!"
"I'm very impressed with the way you've reorganized the files Cindy."

Organizing the files by dates makes them much easier to find, and I especially like the way you put the frequently used files on the bottom where we can all reach them.”

2. “Thanks for working overtime last night to proofread the report, June. Hope it didn’t keep you up too late.”
“Thanks for the extra effort you put into proofreading the report this month, June. I especially appreciate the time you took to check all of the profit and loss figures—I notice you caught several significant errors.”

In each example, the receivers of the second response will know exactly what they should do the next time they perform these tasks..

Step 2—Explain the Behavior’s Positive Impact

Most of us like to know how our efforts fit into the big picture. Learning how our work supports the work of others helps us to see our importance to the group.

Explaining the positive impact a teammate’s actions have had on the team or organization can help that person see the value of his or her contribution and create extra incentive to repeat and develop that act. Again, the more information you can give the teammate about the effect of his or her contribution, the more valuable your feedback will be. Consider the following example:

“I know that with so many teammates out sick this month it took extra effort for you to get the quarterly report out on time. Thanks to your efforts, management had the information they needed to make some important decisions about hiring and compensation; in fact, they approved the new assistant we’ve been hoping for in this division.”

The teammate receiving this reinforcement will know exactly how her hard work impacted her organization and her team.

Step 3—Help Your Feedback Recipient Take Credit for Success

“Oh, it was no big deal. I had a lot of help.”

Although just about everyone craves positive reinforcement, it’s amazing how many people have trouble accepting it when it’s given to them. Many of us were raised with the attitude that accepting a compliment was similar to bragging, or perhaps we just have a hard time believing that we could actually do something right!

Help those you reinforce accept full responsibility for their success. While you can acknowledge the contributions of others if your feedback recipient mentions them, emphasize the full importance of your recipient’s role:

“I realize that the entire team was involved in making the conference a success, but I want especially to thank you for all of your work arranging transportation. Thanks to you, all of the participants arrived in plenty of time to make their presentations.”

As the above example illustrates, providing strong examples of the positive effects someone’s actions have had within the organization is a good way to help a modest person realize the significance of his or her efforts.

Step 4—Thank and Encourage Your Feedback Recipient

“Thank you” is still one of those magic expressions we love to hear, so be sure to say “thanks” whenever you present reinforcement. Including your thanks toward the end of your reinforcement, after you have described the act and its effect, can be particularly effective because it will be the last thing the teammate takes away from the interaction.

As you thank your feedback recipient, encourage his or her to keep up the good work. Make sure your feedback recipient knows that you hope to see the positive behavior or performance repeated in similar situations.

Take a Moment

Think of someone you work with whose positive behavior or performance you would like to reinforce. With that individual in mind, decide what you intend to say at each step of the process.

Describe the behavior or performance you want to reinforce.

Explain the positive impact the behavior or performance has had on the organization.

Help your feedback recipient take responsibility for his or her success.

Thank your feedback recipient for his/her contribution toward meeting individual, group, or organizational goals and encourage similar future behavior or performance.

