

NASJENews Quarterly

Volume 23 • Number 3 • Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

NASJENews Quarterly • Summer 2008

Volume 23 • Number 3

News

[SJI News](#)

[Transitions](#)

[Office of Juvenile Justice and Delinquency Prevention Update](#)

[From the President](#)

[From the President-Elect](#)

[From the Editor](#)

Resources

[Judicial Tools to Improve Court Practice in Child Support](#)

by NCJFCJ

In 2005 the National Council of Juvenile and Family Court Judges received funding from the Administration for Children and Families, Office of Child Support Enforcement to provide state court judges and other judicial officers with practical, easy-to-use tools that facilitate realistic and enforceable child support orders and strengthen the ability of the nation's child support enforcement (Title IV-D) programs to collect support on behalf of children and families. [more >](#)

[Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice](#)

by Dr. Deborah Williamson, Judge Julia Hylton Adams, Dr. Sandra Ratcliff Daffron

A first activity for the Circuit Judges' Education Academy for the Commonwealth of Kentucky was held on April 21 – 25, 2008 in Louisville, KY. The original concept for the Academy was conceived by the Honorable Joseph E. Lambert, Chief Justice, Supreme Court of Kentucky; the Honorable Julia Hylton Adams, Circuit Judge for the 25th Judicial Circuit and Chair of the Education Committee; and, the Honorable Jason M. Nemes, Director, Administrative Office of the Courts. [more >](#)

[Fostering Public Trust through Judicial Opinion Writing](#)

by Nancy A. Wanderer

"Slamming Judges for Political Gain" shouts the headline in the December 5, 2007 edition of The Seattle Times. "Here we go again," begins the article, which recounts Republican Mitt Romney's attack on Massachusetts Superior Court Judge Kathe M. Tuttmann after a controversy erupted over a single decision. Romney called for Judge Tuttmann's resignation after a defendant she released from custody left town and allegedly murdered two people in Washington State. [more >](#)

[The Joint Century Council-NASJE Hardcore Drunk Driver Judicial Guide Project: Putting the Brakes on](#)

[Repeat DUI and High BAC \(Blood Alcohol Content\) Offenders](#)

by Thomas N. Langhorne, Esq.

As The Century Council-NASJE collaborative *Hardcore Drunk Driving Judicial Guide* multi-year project tapers down, NASJE members will be encouraged to learn of the project's many proud success stories. The first of its kind in many respects, this national judicial education project represents a comprehensive effort to provide state judges skills that enable them to swiftly identify, punish with certainty, and effectively treat hardcore drunk drivers. It also marks the first occasion in which most of America's leading judicial education stakeholders collaboratively directed their collective resources towards effectively addressing this compelling public safety problem. [more >](#)

[Thiagi Newsletter](#)

Features

[New Research into Fairness in Administrative Hearings](#)

by Christopher B. McNeil, J.D., Ph.D.

Ever wonder what makes a trial fair? If you knew a set of benchmarks exists to help ensure a fair trial, would you want to know about them? Turns out, there are a set of pretty good predictors of fairness, predictors that were identified expressly for use in trial courts. Social scientists in the 1960s started describing these predictors, in a body of research describing what they referred to as "procedural justice." [more >](#)

[Judges Newsletter](#)

by Indiana Judicial Center

The Indiana Judicial Center has graciously agreed to share its bimonthly judge newsletter with us all. There seems to be something for everyone. Read, enjoy, and benefit from it. Thank you Indiana for your willingness to let us share this with everyone. [more >](#)

[Blast From The Past: The Conference on Court Technology](#)

by Susan M. Trippi

In the Summer 1988 issue of NASJE News, the editors looked forward to how computers might affect the ways judicial educators would do our work. Let's see what they were thinking about the benefits of technology to education and training organizations. [more >](#)

[Alternatives to Incarceration](#)

by Christopher Cecil, MSW

At the June 2008 meeting of the Council of State Governments, Public Safety and Justice Task Force, in Lexington Kentucky, a policy discussion was held regarding alternatives to incarceration. The Task Force heard compelling presentations regarding innovative ways in which states are dealing with the pressing problem of prison overcrowding. Presenters included Jake Horowitz, Public Safety Performance Project, Pew Center for States; Michael Thompson, Executive Director, Council of State Governments Justice Center; and, Dawn Jenkins, Executive Advisor, Kentucky Department of Public Advocacy. [more >](#)

Manager's Briefcase

• **The Best Boss**

by Wendy L. Werner

What does it take to be a good boss – one that is remembered years later? It requires a dedication to team work, by adapting to different employee work styles and finding everyone's strengths and weaknesses. It is someone who cares about their employees and in turn is rewarded with loyalty and success. [more >](#)

NASJE Newsletter Committee	
<i>Editor</i> <u>Philip J. Schopick</u>	<i>Transition to the Bench</i> <u>Josephine Deyo</u>
<i>Courtroom and Personal Security</i> <u>Lois Wright</u>	<i>Manager's Briefcase</i> <u>Laurie Ginn</u>
<i>Web Developer</i> <u>Steve Circeo</u>	<i>Adult Education</i> <u>Kelly Tait</u>
<i>Domestic and Family Violence</i> <u>Deborah Williamson</u>	<i>Voices from the Past</i> <u>Judith Anderson</u>
<i>Discovering and Implementing Technology</i> <u>Lee Ann Barnhardt</u>	<i>Juvenile and Family Law</i> <u>Cheryl Lyngar</u>
Guest Editors	
<i>Judicial Perspective</i> <u>Hon. David Gersten</u>	<i>International</i> <u>Ellen Marshall</u>
<i>Communities of Practice</i> <u>Maureen Conner</u>	<i>Problem-Solving Courts</i> <u>Pam Casey</u>
<i>Futures</i> <u>Denise Dancy</u>	<i>Diversity</i> <u>Polly Schnaper</u>

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Journal of the National Association of State Judicial Educators

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

SJI News

Read the June 2008 issue of SJI News: [PDF](#).

News

- [SJI News](#)
- [Transitions](#)
- [OJJDP Update](#)
- [From the President](#)
- [From the President-Elect](#)
- [From the Editor](#)

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Published by the National Association of State Judicial Educators

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

Transitions

Please join us in welcoming the following new NASJE members:

- **Mr. Ben Barham**, Judicial Education Specialist, Administrative Office of the Courts, Little Rock, AR
- **Ms. Rebecca Bluemer**, Scholarship Coordinator, The National Judicial College, Reno, NV
- **Ms. Cindy Michelle Brown**, Senior Attorney, Office of the State Courts Administrator, Tallahassee, FL
- **Ms. Daphne A. Burns Esq.**, Program Attorney, The National Judicial College, Reno, NV
- **Mr. Chad Campbell**, Program Manager, Arizona Supreme Court, Phoenix, AZ
- **Ms. Susan Witt Conyers Esq.**, Program Attorney, The National Judicial College, Reno, NV
- **Ms. Kimberly Docter**, Education & Special Projects Coordinator, North Dakota Supreme Court, Bismarck, ND
- **Ms. Barbara Harcourt Esq.**, Program Attorney, Court Personnel Education, Indiana Judicial Center, Indianapolis, IN
- **Ms. Pamela S. Leslie**, Senior Attorney, Office of the State Courts Administrator, Tallahassee, FL
- **Ms. Catherine S. Lowe**, Director, Education services Division, Arizona Supreme Court, Phoenix, AZ
- **Hon. Cornelia Mews**, Associate Senior Advisor/Justice, Ontario Court of Justice, Toronto, Ontario
- **Ms. Lynne T. Winston Esq.**, Supervising Senior Attorney, Office of the State Courts Administrator, Tallahassee, FL

News

- SJI News
- Transitions
- OJJDP Update
- From the President
- From the President-Elect
- From the Editor

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

The Official Journal of the National Association of State Judicial Educators

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

News from OJJDP

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has published "**Best Practices To Address Community Gang Problems: OJJDP's Comprehensive Gang Model.**" The report provides communities responding to a present or potential youth gang problem with guidance in implementing OJJDP's Comprehensive Gang Model. It describes the research informing the model, notes findings from evaluations of several programs demonstrating the model, and outlines best practices derived from practitioners with experience in planning and implementing the model in their communities.

- | |
|----------------------------|
| News |
| • SJI News |
| • Transitions |
| • OJJDP Update |
| • From the President |
| • From the President-Elect |
| • From the Editor |

Resources:

"Best Practices To Address Community Gang Problems: OJJDP's Comprehensive Gang Model" (NCJ 222799) is available at <http://www.ncjrs.gov/pdffiles1/ojjdp/222799.pdf>. Print copies may be ordered at <http://www.ncjrs.gov/app/publications/alphaList.aspx>. For quick access, search by document number. For additional information about OJJDP's efforts to prevent and address gang problems, visit <http://ojjdp.ncjrs.gov/programs/antigang/>.

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Quarterly News for the Judicial Branch

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

From the President

by *Robin E. Wosje*



Robin Wosje

Dear NASJE Members –

First I want to remind you about our Annual Conference, which is scheduled for August 10-13, 2008 in Philadelphia, Pennsylvania. NOTE: The cut off for the hotel was July 25, 2008. So, get your registration and reservations in soon! It proves to be one of our best conferences yet. Registration forms, an agenda and other information about the conference is available on [NASJE's website](#).

As part of the business meeting at the Conference, there will be materials about what activities NASJE has done this year. A shortened version of this is below:

News

- [SJI News](#)
- [Transitions](#)
- [OJJDP Update](#)
- [From the President](#)
- [From the President-Elect](#)
- [From the Editor](#)

Scholarship Assistance: NASJE instituted the ability for members of NASJE to seek scholarship assistance to this year's annual conference. NASJE's Board implemented this program as a way to provide support and give back to its membership. Those seeking scholarships are receiving \$450 to cover the registration fee for the conference. With the downturn of the economy, the Board felt this was a good way to assist.

Hardcore Drunk Driving Judicial Advisory Panel: This project started in 2002 as a partner project with NASJE and The Century Council, a non-profit organization funded by distillers that works on the issues of drunk driving and underage drinking. This collaborative project examines the judiciary's critical role in reducing hardcore drunk driving and strategies to increase its effectiveness. The Panel met on May 28-29, 2008 and Claudia Fernandes, President-Elect, represented NASJE.

