

NASJENews Quarterly

Volume 24 • Number 4 • Fall 2009

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NASJENews Quarterly • Fall 2009

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Resources

- [CUTTING EDGE: The National Academy of Sciences and Judicial Education in Scientific Evidence](#)

by Daphne A. Burns

Earlier this year, the National Academy of Sciences released a report on a two-year study entitled *Strengthening Forensic Science in the United States: A Path Forward*. The study was authorized by Congress, which charged the NAS with creating a committee of experts to "disseminate best practices and guidelines concerning the collection and analysis of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes, investigate deaths, and protect the public." [more >](#)

- [Judicial Balance: Lessons for Law and Life](#)

by Judicial Conference of Indiana

Judicial Balance seeks to provide a source of information and support for those aspects of being a judge that are not easily found in law school course of study or judicial education. How do we juggle the challenges of home and work? Where does the judicial career fit with the other roles that most of us fulfill? How do we sustain our commitment to the judicial assignment over time? [more >](#)

Features

- [Thiagi Newsletter](#)

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

- [BLAST FROM THE PAST: Humanities & the Professions](#)

by Sanford M. Lottor

What can Shakespeare, Camus, Tolstoy, Melville, and Conrad teach professionals about the power and authority they exercise in society? Why have so many judges, physicians, schoolteachers, and executives in Massachusetts and throughout the country developed a new interest in reading great literature? [more >](#)

Conference Review

- [Photos from the 2009 NASJE Conference](#)
- [Vision 2000-3000: Judicial Education in the New Millennium](#)

by Jo Deyo

He didn't have a crystal ball, but futurist Stuart A. Forsyth gave NASJE participants a glimpse of the future, and encouraged participants to envision and prepare for that future. [more >](#)

- [Learning Activity Lottery](#)

The overall learning objectives for the session were to allow the students to be able to (1) describe why the lecture method is used to exclusion of other methods; (2) choose learning activities that are suitable for the topics they intend to teach; and (3) design learning activities that accomplish their learning objectives. [more >](#)

- [Decision Making and the Biased Brain](#)

by Kelly Tait

The effects of bias on decision-making were explored in a fascinating workshop at NASJE's 2009 Annual Conference called "The Empirical Psychology of Decision Making: The Brain and the Unseen Components of Bias." [more >](#)

- [The Empirical Psychology of Decision Making: The Brain and the Unseen Components of Bias](#)

by Crystal L. Banks

The workshop explored access to fairness issues within courtrooms and courthouses as we looked at how deliberation

and instinctive or unconscious processing combine to drive decision-making. Concepts such as physiological reactions during decision-making as seen through MRI's, unconscious processing, the halo effect, and stereotypes were investigated. [more >](#)

• [What's in Store for American Grammar?](#)

by Jo Deyo

At the "What's in Store for American Grammar" presentation, participants had a chance to hear from a grammar guru and to share their own thoughts about grammar and proper writing. [more >](#)

• [NASJE Regional Reports](#)

Reports from the NASJE regional meetings. [more >](#)

• [Race: The Power of an Illusion](#)

by Kelly Tait

This powerful documentary questions the very idea of "race" as a valid scientific distinction. Participants watched Episode 3: "The House We Live In" which reveals how our institutions gave race its meaning and power by advantaging "whites" even while resorting to inconsistent categories to maintain the color line. [more >](#)

• [Educating on Elder Care](#)

Jennifer White, Attorney for Legal Programs with the Family Violence Prevention Fund and the lead attorney /curriculum writer for the Enhancing Judicial Skills in Elder Abuse Cases, led conference participants through the course offered by the National Judicial Institute on Domestic Violence. [more >](#)

• [Tips on Grant Writing](#)

Janice Munsterman, Executive Director of the State Justice Institute, excited us all with her report of substantially increased funding to SJI, and thus to its many grantees, as a result of the economic stimulus programs of the federal government. [more >](#)

• [How to Educate the Intergenerational Workforce](#)