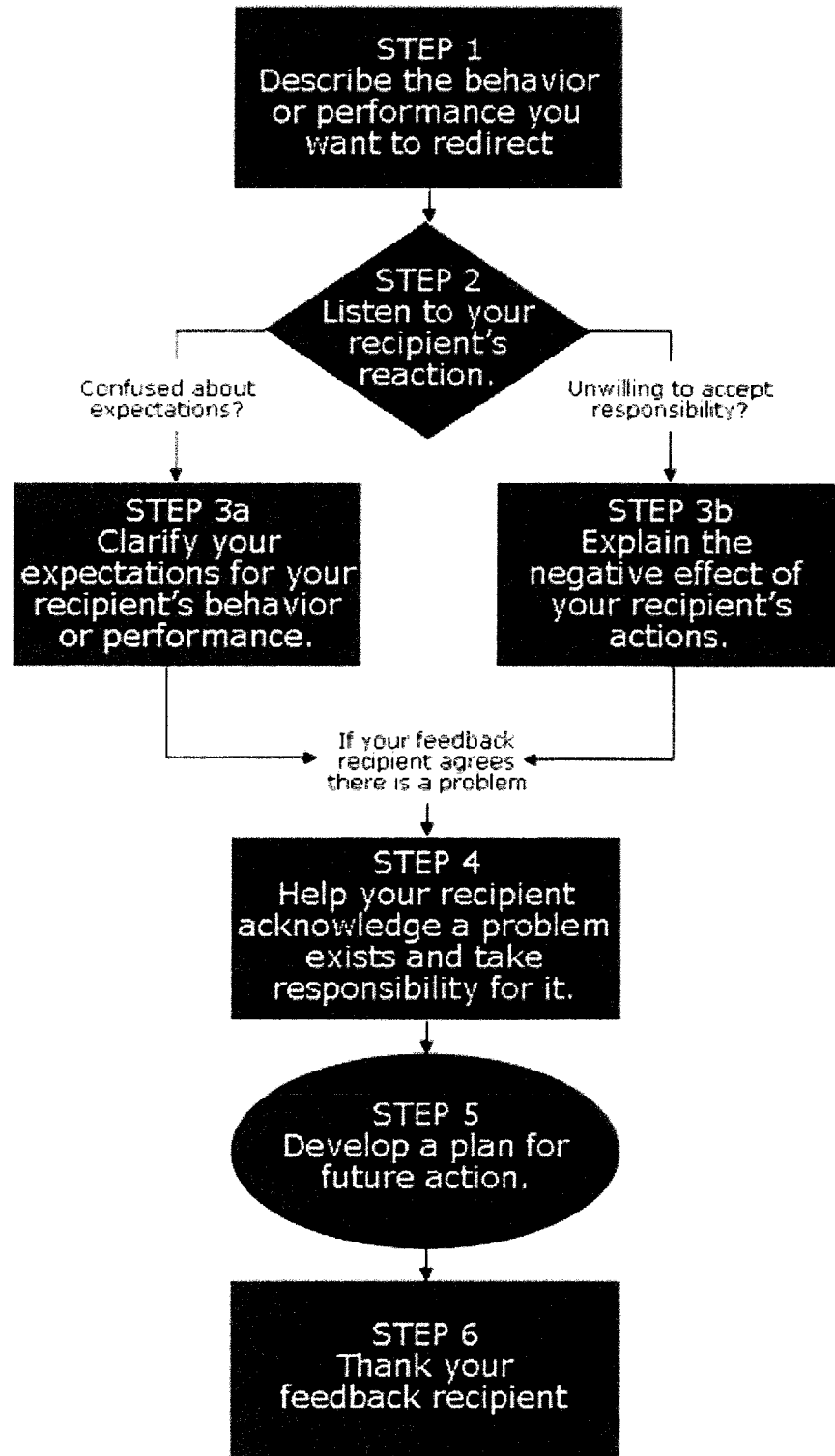
Basic Steps for Giving Redirection

Redirection consists of six basic steps that will help your feedback recipient see the impact of his or her acts and plan for the future:

1. Describe the behavior or performance you want to redirect.
2. Listen to the reaction of your feedback recipient. Your feedback recipient may immediately admit there is a problem and take responsibility for it (Step 4), or you may need to...
3. Clarify your expectations for your feedback recipient's behavior or performance. Or explain the negative effect those actions are having on the organization.

4. Help your feedback recipient to acknowledge that a problem exists and take responsibility for it.
5. Develop a plan that will help your feedback recipient adjust his or her actions.
6. Thank your feedback recipient for his or her efforts.

The steps for giving redirection are summarized in the following flowchart.