Traffic Industry Research Foundation (TIRF): On June 16-17, 2008, NASJE represented judicial branch educators at TIRF's working group meeting. NASJE was represented by Paul Biderman, Director of the Institute of Public Law, New Mexico. TIRF is a Canadian foundation that performs original research into the causes of road crashes and develops and promotes effective prevention programs and policies. The purpose of the working group is to assist TIRF by providing insights for researching the legal system's response to drunk driving.

Institute for Court Management Advisory Council: NASJE serves on this council, which provides advice and input regarding ICM's activities and plans. The most recent meeting of the Council was on June 7, 2008. Christy Tull, Vice-President, represented NASJE at that meeting.

VACM Mini Guide on Succession Planning Committee: NASJE serves on this committee, which is developing a mini guide on workforce development and succession planning. Liz Strong, Staff Development Administrator, Colorado Administrative Office of the Courts, is NASJE's representative.

Members of NASJE represented our organization at the following meetings:

- Conference of State Court Administrators Mid Year Meeting, November 29-December 1, 2007, represented by

Robin E. Wosje, President

- Conference of State Court Administrators Mid-Year Meeting, January 26-30, 2008, represented by Claudia Fernandes, President-Elect
- Conference of Chief Justices/Conference of State Court Administrators, July 26-30, 2008, represented by Claudia Fernandes, President-Elect

Lastly, I wanted to let those attending the conference know, that I, unfortunately, will not be able to make it. My husband and I will be blessed with a new baby son sometime between now and September 1. I will be under travel restriction at the time of the conference due to the fact that it will be just 3 weeks prior to my delivery date. I will miss you all and will be sad not to be able to participate in the conference.

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

From the President-Elect

by *Claudia J. Fernandes*

Dear NASJE Members,

We are always interested in hearing from the membership on ideas or thoughts you may have to improve our association and what it offers to its members. We would also like to ask if you have an interest in getting involved on any of the committees as a member or, possibly, as the chair. This association can always use your help and your ideas.

If you have an interest or any ideas for this association please fill out this form ([PDF](#)) and send it to me by August 1, 2008. Your responses and requests will be reviewed at the conference and you will be contacted by the respective chairs or a board member following the meeting. On behalf of the board we would love to include you in making this association the best it can be for its members. Thank you,

-- *Claudia J. Fernandes, NASJE President-Elect*

News

- [SJI News](#)
- [Transitions](#)
- [OJJDP Update](#)
- [From the President](#)
- [From the President-Elect](#)
- [From the Editor](#)

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

News

From the Editor

by *Philip Schopick*



Phil Schopick

The past year has seen the *NasjeNews Quarterly* continue its evolution into a publication that contributes substantially to our profession. We have continued to add new areas of focus for articles and continue to invite new people to manage the sections of our issues. The improved format of a short introduction to each article on the front page continues to be well received.

The newsletter would not have been possible this year without the hard work, great ideas, and commitment of all the people who wrote articles for us, as well as the following editorial board members and guest editors:

Editorial Board

Judith Anderson, Lee Ann Barnhardt, Steve Circeo, Jo Deyo, Laurie Ginn, Kelly Tait, Deborah Williamson, Lois Wright.

Guest Editors

Pam Casey, Maureen Conner, Denise Dancy, Hon. David Gersten, Ellen Marshall, Polly Schnaper.

I also want to acknowledge the offices, agencies, and sponsoring organizations that made it possible for these wonderful people to devote their efforts to educating us all. I especially want to thank the Supreme Court of Ohio and Milt Nuzum, Director of the Judicial College, for the support and encouragement that has enabled me to act as chair of this committee.

Often, being a committee chair for any organization is a thankless task, and at times it is hard to comprehend why one would put oneself through it all. For me, getting to work with the people named above has been just as great a reward as being able to bring our membership a valuable publication on a regular basis.

Thank you all for this opportunity.

Respectfully submitted,

Philip Schopick, Editor
NasjeNews Quarterly

News

- SJI News
- Transitions
- OJJDP Update
- From the President
- From the President-Elect
- From the Editor

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Volume 11 Number 2 Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Resources

Judicial Tools to Improve Court Practice in Child Support

by NCJFCJ

In 2005 the National Council of Juvenile and Family Court Judges received funding from the Administration for Children and Families, Office of Child Support Enforcement to provide state court judges and other judicial officers with practical, easy-to-use tools that facilitate realistic and enforceable child support orders and strengthen the ability of the nation's child support enforcement (Title IV-D) programs to collect support on behalf of children and families. The overarching goal of the project is to help judges in the establishment of child support orders that more appropriately address the financial circumstances of both parents, thereby reducing arrearages and creating a culture of compliance within which parents are more likely to support their children.

The judiciary plays a critical role in creating a culture of compliance where the obligor perceives that justice is being done. To that end, NCJFCJ convened a Project Advisory Group of national experts to develop several informative and practical resources in order to provide needed information to judges dealing with child support issues. This Project Advisory Group consisted of family court judges and Title IV-D directors from around the country who work with child support matters on a daily basis. With the expertise and hard work of this group of experts, NCJFCJ developed three practice-based and userfriendly tools, including two technical assistance bulletins and a set of benchcards. In order to evaluate their usefulness and practicality, in late 2007 the tools were pilot tested in courts around the country as well as presented at several national conferences and trainings.

One of the project's primary objectives was to provide judges with practical information about integrating problem-solving court principles into their child support docket. To meet this objective, NCJFCJ developed a technical assistance bulletin, "Integrating Problem-Solving Court Practices Into the Child Support Docket ([PDF](#))." By presenting practical examples of how judges can improve practice in child support cases by utilizing a problem-solving approach, this tool shows how problemsolving principles can help build a culture of compliance in which parents will support their children voluntarily and reliably.

Another goal was to provide judges with a practice-based tool to improve court practice in the challenging area of setting medical child support orders. In order to ensure that a support order accurately and realistically reflects the resources of the parents, NCJFCJ developed a second technical assistance bulletin entitled "Why Medical Child Support Is Important - and Complex ([PDF](#))." The bulletin contains historical perspectives, federal statutes and regulations on medical support orders, checklists and guidance for setting medical support orders.

In order to meet the project's objectives focused on improving court practice regarding process service and default orders, NCJFCJ also produced a set of judicial benchcards, "A Practice Guide: Making Child Support Orders Realistic and Enforceable ([PDF](#))," which also offer assistance on retroactive support orders and guidelines for determining income, along with worksheets and checklists.

The tools produced under this project are being disseminated nationally by NCJFCJ in early 2008. They will also be available to download on the NCJFCJ website at www.ncjfcj.org. For more information on this project, please contact Cheryl Lyngar at 775-784-6225 or clyngar@ncjfcj.org.

Resources

- Judicial Tools to Improve Court Practice in Child Support
- Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice
- Fostering Public Trust through Judicial Opinion Writing
- Putting the Brakes on Repeat DUI and High BAC Offenders
- Thiagi Newsletter

NASJENews Quarterly

Volume 11 Number 2 Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Resources

Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice

by Dr. Deborah Williamson, Judge Julia Hylton Adams, Dr. Sandra Ratcliff Daffron

Abstract

A first activity for the Circuit Judges' Education Academy for the Commonwealth of Kentucky was held on April 21 – 25, 2008 in Louisville, KY. The original concept for the Academy was conceived by the Honorable Joseph E. Lambert, Chief Justice, Supreme Court of Kentucky; the Honorable Julia Hylton Adams, Circuit Judge for the 25th Judicial Circuit and Chair of the Education Committee; and, the Honorable Jason M. Nemes, Director, Administrative Office of the Courts. Dr. Sandra Ratcliff Daffron, President of the Institute for Professional Training and Education worked closely with Dr. Deborah Williamson and Dr. Kevin Smalley of the Kentucky Administrative Office of the Courts to develop a program plan for the Circuit Judge educators that met the Education Academy goal, to explain and demonstrate how to combine adult education fundamentals, presentation and teaching techniques and content delivery technology into an effective and powerful judicial education program. This article highlights the plan for the Circuit Judges' Education Academy, the first activity that has launched the Academy, and ideas for future Academy activities.

The Kentucky Circuit Judges' Education Academy

Judicial education curriculum is planned, developed and implemented by the Circuit Judges Education Committee in Kentucky. Committee members serve staggered terms at the appointment of the elected President of the Circuit Judges Association. This committee reviews suggestions, evaluations, and comments given by the judges who attend the annual educational conference to help them make decisions for future educational activities. The committee works in tandem with the professional education staff of the Administrative Office of the Courts (AOC) to plan and carry out the educational activities.

This year the Circuit Judges' Judicial Education Academy was formed with the Chief Justice of the Kentucky Supreme Court appointing judges to serve on the Academy Advisory Board. The mission of the Academy is to develop committed faculty members who are devoted to advancing judicial education for the Commonwealth. Judges were selected using criteria that included demonstration of an extraordinary commitment to judicial education and a dedication to making the Academy the best among judicial education in the United States. These prominent judges all donated considerable amounts of time to educating other judges. Their task is to assist the Education Committee with ideas and suggestions of cutting edge research in judicial education, with the development of curriculum, with recommendations for effective presentation techniques, and with a plan and strategies for judicial education the circuit judges would find visionary and inspiring. The four goals of the Academy are:

- to restore and enhance the quality and integrity of judicial education in the Commonwealth;
- to identify members of Kentucky's judiciary who have expressed and demonstrated on-going commitment to judicial education in its broadest conceptualization;
- to provide sustained and cutting –edge professional development, separate from existing faculty development programs, for the individuals identified, and to utilize them as both education mentors and core faculty members

Resources

- Judicial Tools to Improve Court Practice in Child Support
- Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice
- Fostering Public Trust through Judicial Opinion Writing
- Putting the Brakes on Repeat DUI and High BAC Offenders
- Thiagi Newsletter

at Judicial colleges;

- and, to engender enthusiasm regarding the judicial education process in general, and serving as faculty in specific, among all members of the Circuit Court.