Professor Willow Jacobson of the University of North Carolina taught a lively session about how to function more successfully in the multigenerational workplace. She discussed the value of understanding some of the general traits that employees in different age groups tend to share, including the main values and approaches of the four generations currently in the workforce. [more >](#)

• [Cultural Competency in Judicial Education](#)

Michael Roosevelt of the California Administrative Office of the Courts and John Martin of the Center for Public Policy Studies facilitated an in-depth discussion of Martin's recent *Court Manager* article "Becoming a Culturally Competent Court." [more >](#)

• [Roundtable Discussion: Best Practices in Online Learning](#)

The effervescent Joseph Sawyer of the National Judicial College could hardly talk fast enough to share all the ideas and respond to all the questions of the group in his roundtable about online learning. [more >](#)

• [Roundtable Discussion: Program Assessment / Impact Evaluation](#)

Fourteen attendees participated in a facilitated roundtable discussion on the subject of program assessment and impact evaluation. Handouts illustrating elements of needs assessment, the planning cycle, and levels of evaluation framed the discussion of challenges faced by judicial educators in an era of accountability. [more >](#)

• [How to Educate on the Theory & Mechanics of Performance Measures](#)

This session was based upon a recent COSCA white paper that explored the reasons why courts fail to embrace performance measurement. The challenge for the judicial educator is how to plan, design and deliver a curriculum that moves courts toward adopting performance measurement. [more >](#)

• [Younger Next Year](#)

Chris Crowley, one of the authors of the book, *Younger Next Year*, shared his secrets to living longer and enjoying better health. Closing the conference with an entertaining and motivating session, Crowley touted the benefits of physical activity. [more >](#)

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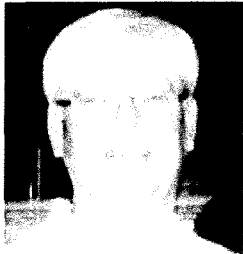
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News

In Memory of Kenneth Miller

Training Center Suffers Tragic Loss



Kenneth Wayne Miller, 57, of Austin died Tuesday, October 20, 2009. He is survived by wife Christine.

The Texas Justice Court Training Center and the justice courts of Texas are deeply saddened by the loss. This has been a real shock for the staff and we are very saddened at this time.

The Training Center's thoughts and prayers go out to Kenny's family and we ask that you keep Kenny and his family in your thoughts and prayers as well.

Those of you who knew Kenny knew that he had a wife Christine, and daughter Shelby who is a freshman at Texas State this fall. Kenny was a loyal friend to many, very dedicated to his work and was an avid gardener. We will miss him terribly!

Donations may be made to:

Frost National Bank
Kenneth Miller Memorial Fund
c/o Eunice Doung
605 Canyon Ridge Drive
Austin, TX 78753

News

- In Memory of Kenneth Miller
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- From the President

Kenneth Wayne Miller Kenneth Wayne Miller, age 57, died unexpectedly on October 20, 2009. Kenny was born on October 16, 1952 to John E. and Joyce E. Miller. Kenny never met a stranger and was warm and friendly to all. He was the nicest guy anybody knew and never had a bad thing to say about anyone. Kenny was born in Austin, attended Reagan High School and was a member of the gymnastics team. He attended North Texas State and graduated proudly from the University of Texas. He was a Program Administrator for the Texas Justice Court Training Center for 26 years and served as President of the National Association of State Judicial Educators. Survivors include his loving wife, Christine, to whom he was married for twenty years; daughter, Shelby; his parents, John and Joyce Miller; and sister, Beverly and brother-in-law, Rick Kuchar and their two sons. His many family members and friends, who are too numerous to mention, will miss him dearly. Kenny was instrumental in establishing Austin Community Gardens, was an avid UT fan, and would squeeze in a game of golf whenever he could. There will be a visitation on Friday, October 23, 2009 from 6:00 p.m. until 8:00 p.m. at Cook-Walden/Capital Parks Funeral Home, 14501 North Interstate 35, Pflugerville. Funeral services will be held at 1:00 p.m. Saturday, October 24, 2009 at St. James Episcopal Church, 1941 Webberville Road, Austin. Interment will follow at Cook-Walden/Capital Parks Cemetery.

