

NASJENews Quarterly

Volume 23 • Number 4 • Fall 2008

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• [Picture this: Strategies for communicating data to decision makers](#)

by Carol L. Weaver and Diane Converse

The judicial branch, including judicial education, is heavily dependent upon both the availability of reliable data and the capacity of key decision makers to make sound decisions using that data. As a judicial educator, you probably work with multiple groups of stakeholders to make important decisions related to judicial education programs and services. Have you recently asked a group of stakeholders to make decisions about program offerings based on enrollments? [more >](#)

• [Does Transformational Learning have a place in judicial education?](#)

by Patricia A. Lawler, Ed.D

Professional developers are constantly seeking effective and efficient strategies to enhance learning. This is especially true for judicial educators from across the US as I found out in August at the NASJE Annual Meeting in Philadelphia. Called upon to present a session on recent perspectives on Transformative Learning and its place in professional development, I outlined recent writings on theory and practical strategies and engaged the session participants in discussing applications to their practice. [more >](#)

• [Evaluating Judicial Education and Judicial Education Organizations: A Practical Guide for Measuring Courts' Performance](#)

by Thomas Nelson Langhorne, Esquire

Judicial organizations face increasing pressures to objectively demonstrate programmatic effectiveness and efficiencies. As a consequence, courts must prove that resources devoted to judicial branch education actually yield demonstrable, desirable outcomes. With increasing incidence, courts' inability to do so subjects courts' policy makers and judicial educators to critical public scrutiny and terminated funding.

This paper describes practical and affordable methods by which courts can determine what programs should be evaluated and how to evaluate them. [more >](#)

Features

• [Court Security: A New Frontier For Judicial Educators](#)

by Hon. Lee Sinclair

A shooting had occurred in Atlanta. CNN had relayed the information to my office. I immediately phoned CNN. Yes, there have been several people murdered inside the Fulton County courthouse. Within minutes my office was deluged with national media wanting to discuss this unthinkable tragedy. Judge Rowland Barnes and court reporter Julie Ann Brandau were murdered as they sat in a Fulton County courtroom. The assailant overpowered a deputy while on the way to court. [more >](#)

• [Thiagi Newsletter](#)

Links to the latest issues of the Thiagi Gameletter -- seriously fun activities for trainers, facilitators, performance consultants, and managers. [more >](#)

• [GET IT WRITE: To Split or Not to Split Infinitives?](#)

by Nancy L. Tuten, PhD, and Gayle R. Swanson, PhD

Most of us were taught (if we were taught grammar at all) never to split infinitives, but writers have been splitting them anyway—even long before the creators of the *Star Trek* series provided us with the often-quoted phrase “to boldly go where no man has gone before.” Those of us who were taught that the split infinitive is anathema might well benefit from examining the origins of this rule and considering cases where we might, with good reason, be excused for ignoring it. [more >](#)

• [GET IT WRITE: Using the Verb *Include* to Preface a List](#)

by Nancy L. Tuten, PhD, and Gayle R. Swanson, PhD

We should use the verb include to preface a list that is not exhaustive—that is, one naming only a limited number of the items that could possibly be named in the particular context. We should use the appropriate form of the verb *to be* (e.g., *is/are, was/were, will be, has/have been*) to preface a list that is exhaustive—that is, one naming all of the items that are possible to name in the particular context. [more >](#)

Conference Review

• [Working the Planning Table for Judicial Education](#)

by Lee Ann Barnhardt

In the opening plenary session Dr. Ronald Cervero encouraged judicial educators to plan responsibly for judicial education by thinking

politically. [more >](#)

• Education as a Strategic Leadership Tool

by **Lee Ann Barnhardt**

Elizabeth Evans, education administrator for the Trial Courts of Maricopa County in Arizona, discussed how her office looks at education more broadly than a training function by pairing strategic planning and education. [more >](#)

• Plenary Session

by **Melody Luetkehans**

Almost everyone in the room had heard parts of the story. Those that sat through the previous night's movie knew most of the facts, at least those facts as seen through the eyes of Moises Kaufman, who wrote and directed *The Laramie Project*, the 2002 movie about the murder.

[more >](#)

• Live and Let Live? A Facilitated Discussion of the Film *The Laramie Project*

by **Kelly Tait**

Movies can reach viewers at their cores, creating the potential for a deeper understanding of issues and perspectives. In looking at how film can be used to teach diversity issues in judicial education sessions, participants at NASJE's 2008 Annual Conference joined in a facilitated discussion of *The Laramie Project*. [more >](#)

• The Role of Judicial Educators Assisting Foreign Language Interpreters

by **Cheryl Lyngar**

Franny M. Haney, Manager of Judicial Branch Education in the Administrative Office of the Courts in Delaware and the Director of Delaware's Certified Interpreters' Program and Catalina J. Natalini, a Certified Interpreter also from Delaware presented information and facts on using certified interpreters in court. [more >](#)

• Model Curriculum Demonstration: Offering a Successful Self-Represented Litigant Program

by **Lee Ann Barnhardt**

The Courtroom Curriculum introduced at a National Judicial Conference on Leadership, Education and Courtroom Best Practices in Self-Represented Litigation at Harvard in 2007 was modeled by Judge Karen Adams in "Offering a Successful Self Represented Litigant Program." [more >](#)

• Experiential Education in Action

by **Kelly Tait**

A lively session on experiential education was conducted by Maggie Cimino, CJER Supervising Education Specialist, at NASJE's 2008 Annual Conference in Philadelphia. The benefits of interactive learning and many experiential learning techniques were illuminated through a series of activities and discussions. [more >](#)

• Model Curriculum Demonstration II: Office for Victims of Crime, JEP Module Curriculum

by **Cheryl Lyngar**

Ms. Trudy Gregorie, Ms. Denise Dancy and Mr. Kevin Bowling were all present to unveil a new educational tool for judges and court personnel as well as other professionals who seek to improve the treatment of crime victims throughout the court and probation processes.

[more >](#)

• Continuing the Dialogue

by **Michael Roosevelt**

On March 18, 2008, Senator and presidential candidate Barack Obama delivered a major speech on race and race relations, "A More Perfect Union." The speech attempted to capture the complexity of race and racism and asked every American to continue a dialogue on race. [more >](#)

• Technology as a Learning Tool

by **Joseph Sawyer**

As judicial educators, we all know that the use of technology in the classroom has become ubiquitous. Unfortunately, technology does not always enhance an educational presentation. During the recent NASJE annual conference in August, I had the opportunity to discuss the effective use of classroom technology. [more >](#)

• The Interrelationship of Professional and Personal Growth

by **Lee Ann Barnhardt**

Is the boundary between your professional work and personal life becoming blurred? Have you stopped addressing your own need for professional growth and development? Dr. Cathy Zeph from Loyola University discussed these and other issues facing professionals in a complex world in the closing plenary of the NASJE Annual Conference. [more >](#)

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News

[Memorial Service for Paul M. Li, First Director of CJER](#)

Judicial Education Leader Laid Foundation for California Courts' Statewide Education Program

San Francisco – A memorial service was held on Saturday, July 26, 2008 for Mr. Paul M. Li, the first director of the Center for Judicial Education and Research (CJER), who died on July 12, after a brief battle with cancer. He was 70 years of age. The service was held at Mr. Li's home in Tucson, Arizona.

"Paul Li was a giant in the early history of judicial administration and was a groundbreaking leader in judicial education," stated Mr. William C. Vickery, Administrative Director of the Courts. "As director of the Center for Judicial Education and Research, Paul laid the foundation not only for excellent judicial education in California—which became recognized as the best program of its kind in the nation—but also as a program that is emulated in other states and countries throughout the world."

"Today, our judicial education program continues to respond to the needs of the courts, for example, in the new areas of science and technology, and also offers relevant judicial education programs for court managers and staff." Mr. Vickery continued, "California's education program has also expanded to include new partnerships with other states and with institutions of higher learning."

"Paul Li was a true pioneer and a visionary in the field of judicial education," said Court of Appeal Justice Ronald B. Robie, of the Third Appellate District, who currently chairs the Governing Committee of CJER. "As the first director of CJER, he helped build a program that grew from the Judicial College and a couple of institutes to a comprehensive set of programs, publications, and other educational resources. CJER has long been seen as a model for judicial education in other states, and California judges are most grateful for his contributions."

"In addition to his leadership in the California judicial branch as director of CJER, Paul Li was one of the founders of the National Association of State Judicial Educators, serving on the board of directors and as its president," said Dr. Diane E. Cowdrey, who is the current director of what is now the AOC Education Division/CJER. "He was a guiding force behind the growth of judicial education throughout the United States and the evolution of judicial education as a recognized profession. He generously supported other judicial educators around the country seeking assistance in developing their own state judicial education programs."

In 1973, the Judicial Council of California and the California Judges Association created CJER, which later became the Education Division/CJER of the Administrative Office of the Courts (AOC). The creation of CJER was modeled after a 1971 agreement between the State Bar of California and the Board of Regents of the University of California to perpetuate the Continuing Education of the Bar (CEB) for attorney education.

Mr. Li served as the first director of CJER for almost 20 years, from July 1, 1973, until he retired in 1993. He played a key role, as a staff attorney at the AOC at the time, in planning and designing the structure of CJER, building support among members of the judiciary, and writing the final proposal that was approved by the Judicial Council. The CJER Governing Committee, which became an advisory committee to the Judicial Council in 1993, was charged with

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“improving the administration of justice through comprehensive and quality education and training for judicial officers and other judicial branch personnel.”

Under Mr. Li’s leadership, CJER became a model for judicial education programs in other states and countries. Due to his expertise in the field, Mr. Li served as a judicial education consultant for several states and in more than 20 countries.

He was a founding member, in 1974, of the National Association of State Judicial Educators (NASJE), serving as a director (1974 -1976), vice-president (1976 - 1978), and president (1978 -1980). He was honored by the NASJE Board of Directors with the title of Judicial Educator Emeritus in 1993, the first so honored. In addition, he was a lecturer and principal consultant for the first (1985), second (1987), and third (1989) Conferences of Chief Justices of Asia and the Western Pacific, as well as for the first (1985), second (1986), and third (1988) Conferences of Court Administrators of Asia and the Western Pacific.

Mr. Li was a frequent speaker on judicial education, including at the International Conference of Chief Justices of Supreme Courts in 1990 and several conference programs of the National Association of State Judicial Educators and the Association of Continuing Legal Education Administrators. He also authored several articles on judicial education, including “Judges Schools in the Modern World,” published in *Judicature* in 1993.

Mr. Li was a member of the American Bar Association, the Asian-American Bar Association of the Greater Bay Area (vice-president, 1976 -1977; board of directors, 1975 -1978), the Benchbook Committee of the National Conference of State Trial Judges, the National Judicial College Board of Directors (1975 -1978), the San Francisco Criminal Justice Council (1971-1973), and the Diablo Valley Montessori School Board, Lafayette, California (president, 1969 -1972).

Before he was appointed director of CJER, Mr. Li served as the first assistant legal director (1972 -1973) and the first Asian-American staff attorney (1965 - 1972) at the AOC. He worked in private law practice in Pittsburgh, Pennsylvania (1964 - 1965), and received his LL.B. degree in 1964 from Duquesne University School of Law and his bachelor’s degree from Maryknoll College. He also attended Golden Gate University’s MBA program (1966–1967) and Maryknoll Novitiate (1960 - 1961).

Mr. Li was born in 1938 in Hong Kong. He is survived by his wife Shu-Ti, and by two daughters, Mary Theresa and Mary Pamela, and one son, Michael Edward, and by seven grandchildren.

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts carries out the official actions of the council and promotes leadership and excellence in court administration. Lynn Holton Public Information Officer Judicial Council of California - Administrative Office of the Courts 455 Golden Gate Avenue San Francisco, California 94102 415-865-7726

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Judicial Balance: Lessons for Law and Life

Visit <http://www.in.gov/judiciary/balance/4-1.html> to read the following articles.

Bedside Manner on the Bench

Mother Teresa in a black robe or Judge Judy? What is your role as a judge? Common courtesy is always de rigueur, but sometimes you need harsh words at your disposal – without fear of discipline. Please see, “Mother Teresa in A Black Robe or Pavlov? What Is Our Job As Judges?” by Jeff Tolman, Bar News, Washington State Bar Association, June 2008.

The Pressure Cooker

Pressure happens, especially in the legal profession. Dr. Wenona Barnes shares seven eye-opening mistakes we make when under pressure. Avoid them, and help yourself when you need it most. Please see, “Mistakes We Make Under Pressure,” by Dr. Wenona R. Barnes, Oklahoma Bar Journal, May 2008.

Determined to Serve

You can't hear too many inspirational juror stories, especially if you haven't seen an enthusiastic juror for months. This uplifting account is about a disabled 21-year-old and what he considers the privilege of civic duty. Please see, “One Juror's Determination to Serve,” by David Halpern, Texas Bar Journal, July 2008. courts.IN.gov/balance/stories/4-1/3.html Burnout Emotional exhaustion, depersonalization, and a reduced sense of accomplishment define burnout. If this describes you, it's time to examine your circumstances and your personality. Avoid burnout, and save your sanity. Please see, “A Lawyer's Guide To Dealing With Burnout,” by Amiram Elwork, Lawyerswithdepression.com.

Persist in Professionalism

Professionalism between judges, lawyers, and the public is critical. Richard Vangelisti focuses on steps to take when faced with others' unprofessional conduct. You can respond professionally while remaining effective, and create a relationship for better dealings in the future. Please see, “On Professionalism: Professional Strategies for Dealing With Others' Conduct,” by Richard J. Vangelisti, Oregon State Bar Bulletin, May 2008. courts.IN.gov/balance/stories/4-1/5.html As Low As It Gets You know someone – perhaps yourself – who struggles with mental illness and its devastating effects on personal and professional life. Here, one courageous man shares his journey into illness and, finally, his acceptance of treatment. No “low” is too low for help. Please see, “Lower Than A Snake's Belly,” by Anonymous, Michigan Bar Journal, May 2008.

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BALANCE

September 2008

JUDICIAL CONFERENCE OF INDIANA

Volume 4, Issue 1

As the nation enters the final moments of a Presidential campaign, we find ourselves experiencing in parallel an every-state examination of new model rules of ethics for American judges. Thus, the present debates focus both on the institutional role of courts and on the activities of the men and women who serve as adjudicators. All this is plain for pundits and participants to see.

What is not so plain is the challenge that individual judges face in organizing their lives and pursuing their careers in ways that bring good repute to their offices and themselves. This newsletter seeks to provide judges with the best modern thinking and commentary on how they might do this successfully. We hope that American judges find it useful and that judges will take the time to share their insights and ideas with our editor.