Step 1—Describe the Behavior or Performance You Want to Redirect

Once again, you should begin the feedback session with a description of the behavior or performance you want to redirect. If the act you are describing is ongoing, try to cite more than one instance of it so that your feedback recipient can get an idea of the extent of the problem, as in these examples:

- Behavior in need of redirection:
“Bob, you were late to work three times this week and twice last week. You were also late five times last month.”
- Performance in need of redirection:
“Martha, I found five typing errors in this letter you just finished, and you misspelled the client’s name. I also found typing errors in the last two letters you typed for me.”

Notice that in both examples, the person giving the feedback simply describes the behavior or performance in question without making a value judgment or expressing anger or disappointment. Beginning your feedback in this way will keep your redirection focused on acts rather than attitudes.

Step 2—Listen to the Reaction of Your Feedback Recipient

Once you have given a detailed description of the behavior or performance you hope to change, give your feedback recipient a chance to respond. Three responses feedback recipients often give include acknowledging the problem, expressing confusion over expectations, or refusing to accept responsibility..

• Acknowledging the problem

Often, employees are aware of a problem and have been waiting for an opportunity to discuss it:

“I know the formatting on the reports has been difficult to read. I’ve been trying to use the new software, but I just can’t figure out how to do it. Can someone show me how?”

If you receive a response like this, it shows that your feedback recipient has taken responsibility for the problem and is ready to correct it. Congratulations—you have completed Step 4! No further discussion of your associate or coworker’s actions is necessary: the two of you can immediately begin to develop an action plan to correct the problem as described in Step 5.

• Expressing confusion

Of course, not all feedback sessions will resolve so quickly. Your feedback recipient may respond with confusion regarding your expectations. Perhaps your associate or coworker never understood (or was not given) a clear description of his or her job duties; perhaps expectations for the job have changed over time:

“I didn’t realize that I was supposed to provide the figures by the beginning of the month—I thought that any time during the first week would be fine.”

When you receive a response like this, your next step should be to clarify your expectations with your feedback recipient, which we describe in Step 3a.

• Refusing to accept responsibility

Occasionally your feedback recipient may admit that a problem exists but refuse to take responsibility for it. We’ve all heard (and possibly given) responses like:

“It’s not my fault! It’s the people in accounting.”
“I’ll try to do better, but you know, there just isn’t enough time.”

In situations like these, your challenge is to determine whether some outside factor is affecting your feedback recipient’s ability to do the job or if he or she is just making excuses. This is especially difficult if your associate or coworker is behaving defensively.

Try to get past your feedback recipient’s defensiveness and focus on the content of what

he or she is saying. If there are factors within the organization or work team that are keeping him or her from meeting your expectations, use this time to address them. As your associates and coworkers see that you take their viewpoints seriously, their responses will become less defensive and more cooperative.

Of course, there will also be times when you listen to an associate's or coworker's explanation and determine that you must hold that person responsible for the problem. If your feedback recipient remains defensive, try to focus the conversation on the effects of his or her actions as we discuss in Step 3b—this is your best evidence that a problem exists.

Step 3a—Clarify Your Expectations

If your feedback recipient is surprised or confused by the expectations you and other team members have for his or her performance, take the time to clarify them. This might involve referring back to the original job description or reviewing the directions your recipient has received for performing certain tasks.

As you review your expectations, be sure to give your associate or coworker plenty of opportunity to respond. Be sure that your feedback recipient agrees that the expectations are reasonable; if he or she doesn't, you may need to point out that other people in the organization are working just as hard, or you may need to readjust your expectations in some way. Whatever you negotiate, by the end of this step, you and your feedback recipient should agree on a set of reasonable expectations, and your feedback recipient should be ready to acknowledge his or her responsibility for meeting them. You can develop this further in Step 4.

Step 3b—Explain the Action's Negative Effect

The best way you can help a defensive feedback recipient recognize the need to redirect his or her actions is by giving a thorough description of the effect those actions are having on other members of your team or organization. Again, you should simply state the facts without expressing anger or making a value judgment. Here are examples that illustrate two descriptions we used earlier:

"When you're late, other teammates have to fill in for you until you arrive. Joe had to work overtime twice this week until you arrived, and Sara had to cover for you last week. It isn't fair to the others to expect them to cover for you, and it hurts the quality of our work to keep tired teammates on duty after their shift is over."