Memorial donations may be in Kenny's honor to the Kenneth Miller Memorial Fund, c/o Frost Bank, 605 Canyon Ridge Drive, Austin, Texas 78753.

Tribute to Our Colleague Kenny Miller

I picture Kenny sitting around heaven in his jeans and boots, a broad smile, and a beer in his hand, waiting to share a joke with Aristotle. Kenny was one of those unique individuals, a true Texan, who never apologized for who he was – just Kenny.

I sought Kenny out at NASJE conferences because he could always make me laugh. Kenny loved NASJE and worked hard during his years on the Board and as President. I never questioned Kenny's motives for acting. He was honest and was wise enough to seek out counsel before a decision on NASJE's behalf.

I will miss you, Kenny.

– *Ellen Marshall, Washington D.C.*

I remember him also as very dedicated, ethical and conscientious, and had only good memories from the times we talked and ate together at NASJE gatherings. This is just a terrible loss.

– *Paul Biderman, New Mexico*

Kenny loved NASJE and was so humbled when asked to serve in leadership. I have so many fond memories and great photos especially from San Antonio. My prayers are with his family.

– *Franny Haney, Delaware*

What a sweetie he was.....an incredibly proud Texan, full of life, yet rather quiet with a strong sense of service. I recall how humbled and honored he was when he was elected as NASJE's president.

– *Kay Palmer, Arkansas*

Kenny, my friend, I will always remember walking across campus at Michigan State University with you kicking fall leaves as we passed the time following a JERITT Management Panel meeting. You were wild about those red, orange, and gold leaves. What a kind man and what a glorious soul. I miss you already.

– *Maureen Conner, Michigan*

I have wonderful NASJE memories of Kenny.

– *Judith M. Anderson, Washington*

I was so saddened and shocked to hear about Kenny Miller. He was such an "up-beat" kind of man, a hard-worker, and always a pleasure to be around.

– *Karen Thorson, California*

I met Kenny at my first NASJE Conference as he led the “newcomer” session. You immediately got a sense that this gentle man was so proud of the organization as he humbly stood in front of the class. Later, I was fortunate to serve on the Board with him. He was deliberate and thoughtful as he oversaw the business of the organization, ever mindful of the impact each decision had on our membership. I am a better person for having known Kenny.

– *Liz Strong, Colorado*

Kenny, my friend, you will certainly be missed by me. I remember our conversation just a few months ago. We always confided in each other, shared a few laughs and certainly some stories. I’ll miss hearing you talk about your garden and how proud you were of what you grew. I’m sure you’ll be teaching and showing everyone how a real garden is done. I’ll miss you.

– *Sherry Carson, Georgia*

I will always remember Kenny for his kindness and generosity of spirit. He never seemed phased by anything and was always ready to help someone else out. I do things in my job today that I got from off-hand remarks from Kenny at my new judicial educator program. Losing him is something we will all regret for a long long time.

– *Phil Schopick, Ohio*

Several NASJE members contributed their memories of Kenny to the [guest book at Legacy.com](#). Please go there to read more by people who knew and will miss our great friend.

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News

Nevada Supreme Court Gets Visit from Italian Judge

by David Gordon



Dr. Carlo Renoldi

Dr. Carlo Renoldi, a Surveillance Judge

(Magistrato di Sorveglianza) with the Cagliari Court in Italy, and participant in the State Department's International Visitor Leadership Program, visited the Nevada Supreme Court in Carson City on July 23, 2009.

After a tour of the Supreme Court, Dr. Renoldi had a number of questions about judicial education in Nevada including

- How are curricula developed?
- What are the qualifications of the various faculty?
- Is the relevance or motivation of educational topics ever called into question by the public?
- What is the organization of the state's judicial education department?
- What are the qualifications and background of the state's judicial educators?
- Are there differences among state judicial education organizations?

Dr. Renoldi works extensively in criminal cases, and develops training programs for magistrates in the District of Sardinia. In addition to gaining a better understanding of the US criminal justice system, Dr. Renoldi had the objective of gathering additional tools to supplement his judicial training courses.