Randall T. Shepard,
Chief Justice of Indiana

Bedside Manner on the Bench

Mother Teresa in a black robe or Judge Judy? What is your role as a judge? Common courtesy is always de rigueur, but sometimes you need harsh words at your disposal – without fear of discipline. Please see, “Mother Teresa in A Black Robe or Pavlov? What Is Our Job As Judges?” by Jeff Tolman, *Bar News*, Washington State Bar Association, June 2008.

courts.IN.gov/balance/stories/4-1/1.html

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courts.IN.gov/balance/stories/4-1/2.html

Burnout

Emotional exhaustion, depersonalization, and a reduced sense of accomplishment define burnout. If this describes you, it's time to examine your circumstances and your personality. Avoid burnout, and save your sanity. Please see, “A Lawyer's Guide To Dealing With Burnout,” by Amiram Elwork, *Lawyerswithdepression.com*.

courts.IN.gov/balance/vol4/issue1/101.htm

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Professionalism between judges, lawyers, and the public is critical. Richard Vangelisti focuses on steps to take when faced with others' unprofessional conduct. You can respond professionally while remaining effective, and create a relationship for better dealings in the future. Please see, "On Professionalism: Professional Strategies for Dealing With Others' Conduct," by Richard J. Vangelisti, *Oregon State Bar Bulletin*, May 2008.

courts.IN.gov/clearinghouse/pages/4-1/6.cfm

courts.IN.gov/balance/vol4/issue1/104.htm

As Low As It Gets

You know someone – perhaps yourself – who struggles with mental illness and its devastating effects on personal and professional life. Here, one courageous man shares his journey into illness and, finally, his acceptance of treatment. No "low" is too low for help. Please see, "Lower Than A Snake's Belly," by Anonymous, *Michigan Bar Journal*, May 2008.

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Indiana Judicial Center, Indiana Judicial Conference Committee on Ethics and Professionalism.

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News New Resource on Continuity of Operations for Courts

Last year, the National Center for State Courts announced a new Web site and Guide for Continuity of Operations (COOP) planning for courts. The website has been updated with a new online course that augments and reinforces the information provided in the COOP Planning Guide.

The course includes an introduction, twelve modules related to different components of COOP planning, an evaluation, and a bibliography. Each of the modules includes resource materials and a video presentation by an expert in the area (many of whom became experts after facing an emergency themselves).

The course is accessible at [the NCSC website](#). NCSC also plans to provide the Guide and video presentations in a DVD format for easier use during presentations and educational sessions. If you are interested in obtaining a copy of the DVD, please contact [Pam Casey](#).

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Quarterly News for the Judicial Branch

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SJI News

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connecting the judicial educators

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Transitions

Please join us in welcoming the following new NASJE members:

- **Ms. Ann K. Bader**, Deputy Director, New York State Unified Court Program, Division of Grants & Program Development, New York, NY
- **Mr. Keith Camp**, Director, Education and Planning Division, Administrative Office of the Courts, Montgomery, AL
- **Ms. Sarah Fox**, CIP Training Specialist, New Hampshire Judicial Branch, Court Improvement Project, Concord, NH
- **Ms. Kristen H. Mahlin**, Education Specialist, Colorado Judicial Department, State Court Administrator's Office, Denver, CO
- **Ms. Mary Aguirre Shahin**, Director of Education, Utah Judicial Institute, Administrative Office of the Courts, Salt Lake City, UT
- **Mr. Kenneth J. Withers**, Director, Judicial Education and Content, The Second Conference, Phoenix, AZ
- **Hon. Alice Yorke Soo Hon**, Judge, Judiciary of Trinidad and Tobago, Port of Spain, Trinidad

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From the President

by *Claudia J. Fernandes*



Claudia Fernandes

Dear NASJE Colleagues –

I would like to thank all of you who made the 2008 annual conference in Philadelphia, Pennsylvania a great success. As an association of volunteers, we rely on our members to plan and implement most of our activities, and there is a long list of people to thank for the annual conference.

Marty Sullivan, the chair of the education committee and Stephen Feiler, the director of Pennsylvania's education office top the list. They were both ever-present along with their colleagues and staff taking care of every detail. Kudos, to all the NASJE education committee members, the faculty, and the staff of Pennsylvania's education office who made this all

possible. We thank everyone for the exceptionally wonderful program that we all experienced in Philadelphia. The history of our country matched with the history of our organization made the program that much more meaningful. The annual banquet at the Constitution Center was a huge success and we had a wonderful time at the President's Reception listening to a great band and experiencing fabulous food. The Education Committee, spent many hours planning the education sessions in an attempt to meet all of the needs of our diverse audience. The Education Committee received invaluable help from the Diversity Committee and others in planning education sessions. In addition, Christy Tull, President-Elect, headed planning for the Sunday Fundamentals session, which was well attended.

I would also like to highlight the efforts of the Fundraising Committee. The registration fees for our annual conference do not cover all of the costs of the conference and the Fundraising Committee and others did an excellent job of securing sponsors and vendors, thereby enabling us to keep our registration fee affordable.

NASJE's committees are the back-bone of our organization, and there is still time to join committees for 2008-2009. Please contact me at Claudia.fernandes@jud.ca.gov if you have any questions or would like to join a committee. The **list of committee members** on the website will be updated soon and although many of you have offered to serve, I hope to hear from more of you in the next few weeks as we finalize the rosters. We would like additional members for the NASJE newsletter, the futures committee, the nominating committee and the website and technology committees. Please consider becoming a member of one of these committees this year.

The Board of Directors of NASJE has decided that this coming year we will focus on securing the foundational funding for our organization to ensure continuing education and support of our current members in the judicial education community. We want to give back to our members and we encourage you to send us any ideas about how NASJE can support you in your job. I would like to hear from you.

I am honored to serve as the president of NASJE and I encourage you to contact me with any questions, comments, or suggestions throughout the coming year. Education is a journey not just a destination.

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Picture this: Strategies for communicating data to decision makers

by Carol L. Weaver and Diane Converse

INTRODUCTION

The judicial branch, including judicial education, is heavily dependent upon both the availability of reliable data and the capacity of key decision makers to make sound decisions using that data. As a judicial educator, you probably work with multiple groups of stakeholders to make important decisions related to judicial education programs and services. Have you recently asked a group of stakeholders to make decisions about program offerings based on enrollments? Or, have you developed cost-comparisons of alternative program delivery strategies for others to consider? Developed a budget or grant proposal? These data-driven decision processes, and many others, can benefit from careful consideration about how data are prepared, presented and distributed to decision makers. These efforts will increase the likelihood that data are used to make key decisions. This article describes three key strategies for communicating quantitative information to groups and provides concrete suggestions for improving decision makers' perceived value of the data and their ability to use it. Consider the following examples of quantitative data you might prepare for stakeholder consideration:

- Annual reports
- Budget requests
- Program evaluations
- Demographic data
- Feasibility studies
- Trend analysis
- Cost-benefit analysis
- Per capita cost estimates
- Long- and short-range plans
- Equipment purchase
- Program participation profiles

DATA AND DECISION MAKING

Our experience has been that many decision makers tend to distrust quantitative data and may look only at the "bottom line" before making a decision. We are also aware that these decision makers are overwhelmed with information of all types, a negative side effect of living in the information age. Additionally, stakeholders are asked to consider widely divergent kinds of data as they make decisions related to judicial education. We know that some stakeholders have both familiarity with and expertise in using the data presented. But not all stakeholders are similarly skilled. Even stakeholders who regularly utilize quantitative data to make decisions may find it difficult to make meaning of data that are unique to the planning, conduct and evaluation of judicial education.

Individual differences, such as learning style and communication style, may also influence how stakeholders process data. Some may prefer the detail found in tables, while others may prefer trends or other "big picture" information found in charts and graphs. Some may prefer a verbal explanation rather than a written description. Others may want to view the data in multiple formats. Lohr (2003) stated that success in today's world "requires skill in presenting and communicating, verbally and visually, since visuals can condense vast amounts of information into formats that are easy to understand" (p. 7). Judicial educators must consider how to effectively organize, distribute and present data to their target audience if both careful and honest decisions are to be made by stakeholders.

VISUALS AND GROUP DECISION MAKING

Group decision making, whether in an educational advisory board or a legislative committee, is a process designed to provide the most effective possible governance for the organization. Quantitative information is routinely collected, analyzed, formatted, distributed, presented, and discussed by a variety of individuals with a variety of roles and

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experience levels. But what actions can we take to improve the quantitative data that are provided to these groups of decision makers? These three factors were found by Converse (2008) to influence the effectiveness of the decision making process:

Information Integrity - Quality and relevance of data; graphic integrity of the visual; expertise of those who prepare data; and credibility of presenters

Information Layering - Use of combined formats, combined distribution techniques, combined presentation techniques, and providing "layers" of information from big picture to supporting detail

Information Processing – Use of advanced distribution, presentation format that accommodates individual style, and group discussion to surface assumptions and develop meaning

Information Integrity

As noted above, information integrity is influenced by how accurately the data are presented, how the data are prepared for review, and the credibility of the presenters. Results from Converse's (2008) study suggested that the integrity of the information comes from four areas: the data itself, how the selection and analysis of the data occurs, how the data are formatted visually (the graphic integrity), and how the visuals are presented.

An essential element of information integrity is the source of the data (Kensicki, 2002).

As judicial educators, we must cultivate the practice of using data that derives from reliable sources. This may require us to use better research strategies to gather reliable data or it may simply require us to carefully choose where we get the data we use. Kensicki's work suggests that the audience's perceptions of the credibility of the data source are critical to information integrity (2002). Group members are reassured when reviewing summary data if they know the source of the data and consider that source to be credible (Converse, 2008).

While none of us would intentionally misrepresent data, data can be misleading if particular attention is not paid to how the data are selected, formatted and presented. Do the scales used in a bar graph provide an accurate depiction of the range of data, or do the scales truncate the range at either the top or bottom? Are all data accounted for in a table or has only selected data been included? Are the statistics that are computed to provide summaries of the data appropriate for the kind and amount of data?

Visuals can be carefully constructed and presented to take advantage of what research has shown to work most effectively such as matching format to communication goal (e.g. showing trends with graphs), using multiple formats to communicate the same data, using scales appropriately, reducing working memory demands by using effective labeling and design elements such as line and color, and consistency between visuals and supporting text. Care must be taken to match the graphic to the overall communication purpose and to use the appropriate design elements, taking into account the variety of individual interpretations of visual elements. Repetition and context are important.

Information Layering

Information layering includes three strategies: using combined formats in displaying quantitative information, combining distribution and presentation techniques, and providing the information in different density layers from the "big picture" to the detail (Converse, 2008). These layering ideas support and take advantage of the diversity of styles, experience, and interests of group members. Using multiple formats to communicate the same data are especially helpful when data are complex (Shah and Hoeffner, 2002).

Figure 1 provides an example of information layering. It shows financial information in tabular and graphic form plus annotation within the same visual. This visual could be supported with narrative text when distributed and additional verbal explanation when shared with stakeholders.

Combining distribution techniques was also found by Converse (2008) to increase stakeholder access to data based on personal format preference and individual variation in desired processing time. For example, can you distribute data in advance of a meeting using e-mail and also make hard copies available? Additional access might be provided by posting the data on an intranet website.

Finally, information layering can be achieved by combining "big picture" items such as graphs and charts with supportive details in tables or supporting narratives. This strategy also supports information integrity in that summary data are supported with details that can be used to verify the accuracy of the summary. We know people process information very differently. Some want the big picture first to provide a frame of reference for the details and have a hard time coping with details until that frame is in place. Other people want the details first, which they use to incrementally build a larger frame of reference. By presenting quantitative data in multiple formats, we give members of our target audience a choice and enable them to access data in their preferred manner.

Expenditures – Budget to Actual 2005 to 2007

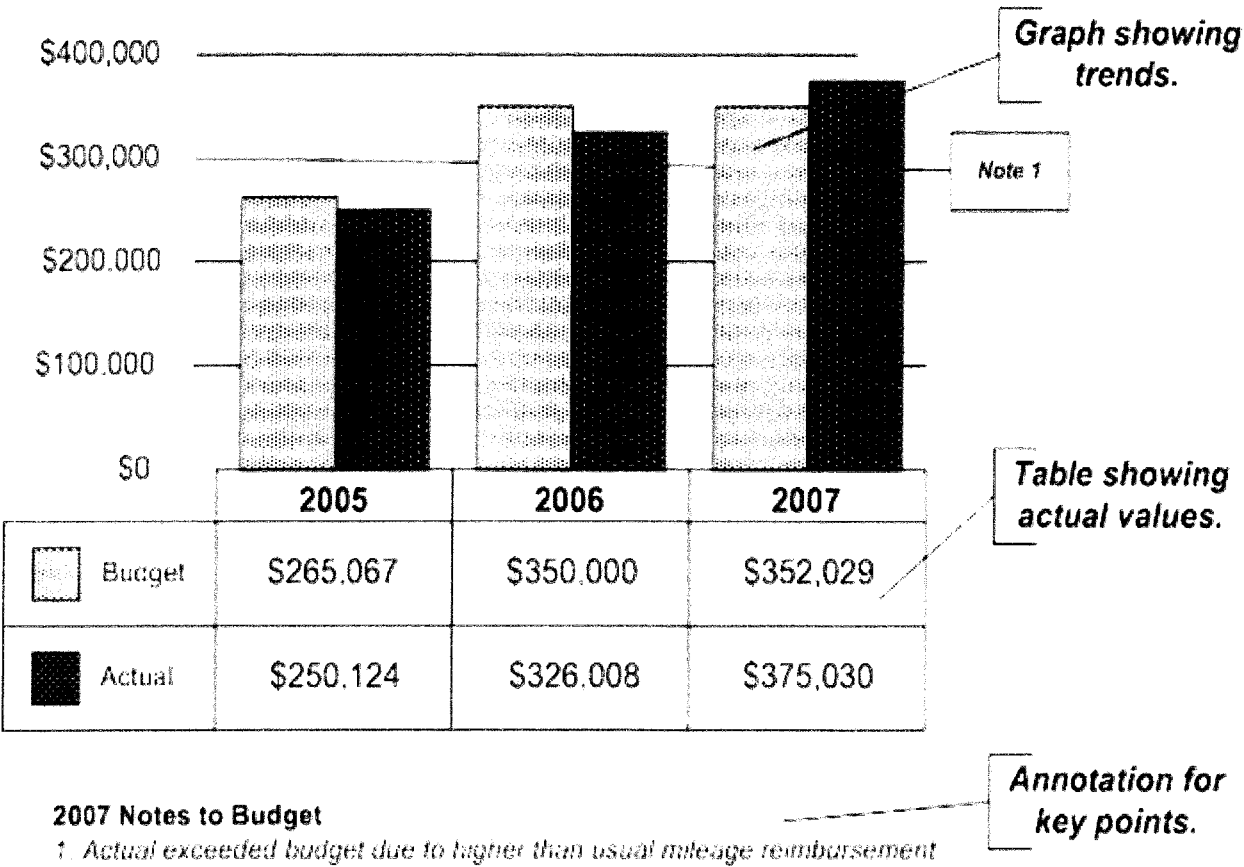


Figure 1: Example of Layered Quantitative Data

Information Processing

The goal of providing stakeholders with data is to enable the group to make decisions that benefit the organization. These decisions are dependent upon the capacity of the group to process the information they receive (Yukl, 2002). While both information integrity and information layering contribute to information processing, we must also strategically plan how the data we prepare and distribute will be processed by the group.

Within the group, information processing takes place on two levels. First, the questioning and sharing of ideas among group members must occur. In addition, individuals must take in new information along with others' ideas and connect both to their own ideas and experiences. Information feeds the knowledge we use as a basis for our decisions and actions. Visuals can stimulate information processing in addition to providing effective information. Visuals that support psychological learning processes accomplish several tasks. Visuals focus attention on what's important, awaken prior knowledge in memory, avoid overloading working memory, build mental models in long-term memory, transfer new knowledge and skills to the job, and provide motivation to continue learning (Clark & Lyons, 2004). Accommodating individual differences such as learning style, cultural background, and level of prior knowledge is also a consideration in using visuals in group communications. The commonly used tabular presentation of financial information can be very dense and confusing to those with little quantitative experience or involvement in its preparation.