"When we send out letters with typing errors, it looks as though we don't care about our clients, especially when we misspell the clients' names. We could lose business if our clients think we don't value them."

Descriptions like these should help your feedback recipient see the impact of his or her behavior or performance and take responsibility for adjusting that action. If your recipient is especially defensive, keep returning to your examples until he or she is ready to accept responsibility and work out a plan to promote change.

Step 4—Help Your Recipient Acknowledge That a Problem Exists and Take Responsibility for It

You and the person to whom you are giving feedback cannot collaborate in redirecting behavior or performance until he or she acknowledges that a problem exists and takes responsibility for correcting it. You will know that you have this agreement when you hear your feedback recipient say something like, "Yes, I agree, there is a problem here. What can I do about it?"

If your feedback recipient is slow to acknowledge the problem and accept responsibility, you should continue to present evidence about the extent of the problem until you have agreement. What kind of evidence can you use to convince your recipient that a problem exists and that his or her behavior or performance needs to change?

- Stress the negative impact that the individual's current performance or behavior is having on coworkers and the organization as a whole.
- Convince the individual that he or she will face significant consequences if the behavior or performance continues.

If you can get people to recognize the negative consequences or adverse impact of something they are doing, they will usually agree that it is a problem.

Step 5—Develop an Action Plan

The goal of any redirection is improving future performance and behavior. It isn't enough just to point out the need for change to your feedback recipient—you also need to develop a specific plan to help him or her set and meet objectives.

Although you should have some short- and long-term goals in mind before you begin your feedback session, you will want to involve your feedback recipient in the planning process. One way you can do this is by stating an overall goal and then asking for the other person's input on how to meet that goal. Here is an example in which an administrative assistant redirects her manager's difficulty with deadlines:

Admin. Asst.: Ms. Wagner, I really want to get your correspondence typed on time, but I have difficulty when you give me your tapes to transcribe a half hour before the mail has to go out. Is there some way you can give me more time?

Manager: It's difficult. Those are open cases, and I often don't have the information I need until the last minute.

Admin. Asst.: Well, could you let me know at the beginning of the day if you think you'll need me to transcribe something? That way I could organize my work so that my last hour is free for your projects.

Manager: I think I can do that.

Though the administrative assistant might not have gotten as much time for her transcription as she would have liked, she was able to involve her manager in a solution that would help her organize her time effectively, which was her primary objective. When the manager remembers to tell her associate about upcoming transcription, the associate can reinforce that action by saying something like "Thanks for telling me so early. I can get much more done when I have the opportunity to organize my day in advance."

Step 6—Thank Your Feedback Recipient for His or Her Efforts

It can be hard to accept redirection. Show your feedback recipient that you appreciate his or her efforts by closing your redirection with a "thank you." This can also be a good time to summarize your conversation and make plans for future meetings:

- "Thanks for taking the time to talk to me about the sales figures. I really appreciate your willingness to spend an extra day on the road to do follow up, and I want to help you any way I can. Let's get together when you're in the office next week and see how things are going for you."

Staying on Track

These steps for giving reinforcement and redirection will allow you to give useful, supportive feedback that focuses on acts rather than attitudes. Following these steps should get you through even a potentially difficult feedback situation with a minimum of stress. But the steps can help you only if you follow them. Don't allow yourself to get distracted in the course of a feedback session. Even if your feedback recipient tries to steer the conversation onto other topics or becomes argumentative, focus on the steps. They will give your feedback session direction and ensure that you provide your recipient with as much useful information as possible.

Take a Moment

Think of someone you work with whose positive behavior or performance you would like to reinforce. With that individual in mind, decide what you intend to say at each step of the process.

Describe the behavior or performance you want to reinforce.