According to the European Institute for Crime Prevention and Control, Italian surveillance courts play a role in deciding whether prisoners can be granted leave or be enrolled in a treatment program, be permitted to work outside a detention institution, or be granted a conditional release. (Criminal Justice Systems in Europe and North America, ITALY, by Adelmo Manna and Enrico Infante, Helsinki, Finland, 2000)

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E-SJI News

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SJI CONTINUES FOCUS ON IMMIGRATION ISSUES IN THE STATE COURTS

In FY 2009, SJI awarded a Strategic Initiative Grant to the Center for Public Policy Studies (CPPS) for Phase II of the *Immigration and the State Courts: Meeting the Challenge* project. During Phase I of the project, CPPS worked with Maricopa County, Arizona, two counties in western Minnesota, and Miami-Dade County, Florida, to document and assist those jurisdictions with immigration issues impacting their state courts. Phase I also included the completion of a Bench Guide for state court judges on the immigration consequences of state criminal actions.

Phase II of the project has five major components:

1. Facilitate improvement work in additional pilot learning sites.
2. Prepare a Bench Guide on immigration issues in juvenile and family cases.
3. Complete and test a model measurement system.
4. Develop training courses for judges and court personnel.
5. Facilitate the ongoing federal/state/local dialogue on immigration issues in the state courts.

CPPS is currently working with several counties in the Detroit, Michigan, metropolitan area and will begin work in additional pilot learning sites within the next month. CPPS is also developing a bench guide on immigration issues in juvenile and family cases, as family and juvenile issues have consistently been identified as priorities in all the learning sites. Training will be developed for judges and court personnel that will describe the issues involving immigrants in state courts, outline the impacts of those issues on the state courts, and highlight the differences between federal and state laws. Finally, CPPS is working to develop a website and resource library featuring all the material developed in the project and providing timely information on immigration issues in the state courts.

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NEW BENCH GUIDE ON IMMIGRATION ISSUES AVAILABLE FOR STATE COURT JUDGES

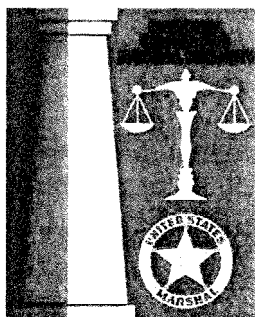
As part of its efforts through SJI's Strategic Initiatives Grants program, the Center for Public Policy Studies has finalized a Bench Guide for state trial court judges on immigration issues. The Bench Guide is intended to help judges identify circumstances before them in which a state criminal conviction or sentence may have collateral immigration consequences. It is important that judges are aware of these issues when taking a guilty plea or determining an appropriate sentence.

The Bench Guide is in PDF format, and is available on the SJI website:

http://www.sji.gov/PDF/Criminal_Bench_Guide_on_Immigration_Consequences.pdf

The Guide is designed to provide quick access electronically from the bench during a trial or plea hearing. It is not meant to be an in-depth treatise on immigration law. Its purpose is to help judges spot issues, not provide definitive answers on immigration rights. Words or phrases in red type are clickable links to other sections of the guide. Web links to the Internet for statutes are in blue type and require internet access. To start, Tables 1 and 2 provide the primary links. Table 1 lists criminal actions with immigration consequences, and Table 2 lists the major categories of legal immigration status. The links in red in those two tables take the user to the detailed discussions of each topic. Each page of the Bench Guide has clickable links at the bottom of the page that return the user back to Table 1 and Table 2.

U.S. MARSHALS SERVICE & SJI CONTINUE WORKING TO IMPROVE JUDICIAL & COURT SECURITY



The U.S. Marshals Service (USMS) and SJI recently finalized a third year Partner Grant to support a component of the USMS Judicial Security Fellowship Program. This program provides an opportunity for state and local law enforcement officers charged with court security to train with the USMS. This includes training on high level executive protection and court security operations. During the program, the Judicial Security Fellow (JSF) is exposed to all aspects of USMS judicial and court security, and travels to sites of ongoing high-threat trials and protective details. **(continued on page 3)**

JSFs are full-time sworn officers of a duly constituted law enforcement agency, whose responsibility includes judicial and court security in the jurisdiction of the JSF. Furthermore, the JSF is at the rank of lieutenant or above, and has at least five years court security experience.