We must allow a group of decision makers both opportunity and time to hear others' ideas and reflect on their own perspectives. We may need to create a structure for this to happen through multiple mechanisms. While face-to-face meetings are infinitely valuable for discussion, some group members may also find value in conference calls, webcasts, threaded discussions, FAQ websites, or WIKI's. It is critical that all members have equal access to all discussion forums in order to preserve integrity of the process.

Skilled facilitation of the process is also critical. It is important to verbally survey the impressions of the group and discuss how different people interpret the information (Converse, 2008). Providing equal time for differing perspectives is also essential. Finally, the skilled facilitator must craft a strategy for transitioning from discussion to decision making

that does not short-cut the information processing phase.

RECOMMENDATIONS FOR PRACTICE

Based on our experience and a review of the literature and recent research, including the study highlighted in this article, we have created this list of concrete ideas that can help judicial educators more effectively prepare, distribute, and present quantitative data provided to stakeholders for use in decision making processes.

Preparation

- Information in graphic forms appropriate to the content.
- Scales are accurate; no portion of the visual is misleading.
- Design does not overpower content with unnecessary visual elements.
- Supporting detail includes all relevant reliability and validity information.
- Combination of formats used.
- Annotation and supporting narrative adjacent to charts, graphs, and tables.
- Abbreviations, acronyms, codes explained.
- Information prepared with different learning styles in mind.
- Information prepared with different experience levels in mind.

Distribution

- Group members have equal access to the information.
- Multiple distribution methods used.
- Accessibility enhanced by using a web-based information sharing program for large or dispersed groups.
- Information sent out in advance to allow additional individual processing time.

Presentation

- Credibility of speaker established; connection with material clear.
- Source of the data re-stated.
- Multiple presentation methods used.
- Information presented in layers to include the big picture as well as selected detail.
- New content connected to existing information or processes.
- Visuals connect to larger purpose, mission, or other relevant context.

Discussion

- Back up detail or content experts ready to respond to questions during discussion.
- Discussion focused by re-stating the decision to be made and the purpose of the visuals provided.
- Group discussion time included to take advantage of diversity of experience in the group.
- Adequate mechanism in place for group members to ask questions.

Converse (2008)

CONCLUSION

The accessibility of quantitative data can be enhanced by maximizing the information integrity, layering the information, and providing adequate processing time. Judicial educators have an opportunity to significantly impact the effectiveness of data-driven decision making by adding these strategies to their toolbox. As judicial education competes for limited resources and seeks to expand the quality of its programs and services, an investment in how data are prepared, distributed and processed may yield a high return.

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Resources

Does Transformational Learning have a place in judicial education?

by *Patricia A. Lawler, Ed.D., Widener University*

Professional developers are constantly seeking effective and efficient strategies to enhance learning. This is especially true for judicial educators from across the US as I found out in August at the NASJE Annual Meeting in Philadelphia. Called upon to present a session on recent perspectives on Transformative Learning and its place in professional development, I outlined recent writings on theory and practical strategies and engaged the session participants in discussing applications to their practice. This article provides the opportunity to share the highlights of this session as well my observations.

Charged with facilitating the development of educational opportunities for judges, NASJE educators go beyond content programs featuring changes in substantive and procedural law. Additional programs focus on professional and personal skill development. In both areas, the Principles and Standards of Judicial Branch Education (Principles and Standards) sets the criteria of practice and a guide for educators. Since an important tenet is "Judicial branch personnel should regularly participate throughout their careers in comprehensive JBE activities that enhance their professional and personal development" (Principle III) then Transformative Learning certainly should be used for facilitating change through learning.

What do we mean when we talk about Transformative Learning? Reviewing both the seminal works and recent research, I see us talking about learning that goes beyond content and skill learning to a critical examination of our practice leading to alternative ways of understanding what we do. Remember that adults have a wealth of experience, both positive and negative, that they bring to their educational experiences. And it is important to point out that adult learners are unique in their capacity for critical reflection, the opportunity to not only just think about the world around them, but to assess their understanding of it and ask if their assumptions hold true for their present situation. This questioning of assumptions and examining underlying beliefs helps us make sense of our experiences. For example,

I was sitting in one of the first class meetings at the beginning of my doctoral work in adult education at Columbia University. Dr. Jack Mezirow was leading a discussion in which he forcefully directed questions about teaching and learning. He was pushing us to consider our own learning in unfamiliar ways. Regular answers weren't acceptable. I was initially confused, having assumed that since this was a program for adults about adult learning there would be more understanding and a humanistic approach. I also assumed that my degree would involve learning new techniques and scholarly research. Thinking about this opening session on my way back to Philadelphia, I suddenly realized that our main focus would not be on content, but on how we critically reflected on content and our practice, experiences, and assumptions about education. I soon found myself immersed in a series of disorienting dilemmas about who I was as an adult educator and a learner! In the following years, as I read Mezirow's ground breaking work on transformative learning I grew my own philosophy and practice around the core concepts, always eager to share them with others. In a similar way we see a legal education using the Socratic method to teach students to think like a lawyer providing a new perspective to guide students in their professional practice. Transformative learning goes a step further, with the process of critical reflection on current professional practice methods and assumptions.

As educators, why should we be interested in Transformative Learning? Why is this important to the practice of judicial education? First, let's consider the educator, whether it is the judicial educator developing a program and training the

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presenters, or the faculty judges. There are several questions we can ask: What are we trying to accomplish? How do we facilitate change? What experiences do we and our learners bring to the educational event? How do we learn? What impact will our learning have on our professional practice? These questions begin the transformative process by encouraging us to think beyond the content and the logistics and focus on the learner and learning outcomes. I strongly believe we cannot facilitate Transformative Learning without experiencing it ourselves and applying it to our own practice. This is not an easy thing to do, as we saw above in my example. Our own Transformative Learning broadens our understanding of how professionals acquire knowledge, how they make use of their experiences and how they learn through their practice. This is critical if the criteria in the Principles and Standards are going to be met. This new level of learning helps us to understand how a professional learns at a professional development event, as well as informally in the workplace. With this perspective we can incorporate new views of the learner and the learning process in the planning and delivery of judicial education.

What are some of the basic tenets of Transformative Learning? We place experience and its role in adult learning, at the forefront. Not only do we acknowledge this experience, we seek to have our learners understand their experiences in the context of the education process. This understanding is enhanced by the adult learner's capacity for critical reflection, where assumptions about experiences and learning are questioned. This questioning may lead to a disorienting dilemma where belief systems and frames of reference are shaken. Going beyond this reflection learners and educators need to engage in reflective discourse. Such a discourse would include authentic discussions with an open dialog that avoids our biases and personal concerns. Finally, to complete the process, the learner needs to take action as an outcome of the process. This action may be a change of perspective, a new way of dealing with an issue or problem, a strategic shift in the ways we act and accomplish our goals, or a move to reevaluate more of our assumptions.

This process does not happen in a vacuum. Our cultural context, as well as our own history and cognitive development, may influence our ability to experience and share the nature of this learning. While we all experience life course changes, disorienting dilemmas, reflection and action go beyond regular life events. As a highly social process, relationships and personal interactions play an important role. These influences are also a part of the process of our Transformative Learning and may be the exact things we question and reflect upon.

What does this mean for Judicial Education? During the session at the annual meeting we discussed the need to understand how professionals acquire knowledge, how they make use of their experience and how they learn through their practice. Using Transformative Learning as a lens we as educators can come to this understanding and incorporate new views of our learners in our program and curricular planning. This new view may include many of the concepts about learning and educating that we are already using and several new ones. In either case, we want to think differently about these concepts. Concepts to keep in mind when the goal is Transformative Learning are

- Group/team learning
- Experience
- Dialog
- Critical reflection
- Collaboration
- Linking new knowledge with previous experiences, contexts, and practice
- Application to future experiences
- Action learning

Moving away from some of our traditional educational practices, we would offer opportunities that include group discussions and tasks and we ask our learners to bring their past experiences to the discussion. During these discussions we encourage through various strategies reflection and collaboration as learners begin to link new knowledge with previous experiences, contexts and practice. The next step is to consider how to apply this learning and reflection to new experiences, to future professional situations. Action learning occurs when the learner takes on a new perspective, acts on new knowledge, and again reflects on this process. Keeping these in mind as we consider

our learners, along with the content and the context, we have a foundation for selecting the strategies which facilitate Transformative Learning. The research supports the use of the following strategies in creating an educational experience that promotes Transformative Learning:

- Action plans
- Reflective activities
- Case studies
- Critical theory discussions
- Concept maps
- Critical incidents
- Professional learning communities.

As we ended the session, the participants sought practical application of the above strategies within their own settings. In exploring these strategies for use, we need to be aware of our own learning, and how we are comfortable with the Transformative Learning process. There are helpful practical applications and scholarly research to support judicial educators as they work through their own reflection and application toward facilitating change through learning.

This article and NASJE presentation are based on writings of P. Cranton (2006), K. King (2005, 2004), J. Mezirow (2000), E. Taylor (2007, 2006), as well as my own writings and experiences as an adult educator and adult learner. For more detailed information on strategies and a bibliography on Transformative Learning contact the author at palawler@widener.edu or click here: [DOC](#). For the PowerPoint used during the presentation at the NASJE conference, click here: [PPT](#).

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Evaluating Judicial Education and Judicial Education Organizations: A Practical Guide for Measuring Courts' Performance

by *Thomas Nelson Langhorne, Esquire*

I. Introduction and Terminology

Judicial organizations face increasing pressures to objectively demonstrate programmatic effectiveness and efficiencies. As a consequence, courts must prove that resources devoted to judicial branch education actually yield demonstrable, desirable outcomes. With increasing incidence, courts' inability to do so subjects courts' policy makers and judicial educators to critical public scrutiny and terminated funding.

This paper describes practical and affordable methods by which courts can determine what programs should be evaluated and how to evaluate them. The footnotes contained herein were carefully selected to maximize readers' ability to practically apply principles and methods discussed.

We specifically examine evaluation models and methodologies applicable to judicial training contexts. This paper develops court administrators' and judicial educators' organizational capacity to conduct reasonably priced judicial training program evaluations, thereby reducing their dependence upon expensive, external program evaluation experts.

At the outset, several terms used in this paper will be defined. This is necessary because professionals use various evaluation terms in inconsistent fashions, thereby causing confusion to even the most experienced audience. Accordingly, for the sake of internal consistency, let us agree to several important terms' definitions as used in this paper.

First, for our present purposes, "program evaluation" means the systematic assessment of a training program's results, and within reasonable means, the extent to which the training program caused those results (note 1). When program evaluators speak of assessing a program's results, they typically focus on the qualitative or quantitative measurement of program outcomes or impacts resulting from the program's delivery.

"Outputs" are generally the products produced by the program activity. Examples of "outputs" include the number of judges trained in a fiscal year, the number of courses offered during the year, and/or the number of educational textbooks or materials produced or distributed to judges. "Outputs" are of secondary importance when compared to "outcomes." (note 2)

"Outcomes," on the other hand, are the changes in behavior, attitudes or skills that benefit the students as a result of their training. Perhaps even more importantly, outcomes benefit the ultimate consumers/beneficiaries of the training. Examples of "outcomes" might include

Court clerks processing intake cases faster after taking a "docket management" course.

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Judges more clearly explaining their technical decisions to lay citizens after enrolling in a “Courtroom Communications and Demeanor” course.

Judges beginning to treat litigants with more respect after taking a “valuing cultural diversity” course. Judges treating litigants with greater courtesy and respect would be an outcome in and of itself. If post-training exit surveys of litigants indicate litigants’ have improved public confidence in the courts because they were treated with greater dignity and respect, however, this too would be an “outcome” (an arguably higher level, greater outcome). In fact, this example illustrates how some short-term outcome can lead to longer-term, macro outcomes.

Recalling our previous definition of “outputs” (e.g., number of judges enrolled in a class, volume of educational materials distributed, etc.), we generally hope that outputs will result in outcomes.

For purpose of clarity, it should be noted that typical course evaluations (those surveys typically administered to students to measure their satisfaction with their learning experience) rarely measure true outcomes. This is because course evaluations typically do not attempt to measure whether the student’s attitudes, behaviors or skills were actually changed or improved. Nor do students’ course evaluations measure whether the course tangibly benefited the student or the larger ultimate audience. This distinction will be explored in more detail in following sections.

“Impact” evaluations differ from “outcome” evaluations in an important way. True program “impact” evaluations use scientifically sophisticated methods to answer the following single question: Did the training event, and only the training event (to the exclusion of all other possible events and intervening variables) cause the outcomes to occur? This methodological distinction between “outcomes” and “impacts” illustrates why, as a general rule, conducting impact evaluations are very expensive propositions. Accordingly, very few corporations and even fewer public sector organizations attempt to engage in true impact evaluations (note 3). This paper will not devote attention to impact evaluations, given the magnitude of resources required to execute them, coupled with their reliance on highly sophisticated scientific methodologies. Unlike “impacts,” determining program “outcomes” does not present the highest degree of empirical confidence that your program, to the exclusion of all other possible intervening events or variables, caused a particular “outcome.” Nevertheless, determining program “outcomes” provides meaningful measures of a program’s progress (or lack thereof) at a reasonable cost, with manageable effort to court organizations. Harry Hatry once proclaimed that

“Trade-offs are typically required as policy makers and managers try to obtain valid, timely, but not overly expensive evaluation information. ‘It is better to be roughly right than to be precisely ignorant.’ Program evaluation is an increasingly sophisticated field, but sometimes attempts to increase rigor have discouraged smaller scale and less expensive efforts to evaluate programs, leading to major gaps in the information available to both the public and those responsible for the service programs.” (note 4)

The term “outcome indicator” also has important utility to program evaluators. “Outcome indicators” are not “outcomes.” These indicators are measures that help you monitor your judicial education program’s progress towards meeting your program’s stated goal(s). Outcome indicators are your selected pieces of information, however defined, that allow you to measure observable programmatic changes or improvements. For example, let us assume you are delivering a judicial training course that instructs judges how to expedite case resolutions and/or reduce docket backlogs. After teaching that class, one outcome indicator you might monitor would be the court’s average number of days from initial case filings to final case disposition. If the average number of days until final case disposition drops from 300 days (the pre-training event average) to 225 days (the post-training event average), you would consider the result a positive “outcome indicator.” (note 5)

The foregoing discussion will become more vivid and applicable in the following sections. Having defined some terms used in this paper, we can now turn our attention to making a compelling case for conducting court program evaluations.

I. Why Should Courts Conduct Program Evaluations?

This section examines some of the more salient reasons why courts need to routinely integrate program evaluation methods into their judicial education structures.

Ongoing Program Evaluations Provide Feedback Regarding Court Program Performance

From a program management perspective, courts that conduct ongoing, continual program evaluations (as measured by outcomes and outcome indicators) are better situated to make interim programmatic adjustments and corrections. Just as computerized medical monitors give critical feedback to doctors regarding patients' progress and daily status, courts' program evaluations may indicate interim program corrections to improve performance and better ensure programs' vitality and viability.

Often, ongoing program evaluations during the life of a project provide performance-warning signals, much like regular physical exams detect high blood pressure. Without valuable performance feedback, programs, like humans, can blithely maintain deleterious or unproductive practices without taking necessary corrective remedies (note 6). Simply put, ongoing program evaluations allow courts to modify, correct and improve program performance. A related benefit to initiating or designing outcome evaluations during the program's infancy is that it forces courts to identify key external and internal program stakeholders. Ultimately, during the life of the court program, it is the program's stakeholders who often influence the program's success or failure.