The First Step

To begin their process the members of the Academy came together for the first time for a week long workshop in Louisville, April 21-25, 2008. All 16 Academy Board members were invited to the workshop and AOC staff from the training division and the judicial branch education observed the workshop and participated in many of the activities. The intensive program was planned to:

- Identify the knowledge, skills and abilities needed by judges who are presenters to more effectively present
- Introduce cutting edge research on adult learning and development
- Work with the AOC staff to help them effectively develop educational programs
- Incorporate ways to use technology effectively for education and training and discuss methods of delivering distance learning
- Assist judges who are presenters in developing their own presentation techniques

The 5-day program agenda included:

Day One - Theory to Practice

Learning Theory (Morning)

- Introductions
- Developmental Stages of Adults
- Andragogy - Malcolm Knowles
- Characteristics of Adult Learners
- Trends in Adult Learning: (recorded presentation)
Dr. Sharan Merriam, Professor of Adult Education, University of Georgia
- Understanding the Adult Learner
- Setting the Climate

What Kind of Teacher/Trainer Are You? (Morning)

- Training Style Inventory (TSI)
- Myers-Briggs Type Indicator
- Judges as Learners
- Communicating Effectively: 22 Tips
- Demonstration: 3 Teaching Techniques

Developing the Educational Design (Afternoon)

- The California Experience
- Curriculum Based Planning

- The Future and the Courts of Kentucky
- Writing Goals & Learning Objectives
- Phase I & II Write Up
- Techniques for Powerful Presentations

Group Activities (Afternoon)

- Demonstration: 3 Teaching Techniques
- Writing Phase I and II

Day Two - Using a Variety of Tools and Teaching Methods

Teaching Techniques (Morning)

- Generational Learning Styles
- Effective Teaching Strategies for Older Adults
- Transfer of Learning: (recorded presentation)
Mary North, M.Ed., Trainer for Intrepid, Seattle, WA.
- Transfer of Learning Articles (2)
- 30 Things We Know about Adult Learners

Technology (Morning)

- Introduction of the Possibilities: (recorded presentation)
Ed Webster, M.Ed., Instructional Designer, Bellingham, WA
— Power Points synchronized with audios
— Video Streaming
— SKYPE Conferencing
— Course Management Systems for Distance Learning (Blackboard/Web Ct/Moodle)
— Pod Casting
— Future Tools
- Demonstration: 3 Teaching Techniques

Organizing the Presentation (Afternoon)

- Organizing the Presentation
- Effective Communication Skills
- Powerful and Punchy Openers
- Successful Group Discussions
- No No's to Avoid
- Demonstration: 3 Teaching Techniques

Group Activities (Afternoon)

- Practice Small Group Instructions
- Curriculum Development Exercise

Day Three - Incorporating Theory, Methods, and Ideas into Individual Presentations

Teaching Methods (Morning)

- Brain-based Research: (recorded presentation)
Gail Goulet, M.Ed., Career Connections, Surrey, B.C.
- Developing the Intellect
- Self-Directed Learning
- Discussion Topics
- Effective Ways Judges Teach Other Judges: (live presentation)
Hon. John F. Daffron, Jr., (retired judge), Circuit Court of Chesterfield County, VA.

Facilitation (Morning)

- Successful Team-Building Activities
- Room Arrangements for Presentations
- Demonstration: 3 Teaching Techniques
- Facilitators vs. Group Members

The Educational Design (Afternoon)

- Educational Design Plan
- Completing and Discussing
- Criteria for Evaluating Course Material

Group Activities (Afternoon)

- Demonstration: 3 Teaching Techniques
- Rehearsing the Introduction

Day Four - “5-4-3-2-1 – You’re on”

Presentations by Judges (Morning)

- 8 Judges will...
 - Present Introductions
 - Explain Educational Curriculum Design & Plan

Evaluation (Morning)

- Program Evaluation
- Measuring the Effects of Training

- Retention of Knowledge
- Demonstration: 3 Teaching Techniques

Critiquing the Judge's Presentations (Afternoon)

- View each Videotape
- Critique and discuss each Educational Design

Assess, Collaborate, Experiment & Imagine (Afternoon)

- Active Training Techniques:
 - Assessing
 - Collaborating
 - Experimenting
 - Imagining
- Criteria for Evaluating Presentations
- Demonstration: 3 Teaching Techniques

Day Five - "5 – 4 – 3 – 2 – 1 ... You're on!" Tying It Together

Presentations by Judges (Morning)

- 7 Judges will...
 - Present Introductions
 - Explain Educational Curriculum Design & Plan

Inquire, Perform, Stimulate & Reflect (Morning)

- Active Training Techniques:
 - Inquiring
 - Performing
 - Stimulating
 - Reflecting
- Adding Style to Your Speech
- Watch your Non-Verbals!
- Demonstration: 3 Teaching Techniques

Critiquing the Judge's Presentations (Afternoon)

- View each Videotape
- Critique and discuss each Educational Design

Wrap Up (Afternoon)

- Demonstration: 3 Teaching Techniques
- 16 Ways to Help Attendees Learn Better
- Futures Thinking about Judicial Education: (recorded presentation)

Dr. Diane Cowdrey, Director of Judicial Education
California Administrative Office of the Courts

- Conclusion and Goodbyes

Plans for Future Academies

In this first step of the Academy, the Academy Board and AOC staff participated in demonstrations of technology likely to influence the future of judicial education. The workshop featured demonstrations each day of distance learning techniques that judges were willing to accept and endorse, even those who are technically challenged. With uncertain funding for education and training in the future, all agreed it would be important to begin plans now for distance learning in the future and to take small steps toward that end.

Ultimately, the Academy will be able to conduct the faculty development for each educational opportunity planned by the Circuit Judges Education Committee and will assist the AOC professional education staff to build together an extraordinary and comprehensive educational model that assures continuity and professional commitment.



Deborah Williamson has served the Kentucky Administrative Office of the Courts for two decades. She is currently the State Facilitator for the Congressional Conference on Civic Education, a member of the ABA Advisory Committee on Public Education, and has served as a grant specialist for the Office of Budget and Policy. Prior to her appointment as Executive Officer of Court Services in February 2008, Deborah was the general manager of the Office for Judicial Branch Education where she revitalized judicial education for both the judiciary and support staff. She teaches courses in delinquency and criminology at local universities and education and civics courses in Europe. Deborah holds a bachelor's degree in anthropology, a master's in anthropology and a doctorate in sociology, with a secondary area in education policy.



Circuit Court Judge Julia Hylton Adams serves the 25th Judicial Circuit, 1st Division. Prior to her election to Circuit Court, Judge Adams served in District Court from 1984 until 1993. Judge Adams graduated with a bachelor's degree from Transylvania University in 1974 and earned a juris doctor from the University of Kentucky in 1977. She serves as chair of the Kentucky Circuit Judges Education Committee. She is also a member of the American Judges Association and NASJE. Judge Adams has previously served as president of the Kentucky Circuit Judges Association and the Kentucky District Judges Association.



Dr. Sandra Ratcliff Daffron is President and C.E.O. of IPT&E and a seasoned, respected international authority in adult and professional education. An Ed.D. in Adult and Continuing Education, an MS in Special Education and twenty-eight years of experience as a teacher and trainer give Sandra tremendous depth as a corporate training consultant. Sandra has developed innovative teaching techniques for classroom and distance learning as a graduate professor at Western Washington University, Virginia Commonwealth University and Northern Illinois University. Sandra served as Chief of Party for the USAID Palestinian Rule of Law Project, led the American Judicature Society with distinction as Executive Director and Vice President, and served as Assistant Dean for the IIT Chicago Kent College of Law.



Hon. John F. Daffron, retired, is an internationally renowned legal expert, futures planner, and judicial educator, and holds a BA and LLB degree from the University of Richmond. Judge Daffron practiced general law for many years and served as a judge for county, circuit, and federal courts in Virginia. Considered an expert in judicial reform, Judge Daffron consults on international judicial projects and presents strategic planning keynote addresses to audiences worldwide. Judge Daffron played a crucial role in judicial reform as chair and committee member of numerous organizations, including the State Justice Institute, National Conference of State Trial and Special Court Judges, Council of the Judicial Division of the American Bar Association and the American Judicature Society.



Edward Webster holds a M.Ed. in Adult and Higher Education from Western Washington University, a MS in Communications and a BS in Engineering from Miami University. Edward draws on thirty years of experience in education, communications, and engineering to deliver innovative yet practical technology-based training solutions for a wide array of clients. His business management experience includes Centro Corporation, Nickelodeon Cable Network and Miami University. Edward has designed communication systems and employee training programs for technology clients worldwide, including Edmonds Community College, Grant Union School District, the Los Angeles Unified School District, and the Korean Broadcasting System.

[Return to Top](#)

NASJE News Quarterly

Volume 10 Number 2 Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Resources

Fostering Public Trust through Judicial Opinion Writing

by Nancy A. Wanderer

"Slamming Judges for Political Gain" shouts the headline in the December 5, 2007 edition of The Seattle Times. "Here we go again," begins the article, which recounts Republican Mitt Romney's attack on Massachusetts Superior Court Judge Kathe M. Tuttmann after a controversy erupted over a single decision. Romney called for Judge Tuttmann's resignation after a defendant she released from custody left town and allegedly murdered two people in Washington State. Verbal attacks on judges have been frequent in recent years, and not just from politicians running for office. The term "activist judges" has entered the mainstream, offering a convenient rationale for criticizing judicial opinions on topics ranging from same-sex marriage to eminent domain.

Resources

- Judicial Tools to Improve Court Practice in Child Support
- Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice
- Fostering Public Trust through Judicial Opinion Writing
- Putting the Brakes on Repeat DUI and High BAC Offenders
- Thiagi Newsletter

"OPINION WRITING IN CONTROVERSIAL CASES": A NEW COURSE FOR TRIAL AND APPELLATE JUDGES"

In an increasingly polarized society, judicial accountability must include the responsibility to help those untrained in the law to better understand the basic concepts and principles involved in judicial decisions. The first paragraph of the preamble to the Code of Judicial Conduct states that "judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system." The National Center for State Courts is offering a new **online** course on opinion writing for both trial and appellate judges that seeks to address the growing concern of public discontent with our judicial system.

The course -- "Opinion Writing in Controversial Cases" -- goes beyond the usual emphasis on form and substance and focuses specifically on how to write opinions that foster trust and confidence in our judicial system. The course was developed in collaboration with an advisory committee of Missouri judges and their State Judicial Educator. Its distinctive approach helps judges learn how to write opinions that demonstrate respect for the parties involved, communicate clearly the role of the court and its limitations, and provide reasons for a potentially unpopular decision. It is designed for both trial and appellate judges because all judges need to facilitate understanding and voluntary compliance through their opinions - especially in controversial cases.