Imagine what you think that person's response will be.

Clarify your expectations for your feedback receiver OR explain the negative effect the behavior or performance has had on the organization and help your receiver take responsibility for his or her actions.

Help your recipient to acknowledge that a problem exists and take responsibility for it.

Develop a plan that will help the receiver of your feedback adjust his or her actions.

Thank your feedback recipient.

Documenting Your Feedback

Too often we're so busy handling day-to-day worries that we forget to make note of the positive things we encounter. If you have given an associate or coworker reinforcement on a significant achievement or project, don't forget to document your feedback for that individual's personnel file. Making a record of your positive assessment will help that teammate receive the rewards and recognition he or she deserves when performance is reviewed.

You should also make note of any redirection that you give. Even if you do not think that the problem is serious enough to include in the teammate's personnel file, keep a record of the redirection for yourself. Include the types of details we discussed in Chapter 3—these are the key elements of good documentation:

- What happened?
- Where and when did it occur?
- Who was involved?
- How did it affect others?

If the receiver of your feedback successfully redirects his or her performance, you will have a record of the feedback process that will help you track the teammate's success. And, in the unfortunate event that the teammate does not respond to redirection and the problem becomes worse, you will have documentation that you attempted to deal with it. This could be significant if the problem becomes so serious that the teammate must be disciplined or terminated.

Chapter Four Review

True False

1. There is no need to worry about scheduling an appropriate time for giving feedback. You can provide redirection and reinforcement anytime, anywhere.

2. It is perfectly all right to redirect an individual teammate in the presence of other teammates.

3. List the four basic steps for providing reinforcement.

4. List the six basic steps for providing redirection.

5. It is important to document both reinforcement and

redirection..

Get the answers.



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Manager's Briefcase

Building and Implementing an Effective Court Performance Measurement System

by Ingo Keilitz

Editor's Note: This article is an adaptation of several postings in [Made2Measure](#), a blog in which the author explores emerging issues related to performance measurement in courts and justice systems in the US and other countries.

Performance Measures Drive Success

The ability to measure performance is a critical enabler for getting results and achieving goals. Knowing what and how to measure makes a complicated world less so. Because they are unambiguous and actionable, performance measures drive success. Effectively used, they serve both as incentives and as practical tools for justice system improvement. An effective court performance measurement system (CPMS) enables court leaders and managers to:

- Translate vision, mission and broad goals into clear performance targets
- Communicate progress and success succinctly in the language of performance measures and indicators
- Respond to legislative and executive branch representatives' and the public's demand for accountability
- Formulate and justify budget requests
- Respond quickly to performance downturns (corrections) and upturns (celebrations) in performance
- Provide incentives and motivate court staff to make improvements in programs and services
- Make resource allocation decisions
- Set future performance expectations based on past and current performance levels
- Insulate the court from inappropriate performance audits and appraisals imposed by external agencies or groups

Around the globe, the use performance measurement has spread dramatically in recent years at all levels of government, as well as in private and nonprofit organizations. [In the courts community, performance measurement increasingly is seen not only as the best way to improve the quality of programs and services but also to drive major policy reform and organizational transformation.

A Court Performance Measurement System (CPMS)

The key to the successful use of performance measurement is to identify and to develop the right measures -- measures that are aligned with vision, goals and success factors -- and then making sure that the measures get into the hands of those who can make good use of them at the right time. This requires a Court Performance Measurement System (CPMS). A CPMS is the routine collection, analysis, synthesis, delivery and display of performance measures and other information about the work and

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"What performance measures are currently used in your court and by your court's justice system partners?"

accomplishment of a court as an organization. It is an ordered and comprehensive assembly of parts -- interrelated data, principles, standards, methods, processes and procedures -- forming a unitary whole. All the elements of a CPMS -- the performance measures, data collection methods, analysis and interpretation, and information distribution and display -- operate toward the common purpose of running a court effectively and efficiently.