Program Evaluations Allow Courts to Cope with the "Scarcity Reality"

Both emerging and long-established democratic courts must compete for scarce public funds. Courts that can objectively demonstrate positive outcomes result from their programmatic efforts enjoy a competitive advantage when standing in line at the public sector appropriations' trough.

With sound outcome evaluations in hand, courts can more effectively communicate with and persuade policy makers who make difficult decisions between appropriation priorities. Without program outcome evaluations, courts are more vulnerable to the changing political winds that prevail during public budget cycles. Relatedly, courts that establish a reliable history of providing policy makers with outcome evaluations are better situated to justify future budget requests for new program initiatives.

Similarly, on a worldwide basis, virtually every democratic court is confronted with growing mandates for demonstrated accountability- both in terms of expenditure efficiently and producing demonstrable results. In this regard, the "scarcity reality" situation for newly emerging, USAID-funded democratic court programs is somewhat different from the "scarcity realities" long-established democratic courts routinely face. Because the roles that program evaluations play in these two types of democratic court milieus vary, they need to be separately examined.

"Transitional" democracies (note 7) often receive enormous funding support from many international sources. Rule of law initiatives in these countries provide prime examples of court-related projects which face constant results-based scrutiny. These countries' court-related programs must demonstrate their accountability to demanding stakeholders and international sponsors. For example, virtually every transitional democracy's USAID rule of law program must conduct, and satisfactorily pass muster, various externally imposed program evaluations. For this reason alone, transitional democracies' court institutions must learn how to conduct program evaluations, or at a minimum, learn how to critically analyze programmatic evaluations' methodologies and findings.

Moreover, a cornerstone of rule of law programs is to build the host country's capacity to continue their democratic reforms without excessive reliance upon future foreign aid or foreign experts. Consequently, transitional democracies inherently possess a justifiable parochial interest in demonstrating their internal capacities for institutionalizing stable rule of law notions. Their natural desire to prove their capacities in this regard can best be persuasively demonstrated via executing program evaluations. Therefore, whether transitional democracies are answering to external stakeholders'/benefactors' demands for accountability or, alternatively, demonstrating their internal capacity to institutionalize democratic reforms, effectively conducting program outcome evaluations becomes an extremely valuable asset.

Long-established democracies and their judicial institutions face equally challenging, albeit different, "scarcity

realities". For example, years before the September 11, 2001 terrorists attack on the United States, spiraling and endemic state budget crises compelled state legislatures to decimate state judiciaries' operating funds. Many state and federal courts faced unprecedented competition for diminishing public resources. Indeed, this keen competition for diminishing public resources is not exclusive to American courts. Well-established foreign courts are facing similar fiscal pressures. Slowly, a growing number of state courts are embracing program evaluation methods to demonstrate their programs' value-added contributions to society and stabilize their programs' funding.

The "Consumer Movement" Demands That Courts Produce Results

Converging simultaneously with the worldwide "scarcity reality" phenomena is the public sector's trend towards borrowing "outcome evaluation" practices from the private sector. The private sector has long practiced the art and science of program outcome evaluations in order to remain competitive and to satisfy consumer demands. The growing "consumer movement" has recently come to increase citizens' scrutiny of public programs as well (note 8). Essentially, the public has become a more "sophisticated" and demanding consumer of public programs and services. Courts are not exempt from "consumer" expectations. Concomitantly, the "consumer movement" has elevated citizens' general expectations regarding the quality of justice delivered, court services provided and return on tax dollar investments in court programs (note 9).

Used appropriately, courts can use program outcome evaluations to become more responsive to citizens' expectations of and demands for efficient administration of justice and court-sponsored programs. This is especially true when courts properly identify and include key citizen groups ("consumers") in the program evaluation process. Equally important from a political perspective, including key citizen stakeholder groups in the evaluation process also forges public support for court programs. Virtually all of us involved in the court system have occasionally misjudged citizens' expectations regarding court programs and the manner in which court programs are operated. Conducting ongoing program evaluations helps courts align program outputs and outcomes with public expectations.

III. Basic Evaluation Models and Evaluation Concepts for Courts

Before one can effectively apply the outcome evaluation methods and principles detailed in sections IV and V, below, it is helpful to first appreciate the general theory upon which most program evaluation models operate (this is equally true for judicial training program evaluations). This section provides a basic foundation towards understanding shared principles of most program evaluation models.

There are many training evaluation models prevailing in the education and training domain. The shared overarching goals of virtually every training evaluation model are:

- Measure students' satisfaction with their learning experience, class materials, instruction and/or, learning environment. This is often referred to as "process" evaluation. Process evaluations are generally empirically unsophisticated and are primarily used to modify subsequent trainings or curricula.
- Measure whether learning actually occurred during the learning event (regardless of whether or not the students changed their behaviors or applied what was learned).
- Measure whether students' behaviors, attitudes were changed or learned skills were applied in the workplace after attending the learning event, and,
- If learning occurred and if behaviors, attitudes or skills were subsequently applied in the workplace, measure how the organization was impacted, improved or changed as a result of the training (note 10).

In the judicial branch education field, perhaps the most prevalent evaluation model used is the Kirkpatrick Four Level Evaluation model (note 11). For this paper's purpose, the Kirkpatrick model provides a most appropriate and practical framework.

Kirkpatrick characterizes the first evaluation level (and lowest level from an empirical, scientific perspective) as "reaction evaluation". Similar to "process evaluation", reaction evaluation measures students' satisfaction with

(students' reaction to) the learning event (note 12). This paper will not address "reaction" (process) evaluation methods (note 13). Rather, this paper is devoted to a second general type of training program evaluation, that which is called "outcome" evaluation. Levels two, three and four of Kirkpatrick's evaluation model generally fall within the "outcome evaluation" category.

Kirkpatrick's termed the second level of evaluation as "learning evaluation". This level reflects an incrementally improved evaluation measurement from "reaction level" evaluation because it aims at determining whether learning actually took place in the classroom. Stating the obvious, all judicial branch educators know that high student satisfaction with /reaction to a training event does not necessarily predict whether actual learning occurred. The most elementary example of "learning evaluation" is that of post-training event testing of students to measure the learning event's efficacy and students' retention of the course's learning objectives (note 14).

Kirkpatrick's level three evaluation focuses on students' post-training event's behavior. This level of evaluation is not so much concerned with whether learning occurred, but rather, did the student's behavior change as a result of what was learned. Consequently, level three evaluation methods are often employed in the workplace (e.g., courtroom, clerk's office, public waiting rooms, etc.) in order to evaluate whether the learned attitudes, behaviors and/or skills are being applied in the workplace environment. Learning which changes behaviors is more likely to produce measurable outcomes.

At the summit of Kirkpatrick's four-leveled evaluations, in terms of empirical sophistication, scientific reliability and design costs, is what he terms "results" evaluation. In essence, "results" evaluations attempt to answer the following evaluative question: Assuming we know that our students actually learned from and applied new behaviors in the workplace as a result of the learning event, how did those changed behaviors and improved applied workplace skills improve (impact) the court? Are judges' decision-making skills improved? Are culturally diverse litigants being treated with greater respect by court personnel? Can physically challenged citizens gain better access court facilities? Has public confidence in the judiciary improved?

Complicating this inquiry is that two requisite criteria comprising true "results" (impact) evaluations make this level of evaluation impractical for most courts. First, true "results" evaluations are capable of confirming the training event was the sole and exclusive causative factor (or variable) resulting in the positive impacts. This obviously requires the "results" level evaluator to exclude all potential extraneous intervening factors (all factors or events other than the training event) as contributing factors causing the improved court performance. The resource and expertise commitments necessary to satisfy this first criterion are prohibitive for virtually all courts.

Secondly, most true "results" evaluations also contain a return on investment (ROI) criterion. The benefits-to-costs ratio accurately calculates the courts' expended costs to actual benefits returned as a result of the training event. Conducting "ROI" evaluations can be a daunting challenge for the even the most experienced researcher or professional evaluator. It is even more difficult for courts to do so, given the amorphous nature of the commodity courts dispense- "justice."

The forgoing discussion of Kirkpatrick's four level evaluation model justifies the following conclusion: The majority of courts should focus their "outcome" evaluations to levels two and three evaluation efforts. Court program and court training evaluations must be contemplated within "real world" pragmatic constraints. When choosing an evaluation method or design, one overarching question should always be asked: How much evaluative information is enough given the costs associated with conducting various types of program evaluations? The answer to this question will vary among courts' policy makers and will often vary depending on the stakes at hand. The positive news is this: courts can conduct useful outcome evaluations that are affordable and that simultaneously provide useful programmatic feedback. Evaluation levels two and three on the Kirkpatrick scale can be conducted by courts for reasonable costs and devoted resources. First, however, we must address the necessary question of what should courts measure?

IV. What Programs Should Courts Evaluate?

Deciding what programs a court should evaluate is a thresh-hold, fundamental question fraught with complex, fleeting considerations. On rare occasions, the decision will be an easy one, e.g., when the decision is externally mandated or when political realities make the choice self-evident. Moreover, few courts can expend the resources necessary to evaluate more than a few programs within a given fiscal year. Accordingly, choosing which program(s) to evaluate has enormous consequences for courts. The following suggests a sound, practical, concrete process for answering this cardinal inquiry.

How should courts go about deciding which programs to evaluate? One way we can answer this “what” question is to first ask why would any court, citizen’s group or interested stakeholder want to conduct a court program evaluation? The answer may be much more practical and straightforward than one might initially believe.

Measuring how a court is performing should serve as the ultimate justification and motivation for conducting program evaluations. If we maintain that concept of court performance as our guiding principle, we can more easily set about determining which programs we should evaluate. Stated otherwise, resource realities compel us to identify programs that, if evaluated, can yield significant information regarding the court’s performance. Having suggested this pragmatic approach to determining which programs to evaluate, how do we then proceed in defining and selecting our court performance criteria? Fortunately, excellent work in defining trial court and appellate court performance criteria has been done for us.

Recall our definition of terms in Section One. Specifically recall our discussion and definition of “outcome indicators”. We said that outcome indicators are “...measures that help you monitor your judicial education program’s progress towards meeting your program’s stated goal(s). Outcome indicators are your selected pieces of information, however defined, that allow you to measure observable programmatic changes or improvements.”

Various industries and professions have developed their own, unique indicators by which they measure organizational performance. Likewise, in the mid-1990’s, the National Center for State Courts Institute for Court Management devised five basic court performance standards. Each of the five standards can be separately measured by approximately twenty performance measurements. What is now commonly referred to as the Trial Court Performance Standards (TCPS), these five performance standards and accompanying measures constitute the seminal guide in evaluating how American state trial courts are performing (note 15).

While the architects of TCPS readily acknowledge that no single set of standards and measures should be blindly applied by all courts in all circumstances, TCPS prevail as the “gold standard” by which American trial courts and court administrators can gauge courts’ performance. Currently, TCPS and their measures are also routinely applied in foreign rule of law program initiatives to measure those countries’ reform progress.

The five basic performance standards used by courts for self-improvement and evaluation are as follows:

1. Access to Justice (Are courts open and accessible?)
2. Timeliness and Expedition (Are court actions timely, not delayed?)
3. Equality, Fairness and Integrity
4. Independence and Accountability (Marries the notion of judicial branch independence under the separation of powers doctrine with the need for public accountability)
5. Public Trust and Confidence

Dr. Ingo Keilitz, a leading TCPS expert, once explained these five standards to me in the following fashion. “These five performance standards are to court program evaluators what a car’s dashboard indicators are to drivers- basic yet critical performance signs by which one can gauge how the car is generally performing.” I like to add that they serve as a court’s pole stars, forever providing court administrators reliable guidance through placid and turbulent seas.

But courts need specific “outcome indicators” by which they can micro-measure their performance within any of the

five standards. Fortunately, a concise and specific measurement system accompanies each standard (note 16).

Candidly, mastering the complexities of the TCPS measurements and becoming adroit in applying them for program evaluations exceeds this paper's scope. Nevertheless, in Section Five, below, we will choose one of the five TCPS measures (timeliness and expedition) and provide practical examples as to how program evaluators can easily use TCPS's measurements ("outcome indicators") to evaluate court performance.

What to evaluate? Applying principles learned

We began this section by asking, "What programs should courts evaluate? We initially suggested that understanding why we conduct court program evaluations helps us answer that threshold question. The driving rationale and motivation, we also suggested, was to measure how courts are performing. When we use TCPS as our "court's dashboard light indicators" for court performance, we can better focus on what programs to evaluate. We can therefore begin to decide what court programs to evaluate by asking the following questions, guided by the TCPS:

1. What, if any, programs do our courts have which have as their goal to ensure citizens have adequate access to justice? (Then examine and apply the specific TCPS measures accompanying the "Access to Justice" Standard to help evaluate those programs' outcomes and overall performance.)

Sample Measures (note 17):

- A. Are the hearings transparent and open to public scrutiny?
- B. Can observers understand court calendars and track proceedings?
- C. Can participants hear and be heard in court?
- D. Are the facilities physically accessible, safe and convenient?
- E. Are court personnel accessible by telephone? Is information available on the Internet?
- F. Do lay citizens find doing business with courts is relatively easy?
- G. Is effective representation provided to litigants?
- H. Are the hearing impaired or those who do not speak the court's native language provided interpreter services?
- I. Are the costs of access to the court's proceedings, in terms of money, time or the procedures that must be followed, reasonable, fair and affordable?

2. What, if any, programs do we have which have as their goal to ensure our cases are timely resolved and are not fraught with unnecessary delays? (Then examine and apply the specific TCPS measures accompanying the "Expedition and Timeliness" Standard to help evaluate those programs' outcomes and overall performance.)

Sample Measures:

- A. Time to disposition- does your court compare favorably to the local, state and national averages for disposing of cases?
- B. Case disposition ratio- Is the court disposing as many cases as are filed in a given year?
- C. Age of pending caseload- Is the average age growing or shrinking?
- D. Certainty of trial dates- This measures the frequency with which cases scheduled for trial are actually heard on the date originally scheduled.
- E. Are attorneys meeting the pre-trial "meaningful events" deadlines imposed by the court?

3. What, if any, programs do we have which have as their goal to ensure our courts treat all litigants equally in ways that ensures the court's integrity? (Then examine and apply the specific TCPS measures accompanying the "Equality, Fairness and Integrity" Standard to help evaluate those programs' outcomes and overall performance.)

Sample Measures:

- A. Jury lists and selected jurors are representative of the jurisdiction from which jurors are drawn.
- B. Courts give individual attention to cases, deciding them without undue disparity among like cases and decide only upon legally relevant matters.

- C. Bail/bond decisions are made on a fair and equitable basis.
- D. Practicing attorneys view the court as being equitable and fair.
- E. The court unambiguously addresses issues presented to it and makes clear how compliance can be achieved.
- F. Records of court decisions and actions are accurate and properly preserved.
- G. The court faithfully adheres to the relevant laws, procedural rules and established policies.

4. What, if any, programs do we have which have as their goal to ensure our courts are accountable and remain independent? (Then examine and apply the specific TCPS measures accompanying the “Independence and Accountability” Standard to help evaluate those programs’ outcomes and overall performance.)

Sample Measures:

- A. The court maintains its institutional integrity and observes its jurisdictional boundaries while respecting the decisions and jurisdictional force of other courts’ decisions (comity).
- B. The court has reasonable control over its budget development and expenditures.
- C. The courts’ allocated resources are spent in ways that meet their objectives.
- D. The court engages in adequate media relations and has transparent operations and fair policies.