The USMS/SJI Partner Grant will directly support a component of JSF program that includes joint training with court administrators at the National Center for State Courts (NCSC). This training includes coordination of public and media relations in high visibility trials, coordinated approaches to policy and procedures, and consolidated training for court staff in security awareness and response. Furthermore, the NCSC assists the JSF and his/her court counterpart in developing close working relationships for analyzing security needs and formulating action plans to improve security in the state or location jurisdiction they represent. The JSFs will also achieve an understanding of court security needs from a state court perspective.

Past sessions of this program have proved to be very valuable to both the court counterparts and the JSF's. The evaluations of these programs were very positive, and the participants came away from the training with a better sense of each other's roles, in addition to concrete action plans for improving court security in their jurisdictions. SJI is looking forward to another year of working with the USMS on this program.

SJI ISSUES GUIDANCE ON SUPPLANTATION OF STATE AND LOCAL FUNDS

The new SJI Grant Guideline for FY 2010 provides guidance on the justification of personnel compensation for state courts and other governmental agencies. Specifically, Section IV. A.4(a) of the Grant Guideline (describing the Budget Narrative) states: "No grant funds or cash match may be used to pay the salary and related costs for a current employee or new employee of a court or other unit of government because such funds would constitute a supplantation of state or local funds in violation of 42 U.S.C.10706, Sec.(d)(1); this includes new employees hired specifically for the project. The salary and any related costs for a current or new employee of a court or other unit of government may only be accepted as in-kind match."

In addition, Section IV.A.4(k) of the Grant Guideline (describing Indirect Costs) states: "Indirect costs are only applicable to organizations that are not state courts or governmental agencies." Recently, SJI has received grant applications where either the state court or another governmental entity was applying an indirect cost rate to all grants, regardless of source. This practice is being employed with more regularity because of the reduced budgets in many states and jurisdictions. Regardless, SJI is not permitted to allow these indirect costs per 42 U.S.C. 10706, Sec.207(d)(1), and will not accept applications from state courts and other governmental agencies that include them.

If there are questions about the Grant Guideline, potential grant applicants are strongly encouraged to contact SJI prior to submitting applications.

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The State Justice Institute is a private, non-profit corporation established by Federal law in 1984 to improve the quality of justice in state courts, and foster innovative, efficient solutions to common issues faced by all courts. SJI is governed by a Board of Directors appointed by the President and confirmed by the Senate.

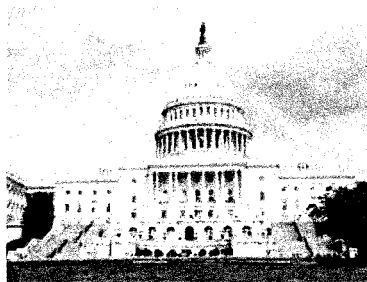


FY 2010 GRANT GUIDELINE NOW AVAILABLE

On October 16, 2009, the FY 2010 SJI Grant Guideline was published in the Federal Register. The Guideline sets forth the administrative, programmatic, and financial requirements for FY 2010 grants and scholarships. A PDF version of the Guideline is available for download on the SJI website:

http://www.sji.gov/PDF/Grant_Guideline_FY_2010.pdf

STATUS OF APPROPRIATIONS



On June 18, 2009, the House passed the Commerce, Justice, Science and Related Agencies (CJS) Bill (H.R. 2847), providing appropriations for FY 2010. SJI received its full request of \$5,131,000, as proposed in the President's Budget. The Senate CJS Appropriations Subcommittee approved its version of the Bill on June 24th, and the full Senate Appropriations approved the Bill on June 25th. The Senate mark includes \$5,000,000 for SJI. Since the CJS Bill has yet to be finalized, SJI is currently operating on a Continuing Resolution (CR) that expires on October 31, 2009. It is likely a second CR will be passed that will fund SJI until December 18, 2009. Any new grants or scholarships approved by the Board during the 1st Quarter of FY 2010 will not be awarded until the final appropriation is available. SJI will provide updates as the FY 2010 appropriations process continues to move forward.