"Opinion Writing in Controversial Cases" provides judges an excellent opportunity to reflect on ways they can foster public trust and confidence in our legal system by incorporating the concepts into their own opinions. They also gain practical experience in applying these concepts through guided exercises and individualized feedback from two faculty members, one an experienced judge and the other a law school professor with expertise in judicial opinion writing.

COURSE OBJECTIVES AND STRUCTURE

The course is designed to enhance each participant's ability to

- Craft opinions and orders that help the parties and others interested in case outcomes to better understand the role of the court in the case;

- Convey the reasons for and limitation on the role of the court in making decisions in such cases; and
- Preserve or enhance the public's trust and confidence in the state judicial branch through the writing or pronouncement of their decisions.

The course is composed of four parts:

- Part I is a video discussion by Missouri Chief Justice Laura Denvir Stith and Missouri Court of Appeals Judge Ronald Hollinger on the changing context in which judicial opinions are being reported in the media and feed into economic, political, and social controversies.
- Part II is a one-hour video lecture by Professor Nancy A. Wanderer, Director of the Legal Research and Writing Program at the University of Maine School of Law, proposing an approach to writing opinions and orders in controversial cases. [Sample a section of Professor Wanderer's video lecture here \(WMV\)](#).
- Part III consists of a web-based seminar (a "Webinar") led by faculty members, Professor Wanderer and retired Superior Court of Washington Judge Robert H. Alsdorf that builds on Part II concepts and leads participants through an interactive critique of judicial opinions issued in selected cases, including the Supreme Court's controversial Kelo decision.
- Part IV provides participants an opportunity to practice applying some of the course's techniques to samples of their own writing and receive individualized faculty feedback on their submissions.

VALUES UNDERLYING THE COURSE

1. The Importance of Reasoned Opinions

Reasoned opinions promote fairness and effectiveness of adjudication and guide participants through the highly complex process of adjudication by explaining the role of the court and its limitations. The reasoned opinion ensures that the court has reached the proper resolution and legitimizes any departures from apparently established law.

2. The Importance of Demonstrating Respect

Showing respect for the people affected by judicial rulings is essential. By demonstrating respect at every stage of the process, including the opinion-writing stage, courts encourage respect for the judicial system and widespread acceptance of their opinions.

3. The Need for Clear Communication

The goal of opinion writing is clear communication. If judges make every choice regarding the tone and content of opinions with an eye toward communicating with the audiences for those opinions, the purposes of our judicial system will be met. Even highly controversial opinions will be viewed as more acceptable if the public actually understands the legal underpinnings for those opinions and how they apply to the case at hand.

3. WRITING AUDIENCES FOR JUDICIAL OPINIONS: WHO ARE THEY AND WHAT DO THEY NEED?

Another focus of the course is the expanding audience for judicial decisions. The most obvious audiences for judicial decisions are typically those most immediately concerned with the decision: the litigants and their lawyers. But there are other important audiences as well:

- The trial court whose judgment is being affirmed or reversed an appellate court needs to understand the nature of the ruling and what must be done on remand.
- Other courts need to understand the holding and rationale for the opinion and what should happen in future cases.

- The media and general public may also be vitally interested in the outcome of the case, especially if it deals with controversial subject matter.
- Members of the bar, legal scholars, law students, and public officials have similar needs as well.

All of these audiences must be able to see that the court has understood the context of the controversy, listened carefully to both sides, especially the losing side, and reached a principled decision based on the law.

KELO v. NEW LONDON: A FAILURE OF COMMUNICATION

When courts in their opinions fail to consider and address the needs of their audiences, voluntary compliance evaporates, making way for passive and active resistance to the rule of law. A prime example of this occurred in 2005, when the United States Supreme Court decided in [Kelo v. New London \(PDF\)](#) that citizens' homes could be taken by the government for private development under the Fifth Amendment's concept of eminent domain. The decision led to an immediate backlash, with news agencies reporting that cities could now bulldoze residences to make way for shopping malls and hotels to generate revenue. [Anti-government demonstrations and folk songs sprang up \(WMV\)](#). A proposal even surfaced that the town of Weare, New Hampshire, should purchase the family home of Justice Souter through an eminent domain action in order to construct the "[Lost Liberty Hotel](#)" on the property.

The Kelo opinion was chosen as the case to feature in this course because the judges on the Advisory Committee themselves experienced how much discussion is generated by the decision. Participants in the course look at the opinion in depth in Part II and Part III. In Part II, they become familiar with its content, particularly in comparison with another case, the Supreme Court of Canada's well-received opinion on the secession of Quebec; in Part III, they discuss ways the opinion could have been improved in an interactive Webinar format with Prof. Wanderer, Judge Alsdorf, and the other participants in the course.

STATE v. KING: A FAR BETTER WAY

Although it should be sufficient based on existing law and precedent for a court to reach the correct result, often more is needed. This is especially true when the decision seems likely to cause extreme discontent or widespread controversy, like the Kelo opinion. In such cases, the court must take extra measures to make the rendering of judgment more understandable, acceptable, and even therapeutic for those who particularly care about the outcome of the case.

A very good example would be Minnesota Judge Kevin Burke's opinion in [State v. King \(PDF\)](#), described on the [Minnesota Lawyer Blog](#) as "eloquent." All judges would like their opinions to be recognized as well-reasoned decisions like Judge Burke's. The decision dealt with the much publicized prosecution of Zachary King, who was charged with second-degree manslaughter after his child, Zach Jr., was killed by the family's pet pit bull.

Judge Burke began the opinion by stating, "What happened in this case was a horrific tragedy," and concluded in a "meticulously crafted opinion" that although King should not be criminally prosecuted, "Given what happened in this case there is no victor. A child is dead, his siblings and parents are traumatized, and a lot of people who never knew these people are bewildered and wonder how can this happen? Who is responsible?"

Judge Burke recognized the sensitivities in the case and took the time to acknowledge them, even though his primary obligation was simply to reach the correct decision based on the applicable law. Although he had not taken the NCSC course, "Opinion Writing in Controversial Cases," he clearly understood the tenets of the course and provides an inspiring example of judicial accountability.

For more information on "Opinion Writing in Controversial Cases," please contact Denise Dancy, NCSC Research Associate at ddancy@ncsc.org or 757.259.1593.

and the author of articles and book chapters on opinion writing, appellate practice, legal citation, and electronic communications. She has provided training in effective legal writing to judges, law clerks, and practitioners, and has consulted with the National Center for State Courts. Prof. Wanderer, a graduate of Wellesley College and the University of Maine School of Law, has been appointed to numerous boards and commissions, including the Maine Commission on Gender, Justice, and the Courts and the Defense Advisory Committee on Women in the Services. She clerked for the Maine Supreme Judicial Court and practiced in both the private and public sectors before returning to academia.

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Journal of the National Association of State Judicial Educators

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Resources

The Joint Century Council-NASJE Hardcore Drunk Driver Judicial Guide Project: Putting the Brakes on Repeat DUI and High BAC (Blood Alcohol Content) Offenders

by *Thomas N. Langhorne, Esq.*

As The Century Council-NASJE collaborative *Hardcore Drunk Driving Judicial Guide* multi-year project tapers down, NASJE members will be encouraged to learn of the project's many proud success stories.

The first of its kind in many respects, this national judicial education project represents a comprehensive effort to provide state judges skills that enable them to swiftly identify, punish with certainty, and effectively treat hardcore drunk drivers. It also marks the first occasion in which most of America's leading judicial education stakeholders collaboratively directed their collective resources towards effectively addressing this compelling public safety problem.

Thirty nine of the fifty states invited the *Hardcore Drunk Driving Judicial Guide* project to their respective statewide judicial conferences. Several of those states invited our project back for command performances. In total, between four and five thousand state and local judges possessing subject matter jurisdiction over DUI/DWI cases attended our workshops. While those figures are indeed impressive, our original goal was to reach all fifty states' judicial conferences. Nevertheless, a significant portion of American trial judges learned how they can apply innovative judicial strategies that are proven to reduce DUI/DWI recidivism rates by changing DUI/DWI offenders' long term behavior.

This ambitious judicial education effort was borne out of American judges' and public safety officials' frustration with a growing judicial education gap existing in most American state court systems: Specifically, a surprising dearth of judicial education programs existed that specifically addressed impaired driving cases' complexities or provided judges the necessary skills, knowledge and abilities to effectively adjudicate impaired driving cases. Moreover, judicial educators and the judges they serve recognized that effectively adjudicating the DWI offender, especially the hardcore offender, is one of the most complex challenges facing today's courts. Impaired driving cases regularly present intricate legal, technical and medical evidentiary issues and confounding evaluation, monitoring, sentencing and treatment challenges. Additionally, recent studies evaluating the justice system's processing of DWI caseloads consistently identify judicial education as a potential solution to realizing more efficacious DWI adjudication.

This Judicial Guide project is entirely free to the inviting state judicial conferences. Faculty travel expenses are paid by the project. Every attending judge receives a highly evaluated, free *Hardcore Drunk Driving Judicial Guide* with recent supplements from The National Judicial College, The National Council of Juvenile and Family Court Judges, The National Association of Drug Court Professionals, NHTSA and others.

Our collected anecdotal evidence from each state indicates the workshop attendees not only learned but more importantly, changed their judicial attitudes and practices concerning DUI/DWI adjudications. Letters, emails and telephone calls from our Judicial Guide workshop attendees to our advisory panel members and faculty were nothing short of inspiring.

Resources

- [Judicial Tools to Improve Court Practice in Child Support](#)
- [Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice](#)
- [Fostering Public Trust through Judicial Opinion Writing](#)
- [Putting the Brakes on Repeat DUI and High BAC Offenders](#)
- [Thiagi Newsletter](#)

Fortunately, evaluating the project's success won't have to rely exclusively upon such anecdotal evidence. The Century Council-NASJE Judicial Guide Project made a substantial investment in conducting outcomes evaluations and measures. Using the Kirkpatrick Four Level evaluation model as its basic foundation, our formal evaluation phase will soon produce an extensive evaluation report for all judicial educators to see. In this fashion, every American trial court with DUI/DWI jurisdiction can apply lessons learned from our Judicial Guide project. Those thirty nine states who invited us to their judicial conferences are especially eager to learn how they can practically adapt the evaluation report's findings.