A Six-Step Design Process

Over the last five years, by benchmarking the design processes used successfully in private sector and public organizations, and by extensive field study of courts throughout the world, CourtMetrics and colleagues have developed a best practice design process of six overlapping steps and sub-steps (tasks). This design process introduces discipline, conceptual clarity and method to the myriad conceptual, methodological, analytic issues associated with the building a CPMS.

- **Step 1.** Assessing the performance measures currently used.
- **Step 2.** Identifying and defining the performance measures needed to help achieve goals.
- **Step 3.** Developing hierarchies or families of measures.
- **Step 4.** Testing the measures.
- **Step 5.** Creating data collection and distribution methods that ensure timeliness and utility.
- **Step 6.** Building useful performance measurement displays.

Although the steps are laid out in a linear sequence, taking these steps is iterative in practice. The design team may rethink the results of steps several times before reaching a consensus and final decision.

Each of the essential building steps addresses critical questions: How does the court currently measure its performance? How are the current measures distributed across inputs, outputs, outcomes, key success areas, perspectives, and core performance areas? What required or desired performance information currently is not available to the court? What specific performance measures would provide that information? How does the court select a vital few, instead of a trivial many, performance measures? How should the court go about developing the desired performance measures? To what degree should the selected measures be tried and demonstrated before implementation? When and how should the performance data be collected? To whom and how often should it be distributed? In what format and on what schedule should the performance information be conveyed and displayed?

Step 1. Assessing Current Performance Measures

Purpose: What performance measures are currently used in your court and by your court's justice system partners? Are they sufficient in terms of number, type, and balance of perspectives? Which of the measures seem more important than others? By what methods are the measures taken and by whom? Taking a critical look at the performance measures your court and justice system partners are using today is a practical starting point for getting to the fundamental question of what are the right measures for your court. Rather than trying to tackle this daunting question with a blank slate, this first step draws on knowledge already available to the court. It produces results in a relatively short time. Even if a court postpones or abandons the building of a CPMS, both the process and the results of this first step can serve as valuable references for planning and development of various court improvement projects.

Tasks: The products of this first step are an inventory of input, output and outcome measures currently used by the court and its divisions, departments and units, and an evaluation of the adequacy of the measures as a basis for building a CPMS. Three tasks are required to complete this step: (1) cataloging the court's performance measures and indicators, as well those of the court's justice system partners; (2) categorizing the measures by whether they are input (resources), output (activities) or outcome (impact) measures; and (3) assessing their completeness and balance.

Step 2 – Developing Desired Performance Measures

Purpose: The second step places a premium on

"People must sign on to the

purpose of a performance measure, the key outcome it indicates, not just the metric."

Tasks: The four tasks of this second step proceed from the general to the specific, from broad conceptualization of performance areas to the operational definition of desired measures. The step produces a synopsis of seven to twelve core performance measures, operationally defined and linked to key court performance areas.

Purpose: Using the results of the previous two steps – an inventory all the performance measures currently used at all levels of the court a set of high-level core performance measures – the third step of building a CPMS requires the creation of hierarchies (families) of related performance measures. The value of measurement hierarchies is that they define the connection between high-level strategic goals and performance measures with lower-level departmental or divisional objectives and measures. Measurement hierarchies in which lower-level subordinate measures cascade down from core measures help align the overall goals of the court with the goals and objectives of its divisions, units, and programs. They help make it clear to all court employees precisely how their actions help fulfill the court's mission and strategic goals.

Step 4 – Testing, Demonstrating and Developing Measures

"Simply issuing an edict to 'go forth and measure' is likely to invite failure."

Tasks: This step requires three tasks. The first task is to describe the measures in sufficient detail to allow the testing and demonstration of the measures, which is the second task. The third task is to develop and refine the measures based on their test and demonstration.