5. What, if any, programs do we have which have as their goal maintain the public trust confidence in the courts? (Then examine and apply the specific TCPS measures accompanying the “Independence and Accountability” Standard to help evaluate those programs’ outcomes and overall performance.)

Sample Measures:

(The accompanying TCPS measures evaluate how various constituent groups and stakeholders perceive the court and measure their degree of trust and confidence in the courts. Various qualitative and quantitative methods for measuring same are found in the TCPS’ accompanying appendix.) (note 18)

V. Getting Started With Program Evaluation: How and Where Do I Begin?

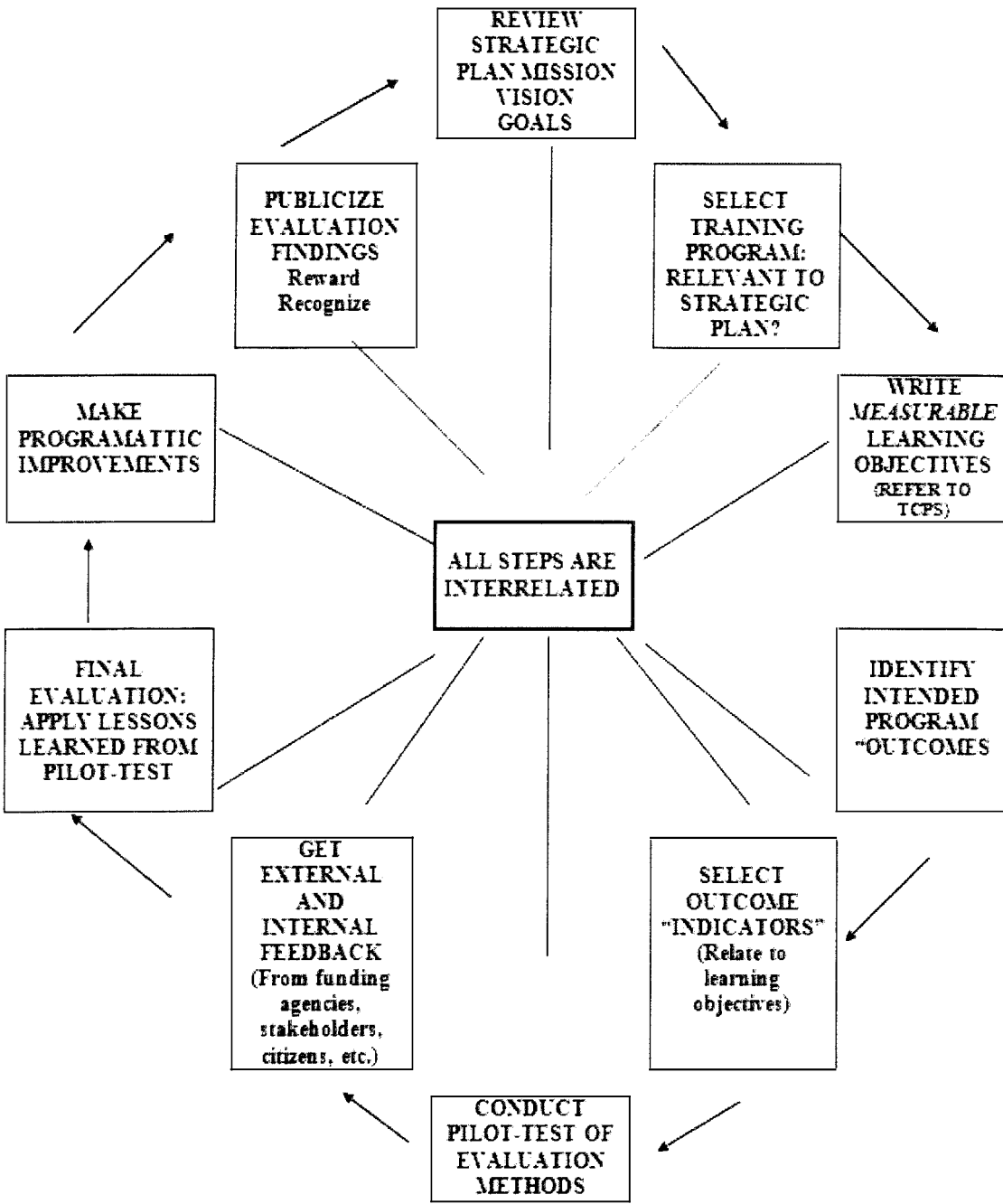
We now present a model evaluation design and process that court administrators, judicial educators and novice evaluators (and experienced evaluators as well) can easily apply. I have taught this basic model to American and foreign professionals who have never before attempted programmatic evaluations. The following approach and techniques seem to have been very well received and replicable by those adopting it. This following model is especially recommended for those conducting outcome evaluations of judicial branch training programs. However, its general approach and process can be transplanted to evaluating non-training programs as well.

An important tenet of this model holds that the most effective program evaluation design begins during the early curriculum design phase. Stated otherwise, when courts initially begin designing a judicial branch training course, courts should simultaneously contemplate how they will eventually evaluate the course’s impact on students’ behaviors, specifically, and the court organization (and perhaps the public) generally. The following provides a methodical, step-by-step approach to guide you from the early evaluation design stage to the evaluation execution stage. Actual case examples accompany the discussion of each step to help readers apply the principles in a practical fashion.

The Evaluation Circle

Figure 1, below, depicts our 360 Degree Evaluation Model. We will refer to various stages represented along the circle during our discussion of the evaluation process. We should first observe the importance of the model’s configuration- the circle. A circle is chosen to illustrate the evaluation process for one practical and equally critical important reason: Ideally, the evaluation process should be continuous, always referring back and integrating information gathered from the steps along the circle. Consequently, the circle connotes the evaluation process is not merely linear. Instead, it is an integrated, ongoing process- the evaluator is always looking forward to the next step while looking in the evaluation process’ rear view mirror for experiential guidance.

Figure 1



Step One - Refer to Your Court's Strategic Plan/Mission/Goals

Notice that the beginning point (and ending point) along the evaluation circle is represented by the court organization's "Strategic Plan/Mission/Vision/Goals". Most court organizations have adopted some form of a strategic plan by which it generally manages its program priorities and resources. Those courts that have not formally adopted a strategic plan virtually always have a mission statement(s), articulated organizational visions or goals that serve to articulate its primary objectives.

Keep in mind that we are presently applying this 360 degrees evaluation model to evaluate the outcomes from judicial branch training program(s). Therefore, as a first step, begin by completely familiarizing yourself with your court's Strategic Plan. Appreciate, in a concrete way, what the Strategic Plan hopes to accomplish- whether it is larger aspirational goals or more discreet objectives. Be able to articulate and explain your court's goals or missions in a

concrete way. To reiterate, this first step should be conducted before and during your course/curriculum design process. The reason for this is as practical as it is self-evident: Every course offered or curriculum designed should relate to and advance your court's goals. If your course/curriculum does not relate to or help advance your court goals, one must seriously scrutinize why you are offering or designing the course(s)! Continually relating back to your court's Strategic Plan ensures the course(s) relevance. Equally important, articulating an important connection between your court's goals and your course(s) improves your requests' appeal for training funds and empowers your training team.

As Figure 1 depicts, it is useful to continuously seek and obtain internal and external feedback during the evaluation process. During the first information-gathering step, it is important to consult sources other than your court's Strategic Plan. For example, review recent legislation or appropriations bills containing narratives affecting your court's operations. Legislation often indicates what other important public bodies consider to be important goals for your court. Similarly, review your court's funding agencies' and other interested external stakeholders' strategic plans. Understanding their perceived priorities for court performance can be extremely useful. For example, an emerging or transitional democracy would want to review U.S. Congressional "rule of law" appropriations for various world regions to better understand basic performance expectations for newly created democratic courts. Likewise, examining USAID's or United Nations Development Projects' strategic plans often give clear indicia of future funding priorities. Of course, conducting face-to-face discussions or focus groups with public officials also provides rich information about overall goals and expectations affecting your courts.

Step Two - Write Your Training Course's Learning Objectives in Measurable Terms

After you have chosen a course that relates to and advances your court's goals, you must obviously begin writing your course learning objectives. The best practical advice to help you accurately draft your course learning objectives is to ask yourself the following question: "As a result of taking this course, our judges will be able to [insert an appropriate verb followed by a relevant object(ive)]." For example, suppose your court's major two-year strategic goal is to reduce case delay and backlog of cases. You rightfully decide to design and offer a "Effective Case Management and Delay Reduction Techniques" course for judges and administrators. Clearly, you have selected a course that advances a major court goal. When writing the course's learning objectives, you must ask yourself what it is you want your judges to be able do as a result of taking this case management course (note 19). One could possibly choose to write the following measurable learning objectives: As a result of taking this class, judges and administrators will be able to...

1. (verb) Organize and group (object) similar cases together to create more streamlined and efficient pre-trial hearings.
2. (verb) Eliminate (object) by fifty percent the number of contested pre-trial discovery hearings order to expedite final case disposition.
3. (verb) Compel (object) more lawyers to timely meet pre-trial discovery deadlines.
4. (verb) Shorten children abuse cases' average time to final disposition from three years to eighteen months.

Forcing yourself to begin each learning objective with a verb and writing the object of that verb in measurable terms helps you accomplish the following: It frames learning objectives in a measurable way so that if the learning objectives are learned and applied in the workplace, the program's outcomes (e.g., fewer cases are delayed, case backlogs shrink, etc.) should also be observable and measurable during the subsequent program evaluation phase.

Step Three - Identify the Desired Program Outcomes Early in the Course Design

Recall that we define "outcomes" as those changed behaviors or improved skills that benefit the students, and hopefully, in turn benefits your court/public in observable, measurable ways. If the "thing" observed or measured does not represent a change in or tangible benefit to your students, it is not an outcome. This is because "outcomes" are not what the training program did (e.g., trained fifty judges in delay reduction techniques). Rather, outcomes are the consequential changes resulting from what the program did. If you have correctly completed step two by writing your learning objectives in observable and measurable terms, your task of identifying outcomes becomes relatively easy. In essence, correctly written learning objectives become a general statement of your intended outcomes. These general objectives can be refined and rewritten in more specifically measurable evaluation terms later in the evaluation

process..

Step Four- Select Outcome Indicators

Each outcome identified in step three must be translated into specific outcome indicators that identify what is to be measured. These indicators will vary depending on your data source and data collection method used (note 20). Recall that these indicators are specific measurements that allow you to chart your organization's improved performance. The primary question needed to be asked when selecting your outcome indicators is, "What specifically ought to be measured?" It is helpful if you try to translate your indicators into numerical values that indicate progress toward achieving an outcome, such as a number, percentage or ratio. Hatry suggests several criteria for selecting outcome indicators and a useful checklist to ensure the criteria are appropriate (note 21).

Some Criteria for Selecting Outcome Indicators

1. Relevance to the program's mission/objectives and to the outcomes they are to measure.
2. Importance of what it measures.
3. The extent to which it might be duplicated by, or overlap with, other indicators.
4. Understandability of the indicator.
5. Feasibility and cost of collecting the indicator.

A Checklist for Outcome Indicators

1. Does each indicator measure some important aspect of the outcome?
2. Does each indicator begin with a numerical designation such as a number, percentage, rate, ratio, etc.?
3. Does your list of indicators cover all of the outcomes?
4. Does your list of indicators cover all the "quality" characteristics of concern to customers (users) of the program (such as timeliness)
5. Does your list of indicators include relevant feedback from program customers?
6. Is the wording of each indicator specific? (would a lay stranger understand your terminology?).

In our "Calendar Management and Delay Reduction" program, various outcome indicators satisfying the above criteria could be selected. One could use the actual number of cases awaiting trial in a given period, the average number of days a specific type of case has been pending after being filed with the court, the average number of contested pre-trial hearings conducted for particular case types. One might also measure the compliance rate by which important court-established pre-trial deadlines are timely met (e.g., for Court A, eighty five percent of all personal injury cases timely met the pre-trial deadlines for exchanging answers to discovery requests).

Step Five - Conduct Pre-training Event Evaluation Measurements

Optimally, if time and resources allow, courts should conduct pre-training event measures and observations. Conducting pre-training event measurements and observations provides a baseline to which post-training event evaluations can be compared. Taking pre-training event measurements and observations allows you to better measure improved organizational performance that occurs after the training event. For example, prior to delivering your "Calendar Management and Delay Reduction" course, you could research and determine the average time to final disposition in your students' courts. This could be accomplished fairly easily if those courts keep caseload statistics on a routine basis. If not, one could visit those courts and pull a statistically reliable sample of cases to determine the average time to final disposition. Several months after delivering your course, you would repeat those measurements to see if the average time to final disposition has been reduced.

Step Six - Identify the Sources of Your Outcome Indicators and Pilot the Data Collection

The sources of information for outcome indicators are so varied that it is beyond the scope of this paper to address them all. Similarly, thoroughly examining data collection methodologies are beyond this paper's scope. However,

judicial training is essentially a human service aimed at, in turn, improving human (court) services. We can categorize data sources for human service programs into five basic types: records, specific individuals, the general public, trained observers and mechanical tests/measurements (note 22).

Let us examine some examples of data sources for our “Calendar Management and Delay Reduction” course.

Records: Review case filings, motions, official caseload statistics, court dockets

Specific Individuals: Interview or administer written surveys to attorneys, litigants, court clerks, public defender offices, social services agency representatives.

General Public: Citizens who have recently appeared in court can be interviewed or surveyed regarding their experience or waiting periods.

Trained observers: Attend court hearings or sit in court public waiting areas and make observed measurements (using a stop watch, trained observers time the average number of minutes/hours citizens wait to have their case called or average time it takes to conduct a hearing).

After carefully choosing your sources of data and data collection methods, it is wise to “pilot-test” your evaluation design on one or a very few courts. Pilot-testing your evaluation methodology will allow you to accomplish the following prior to engaging in a full, formal evaluation project:

1. You will either discover flaws in your data collection methods or, at least, you will be positioned to extrapolate from the pilot-test experiences. This allows you to subsequently refine and improve your final program evaluation design.
2. You will eliminate extraneous evaluation processes and/or data collection in your final program evaluation.
3. You will more accurately estimate the costs of conducting your final evaluation based upon your pilot-test experience. This in turn allows to you modify the final evaluation design to better meet your funding realities and time constraints.
4. You will have a better assessment of the actual resources (personnel, materials, budgets, infrastructure) needed to conduct the final program evaluation.
5. Based upon what is learned and refined during your pilot-test evaluation, you can more persuasively convince policy makers for the need to conduct the final program evaluation.

Step Seven - After Conducting the Final Program Evaluation, Integrate Your Findings

After applying the forgoing principles and suggestions to both your “pilot-test” and your final program evaluation, you can use your evaluative findings in many useful ways. You will receive invaluable feedback from your measurements, observations, interviews and surveys. Those findings can be used to improve and refine the program you evaluated. In our case example, not only can the “Calendar Management” course can be improved, you can also integrate your evaluation findings into actual court processing and case management proceedings. This secondary benefit helps to positively change the administration of justice. For example, lessons learned during the evaluation process and the evaluation results/findings can be used to guide court staff and judges on an ongoing basis. Sharing the results can also be used to improve court morale and increase retention of employees. Where positive change in behaviors and actions can be measured, evaluation results can likewise be used to promote or advance exceptional court employees. Remember, evaluation results need not exclusively focus on areas needing improvement- it can also showcase where courts are excelling.