Few, if any, judicial education related projects with which I have been associated have made such concrete, positive contributions that impact public safety. However, as most of you know, I am also an admitted, shameless promoter of NASJE. As this project pulled me to all corners of our country, I am equally pleased to declare that the Judicial Guide project brought unparalleled national exposure to NASJE. I can safely add that as a result of this project, thousands of judges can actually explain what NASJE is and what it does. This increased national recognition will provide NASJE significant collateral benefits as NASJE decides to broaden its strategic collaborations with other prominent, national organizations.

Additionally, about one year into this ambitious project, CNN televised a segment dedicated to showcasing the Judicial Guide project. It was aired on at least two occasions. During the CNN airing, not only was NASJE mentioned, but its logo and the Hardcore Drunk Driving Judicial Guide were prominently displayed.

Moreover, the Hardcore Drunk Driving Judicial Guide project also brought NASJE additional national acclaim last August by winning the coveted Governors' Highway Safety Association's prestigious Peter K. O'Rourke Special Achievement Award. Each year the O'Rourke award is given to that year's outstanding project promoting highway safety.

It should be well noted that The Century Council assumed all of the presenters' travel-related costs associated with attending these states' and national judicial conferences. Moreover, every judge attending the workshops received a free copy of the Judicial Guide and substantial supplemental materials. In that regard as well, The Century Council assumed the entire cost of printing, shipping and distributing the Judicial Guides to conference attendees. Moreover, every judicial educator in the United States received a copy of the *Hardcore Drunk Driving Judicial Guide* and was encouraged to integrate the *Judicial Guide's* principles and practices into their annual statewide judicial education conferences.

The project enjoyed formal collaborative partnership support from many prominent national organizations including The National Judicial College, The National Council of Juvenile and Family Court Judges, The National Drug Court Institute, The National Association of Drug Court Professionals and The National Association of State Judicial Educators. These organizations became united in focusing their considerable expertise towards a single aim- provide judges across the country the necessary skills and concrete solutions that hold promise for reducing DWI recidivism in their localities.

The Hardcore Drunk Driving Judicial Education workshop was universally rated as the best or one of the best conference programs at every statewide judicial conference in which it participated. Many state Supreme Court Justices introduced the project's seminar to their statewide judicial conference by encouraging state court judges to treat drunk driving as a compelling public safety and criminal justice priority. The project therefore enjoyed the vocal support of the leadership of state courts and elevated the fight against drunk driving to an even higher court priority. Notably, state court justices subsequently wrote letters of gratitude to the project representatives, expressing their appreciation for the seminars' positive contributions to their states' fight against drunk driving.

In conclusion, we have witnessed a countless number of judges who have a newfound optimism in and enthusiasm for their role in combating drunk driving. Armed with promising, new judicial strategies and a sense for renewed community leadership, judges are indeed amending their views on drunk drivers and rethinking their sentencing strategies. NASJE is immensely grateful for The Century Council's immeasurable support, leadership and guidance

throughout this project's short but successful tenure.

Clearly, the judicial branch and the public it serves benefited significantly from the Judicial Education Project. Equally certain is the fact that saved lives have resulted from judges' newly adopted attitudes and skills accruing from this project.

Tom Langhorne has devoted his professional life to improving justice and the courts since 1983. He was director of Judicial Education for the Supreme Court of Virginia from 1993 until 2002. He has served as faculty and consultant to the National Judicial College, the National Council of Juvenile and Family Court Judges, and the International Conference on Judicial Training, as well as presented for various state judicial education organizations. The United Nations recently selected Tom to lead an international delegation to Serbia to evaluate the progress of Serbia's democratic reforms. Tom's consulting practice focuses on conducting learning needs assessments, curriculum and outcome measures development, strategic planning, and change management. He is a past president of NASJE.

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Resources

Thiagi Newsletter

- [Thiagi Newsletter - June \(PDF\)](#)
- [Thiagi Newsletter - July \(PDF\)](#)

Resources

- [Judicial Tools to Improve Court Practice in Child Support](#)
- [Circuit Judges' Education Academy: Theory, Technique and Technology for the Kentucky Court of Justice](#)
- [Fostering Public Trust through Judicial Opinion Writing](#)
- [Putting the Brakes on Repeat DUI and High BAC Offenders](#)
- [Thiagi Newsletter](#)

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

NASJENews Quarterly

Volume 10 Number 2 Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Features

New Research into Fairness in Administrative Hearings by Christopher B. McNeil, J.D., Ph.D.

Ever wonder what makes a trial fair? If you knew a set of benchmarks exists to help ensure a fair trial, would you want to know about them? Turns out, there are a set of pretty good predictors of fairness, predictors that were identified expressly for use in trial courts. Social scientists in the 1960s started describing these predictors, in a body of research describing what they referred to as “procedural justice.” Through field observations, participant surveys, and laboratory experiments, these scientists articulated a set of conditions that help predict whether litigants, judges, and observers believe a trial was, or was not, fair.

By now, much of what these scientists discovered is familiar to us – almost like we’ve known these things all along. For instance, we know litigants in hotly contested disputes tend to want to share **control** with the judge over key parts of the process. Rather than expect the judge to gather evidence (as may be the case in the inquisitorial trials frequently encountered in European courts), litigants expect the court to permit the parties to engage in discovery. Instead of having the court take the lead in questioning witnesses, litigants feel a trial is fairer if most of the questioning is performed by advocates for the parties. Procedural justice, social scientists discovered, was predicated in part on how we perceive control over the process is shared among the litigants on the one hand, and the judge on the other hand.

Later on, scientists learned that control over the process isn’t the only important predictor of fairness: they discovered the role **group values** play in the perception of fairness in trials. These values include whether the parties believe the judge has created a level playing field so that all participants have equal access to information and equal opportunities to present their case. They also include consideration of basic human needs, needs that can be met simply by treating the parties with dignity and respect.

Throughout the 1960s and on to the 1980s, these emerging principles of fairness in adjudication spread. Social scientists learned that the same benchmarks that predicted fairness (and **perceptions** of fairness) in court trials were equally useful in other contexts. Political scientists found that control over the process was important in election campaigns. Business managers discovered the decision-making part of business structures could improve perceptions of fairness, if they applied what was learned about procedural justice in trial courts. More recently, the principles of procedural justice were used to ensure a fair distribution of federal survivor benefits in the aftermath of the attacks of September 11, 2001.

One small but important slice of society, however, seems to have missed out on learning from procedural justice research. Administrative agencies were evolving quite rapidly in the 1960s, and for the next four decades they began to assume more and more of the adjudication roles that had been the exclusive province of trial courts. It turns out that while agency adjudication expanded – exponentially in areas like the determination of government-based entitlement programs – very little research was conducted to see whether the process followed by these agencies was fair. Over time, agency adjudication in this country has become the tail that now wags the dog in adjudications – with a volume of fact-finding and decision-making that eclipses the number of trials conducted in judicial-branch courts. With this growth, however, there have been remarkably few reported studies aimed at determining whether participants in these hearings believe the hearings are fair.

Features

- New Research into Fairness in Administrative Hearings
- Judges Newsletter
- Blast From The Past: The Conference on Court Technology
- Alternatives to Incarceration

Recently, researchers sought to change this, by carrying out a study designed to test whether the structure of administrative hearings can influence participant perceptions of fairness in the process. The results, presented last month in a doctoral dissertation at the University of Nevada – Reno, shed some sobering light on a process that may have been allowed to evolve in the dark for too long.

Supported by a grant from the National Science Foundation, researchers designed a survey for drivers, defense attorneys, and administrative law judges (ALJs), who had recently participated in hearings to determine whether the drivers had violated the states' implied consent laws. These are cases where a driver has been charged with DUI and, in addition to facing a criminal charge, also faces the loss of his or her license because the state claims the driver refused to consent to a BAC test incident to arrest. The study was limited to those cases where an ALJ (and not a trial court judge) was the decision-maker. Using the same inventory of questions social scientists have used to study perceptions of fairness in trial courts, the researchers asked about fairness in the outcome of these cases, and fairness in the process.

A majority of the drivers – 67% – rated the ALJ's handling of the case as either not very fair, or not at all fair. Asked the same question, 79.4% of defense counsel said the ALJ's handling of their clients' cases was either not very fair or not fair at all. In contrast, when asked to rate the fairness of the hearing process, 71.4% of the ALJs said the process was "very fair," with the remainder saying the process was either for the most part fair or more fair than unfair. None of the ALJs thought the process was in any way unfair – and when asked how they think the drivers perceived the hearings, most of the ALJs (90.5%) thought the drivers perceived the hearings to be very fair, for the most part fair, or more fair than unfair.

The research explored other core features of adjudication – whether the decision-maker was unbiased and honest, whether he or she took the time to consider the evidence and treated all sides equally, whether the decision-maker was impartial, had enough evidence to support the decision, and took all the evidence into account. Throughout the responses, from both the drivers and the defense lawyers, these participants responded negatively, and in some cases highly negatively, to both the process and the outcome.

A primary hypothesis driving this research was that participants would feel the process was fairer if the agency did not get to choose the ALJ. Common sense, and the research into procedural justice, suggests that litigants are likely to be concerned if the prosecutor and investigator in a case becomes the judge in the same case (which is pretty much what happens in an administrative hearing). To address fairness concerns associated with this kind of hearing, about half of the states now have central panels of ALJs, who are chosen not by the agency but by a chief ALJ, who is still part of the executive branch but is not part of the agency. The hypothesis tended to be proved true: in many instances, there was a statistically significant difference between responses from drivers and lawyers that showed hearings before central panel ALJs were perceived as fairer than those in agency-run hearings. Thus, there is reason to think that there is something about separation of the ALJ from the agency can improve perceptions about procedural justice in administrative hearings.

Apart from this, however, the study suggests that delegation of judicial decision-making to the executive branch may carry with it a cost far more profound than is currently understood. The results of this research suggest that the loss of a judicial-branch adjudicator, and the use of an executive-branch ALJ as a proxy, may lead to significantly depressed perceptions of procedural justice, at least among claimants and the bar. There were far too few ALJ participants in the study to produce statistically significant results, so more data is needed. These results suggest, however, the need to begin a course of study into agency adjudications, applying well-established principles of procedural justice research, on agency adjudication. We need to have more answers to the question: are administrative hearings are fair, and if not, are there are structural changes that may lead to greater trust and confidence in these hearings.