Purpose: Once you have taken the first four steps of building a CPMS -- identified the desired core performance measures based on assessment of your courts current performance measures, created measurement hierarchies of related measures, tested and demonstrated the measures -- it is time to make sure that the right performance data gets into the hands of the right people at the right time. How frequently should the data for each measure be collected and displayed? Who needs the performance data provided by the core measures and subordinate measures in the allied hierarchies? How will they use that data? When do they need it and how often will they use it?

Tasks: This step requires two discrete tasks. The first is to determine the ideal timeframe for availability (e.g., data may already available in real-time in automated databases) and use of the performance data for each core performance measure. The second task is to

consider feasibility and costs of data collection and display and to adjust the ideal timeframes accordingly. The result of the step is a timeframe for collection and distribution of each core and subordinate measure in all of the measurement hierarchies.

Step 6 – Building Performance Measurement Displays

Purpose: Courts today are drowning in data and will succeed to the extent that they are able to harness performance information to make better, more informed and quicker decisions. Collecting and assembling critical performance data are useless if the data are not delivered to the right people at the right time. Although standardized or special reports are useful for many users, they can not meet the needs of users who need more rapid and flexible data access. An effective display of a CPMS is one that users can readily access, that is easily read and understood, that is organized for easy navigation among core and subordinate measures, and one that provides a “line of sight” that conveys to everyone what the drivers of success are and provides them with the concrete knowledge of how they contribute to that success.

“Collecting and assembling critical performance data are useless if the data are not delivered to the right people at the right time.”

Tasks: The sixth and final step of building a CPMS is the design, development, and implementation of performance measurement displays – presentations that allow end users to access, to view and to use the performance data. The first task is to decide how the display should look and function. A good place to start the design of a display system is with a study of the functionality of computer software products collectively referred to as performance management solutions or “business intelligence” (BI) offered by an increasing number of companies. The task is complete with a decision to buy or to build a computer-based performance display system. The second task of this step includes not only the actual writing of computer code but also the preparation of requirements and objectives, the design of what is to be coded, as well as testing and confirmation that what is developed has met the objectives. It should proceed through successive phases – from analysis of software requirements through system integration and testing --that are familiar to computer software engineers.

Implementing Performance Measurement

In the 1989 film *Field of Dreams*, an Iowa corn farmer (Kevin Costner) hears voices that tell him, “If you build it, they will come.” He interprets this message as a command to build a baseball field on his farm. He does and they -- Shoeless Joe Jackson and the other seven Chicago White Sox players banned from the game for throwing the 1919 World Series -- come. This works in the movies but it does not work for court performance measurement. It is one thing to build a court performance measurement system (CPMS) and quite another to get the CPMS to be used effectively.

A Pile of Stethoscopes

Kevin Baum, a performance management consultant who works in government outside of the courts, warns us in a recent edition of *Perform* (Special Edition, Government, no date) that we make a fatal mistake when we declare victory too soon, that is, immediately after we have built a CPMS (see the October 15, 2005, Posting, “Six-Step Process for Building an Effective Court Performance Measurement System”). Baum makes his point with this anecdote:

You're in a board room waiting for the executive staff meeting to begin when in walks the Director. Under his arm you see 20 stethoscopes, and you think, "What's up with that?" The stethoscopes aren't all the same though -- they are different sizes, shapes, colors and brands -- but yes they are still stethoscopes. The Director, with a broad grin and a tad of flair, tosses all the scopes on the boardroom table and declares in a proud and booming voice, "Look how well we are managed. We are truly a performance-informed organization and I'd like to thank all of you for your efforts."

Baum's point is that a CPMS, like a stethoscope, is only a tool. Nothing more, nothing less. Courts should not declare victory once the CPMS has been built. Like a pile of stethoscopes, a CPMS is essentially meaningless until we get it into the hands of people who can put it to use, understand what it is telling us, and apply what we are learning.

Performance measurement can fundamentally change the way courts do business. For this to happen, however, a CPMS has to be integrated with a court's key business processes and day-to-day management. Until the measures are actually used, they will never begin to work for us as tools to improve performance. Worse, warns Kevin Baum, an idle CPMS will

alienate the court's workforce by burdening it with yet another management initiative that suffers from no apparent follow-through.