SPECIAL ANNOUNCEMENT

- Next grant and scholarship application deadline: **February 1, 2010** (2nd Quarter, FY 2010).

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News

Transitions

Please join us in welcoming the following new NASJE members:

- **Hon. Craig S. Iscoe**, Associate Judge, D.C. Superior Court, Washington, DC
- **Mr. Shawn C. Marsh PhD**, Director, National Council of Juvenile and Family Court Judges, Reno, NV
- **Hon. Lamar McCorkle**, Executive Director, Texas Judicial Foundation, Austin, TX
- **Hon. Melissa Miller-Byrnes**, Chief Judge, City of Las Cruces Municipal Court, Las Cruces, NM
- **Ms. Danielle Pugh-Markie**, Program Manager, National Council of Juvenile and Family Court Judges, Reno, NV
- **Mr. Doug Thomas**, Senior Research Associate, National Center for Juvenile Justice, Pittsburgh, PA
- **Ms. Nanette Zavala**, Education Attorney, CJER, AOC, San Francisco, CA
- **Ms. Autumn E. Zemke**, Program Assistant, Nevada Supreme Court, Reno, NV

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News

From the President: Deposits in the Bank by Christy Tull



Christy Tull

Think back with me to January 15th of this year. Picture the [image of Flight 1549 floating in the Hudson River](#) with passengers standing on the wing awaiting rescue.

What were we thinking in awe and wonder? How did that pilot land that plane ... safely... in the middle of the river?!

The answer according to Captain Chesley "Sully" Sullenberger? "...for 42 years I've been making small regular deposits in this bank of experience: education and training. And on January 15, the balance was sufficient so that I could make a very large withdrawal." When asked about her quick reaction, one ferry boat operator said "Training, training, and training."

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While judges and court personnel do not land planes, they do make life and death decisions and other actions that affect the lives of individuals and their families who navigate through the court system daily. Our role as judicial branch educators is to help judges, magistrates and court personnel make the needed deposits into their banks of knowledge and skills so that they are equipped to make withdrawals to fulfill their roles. As they continuously improve their competence, they enhance the administration of justice and strengthen public trust and confidence in the judicial system.

Although I could have begun this president's column with the words "during this economic downturn," I find it more important to remind us all of the significant role judicial branch education plays in the success of our third branch of government. It is tempting to focus on the challenge of shrinking revenues and what we don't have. Yet, with this and every challenge we will find opportunities that enable us to fulfill our responsibility to make the judicial system work efficiently and effectively for those we serve.

In NASJE we have a rare opportunity. We are an exceptional network of professionals who are, by nature, problem solvers. In these challenging times we are able to share our collective knowledge and resources in ways that will save our states and courts thousands of dollars.

Is it any wonder that "networking" remains the greatest benefit our members report deriving from NASJE?

As your president, I encourage each of you to take advantage of NASJE to expand your network. Here are some suggestions to further maximize the rich benefits of our community this year:

- Join a committee. Working alongside each other is the best way to know and learn from your colleagues. Refer to the [summary of committee purposes](#) and contact the chair to join.
- Participate in the first "Virtual NASJE Member Conference" on Monday, December 7, 2009 from 3:00-5:00 p.m. (Eastern Time)! Check the [website home page](#) for more details.

- Work with your regional directors as they strive to build connections and share resources.
- Plan now to attend the 35th annual conference in San Antonio, Texas from August 8-11, 2010.