Christopher B. McNeil, J.D., Ph.D., is a Professor of Legal Writing and Adjunct Instructor of Administrative Law at Capital University Law School, in Columbus, Ohio. He is a former chair of the Ohio State Bar Association's Administrative Law Committee, and an Administrative Hearing Examiner for state agencies in Ohio. You can contact Chris at 614.571.6031 or cmcneil@iwaynet.net. This article is based on research conducted between 2006 and 2007, supported by a grant from the National Science Foundation, Grant #0550758. The full text of the dissertation describing the research, "Perceptions of Fairness in Agency Adjudications: Applying Lind & Tyler's Theories of Procedural Justice to State Executive-Branch Adjudications," is

NASJENews Quarterly

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Features

Judges Newsletter by Indiana Judicial Center

The Indiana Judicial Center has graciously agreed to share its bimonthly Judge newsletter with us all. There seems to be something for everyone.

Read, enjoy, and benefit from it. Thank you Indiana for your willingness to let us share this with everyone.

- May 2008: <http://www.in.gov/judiciary/balance/3-5.html>
- July 2008: <http://www.in.gov/judiciary/balance/3-6.html>

Features

- New Research into Fairness in Administrative Hearings
- Judges Newsletter
- Blast From The Past: The Conference on Court Technology
- Alternatives to Incarceration

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

Judicial Balance

INDIANA
JUDICIAL
CENTER

ETHICS & PROFESSIONALISM COMMITTEE, JUDICIAL CONFERENCE OF INDIANA

May 2008

Volume 3, Issue 5

Just about every judge has spoken to a school group and heard a student ask, "What's it like to be a judge?" Any officeholder worth his or her salt long ago developed an intriguing standard answer to such inquiries. The standard answer is usually entertaining --- and no more revealing than necessary.

When judges talk to other judges, of course, especially to their friends, the conversation can often center on the peculiar challenges and burdens and joys of our work. Sorting out these challenges and burdens is not the sort of thing that Ann Landers or Doctor Phil has ever had much to say about. The object of *Judicial Balance* is to hunt through the mass of modern literature for articles and other writings that might provide judges with insights into successful navigation of judicial life. We hope judges will find this effort worthwhile.

Randall T. Shepard,
Chief Justice of Indiana

It's Your Call

As a judge, your role is almost exclusively determined by long-standing, defined procedures. Yet, how you manage self-represented litigants – arguably the most critical of your jobs – often comes down to your discretion. There has always been a great deal of debate, and virtually no concrete guidance, as to how active judges should or should not be with pro se parties. Too much “help” can create bias, or its appearance; too little, and one party may inadvertently forfeit important rights. The last decade reveals a dramatic trend toward giving judges greater discretion to ensure a fair process for self-represented litigants. To further this trend, we must be mindful that the goal of our system is fairness and justice; that impartiality does not equal passivity; that lack of counsel is usually compelled, not voluntary; and that context matters. It is possible to perform both ethically and actively in assisting pro se parties. After all, *you* are responsible for the fairness of the proceeding and the court orders. Please see, “Ethics in Transition: Unrepresented Litigants and the Changing Judicial Role,” by Russell Engler, Esq., *New Hampshire Bar Journal*, Winter 2008.

<http://www.nhbar.org/publications/display-journal-issue.asp?id=388>

Ego: Best Friend or Worst Enemy?

The idea of ego usually connotes negative traits such as arrogance, narrow-mindedness, and selfishness. But what if ego could be an asset rather than a liability? The goal of David Marcus and Steven Smith's new book is to help people manage their ego for good instead of ill. The authors suggest that ego can be one of the greatest challenges facing successful people: it can alienate us from others and from further success, or it can help us achieve our potential. Marcus and Smith researched the negative effect of unharnessed ego in business, where damage was easily quantified by lost profits. Although judges don't manage a profit margin, damage to relationships and professionalism can be irreparable. There are four early warning signs of ego: being comparative; being defensive; showcasing brilliance; and seeking acceptance. The authors propose three principles to counteract these signs. Make ego one of your greatest assets. Please see, “Economics: What Makes Ego our Greatest Asset (or Most Expensive Liability),” by David Marcus and Steven Smith, Fireside Publishing, Sept. 2007. Review by Amity Noltmeyer, *The Complete Lawyer*, Vol. 4, No. 1.

<http://www.thecompletelawyer.com/volume4/issue1/article.php?ppaid=5909>

Compassion in the Courtroom

How do you manage your emotions in the courtroom? Your job is to administer justice in the form of fairness, legal accuracy, and due process for all parties who appear before you. Many of you were taught that the ideal judge is also “dispassionate,” defined by Webster as free from passion, emotion, and bias – ever the calm and impartial figure. Surely every judge experiences a time when this ideal is tested, when being dispassionate demands super-human abilities. Judge Randolph R. Loncke shares his experience presiding over a child abuse case involving a 9-year-old victim. His story is moving, and the feelings and lessons of that day have remained with him many years. He reminds us that justice and compassion need not be mutually exclusive; that cases can be heard without passion as a judge, but not without compassion toward victims as human beings. After all, judges are human too. Perhaps that is the most important quality you bring to the bench. Please see, “Justice in the Courtroom – But Compassion Too,” by Judge Randolph R. Loncke, Sacramento Municipal Court, ABA Division for Public Education/ The Human Side of Being a Judge.

http://www.abanet.org/publiced/courts/justice_compassion.html

Judicial Wellness and Personal Security: A New Course

The sources of stress for a judge are numerous: the burden of your task; isolation; fear for your safety and that of your family; the traumatic experiences of individuals in your courtroom; and “compassion fatigue,” are but a few. Maintaining wellness in the face of such challenges, though difficult, is critical to your well being. Philip M. Stahl defines wellness as a way of caring for oneself that incorporates emotional, physical, and spiritual elements. Though a relatively new area of study, recent years reflect a marked increase in research regarding judicial stress and wellness. This September, the National Judicial College presents a new course, “Judicial Wellness and Personal Security,” that will address the sources, causes, and effects of stress on judges, including how to manage such challenges. The good news is that you can be a judge *and* a healthy, happy individual. Please see, “Judicial Wellness and Personal Security,” by Philip M. Stahl, Ph.D., ABPP, National Judicial College, March 2008.

<http://www.judges.org/news/news030708.html>

The Sweetest Things in Life

“The happiest lawyers I know, unquestionably, have prioritized time with their families – day-to-day time, not expensive vacation time.”

The craziness of life makes it easy to forget about precious, fleeting moments with our loved ones. For most of us, it would not be possible to manage the stress or the challenge of our work without the support and love of family and friends. How would we survive difficult times? With whom would we celebrate our successes? How would we make it through a typical day? Joe Schaub shares a special tribute to his family and the simple joys of life – and an appreciation of that joy on a regular basis. He makes his loved ones a priority, and happily accepts their support for him. Could you sincerely compose such a tribute? Can you sympathize with its message? If not, take care. Don’t let the sweetest things in life slip you by. Please see, “My Tribe and Me,” by Joe Schaub, *The Complete Lawyer*, Vol. 4, No. 2.

<http://newyork.thecompletelawyer.com/volume4/issue2/article.php?ppaid=7183>

The Best Boss

Odds are, you supervise several people professionally. As a judge, you also have significant influence over many others not in your direct line of authority. So what does it take to be a good boss? How do you leave a legacy of positive leadership? Author Wendy Werner shares nine practices of an excellent supervisor. Many of the practices are not intuitive; all of them value the individual at the highest level – certainly above work itself. Werner's main theory is that respect and value for individual employees optimizes success, loyalty, and work ethic. From creating challenges for people to recognizing that they have personal lives, Werner's practices can help you be an effective leader. Be an excellent boss. You will be rewarded accordingly. Please see, "The Best Boss," by Wendy L. Werner, *Law Practice Today*, December 2007.

<http://www.abanet.org/lpm/lpt/articles/mgt12071.shtml>

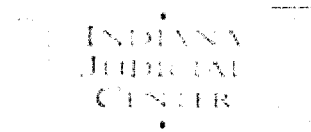
[Email Editor](#)

[Indiana Judicial
Center](#)

[Newsletter
Archive](#)

© Copyright 2008. All Rights Reserved.
Indiana Judicial Center, Indiana Judicial Conference Committee on Ethics and Professionalism.

Judicial Balance



ETHICS & PROFESSIONALISM COMMITTEE, JUDICIAL CONFERENCE OF INDIANA

July 2008

Volume 3, Issue 6

Just about every judge has spoken to a school group and heard a student ask, "What's it like to be a judge?" Any officeholder worth his or her salt long ago developed an intriguing standard answer to such inquiries. The standard answer is usually entertaining --- and no more revealing than necessary.

When judges talk to other judges, of course, especially to their friends, the conversation can often center on the peculiar challenges and burdens and joys of our work. Sorting out these challenges and burdens is not the sort of thing that Ann Landers or Doctor Phil has ever had much to say about. The object of Judicial Balance is to hunt through the mass of modern literature for articles and other writings that might provide judges with insights into successful navigation of judicial life. We hope judges will find this effort worthwhile.

Randall T. Shepard,
Chief Justice of Indiana

An American Restoration

Political views aside, most of us agree that American democracy needs to be "fixed" in some way. Such is the thesis of Michael Waldman's book, *A Return to Common Sense*: our democratic system of government urgently needs repair, with voting reforms topping the list. Waldman's work examines our government institutions, reveals their weaknesses, and proposes concrete steps toward making America a truly effective democracy. Currently Executive Director of the Brennan Center for Justice, Waldman is a nationally prominent public interest lawyer, government official, teacher, and writer. *A Return to Common Sense* has been hailed as a "call to arms, which everyone who cares about our democratic system should read, absorb, debate, and then use as a signpost for change" (Doris Kearns Goodwin). Please see, "A Return to Common Sense," by Michael Waldman, Executive Director of the Brennan Center for Justice, *Sourcebooks, Inc.*, June 2008.

http://www.brennancenter.org/content/resource/a_return_to_common_sense/

The Dilemma of Difficult People

We all know them: life's difficult people. They take the wind out of your sail, and the easiest of tasks becomes overwhelming. Yet, as long as you work with the human race, they'll be around. And you will be miserable, too, if you don't learn how to deal with difficult people. Consultant Betsy Black shares seven pointers for handling such people, including observation of your reactions; objectivity, especially when it's personal; and development of a strategy for dealing with the challenging individual. Be understanding, too. Something in a difficult person's life makes them the way they are. It probably merits your compassion. Most of all, deal with the situation. Avoidance increases stress and contributes to a negative environment. You, and they, deserve more. Please see, "Ways to Deal With Difficult People," by Betsy Black, *New Hampshire Bar News*, Feb. 8, 2008.