Publicly sharing your court’s evaluation results (both the positive and negative findings) further demonstrates your court’s commitment to transparent operations and public accountability. Allowing the public and policy makers to scrutinize your evaluation findings also distinguishes your court during competitive public budgeting cycles. You will have shown your program does make a valuable difference in terms of measurable and positive outcomes. It additionally demonstrates your court can serve as responsible steward when spending its programmatic resources. All of this can be used to persuasively marshal support for increased funding requests. These beneficial byproducts, thanks to your program evaluation efforts, can now be objectively substantiated.

NOTES

1. For a general and pragmatic examination of program evaluation methods and relevant terms defined, see Hatry, Harry P., Kathryn E. Newcomer, Joseph S. Wholey, eds. *Handbook of Practical Program Evaluation*. 1st ed. (San Francisco, CA: Jossey-Bass Publishers, 1994), 3, 40-94.

2. Many terms and definitions used in this paper are borrowed from *Measuring Program Outcomes: A Practical Approach*, United Way of America (Alexandria, VA, 1996). Copies of this excellent handbook are available for US\$25.00 and can be ordered by calling 800.772.0008.

3. For a cogent analysis of case studies that use impact evaluation methodologies, including return on investment "ROI" analysis, this author recommends Lawrence B. Mohr, *Impact Analysis For Program Evaluation*, 2nd ed. (Thousand Oaks, California: Sage Publications, Inc., 1992).

4. *Handbook of Practical Program Evaluation* at 1

5. An outstanding guide to conducting public sector program outcome evaluation is Harry P. Hatry and Mary Kopczynski, *Guide to Program Outcome Measurement for the U.S. Department of Education*. (Washington, D.C.: Urban Institute: U.S. Department of Education, Office of Educational Research and Improvement, Educational Resources Information Center, 1997).

6. When appropriate, outcome evaluations should be conducted during the life of and subsequent to the life of a relatively long-term judicial training program. Often, courts execute program evaluations only upon completing a long-term program. For the purposes of this paper, the term "outcome evaluations" includes both ongoing evaluations during the life of the program and post-event evaluations as well. Methods for both, discussed herein, do not significantly vary.

7. The term "transitional democracy" is often used by USAID-funded and United Nations Development Program-sponsored rule of law initiatives to describe newly emerging democratic governments.

8. See Raymond C. Carey and Emil J. Posavac, *Program Evaluation: Methods and Case Studies*, 2nd ed. (Englewood Cliffs, N.J.: Prentice Hall, Inc, 1985) at 16-20

9. Clearly, judicial educators produce an end product far different from their private sector "corporate trainer" colleagues. Judicial educators try to produce more elusively definable "outcomes" such as improved access to justice, greater public confidence in the courts, elimination of cultural bias in judges' decision-making process. These noble outcomes are hardly analogous to manufacturers' production line "widgets". Judicial training program outcomes are accordingly more difficult to measure or qualitatively evaluate than most private sector outcomes. The only publication, to the author's knowledge, devoted exclusively to outcome evaluations in judicial education contexts is, *Conducting Impact Evaluation for Judicial Branch Education*, JERITT Monograph Eleven. M. E. Conner, T.N. Langhorne. East Lansing, Michigan: Michigan State University, 2002. Copies can be obtained for twenty five dollars (U.S.) by calling The JERITT Project at 517.353.8603. Monograph Eleven also contains sample evaluation forms and worksheets .

10. See footnote 8 at 3-5

11. *Evaluating Training Programs: The Four Levels*, Second Edition, D. L. Kirkpatrick (1998). See also, JERITT Monograph Eleven at 7-15 for a synthesis of Kirkpatrick's four levels of evaluation.

12. JERITT Monograph Eleven at vi-vii

13. For excellent examples of "reaction" level evaluation methods and actual "reaction" level forms, surveys and questionnaires to measure your judicial branch students' satisfaction with their courses, course materials and

instruction, please see JERITT Monograph One, Judicial Education Needs Assessment and Evaluation, J. K. Hudzik: East Lansing, MI. (Reprint 1999). See footnote nine for instructions to order Monograph One.

14. JERITT Monograph Eleven at vi-vii : For specific, replicable examples of levels two and three evaluation techniques, see JERITT Monograph One, Appendix A

15. For a complete discussion of the TCPS and accompanying measures (outcome indicators), read Trial Court Performance Standards with Commentary: The Trial Court Performance Standards Project. National Center for State Courts. Williamsburg, VA. 1990. For guidance as to how copies of this publication can be obtained, call the National Center for State Courts, 757.253.2000.

16. Ibid

17. These sample, abbreviated measures are borrowed from those measures that accompany the Trial Court Performance Standards. See footnote 15.

18. See footnote 16

19. For a thorough discussion of writing measurable learning objectives see Curriculum, Program and Faculty Development: Managing People, Process and Product, JERITT Monograph Four. K. Waldrop, M.E. Conner. East Lansing, MI., Michigan State (1994).

20. Curriculum, Program and Faculty Development: Managing People, Process and Product, JERITT Monograph Four. K. Waldrop, M.E. Conner. East Lansing, MI., Michigan State (1994).

21. Guide to Program Outcome Measurement for the U.S. Department of Education at 31.

22. Guide to Program Outcome Measurement for the U.S. Department of Education at 31-32.

For detailed discussion of data collection methodologies and sample forms, surveys and qualitative research methods in program evaluations see JERITT Monograph Eleven at 37-98

Tom Langhorne is the co-founder of The Langhorne Group, Inc., an international consulting firm providing a wide range of consulting services to American courts and foreign countries' "rule of law" program initiatives. Some recently completed engagements include program monitoring and evaluation, curriculum design, and strategic planning for emerging democratic courts. An attorney, Tom Langhorne was a civil litigator with a national law firm and made formal appearances in many states' trial courts. He is currently an adjunct faculty to the University of Richmond's (Virginia) School of Law and to Michigan State University's Judicial Administration Program. He is formerly the Director of Judicial Education for the Supreme Court of Virginia. In that capacity, he was charged with training all of Virginia's judges and court system personnel. The Langhorne Group's email address is rightinfo@aol.com. Tom can also be contacted

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Features

Court Security: A New Frontier For Judicial Educators

by Hon. Lee Sinclair, Stark County Common Pleas Court, Canton, Ohio

Ignore It And It Will Go Away

"You have an emergency phone call." This brief message was thrust in my hand as I stepped from the podium. I was teaching a course on capital punishment for the Supreme Court of Ohio Judicial College. I hurriedly phoned my office. A shooting had occurred in Atlanta. CNN had relayed the information to my office. I immediately phoned CNN. Yes, there have been several people murdered inside the Fulton County courthouse. Within minutes my office was deluged with national media wanting to discuss this unthinkable tragedy. Judge Rowland Barnes and court reporter Julie Ann Brandau were murdered as they sat in a Fulton County courtroom. The assailant overpowered a deputy while on the way to court. With the deputy's gun, he entered the courtroom and shot Judge Barnes and court reporter Brandau. The assailant fled the courthouse murdering Sergeant Hoyt Teasley as he escaped. The events of the next several days left the judiciary shell-shocked and numb with disbelief. We mourned the loss of a colleague. Every judge was forced to contemplate his or her own vulnerability.

This horrific event was the culmination of several major court incidents that occurred during February and early March of 2005. A few days before the Atlanta shooting, Federal Judge Joan Lefkow's husband and mother were murdered in the judge's home by a disgruntled civil litigant. During this same period, a child support dispute resulted in an "attack" on the Smith County Courthouse in Tyler, Texas. A deranged individual wearing a bullet-proof vest and firing an assault rifle, waged a gun battle on the steps of the courthouse. Three people were killed including the gunman. At least four others were wounded in an attack that literally was repelled at the courthouse door. In excess of one hundred rounds of ammunition were fired as the assailant unsuccessfully attempted to storm the Courthouse.

Three catastrophic incidents occurred in less than three weeks. With this national focus on judicial and courthouse security, there was a wakeup call for the ever-growing problem of violence directed at judges and the courts. A flurry of rhetoric followed in the first months following the events. Federal and State legislators debated additional funding for courthouse security and judicial safety. Soon, however, court and judicial security were again on the back burner.

This "ignore it and it will go away" mentality permeates the topic of judicial and court security. Such mentality is unacceptable and flirts with disaster. Violence directed at judges and the courts is a real and significant issue every day in every jurisdiction throughout the United States.

The work environment of the judiciary is not the same as in years past. Today's environment is a stark contrast to preceding generations. The courts are no longer respected and revered by some who come before our tribunals. The courts deal with individuals at the worst and lowest points of their lives: people losing their homes, custody disputes, marriages falling apart, defendants not wanting to return to prison, defendants strung out on drugs or with significant mental health issues, and people who are just evil. The dichotomy of all this is that judges have great confidence in the judicial system. Judges respect the rule of law. Judges believe in the ideals of an open court system, of due process, and of fairness for all. Unfortunately, judges tend to assume that everyone feels the same way. As a result, judges often take security for granted. This is a noble but naïve belief in the real world.

Judges are often hesitant to request a course on court and personal security. Judges know they need it, yet their

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unending faith in the goodness of the system keeps them from dealing with reality. This is where the role of the judicial educator becomes so important.

The Role Of The Judicial Educator

Judicial educators have a leadership role in not allowing this “ignore it and it will go away” mentality to continue. Judicial security is a critical topic deserving a place in every continuing judicial education curriculum. My experience in teaching court security throughout the United States for more than a decade has been overwhelmingly positive. Once you get past the stigma of “I don’t need to think about security,” judges are extremely receptive to courses dealing with judicial security.

Peak Interest But Don’t Overwhelm

Designing a course on court security can involve anything from a one-hour basic introduction to court security to a multi-day course on the use of lethal force and defensive driving. The best initial offering is to start with an introductory course. Many states are devoid of any judicial security curriculum. Starting with an introductory course makes practical sense. A course can be tied to some other curriculum or as part of a conference that presents many varied topics. Experience has shown that a basic introductory course makes an excellent starting point. By acquainting judges with court security, it raises judges’ awareness, peaks their interest, but does not overwhelm them. After introductory courses are presented, then more detailed advanced courses will naturally follow.

Planning An Introductory Course

An introduction to court security can be presented in as little as a sixty to ninety minute segment. The course that I present nationwide is titled “Introduction to Court Security” and consists of a presentation of anywhere from fifty minutes to as long as two hours, depending on the needs of the particular jurisdiction. Even in such minimal time, the course can cover essential issues to raise the judges’ awareness on the importance of court security. Basic topics from hardware to practical tips can be interwoven within an introductory course.

One of the biggest complaints regarding court security courses is that they are commonly structured to discuss major expenditures for the purchase of expensive equipment. A discussion involving magnetometers, x-ray equipment, video surveillance cameras, etc. is extremely important. Every judge needs a basic understanding of these items. However, the response of many judges is that “My court is financially strapped so this really does not have much relevancy to me.” This is a valid criticism. To resolve the criticism, every introductory course should spend some time on the high-ticket court security items; however, the major emphasis should be on practical, “beer budget” security items. These are items and techniques that cost little or nothing. Yet, each markedly raises a courtroom and a judge’s security level. There is no doubt that judges are extremely receptive to practical, low cost and no cost security techniques. My experience from coast to coast confirms this receptiveness. Big-ticket security expenditures are important, but the practical techniques permit immediate security results. Practical concepts permit the judge to develop a security receptive mindset. The judge can attend the course and immediately put suggestions into effect. There is an easy and quick “value use” for the information. Practical techniques develop an immediate positive frame of reference for wanting more security knowledge.

Key In On “Beer Budget” Techniques

A few practical security concepts will illustrate the use of practical “beer budget” techniques in presenting an introductory course. Throughout the United States for over two hundred years, criminal defendants have been asked to stand when they are sentenced. This is the traditional sentencing method. This procedure is followed today in the vast majority of courtrooms throughout the United States. Historically this was done to show respect for the court and to permit the defendant to address the court on the issue of sentencing. Once the defendant stands, however, the defendant becomes a weapon in the courtroom. By simply having the defendant remain seated during sentencing, the security in the courtroom is heightened immensely. Escape risks reduce dramatically, and assault potential de-escalates. By a simple no cost means, the judge considerably increases the security in the courtroom. So why isn’t this technique followed in every court? Most judges have never learned the technique.

A second “beer budget” technique is called “eliminating weapons of opportunity.” Every courtroom is a haven of what

security professionals call weapons of opportunity. A weapon of opportunity is an item that can be used as a weapon if the appropriate opportunity arises. Courtrooms are full of such weapons of opportunity. From scissors, to water glasses, to microphone stands and cords, to metal name plates and fire extinguishers, to name a few. The list of weapons can be exhaustive. By providing the judge appropriate awareness, the judge can return to the courtroom and quickly eliminate the weapons of opportunity, which raises the security level immensely. All at no cost. The judge just needs to be aware of the problem and the technique to correct the security threat.

One of the most practical “beer budget” techniques is to carry a cell phone. On the bench, in the Courthouse hall, in the car, on the nightstand, the cell phone is a great security tool. Everyone has a cell phone, but most fail to recognize its security value. As an example, in the courthouse when walking the hall, a judge could be accosted by a disgruntled party. The judge may be able to retreat behind a closed door. A cell phone provides an immediate vehicle to communicate for help. At home, a cell phone should always be within arm’s reach. An assailant in your home may force the judge to vacate a room or the house. Land phone lines may be cut. The cell phone places help within reach. A simple use of an everyday item that makes a judge much more secure.

There are volumes of practical suggestions like the preceding techniques. These “beer budget” techniques make every judge and courtroom safer and more secure. These suggestions involve the courtroom, the courthouse, and the judge’s surroundings outside the courthouse. At the conclusion of a successful introductory security course, a judge will dramatically be able to increase security both inside and outside the courthouse. Much can be done at little or no cost. This is an admirable goal for such a minimal investment of time as participating in an introductory course. More importantly, a judge will develop a new awareness that security is a constant and real concern.

I Am A Believer

A decade ago security courses for judges were fairly novel. My course at the National Judicial College was an anomaly. Now everyone acknowledges the need for this important curriculum. Courses are starting to appear throughout the United States. This trend will only increase in the years to come. Progressive judicial educators will be on the cutting edge of this new frontier of judicial education.

Several years ago, a judge phoned my office and left a voicemail. As I played the voicemail message, I could not help but smile. The message was as follows: “You know, I sat through your security course at the National Judicial College and thought that it was informative but would never apply to me. Well, a criminal defendant in my court has just been indicted for hatching a plot to kill me. I was a skeptic when I went through the course. Now I am a believer.” Help make every judge a believer.

LEE SINCLAIR is a Judge of the Stark County Common Pleas Court, General Division, in Canton, Ohio. He has served several terms as Administrative Judge and has also served as the Court’s Presiding Judge on several occasions. He earned his J.D. from the University of Akron, School of Law, where he was a member of the Editorial Board of the Akron Law Review. He was also named the Outstanding Law Student. He is currently a faculty member for the National Judicial College. He is also a frequent faculty member for the Supreme Court of Ohio Judicial College, the Ohio Academy of Trial Lawyers, the Ohio State Bar Association, as well as many other organizations. He is known nationally as a judicial educator and has taught throughout the United States. Judge Sinclair has acted as a consultant for national television networks, newspapers and magazines on judicial topics. Judge Sinclair is also the author of numerous published legal texts and many published articles. He has consulted nationwide with law enforcement and court systems on security issues. He may be contacted for assistance at: Judge Lee Sinclair, Stark County Court of Common Pleas, 115 Central Plaza, North, Canton, Ohio 44702; 330-451-7790; email: Judge1@co.stark.oh.us

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Thiagi Newsletter

The following issues of the Thiagi Gameletter -- seriously fun activities for trainers, facilitators, performance consultants, and managers -- are now available:

- [August 2008](#)
- [September 2008](#)
- [October 2008](#)

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Features

GET IT WRITE: To Split or Not to Split Infinitives?

by Nancy L. Tuten, PhD, and Gayle R. Swanson, PhD

Most of us were taught (if we were taught grammar at all) never to split infinitives, but writers have been splitting them anyway—even long before the creators of the *Star Trek* series provided us with the often-quoted phrase “to boldly go where no man has gone before.” Those of us who were taught that the split infinitive is anathema might well benefit from examining the origins of this rule and considering cases where we might, with good reason, be excused for ignoring it.