Here are the initiatives and goals I have established to help us seize the opportunities we face. We can educate and equip ourselves to deepen our own knowledge, skills and attitudes (KSAs) through the

- Development of a NASJE curriculum for judicial branch educators based on our core competencies and to be used for future NASJE conferences.
- Creation of an automated curriculum builder as a planning tool available for NASJE members at no cost.
- Scheduling of a pull-out session for state judicial education directors at the San Antonio conference in August 2010 focused on their unique issues.
- Finishing of the project to make JERITT monographs available via the NASJE website.
- Encouraging of members and committees to use new electronic tools to further expand our virtual community (e.g., WebCT for meeting services and webinars for continuing education).

Let me close by encouraging you to support NASJE in other ways. You can help identify funding sources and assist with our fundraising efforts. You can help recruit new members and diversify our membership. You can [read our strategic plan online](#) and share ideas to help us meet its objectives.

Finally, you can be creative. NASJE can be your forum to make a difference. Share your creative ideas to meet the challenges of the day. Make some deposits in our collective bank of KSAs that others can withdraw. You will reap returns on those investments beyond your imagination.

I am proud to be your colleague in this noble profession.

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CUTTING EDGE: The National Academy of Sciences and Judicial Education in Scientific Evidence

by Daphne A. Burns

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- Judicial Balance

Earlier this year, the National Academy of Sciences released a report on a two-year study entitled *Strengthening Forensic Science in the United States: A Path Forward* (NOTE 1). The study was authorized by Congress, which charged the NAS with creating a committee of experts to, among other things, “disseminate best practices and guidelines concerning the collection and analysis of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes, investigate deaths, and protect the public (NOTE 2).”

The committee reached a consensus on what they determined are the most important issues now facing the forensic science community, and they agreed on 13 specific recommendations to address those issues. Principal among the issues the committee addressed are the following:

- Challenges facing the forensic science community;
- Disparities in the forensic science community;
- Lack of mandatory standardization, certification, and accreditation;
- The broad range of forensic science disciplines;
- Problems relating to the interpretation of forensic evidence;
- The need for research to establish limits and measures of performance;
- The admission of forensic science evidence in litigation; and
- Political realities (NOTE 3).

Of particular interest is Recommendation Nine which addresses insufficiencies in judicial education and training in scientific evidence in general. The report cites growing complexities and sophistication required in such areas as epidemiology and toxicology studies in mass tort litigation; econometric models in antitrust cases; and engineering principles in patent litigation (NOTE 4). The NAS goes so far as to state that the “[f]ailure to consider such evidence in a thoughtful and thorough manner threatens the integrity and independence of the judiciary (NOTE 5).” The report complains that science-based judicial education courses are not mandatory and there is “no fixed routine of continuing education in legal practice with regard to science (NOTE 6).” The committee emphasizes the importance of tailoring educational programs to the needs of judges—education that assists judges in evaluating the scientific rigor of expert testimony and the reliability of forensic evidence (NOTE 7). With an insufficient background and training in scientific methodology, judges “often fail to comprehend the approaches employed by different forensic science disciplines and the degree of reliability of forensic science evidence” offered at trial (NOTE 8).

This assessment obviously strikes at the heart of what is required of the judiciary. In *Daubert v. Merrell Dow Pharmaceuticals*, the U.S. Supreme Court ruled that trial judges must “ensure that any and all scientific testimony or evidence admitted is not only relevant but *reliable* (NOTE 9).” Judges must determine whether the methodology is scientifically valid and properly applied to the facts of the case (NOTE 10).

In essence, what has happened over the course of the last 15-plus years is that the burden of assessing the reliability of scientific and other expert testimony at trial has shifted from the scientific

(or other expert) community to the legal community—principally the judiciary. However, legal education—whether in law school, or continuing legal or judicial education—has not, for the most part, responded to this fundamental change. According to the NAS, we are at the juncture where we can no longer turn away from this important need.

The challenge for judicial educators is, therefore, two-fold: first, to provide training in scientific methodology and increase education in current practices by various forensic and other science disciplines; and, second, to help judges stay apprised of changes as research methods and methodologies improve.

Scientific methodology generally means applying “logic to the problem of how to observe an empirical phenomenon in a way that will allow one to draw valid inferences about that phenomenon (NOTE 11).” In a nutshell, the issue is always “whether the methodology of the research is appropriate for the questions posed by the study, and whether the conclusions drawn are justifiable in light of the data collected and everything about the methods by which those data were generated (NOTE 12).”