<http://www.nhbar.org/publications/archives/display-news-issue.asp?id=4311>

View From a Justice

It's always intriguing to hear a United States Supreme Court Justice's view on any topic, but the subject of judicial independence hits particularly close to home. Justice Ruth Bader Ginsburg reminds us that an independent judiciary is essential to the rule of law and, borrowing an analogy from Chief Justice William H. Rehnquist, likens a judge to a referee, who "calls it as he sees it, not as the home crowd wants him to call it." Justice Ginsburg discusses recent threats to independence, and highlights the vocal – and often unpredictable – supporters of the courts. In the end, she reminds us that judicial independence is a gift to every citizen of this country. Please see, "Remarks on Judicial Independence," by Ruth Bader Ginsburg, *Court Review*, Vol. 43:3, American Judges Association.

<http://aja.ncsc.dni.us/courtrv/cr43-3/CR43-3Ginsburg.pdf>

Risky Business

Being a judge carries certain inherent risks. People come before you at their worst and, regardless of the outcome of their experience, leave with emotions running high. Research shows that the probability of a judge being a victim of violent or threatening behavior is highest away from the courthouse. Even more, the presence of a threat is *not* an accurate indicator of danger, nor is its absence an accurate indicator of safety. So how do you protect yourself and your loved ones? There are three important steps to take: lower your visibility and get privacy protection; "harden" the target; and develop a survival and threat management plan. This article goes into detail about how to take these steps. Most of them are common sense, yet most judges have not put them into action. Please see, "Protecting the Homefront: The Importance of Personal Security and Judicial Privacy Protection Away From the Courthouse," Judicial Family Institute (originally a California Court publication).

<http://jfi.ncsconline.org/Security%20Articles/ProtectingTheHomefront.pdf>

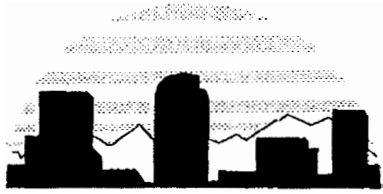
When It's Too Much

You are already aware that the rate of depression within the legal profession outpaces that of lay persons four to one. Combined with stress, the result can be catastrophic. For judges, the added factors of isolation and frequent loneliness only contribute to the mix. Rick Pfeiffer shares the story of a City Court Judge who reached his breaking point. The condition with which the judge was later diagnosed – "vicarious trauma" – led him to commit "an egregious and unprecedented abuse of judicial power." The judge's story is surprisingly easy to identify with. It illustrates the fine line we all walk daily between achievement and overload, balance and breaking point. The judge's courage in making his story public is commendable. Perhaps it will save you from a similar fate. Please see, "Broken Justice: What Happens When It Gets To Be Too Much?" by Rick Pfeiffer, *Lawyers With Depression* (orig. published by the *Niagara Gazette*, March 2008).

<http://www.lawyerswithdepression.com/uploads/gazette.pdf>

Making Marriage Work

Few marriages survive the divorce rate, and even fewer are characterized by truly happy relationships. If you have a spouse, the health of your marriage is critical to your quality of life. Attorney and therapist Thomas C. Fitzpatrick discusses the two major causes of divorce – unresolved resentment and lack of cultivation of the relationship – and what is necessary to the success of any marriage. He proposes gender-specific agendas for each spouse to promote satisfaction in a relationship. And, for those in the legal profession, Fitzpatrick suggests leaving certain professional skills at the office: logic, reason, and the need to defeat and prevail. Instead, arrive home daily with the intent to strengthen your marriage. Please see, "Making Marriage Work," by Thomas C.



The Conference On Court Technology

Implications For Judicial Education

by Susan M. Trippi

COMPUTERS are rapidly changing not only the ways in which courts operate but also some fundamental notions about the nature of the judicial process. More and more courts are discovering that vast improvements in efficiency and effectiveness can be made through the use of technology.

The need to communicate the importance of applying new technologies prompted the second National Conference on Court Technology in Denver last April, where some 1,500 judges, court managers, and other professionals convened. Sponsored by the National Center for State Courts, the Institute for Court Management, and 30 other national organizations, the Conference was designed to help court personnel become familiar with state-of-the-art court technology. The conference provided a look at a broad spectrum of technologies, through more than 57 sessions in 16 general topic areas. These topic areas included case, jury, financial and records management; integrating systems; technology in pretrial and post-adjudication services; financing technology; managing technology and people; commercial software; court reporting technology; and other related subjects. Audio cassettes of program sessions can be purchased from Ronald Meyer, President, RemCom International Corporation, P.O. Box 6176, Denver, CO 80206.

A number of state judicial educators attended the conference to gain a better understanding of the possibilities new technology provides. The following article, written by a conference participant, addresses the opportunities such technologies afford SJE's.

Susan M. Trippi is education coordinator for the Massachusetts Judicial Training Institute. —Ed.

Three keynote speakers addressed the Conference: Arthur Miller (below), professor of law at Harvard Law School, Roy Romer (top), governor of Colorado, and James K. Stewart (bottom right), director of the National Institute of Justice.



Attending the National Conference on Court Technology in Denver last April provided an opportunity to explore the latest developments in technology for court system applications and to expand my awareness of the implications of technological advancements within a training environment.

Richard Reaves, president of NASJE, and Stephen M. Simon, associate professor of clinical education at the University of Minnesota Law School, discussed direct applications of technology for training. Richard demonstrated the benefits of satellite teleconferencing and promoted the concept to administrators who may influence budgets or provide support to educators.

Steve Simon, a frequent presenter at NASJE programs, conducted his session by using an interactive videodisc as a training tool. Once again we were reminded of the value of a learning process which, as closely as possible, replicates the real environment in which a skill is practiced.

Desktop publishing remains one of the most useful technological tools for trainers. It is, of course, important to educators to market and present our work in a sophisticated manner. Desktop publishing allows us to upgrade the look of all publications and materials, often without the expense of hiring graphic artists and typesetters; a professional consultant will usually

aid in getting such a program up and running. In addition, this technology permits a logo and stylized formats to be carried through all materials generated by the education department. For example, a benchbook becomes one in a series produced by the education department as opposed to a single discrete unit or event. Professional-looking catalogs and brochures become compelling reading material instead of fodder for the circular file. Workshop booklets become self-contained units which include all worksheets and exercises. Uniform or consistent design strategies are a subtle but powerful marketing strategy to reinforce the importance of education and training and the unique identity of our respective organizations.

quality of instruction, the location, and course content. Expanding evaluation forms to include demographic data such as geographic locators, type of court, unit (e.g., probation services, clerk's office, or judges' lobby), job titles, and length of service would require minimum redesign of forms and minimally burden program participants.

quite simple: using expanded data collection in evaluations can provide educators with valuable information on where to target resources and how well programs are meeting the needs of large subcategories of employees.

The presentation on scanning technologies by the California court system was one of the more popular

programs. Currently, the Massachusetts Trial Court uses bar code scanning technology for our announcement and registration system. We identify which job titles are to be selected and generate bar-coded, peel-off mailing labels for each employee with the selected job title. The label is used to mail the program announcement and for registration. We simply scan the employee's bar code from the registration form and scan a program code sheet. The person is automatically registered without any



Scanning technology and data collection (left and top) were among the most popular topics at the Conference, which drew participants from all 50 states, the District of Columbia, and nine foreign countries.

Spatial analysis of court statistics, one of the more intriguing sessions offered, was presented by Dennis Conly, of the Canadian Center for Justice Statistics. Mr. Conly defined spatial analysis as "referring to inquiry which is focused on interactions within defined geographic or locational parameters. It is the search for relationships which exist among the consequences of social organization."

The session prompted me to consider what is collected on evaluation forms and how that information is used. Evaluation forms are usually program specific, soliciting information about the

One example of the utility of expanded data collection would be when a significant percentage of program participants evaluates a course as too basic. Where that rating was correlated with length-of-service data, it may show that only employees with extensive years of service evaluated the program as too basic. The implication of such information is that, when advertising a program, SJE's should either emphasize that the session is designed for employees with three or fewer years' experience or offer a different program for senior employees. Numerous other examples come to mind, but the message is

additional data entry on our part. Bar codes can be used in standardized evaluation forms or anywhere that easily coded, repetitive information is collected.

The benefits of technology to education and training organizations are limited only by our imaginations. For me, the greatest benefit of the Court Technology Conference was the opportunity to reflect on how discrete units of data, collected in response to specific procedures and functions, can be easily gathered and integrated due to technology—thus allowing decisions to be based upon greater richness of information. ■

NASJENews Quarterly

Quarterly News Bulletin for NASJE Members

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Features

Alternatives to Incarceration

by *Christopher Cecil, MSW*

At the June 2008 meeting of the Council of State Governments, Public Safety and Justice Task Force, in Lexington Kentucky, a policy discussion was held regarding alternatives to incarceration. The Task Force heard compelling presentations regarding innovative ways in which states are dealing with the pressing problem of prison overcrowding. Presenters included Jake Horowitz, Public Safety Performance Project, Pew Center for States; Michael Thompson, Executive Director, Council of State Governments Justice Center; and, Dawn Jenkins, Executive Advisor, Kentucky Department of Public Advocacy.

The news that more than 1 in 100 adults in our country are behind bars is shocking to many Americans, but it shouldn't come as a surprise. The incarceration rate has been marching toward this milestone for three decades, as a result of policy choices that put more offenders in prison and keep them there longer. All state health and public safety officials strive to be tough on crime in order to protect its citizens. Unfortunately, the policies that many states have adopted are not lowering the crime rate, nor improving recidivism rates.

Alternatives to incarceration include conditional release, electronic monitoring, work release, work crews, community service, restitution, drug testing, substance abuse treatment, drug courts, classes in job skills, mental health treatment, conflict resolution, and relapse prevention. States that established bipartisan teams to adopt alternatives to incarceration have lowered their prison population, improved recidivism rates, and lowered their crime rates.