What is an infinitive?

Dictionary definitions of the word *infinitive* will make a reader’s head spin, so suffice it to say here that the infinitive is the form of the verb that has the *to* in front of it: *to walk*, *to run*, *to play*. (Infinitives do not function in sentences as verbs but rather as adverbs, adjectives, or nouns—but this issue is a topic for another discussion altogether.) To split an infinitive is to put a word or words between the infinitive marker—the word *to*—and the root verb that follows it, as in “to boldly go.” Here, the infinitive *to go* is being split by the adverb *boldly*.

What are the origins of the never-split-an-infinitive rule?

Although we do not know for certain how this rule came about, the commonly held theory is that it evolved from an effort to make English grammar function in the same way that Latin grammar does: in this classical language, an infinitive is a single word and therefore cannot be split. In his *Columbia Guide to Standard American English* (1993), Kenneth Wilson notes, too, that the rule may have grown out of discussions about the “proper” placement of adverbs in a sentence. Regardless of its origins, however, this “rule” has been the source of much dissension between those who value adherence to traditionally accepted principles at all costs (often called “prescriptivists”) and those who value, above all else, clarity and readability.

When should we avoid splitting an infinitive?

Because an infinitive expresses a single idea, a unit of thought, we try to keep its two parts—the marker *to* and the root verb that follows it—together if we can. After all, our job as writers is to make our reader’s job as easy as possible, and keeping logical units of thought intact generally promotes that effort. Most writers would agree that the following sentences containing split infinitives are awkward—or at least not as readable and clear as the “improved” sentences that follow (the infinitives are underlined):

- She agreed to quickly and quietly leave the room.
- She agreed to leave the room quickly and quietly.
- We should try to whenever possible avoid splitting infinitives.
- We should try to avoid splitting infinitives whenever possible.

In other cases, however, moving a modifier to a position outside of an infinitive results in a sentence that is either less

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clear or more awkward than it was when the infinitive was split. Consider, for example, these sentences (both the infinitives and the adverbs are underlined):

- The multiple-choice items on the test were determined to adequately assess content-area knowledge.
- The multiple-choice items on the test were determined to assess adequately content-area knowledge.
- The multiple-choice items on the test were determined adequately to assess content-area knowledge. [We cannot tell if adequately modifies determined here or assess.]
- The multiple-choice items on the test were determined to assess content-area knowledge adequately. [This option is acceptable, although the adverb is not as close to the infinitive as we might prefer.]
- Even in the twenty-first century, human beings are unable to fully comprehend the vastness and complexity of the universe.
- Even in the twenty-first century, human beings are unable fully to comprehend the vastness and complexity of the universe. [This construction is just plain awkward.]
- Even in the twenty-first century, human beings are unable to comprehend the vastness and complexity of the universe fully. [Here the modifier fully is very far removed from the word it modifies, comprehend.]

So what do we do?

As Ralph Waldo Emerson pointed out, “a foolish consistency is the hobgoblin of little minds” (“Self-Reliance,” 1841), with the key word here being *foolish*. Avoiding split infinitives is not foolish when we are writing a high-stakes document—say, for example, a letter of application for a job—because the reader of that document may well be someone who immediately dismisses all infinitive splitters as careless rubes unworthy of being hired. (We all know such rigid people.)

But in many cases, we do not have to contort a sentence just to avoid splitting an infinitive with an adverb. One editor at the highly respected University of Chicago Press, publisher of *The Chicago Manual of Style*, 15th edition, has summed up the matter well: “euphony or emphasis or clarity or all three can be improved by splitting the infinitive in certain situations” (*CMS FAQ*). And even the most influential style guides do acknowledge the fact that avoiding split infinitives at all costs can sometimes lead to awkward constructions.

Those of us here at Get It Write must confess, though, that we are still loath to split an infinitive. Given the two examples above, where the versions containing split infinitives seem clearer than the ones that avoid the split, we jurists would recast the sentences to avoid the infinitives entirely:

- The Department of Education determined that the multiple-choice items on the test adequately assess content-area knowledge.
- Even in the twenty-first century, human beings cannot fully comprehend the vastness and complexity of the universe.

Alas, some linguistic traditions die hard!

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Features

GET IT WRITE: Using the Verb *include* to Preface a List

by Nancy L. Tuten, PhD, and Gayle R. Swanson, PhD

Consider the following sentences, both of which use the verb *include*. Are they logical and clear?

1. Committee meetings will focus on the four central components of systemic reform, which include leadership, policy, delivery infrastructure and networks, and employee performance.
2. The six steps in the process of formatting text as small capital letters in MS Word include the following: (1) typing the text in all lowercase letters, (2) selecting (i.e., highlighting) the text, (3) clicking the “Format” menu, (4) clicking “Font” in that menu, (5) clicking the “Small caps” box in the “Effects” list, and (6) clicking the “Close” button.

Here is the bottom line:

- We should use the verb *include* to preface a list that is not exhaustive—that is, one naming only a limited number of the items that could possibly be named in the particular context.
- We should use the appropriate form of the verb *to be* (e.g., *is/are, was/were, will be, has/have been*) to preface a list that is exhaustive—that is, one naming all of the items that are possible to name in the particular context.

If we read the definitions of *include* in reputable dictionaries—including *Merriam-Webster’s Collegiate Dictionary* (11th edition, 2003) and the *American Heritage Dictionary of the English Language* (4th edition, 2000)—we see that the verb *include* is in no way synonymous with the verb *are*. *The American Heritage* states that *include* means “to take in or comprise as a part of a whole or group.” Likewise *Merriam-Webster’s* emphasizes that “*Include* suggests the containment of something as a constituent, component, or subordinate part of a larger whole.”

Thus, in sentence 1 above, the statement “the four central components of systemic reform include” contradicts itself. If there are indeed four components and the sentence lists all four of them, then the list is exhaustive and the sentence should read “The four central components of systemic reform are.”

Sentence 2 is also confusing and illogical because it says, in effect, that “the six steps include the following six steps.” Because the list is exhaustive—that is, the sentence lists all six steps—the logical verb choice is *are*: “The six steps in the process . . . are the following.” Consider these sentences as examples:

1. The crucial elements of the proposal include the statement explaining the purpose of the project and the breakdown of the specific ways in which the funds are to be spent.
2. The crucial elements of the proposal are a statement of the purpose of the project and a description of the specific ways in which the funds are to be spent.

In sentence 1 above, the point made by the verb *include* is that the proposal has many “crucial elements” and that these two specific ones are examples of those numerous elements. In sentence 2, the verb *are* tells us that the proposal has exactly two “crucial elements” and that they are the ones described here. Here is another set of

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examples:

1. Keynote speakers for the conference will include Barkley Amos, president of the National Center for Animal Rescue, and Dr. Gooding Brown, chairman of the College of Veterinary Medicine at the University of Pawtucket.
2. Keynote speakers for the conference will be Barkley Amos, president of the National Center for Animal Rescue, and Dr. Gooding Brown, chairman of the College of Veterinary Medicine at the University of Pawtucket.

The first sentence above tells us that the conference will have more than two keynote speakers. The second sentence tells us that the conference will have only these two keynote speakers. Here is yet another set of examples:

1. Required reports include the checklist for the professional development quality assurance indicators and the summary on the use of funds for courses and instructional materials.
2. Required reports are the checklist for the professional development quality assurance indicators and the summary on the use of funds for courses and instructional materials.

The first sentence above says that many reports are required and that two of them are “the checklist” and “the summary.” The second sentence says that exactly two reports are required, namely “the checklist” and “the summary.”

One final note:

We should not add the phrase “but not limited to” when we use either the verb *include* or the verbal *including* because to do so will create a redundancy: the idea that what is being spoken about is “not limited to what is actually said” is inherent in the meaning of the word *include* itself.

The only instance in which the phrase “includes but is not limited to” is acceptable is in a legal document or a piece of writing that seeks to resemble one. Legal documents are often intentionally and excessively redundant in their attempt to prevent every conceivable misreading of a passage. Because many people do believe that a list following the word include is exhaustive, lawyers must resort to redundancy to forestall even the remote possibility of a misinterpretation. In nearly every other professional context, however, we should avoid such phrases as “includes but is not limited to” and “including but not limited to.”

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Post-Conference Review

Working the Planning Table for Judicial Education

by *Lee Ann Barnhardt, Director of Judicial Education, North Dakota*

In the opening plenary session **Dr. Ronald Cervero** encouraged judicial educators to plan responsibly for judicial education by thinking politically.

Cervero said educational leadership is critical for the administration of justice and planners need to identify practical strategies for connecting the dots of political knowledge and educational practice. He said educators should negotiate responsibly and get the right people to the table.

According to Cervero educators who think politically assume that judicial education produces diverse benefits for multiple stakeholders and results from a political planning process.

“Collaboration and multiple stakeholders is key,” he said. “You need input early and should focus on relationship building. You need to look at the end users of the system and get their input.”

He outlined four areas of focus for a successful planning table:

- Mapping Stakeholders’ Agendas: Education, political, social and economic
- Seeing Power: How will political relationships shape agendas at the table
- Knowing Your Planning Vision: Whose agendas matter?
- Negotiating Responsibly: Shaping the table to your vision

Cervero said judicial educators need to deal with politics with a “Big P” as well as politics with a “little p” through relationships and negotiations. Who needs to be there? Why do they need to be there? How do you get them there?

In summary, he said the three important competencies for judicial educators are technical skills, political analyses and strategies, and educational vision.

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Education as a Strategic Leadership Tool

by *Lee Ann Barnhardt, Director of Judicial Education, North Dakota*

Elizabeth Evans, education administrator for the Trial Courts of Maricopa County in Arizona, discussed how her office looks at education more broadly than a training function by pairing strategic planning and education.

Evans said as professionals, judicial educators have mastered the art of judicial education and now need to more fully explore the science. By science she means a systems approach that is connected to the organization's mission and goals.

The education department of Maricopa County began its strategic planning in 2006 when a consultant was hired to craft a cohesive court-wide strategic plan. Evans said partnering education with strategic planning positions education to play a central role in facilitating the creation of long range plans.

Evans outlined some steps for getting started with strategic planning:

- Clarify the overarching strategic goals of the organization
- Clearly articulate the mission of the education department
- Build an education department vision
- Develop strategic goals for education
- Establish effective processes including best practices and evidence based approaches
- Align education activities with organizational goals

She gave a number of examples of how educational activities were tied with organizational goals such as recruiting and retaining a qualified workforce, building leadership potential, creating a culturally competent court, increasing public access, and enhancing case management processes.

According to Evans, since strategic planning has been in place, the education department is seen as purposeful and central to the organization's ability to articulate and promote agency goals. She said it has also clarified the education staff's view of their role and enhanced job satisfaction.

"The key to effectively pairing strategic planning and education is leadership," she said. "Executive leadership must adopt the philosophy that education is the common thread that provides continuity and direction. Education must be at the planning table."

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Plenary Session

by *Melody Luetkehans, Program Attorney, National Judicial College*

Almost everyone in the room had heard parts of the story. Those that sat through the previous night's movie knew most of the facts, at least those facts as seen through the eyes of **Moises Kaufman**, who wrote and directed *The Laramie Project*, the 2002 movie about the murder. Others who weren't quite aware of the story line, came because they had heard good things about these day-after-the-movie discussions with session facilitators Kelly Tait (note 1) and Joseph Sawyer (note 2).

These "movie nights" and the subsequent discussion sessions, are the diversity portion of NASJE's yearly conference and are generally well attended. A contemporary movie is shown chosen for its depiction of various aspects of bias and discrimination. In the day-after session, Tait and Sawyer discuss with the audience the movie's characters, scenes and topic relevance to our daily lives. Their efforts are aimed at urging the participants to become sensitive not only to potential bias in our judicial educators and teaching materials, but to our own actions and responses.

However, this year's session was different. The speaker that day wasn't Tait or Sawyer, nor a judicial educator, college professor, or a NASJE staff member. Rather, the speaker was an unassuming soft-voiced, middle-aged woman intimately involved with the movie's plot. The speaker was Judy Shepard, mother of Matthew Shepard, the 21-year old college student who was brutally beaten and left to die tied to a cattle fence in rural Laramie, Wyoming, and whose murder the movie depicted. What made this movie different from any other movie about a murder? You see, Matthew Shepard was killed because he was gay.

This year marks the tenth year since his death. In those ten years Mrs. Shepard "has become a well-known advocate for LGBT (note 3) rights, particularly issues relating to gay youth. She is a prime force behind the Matthew Shepard Foundation, which supports diversity and tolerance in youth organizations" (note 4). The foundation's goal is to "replace hate with understanding, compassion, and acceptance" (note 5). She was at NASJE to share her story and insights with those individuals charged with educating this nation's judges.

Often, when horrible things happen to a person, there is an attempt to process those events by telling the story over and over again. It would have been understandable to hear Mrs. Shepard repeat a worn tale of grief, anger and frustration. Amazingly, her tale was not a repeat of past travails, but one of a person who has fought through the pain, anger, and exhaustion to arrive at a place of moral strength and conviction. She shared with the audience not only parts of the tale not told in the movie, but also her conclusions as to the social and cultural significance of the event.

She identified the subtle, and often not so subtle, differences in the way discrimination against homosexuals is treated. She quietly discussed how culturally imbedded homophobic bias is in our society, too often wrapped in the cloak of religious dogma and therefore, in self-perceived righteousness. She pointed out that anti-gay crimes have yet to be

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taken as seriously as other hate-based crimes (note 6). She discussed her struggle to add these violent acts, motivated by the victim's sexual orientation, to existing "hate crime" legislation. Currently, federal as well as many state laws do not treat such criminal acts as the more seriously recognized "hate crime". This element alone allows many to overlook the anti-gay basis of these crimes. With humor and steely determination, Mrs. Shepard, a self-declared non-public speaker, finished to a standing ovation.

To date, this session was one of NASJE's best and sets the bar for judicial education one notch up. It reminds us that our jobs go beyond scheduling seminars and picking faculty to the heart of the material being taught and to the necessity for being mindful of the effect of the human element in everything we do.

The Diversity Committee would like to thank the Williams Institute for all their hard work in securing the Judy Shepard presentation.

For more information about the Matthew Shepard Foundation, visit www.matthewshepard.org.

NOTES

1. Kelly Tait is a professor of communications at the University of Nevada, Reno.
2. Joseph Sawyer is the Distance Learning Manager at the National Judicial College, Reno, Nevada.
3. LGBT stands for lesbian, gay, bisexual, transgender-transsexual individuals.
4. Wikipedia article "Matthew Shepard". (10/2008)
5. www.MatthewShepard.org
6. For example, in housing the federally protected classes are race, gender, color, religion, handicap, familial status, and national origin. Sexual orientation is not a federally protected class in housing.