Using a CPMS

Even before a CPMS is fully built and developed, courts should begin to consider the following two general strategies: *Train court managers and staff on the use of the performance measures of the CPMS.* The value of a performance measure lies not in the measure itself but rather in the questions it forces us to ask and how we learn and grow as a result. What is the current or initial performance level? What are the changes over time? What are the acceptable upper and lower boundaries of the particular measure? What are the problems identified by the measure? Given what we know about the measurement, what performance expectations should we have in the future? Managers and court staff need to be thoroughly familiar with the functions of the performance measures that these questions highlight – establishing baselines and benchmarking, control, trend spotting, problem diagnosis, and operational and strategic planning – for the court as a whole and, importantly, for their area of responsibility.

"The value of a performance measure lies not in the measure itself but rather in the questions it forces us to ask and how we learn and grow as a result."

Integrate performance measurement with the court's key operations and management processes. Yes, performance measurement can fundamentally change the way a court does business, but it will not happen by itself. They will not come into the field of dreams simply because the CPMS is rolled out. If a court's leadership and management are to become truly performance-based, performance measurement has to become hard-wired into the very DNA of the court's organizational culture.

Some of this is simple and straightforward. For example, automated performance measurement displays can identify specific court staff as "owners" of the performance measures who can be queried ("Why was there a downturn in trial certainty this month even though we tightened our continuation policies?") with an email function linked to the measure on the display. Court leaders can decide to make the results of core performance measures a standing item on executive meeting agendas. Only those measures that require action – i.e., those that fall outside of the lower and upper control boundaries -- are discussed. Falling below the lower controls will stimulate improvement actions and exceeding upper controls (goals) will be cause for recognition and, perhaps, celebration.

"Court leaders can decide to make the results of core performance measures a standing item on executive meeting agendas."

Aligning performance measurement with other key management processes like strategic planning, budgeting, quality improvement, and human resource management may be more demanding but not necessarily difficult or complex. For example, a court's ability to develop measurable performance objectives is critical to success of its strategic planning process. A strategic goal like maintain a high-performance workplace is made useful only if it is translated into a measurable objective such as workforce strength, commitment and engagement exceeds 80% as measured by a quarterly survey of court employees. A CPMS that includes a measure of workforce strength not only facilitates development of a strategic plan by giving definition to goals and objectives but also establishes the mechanism by which the strategic plan is put into action.



Ingo Keilitz, a long-time member of NASJE, is a frequent speaker, writer, and consultant to public and nonprofit organizations. He heads Sherwood Consulting/CourtMetrics, a management consulting firm in Williamsburg, Virginia, specializing in performance measurement and management, organizational development, and strategic planning. He is Of Counsel Consultant in performance measurement at the National Center for State Courts (NCSC). Ingo has helped shape the landscape of court administration as a major contributor to the development of court performance standards and measures, including the Trial Court Performance Standards (1995), the Family Court Performance Standards and Measures (1999), Quality Courts: A Manual of Family Court Performance Measurement (2001), the National Probate Court Standards (1993), the Guidelines for State Court Decision Making in Life-Sustaining Medical Treatment Cases (1992), and the Guidelines for Involuntary Civil Commitment (1986). He has helped courts in the United States and other countries build court performance measurement systems (CPMS); he is the chief architect of CourtMetric, an automated CPMS produced by ACS, and a major contributor to CourtTools, a set of ten performance measures developed by the NCSC. He is the author of over 120 articles, monographs, book chapters and books on planning, leadership, performance standards and measures, justice administration, mental health and the law, and education. He received the NCSC's Distinguished Service Award in 1989 and was inducted into the Warren E. Burger Society in 2002. Ingo can be reached through his blog [Made2Measure](http://Made2Measure.com) or by email at ikeilitz@cox.net.