One such state is North Carolina, where the legislature created the Sentencing and Policy Advisory Commission Act of 1990 and directed the new Commission to

- create a correctional simulation model
- classify criminal offenses
- recommend structures for use by sentencing courts
- develop a comprehensive corrections plan, and
- determine what percentage of their sentences offenders would be obligated to serve before becoming eligible for parole

Through its efforts, the percentage of felons who were sentenced to prison terms fell from 47 to 37% between 1993 and 2005 – preserving prison space, and the possibility of longer sentences, for the most serious offenders. The proportion of nonviolent felony offenders sentenced to prison during that period dropped from 42 % to 23%. It was feared that the increased use of community sanctions would result in more crime, but that did not happen. Crime rates fell nearly 21% and violent crime fell by 31%. North Carolina's new sentencing regime also achieved the fiscal stability the state needed. Today, North Carolina incarcerates about 38,000 inmates per year vs. the projected 54,000 had the reforms not been enacted – a difference worth hundreds of millions of dollars for the state budget.

Kentucky has also demonstrated the efficacy of community corrections through the Department of Public Advocacy,

Features

- New Research into Fairness in Administrative Hearings
- Judges Newsletter
- Blast From The Past: The Conference on Court Technology
- Alternatives to Incarceration

Social Worker Pilot Project. The pilot project, which served adults and juveniles from October 2006 to October 2007, resulted in substantial savings and decreased recidivism. This project secured treatment in the community for drug / alcohol abuse and mental illness; established interventions that supported a judge or prosecutor's decision to either conditionally release/divert the case or impose alternative sentencing which combined job training and treatment, employment, mental health treatment and GED classes; pretrial diversion and successful dispositional plans for youth and children in the juvenile justice system which presented reasonable alternatives to detention and commitment.

It was found that the Kentucky Social Worker Pilot Project was effective in several ways:

The recidivism rate of clients who worked with social workers was 15 to 18 percent compared to 34 percent overall in Kentucky.

93 percent of the adults who received drug or alcohol treatment abstained from those substances

30 percent of the clients referred to job training stayed in the training or completed it.

10,000 days of incarceration were saved by each social worker, equal to 27 years

After accounting for the cost of the social workers and the services used by the clients, the program saved \$3.25 for every dollar invested.

Saved \$300,000 and an estimated \$3.1 million if the program is fully funded.

The program "aims at changing the pattern of drug offenders endlessly recycled through the judicial and correctional systems, burdened with felony convictions that make it difficult for them to get work when they eventually rejoin society. It's a small wager when the stakes are so high and the odds are so good." (*Lexington Herald-Leader*, January 27, 2008).

Provided information to judges that they wouldn't have received otherwise in order to make informed decisions about those cases.

Although these findings are compelling, Kentucky did not establish funding to continue the Department of Public Advocacy, Social Worker Project. This decision will have a ripple effect as Kentucky – like many states - face funding cuts to education, mental health, substance abuse services, and public health programs.

In conclusion, scientific data supports use of alternatives to incarceration as an effective tool to reduce prison populations, lower recidivism, ameliorate criminal activity, and save millions of dollars. Despite compelling evidence, the majority of states are slow to shift paradigms and adopt alternate sentencing strategies.



Christopher Cecil, MSW, is an Education Specialist with the Kentucky Administrative Office of the Courts.

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

NASJENews Quarterly

Volume 34 Number 2 Summer 2008

[Index](#) | [News](#) | [Resources](#) | [Features](#) | [Manager's Briefcase](#) | [Comments?](#)

Manager's Briefcase

The Best Boss

by *Wendy L. Werner*

What does it take to be a good boss – one that is remembered years later? It requires a dedication to team work, by adapting to different employee work styles and finding everyone's strengths and weaknesses. It is someone who cares about their employees and in turn is rewarded with loyalty and success.

<http://www.abanet.org/lpm/lpt/articles/mgt12071.shtml>

[Return to Top](#)

Copyright 1999-2009, National Association of State Judicial Educators

[Contact Web Developer](#)

This Website is updated quarterly by NASJE.

The opinions expressed herein do not necessarily reflect the views of the National Association of State Judicial Educators.

Law Practice Today


 LAW PRACTICE MANAGEMENT SECTION

Law Practice TODAY

Management

The Best Boss

By Wendy L. Werner

December 2007

What does it take to be a good boss – one that is remembered years later? It requires a dedication to team work, by adapting to different employee work styles and finding everyone's strengths and weaknesses. It is someone who cares about their employees and in turn is rewarded with loyalty and success.

I had my best boss a very long time ago. It's almost embarrassing how long ago it was. Not that I haven't had other good supervisors, but this one was extraordinary. I wasn't the only person who thought so. He received a national organization's award in his field for being at the top of his profession as a leader at a young age. It was said at the event honoring him that he was the only person in the history of the association who was able to invite his *parents* to the ceremony. Most other winners had been honored at the end of their careers, virtually at retirement. In addition, over one hundred current and former employees of my exceptional boss showed up for the event. The good news for me is that we are still in touch. And I am pleased to say that although he lives in a state far away I have managed to see him over the years, and we talk on the phone occasionally.

For years I have thought about what qualities he possessed to make him such an extraordinary supervisor. And because I now sometimes present seminars focused on training and developing leaders, I wonder if it is possible to teach others some of the skills and behaviors that made Tom so exceptional. Here are some things that I have gleaned from my reflection, and some other general thoughts about what makes someone a good boss.

Treat Everyone Fairly, but...

One of the gifts that the Good Boss had was his ability to treat all of his employees fairly, but not necessarily the same. A reward for one person might not be a reward for another person. A motivation to work hard for one individual might not be appealing to someone else. He had an ability to recognize the differences between people and to play positively toward those differences. He knew that some employees wanted more structure than others, while some appreciated a more relaxed style of supervision. As a result – he adapted *his* style to the needs of the individual. At the same time he never lost sight of his overall goals. The whole organization needed certain models and standards of performance, and about those he was not flexible. In addition, those standards were made clear and communicated to everyone; repeatedly. There was no guessing game about primary expectations. But when it came to individuals, he was masterful at assisting each of us in meeting our goals – in our own way. As a result he got top performance from his people.

Create Challenges, Provide Feedback & Support

Upon reflection, it seems that I accomplished more when I worked for the Good Boss than under any other supervisor's direction. In what seemed to be an offhanded way he would throw out ideas of possible work and projects in which I might choose to be involved. He would wait for a spark of interest on my part (which was often), give me more information about the opportunity, and ask for my participation. It was a genius stroke of deployment. Of course at the same time that he was engaging me in work, he was asking other staff members for their interest in projects as well. Because he waited for our display of interest he was getting better buy in and commitment from people who chose their work than if we had simply been assigned to tasks. In addition, we were more likely to stay engaged for the duration of the work because we had chosen the subject.

I can imagine readers shaking their heads now. Who has time, you may be thinking, to ask people for their interests? There is work to be done for clients! While the upfront process will take more time, the pay off will be much greater in terms of commitment and likely outcome. Invest some time initially and you are more likely to have the right people working on the right projects. While there are times when this approach is not possible recognize that there are times when it is.

Give Positive Feedback

When working for the Good Boss not only were we likely to be involved in projects that we were interested in – we were also

appreciated. It was common to receive compliments on our work, and to have our accomplishments announced at staff meetings, so that we could receive public recognition. When projects were over we celebrated our successes. This didn't necessarily mean an over the top event, but more likely a simple "thank you", heartfelt to the team.

This is an area where the legal profession could use some significant help. In a profession where it is not uncommon to hear a supervisor say, "Well they should know they are doing well, I'm not yelling at them", there is plenty of room for growth. I am constantly surprised to hear professionals talk about their supervisors yelling at them or otherwise being verbally abusive. People are rarely, if ever motivated by critical feedback, and certainly not by loud chastisement. Critiques should be delivered in private and constructively. If you are unable to deliver feedback constructively in the heat of the moment, deliver it at some other time. And saying thank you for work well done is a very low cost way to create buy in for future projects.

Share Drudgery

Not all work is interesting, or to anyone's liking. But the Good Boss passed the not-so-interesting work around in the same way that he shared the interesting projects. More likely, we would all pitch in on work that wasn't interesting; if possible all at once. That way we could see that everyone was invested in boring work and no one was receiving special dispensation from dull tasks. Although it may not be possible in a law firm to pull everyone together for the boring work; at least make sure that everyone gets his or her fair share.

Recognize Everyone's Strengths

Just because we all worked for the Good Boss, it didn't necessarily mean that we all liked each other or got along all of the time. Like any diverse group, there were differences in personalities and styles. But our boss did not tolerate infighting or gossip. If we complained to him about another member of the team, he would reiterate their good qualities or tell us about their recent accomplishments. He did a lot to help us appreciate one another's complementary strengths, and in the end we were a pretty tight group. He took responsibility for the fact that he had hired the entire staff and he expected us to be respectful of one another.

Don't Ignore the Personal

While you don't want to intrude on your employee's personal lives – they do have one. During the time that I was working for the Good Boss, a family member ended up in the hospital in serious condition. While not overstepping boundaries, my boss made concerned inquiry about how they were doing, and made sure that my work load could accommodate this important concern. On the positive side, if one of your employees is getting married, or moving into a new home; acknowledge the new milestone. We do not live by work alone.

Hire Yourself a Good Boss

I recently spoke to a young professional who was thinking about leaving her current position. "Maybe I'm spoiled," she said, "but I want my next supervisor to be more like the person who was my first professional supervisor. He was such a great boss that I have been disappointed since. I feel like I accomplished so much in that position and that in some ways I have been thwarted by subsequent supervisors to meet my potential." I nodded in agreement. My recommendation to her was that she meet with people in her network and ask them to help her identify not simply organizations that she might want to work for; but rather specific individuals who could help provide her with the kind of growth environment she had previously experienced. It might take longer than a traditional job search, but in the end it would probably be more rewarding.

Get some Help

Where do lawyers learn how to be supervisors? Unless they have had previous employment experience before law school in another work setting, or through business management study, it is likely that their learning about supervisory skills have developed on the job. And frequently those on the job skills have come from their own supervisor who also had no training in supervision. Lawyering skills and supervisory skills are very different things. While it is important for a young attorney to develop his or her technical legal expertise, once they have reached a certain level they will be expected to supervise others. Training of a nature more formalized than simply emulating the person who supervised them would be a good investment. Good supervisors help retain employees.

Retaining Employees

It is easy to dismiss the strong impact of supervision in an organization that doesn't have a very hierarchical structure and/or a CEO. Because of the flat organizational structure of most legal organizations, and fairly autonomous departments, many attorneys