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Live and Let Live? A Facilitated Discussion of the Film *The Laramie Project*
 by Kelly Tait

Movies can reach viewers at their cores, creating the potential for a deeper understanding of issues and perspectives. In looking at how film can be used to teach diversity issues in judicial education sessions, participants at NASJE’s 2008 Annual Conference joined in a facilitated discussion of *The Laramie Project*, a movie based on events that followed the brutal murder in 1998 of Matthew Shepard, a gay college student in Laramie, Wyoming. The discussion was facilitated by Joseph Sawyer, JJC Program Manager, and by Kelly Tait, communication consultant.

The movie is an award winning film described on the HBO website as “a groundbreaking HBO Film event that recreates the efforts of a New York theatre troupe to shed light on a western town’s loss of innocence following a hate crime perpetrated on a 21-year-old University of Wyoming student.” (<http://www.hbo.com/films/laramie/>)

The movie takes a somewhat different tack in exploring this shocking crime by focusing on the reactions of the interviewers (the theatre troupe members) and the reactions of the interviewees (residents of Laramie, from ranchers to shopkeepers to bartenders to teachers and students). Moises Kaufman, the writer and director of *The Laramie Project* (both on stage and on film), said, “This is not about the case. This is about the town: why did this happen here, what are people saying, how do they feel and think about what happened.”

One of Laramie’s slogans is “Wyoming’s Hometown,” and by detailing the reactions of people to the crime itself, to homosexuality in general, and to each others’ reactions, it encouraged discussion of communities and attitudes. Through this approach, it seemed less an “isolated incident” and more “this could happen anywhere,” with the added judicial education perspective of “what can we do about it?”

The discussion included the intersection of homosexuality with other diversity factors such as religion, socioeconomic class, and geographic region. It focused in on the difficulty of teaching about this area of diversity in particular, partly because of some of those intersections.

The role of the judicial educator was highlighted through discussion of a clip of the film in which one interviewer says, after some particularly harsh remarks about homosexuality by the person she’s interviewing, “I let him say that to me, and I didn’t say anything back.” What is our role as educators? When do we need to let others speak their minds in order to understand their perspectives even if we strongly disagree with those perspectives? And how do we most effectively teach about diversity to ensure equal justice for everyone? The purpose of facilitation of discussion was addressed, along with ideas for additional methods of teaching about homosexuality and other issues that affect the treatment of particular groups in our society at the individual, community, and judicial levels.

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The session wrapped up by touching on what's come out of Matthew Shepard's death that has a positive impact, including a raised level of awareness and hate crime legislation. For more on this and on other methods for effecting more change, go to the homepage of the Matthew Shepard Foundation at www.matthewshepard.org/.

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The Role of Judicial Educators Assisting Foreign Language Interpreters

by Cheryl Lyngar

Franny M. Haney, Manager of Judicial Branch Education in the Administrative Office of the Courts in Delaware and the Director of Delaware's Certified Interpreters' Program and **Catalina J. Natalini**, a Certified Interpreter also from Delaware presented information and facts on using certified interpreters in court.

Ms. Haney introduced the topic by giving a short synopsis of the certified interpreters program. She explained how a group of four states, Minnesota, New Jersey, Oregon and Washington with the help of the National Center for State Courts, organized and founded The Consortium for State Court Interpreter Certification in 1995. There are now 41 states that are members of the consortium. Each state has its own rules and regulations for certifying their interpreters and the consortium is trying to find common ground so that certifications in one state are also accepted in other states. A court interpreter model guide was written in 1996 and was used by the states as a model to organize and start their interpreters programs.

Ms. Haney went onto explain that state judicial educators work to produce materials for judges and court staff to assist them in working with minority or foreign speaking individuals. There is also a need for interpreters for the deaf and the consortium and state educators are also working on providing interpreters for the deaf. She responded to a question about when there would be unified regulations for certified interpreters by saying that the consortium is working on that issue, but that it may be five or ten years before national standards would be drafted.

Ms. Catalina Natalina talked to the participants from a certified interpreter's point of view and explained the role of the interpreter in court. Ms. Natalina showed a video of a court interpreter in a court setting. She explained the duties of an interpreter and the ethics involved in such an important role. Making sure that everything is interpreted for the defendant and prosecution and making sure to address the judge instead of others in the court are some of the fundamental rules of interpreting.

The Court Interpretation project link (http://www.ncsconline.org/D_Research/CourtInterp.html) found under NCSC Projects on the National Center for State Courts website (<http://www.ncsconline.org>) has all the information needed to start a court interpreter certification program. This site also contains links to related information, material on testing and any other information that may be needed to be a certified interpreter.

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Model Curriculum Demonstration: Offering a Successful Self-Represented Litigant Program

by *Lee Ann Barnhardt, Director of Judicial Education, North Dakota*

The Courtroom Curriculum introduced at a National Judicial Conference on Leadership, Education and Courtroom Best Practices in Self-Represented Litigation at Harvard in 2007 was modeled by **Judge Karen Adams** in "Offering a Successful Self Represented Litigant Program."

Judge Adams used the materials and PowerPoint slides that are available through the Self-Represented Litigation Network at www.selfhelpsupport.org and explained how they have been adapted for Arizona.

The developed curriculum includes 190 slides with teaching notes, 32 video clips and suggested activities such as role-play scripts and hypotheticals. A national benchguide is also available.

Judge Adams said Arizona has geared its training toward civil cases, which is where they typically have more self-represented litigants. She said the most common case types are family, probate, and child support.

"Educators should look at the numbers in their states and see how many parties are not represented by attorneys. It got our judges' attention," she said.

The curriculum begins with looking at the impact of self-represented litigants on the court system and moves into ethics and ensuring neutrality. Judge Adams said talking about neutral engagement is a big part of the training, as well as including information about the ABA Model Code and relevant case law.

"Our judges share what is going on in their courts and how it ties into access to justice. They understand there is a difference between what attorneys and citizens expect from the system," she said. "They are learning what they can and can't do under the judicial code of conduct and are developing their own style of engagement."

Other topics covered in the training are techniques for setting the stage and involving court staff, explaining the hearing process, articulating the decision or orders from the bench, dealing with difficult litigants, resolving barriers to compliance, and preparing parties for the next steps in their cases.

Judge Adams said including training on communicating effectively is key to a successful program on self-represented litigation. She said they have brought in experts to talk with judges about listening skills, non-verbal communication, and working with interpreters or parties with limited English proficiency.

The curriculum also includes sections on evidentiary issues, cases with one side represented, and dealing with difficult attorneys and other difficult situations.

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“We have included a session on self-represented litigants in our new judge training and have woven it through other training sessions,” she said. “You have to remind everyone of the benefits of addressing the issue of self-represented litigants and then break it down. This subject is important for all of us.”

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Experiential Education in Action

by *Kelly Tait*

A lively session on experiential education was conducted by **Maggie Cimino**, CJER Supervising Education Specialist, at NASJE's 2008 Annual Conference in Philadelphia. The benefits of interactive learning and many experiential learning techniques were illuminated through a series of activities and discussions, culminating in the Experiential Learning Opportunity (ELO) of a walking tour of downtown Philadelphia.

The need for opening exercises/icebreakers to prime your learners was both demonstrated and discussed. "Priming the learner" was related to Kolb's learning circle, with the area from Concrete Experience (feeling) to Reflective Observation (watching) identified as key to the process.

Ms. Cimino reviewed the benefits of active learning, including increased transfer of learning, deepened retention, and using the group process to support social learning. In addition, ways to address potential pitfalls related to active learning were considered. Participants discussed timing of activities, instructions, clear learning objectives, monitoring during activities, and a strong debrief, drawing on examples they had actually experienced.

Participants in the session were actively engaged throughout the session, from the icebreaker to reactions to film clips to a learning game. The planning and preparation for the walking tour wrapped up the morning session, and participants experienced the city in the afternoon with an eye toward developing other experiential learning opportunities into their future trainings.

The session provided vivid examples and concrete guidelines for incorporating experiential learning into judicial education sessions.

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Model Curriculum Demonstration II: Office for Victims of Crime, JEP Module Curriculum

by Cheryl Lyngar

Ms. Trudy Gregorie, Ms. Denise Dancy and Mr. Kevin Bowling were all present to unveil a new educational tool for judges and court personnel as well as other professionals who seek to improve the treatment of crime victims throughout the court and probation processes. The new draft Judicial Education Project publication, "Justice Isn't Served until the Crime Victims Are" is sponsored by the Office of Victims of Crime, within the Office of Justice Programs, U.S. Department of Justice, as well as other national organizations such as, Justice Solutions, NASJE and the American Parole and Probation Association. The project also includes a 22-member cross-disciplinary Advisory Board representing the judiciary, law enforcement, prosecution, victim assistance professionals and crime victims, court administration, probation, judicial educators and allied justice agencies.

The draft publication contains 19 modules that include timely references to precedent-setting law relevant to crime victim's statutory and constitutional rights; strategies for innovative program and agency policy development relevant to crime victims; and a wide range of "promising practices" that improve victim's rights and services within courts and probation agencies.

Denise Dancy discussed the importance of judges and their leadership in the courtroom. She stressed that a judge's proactive role in dealing with victims can assure that all justice officials will implement victims' rights. When there is a positive impact of victim's rights, victims perceive a better result when in court and their frustrations are decreased, which increases their participation in the process.

This publication explains how to maintain the balance of victims' and defendants' rights. The curriculum also addresses special needs victims such as child victims, older victims, non-English speaking victims, and minorities. It also explains that most crimes are not stranger crimes, and special care needs to be taken with these victims. Victims' feelings about their court process is usually based on the process not the outcome in their court experience.

The draft publication will be presented at trainings around the nation and pilot tested before it is completed and printed. Denise Dancy will be posting the training opportunities on the JERITT website.

For more information about the Judicial Education Project and this publication contact Justice Solutions, Inc. at www.justicesolutions.org or the National Center for State Courts at www.ncsc.org.

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Continuing the Dialogue

by *Michael Roosevelt*

On March 18, 2008, Senator and presidential candidate Barack Obama delivered a major speech on race and race relations, "A More Perfect Union." The speech attempted to capture the complexity of race and racism and asked every American to continue a dialogue on race. Planners for this year's NASJE Conference in Philadelphia took seriously Obama's call for a continuing dialogue on race by offering a course based on the speech.

The faculty structured the course, Continuing the Dialogue, around a series of facilitated discussion questions. Before asking the first question, co-faculty Michael Roosevelt of California and James Drennan of North Carolina explained why the speech was chosen. The speech was selected because it was delivered in Philadelphia, the conference host city and because of the city's history of racial tension. In 1985, the city's Mayor gave permission for its police department to bomb the controversial group, M.O.V.E, leveling an entire block in an historic African American neighborhood. In the 1960s and 70s African American inmates participated in toxic and debilitating pharmaceutical experiments at Holmesburg Prison in Philadelphia. (See Allen M. Hornblum's book, *Acres of Skin: Human Experiments at Holmesburg Prison: a Story of Abuse and Exploitation in the Name of Medical Science*, 1998.)

During the course, participants discussed selected excerpts from the speech, the problem of race, and how the speech might be used in judicial education. Participants suggested that the speech be used as part of a law and literature course, in a program for court staff or even in law school. Most agreed that the speech—one as political as this one—was to be carefully planned and facilitated to be effective. Since the speech was political, participants felt it should be balanced by other great speeches. While faculty did not have time to discuss other speeches as part of this course, a few were included in the program binder.

Finally, if the course were to be offered in the future, faculty would like enough time for a more in-depth treatment of topics like the one presented during this course.

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Technology as a Learning Tool

by Joseph Sawyer, Distance Learning, Technology, and Faculty Development Manager
National Judicial College

As judicial educators, we all know that the use of technology in the classroom has become ubiquitous. Unfortunately, technology does not always enhance an educational presentation. During the recent NASJE annual conference in August, I had the opportunity to discuss the effective use of classroom technology.

Two technological innovations used in the classroom include PowerPoint and the use of electronic group response systems. PowerPoint is so pervasive in educational settings, that as learners, we have come to expect the slow and painful “death by PowerPoint” at each presentation. But PowerPoint can be an effective tool to enhance the educational experience if used correctly.

What we all must remember is that PowerPoint is only a tool. It does not replace the presenter. Rather, it assists in communicating key points in order to increase the learner’s understanding and comprehension.

How many times have we all seen a presenter place their entire narrative, word for word, into a series of PowerPoint slides? To make matters worse, many presenters feel the need to abuse the animation and sound effect features of PowerPoint, wasting valuable time and intellectually numbing the audience.

At the National Judicial College, we have worked with our faculty to develop a list of 15 PowerPoint tips. The “Tips” emphasize the fact that PowerPoint is only a tool. They take into account the learning challenges, such as color blindness, dim projectors, ineffective classroom design, etc. that we all face as educators.

In addition to PowerPoint, I also discussed how to effectively use an electronic group response system. A response system allows a presenter to instantly poll an audience of learners. For example, a presenter teaching a segment on character evidence can ask the classroom participants if a piece of evidence is admissible or inadmissible. The instructor can show a graph of the participants’ responses. As the cost of group response systems has decreased, more and more SJE’s have access to the equipment. While a response system can enhance the learning environment and create an active learning experience, used incorrectly, it can bog down a presentation and distract from the presenter’s learning objectives.

For copies of The National Judicial College’s 15 PowerPoint Tips as well as material on the effective use of an electronic group response system, please contact Joseph Sawyer by e-mail at sawyer@judges.org.

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The Interrelationship of Professional and Personal Growth

by Lee Ann Barnhardt, Director of Judicial Education, North Dakota

Is the boundary between your professional work and personal life becoming blurred? Have you stopped addressing your own need for professional growth and development? **Dr. Cathy Zeph** from Loyola University discussed these and other issues facing professionals in a complex world in the closing plenary of the NASJE Annual Conference.

"Life is holistic, not dualistic," she said. "Technology makes it easier to cross boundaries and we need skills to help us acknowledge or bridge our professional and personal lives."

Dr. Zeph based her session on four elements: spirituality, authenticity, knowing oneself and transitions. She said it is important to see work as a place of continued growth and wisdom and recommended the book *The Art of Waking People Up: Cultivating Awareness and Authenticity at Work* by Kenneth Cloke and Joan Goldsmith. She said we need to change the way we work and act by changing how we respond to entry into a new situation, our aspirations, feedback, change, leadership, failure, and success. How we respond to each of these moments in our lives determines if we shrink or expand ourselves.

To help us act in a way that leads to growth, Dr. Zeph suggests that we look at how we tell our own stories. She introduced a Life Spirals exercise and asked participants to tell their story by answering a series of questions starting with themselves at the center of the spiral and moving outward to family, ethnicity, faith, education, physical characteristics, vocation, professional and civic communities, earth, and finally the universe.

Dr. Zeph said taking time to reflect helps individuals understand their world through various contexts and gives them a new or deeper understanding for future action, both personally and professionally. The context she recommended for this reflection include the following:

- Traditional Context: What is your perspective of judicial education?
- Socio-Cultural Context: Who are the people you serve in your work?
- Institutional Context: What is the institutional setting in which you work?
- Personal Context: What is your personal biography?
- Natural World Context: In what area of the county am I working and living?

The idea is to consider how these various contexts impact or challenge our perspectives on our lives and our understanding of the roles we play. This reflection process is designed to give a new understanding of the experience, issue, concern, or work in which you are engaged.

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