The National Judicial College will present a web-based symposium on scientific evidence in complex civil litigation, including teaching scientific methodology, early next year in conjunction with the University of California, Hastings College of the Law Consortium on Law, Science and Health Policy. If you would like further information, or if judges in your state are interested in participating in the web-based symposium, please visit www.judges.org or contact the college at (800) 255-8343. We also offer courses on scientific evidence and testimony as part of our yearly offerings. If we may assist your state in any other way to provide this important education to your state’s judges, we hope you will contact us.

NOTES

1. National Academy of Sciences, *Strengthening Forensic Science in the United States: A Path Forward* (2009).
2. See P.L. No. 109-108, 119 Stat. 2290 (2005); H.R. REP. NO. 109-272, at 121 (2005) (Conf. Rep.); and S. REP. NO. 109-88, at 46 (2005).
3. National Academy of Sciences, *supra* note 1, at S-3 to S-10.
4. *Id.* at 234.
5. *Id.*
6. *Id.*
7. *Id.* at 234-35.
8. *Id.* at 238.
9. 509 U.S. 579, 589 (1993) (emphasis added).
10. *Id.* at 593. The Court later expanded its ruling to require that trial judges apply this special “gatekeeping” function to all expert testimony, not just “scientific” testimony. *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999). Compare *Frye v. U.S.*, 293 F. 1013, 1014 (App. D.C. 1923) (expert testimony must be “generally accepted” as reliable in the relevant scientific community to be admissible). The *Daubert* Court list the “generally accepted” test as one of four factors that can have a bearing on the admissibility of expert evidence. *Id.* at 593-95. The *Daubert* Court was construing the Federal Rules of Evidence in arriving at its conclusion. *Id.* at 585-98. Not all states have adopted the Federal Rules of Evidence or otherwise adopted the *Daubert* standard. As of last year, 25 states have accepted the essential principles of *Daubert*; four have stated their openness to reconsidering the rule they apply to expert testimony; eight states and the District of Columbia follow their own state version of a relevance/reliability determination; four states apply some combination of *Frye* and *Daubert*; and 10 states have rejected the *Daubert* standard, preferring to utilize the *Frye* test or an alternative. David L. Faigman, Michael J. Saks, Joseph Sanders & Edward K. Cheng, *Modern Scientific Evidence: Standards, Statistics, and Research Methods—2008 Student Edition* § 1:7, at 14-15 n. 8 (2008). In short, if the rule for the admissibility of expert evidence in your state requires judges to assess the reliability of the evidence, they should be trained in scientific methodology.
11. Faigman, et al., *supra* note 10, at § 4:1, p. 140.
12. *Id.* at 167.

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Resources

Judicial Balance: Lessons for Law and Life
by *Judicial Conference of Indiana*

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- Cutting Edge
- Judicial Balance

IN THE SEPTEMBER ISSUE:

The Legacy of Work-Life Balance

There is a widespread sense that the demands of a legal career outstrip the benefits conferred. Is this a work-life balance issue, or are other challenges brewing? Jordan Furlong discusses what's really going on in the legal profession. Please see, "The Legacy of Work-Life Balance," by Jordan Furlong, *Law21.ca: Dispatches from a Legal Profession on the Brink*. June 2009.

Giving Back Big Time

Certain individuals are truly inspiring. A pioneer in the international rule of law movement, Federal Judge J. Clifford Wallace travels the world advising judiciaries on everything from creating mediation programs to combating corruption. Talk about giving back in a big way. Please see, "The Missionary," by Amelia Hansen, *The California Lawyer*, August 2009.

Mastering Stress

Stress is part of life. Managed poorly, it erodes us from every angle. Managed well, it is a source of energy, creativity, and self-confidence. Psychologist Maynard Brusman suggests ways to make stress work for you. Please see, "How To Master Stress," by Maynard Brusman, *The Complete Lawyer*, May 2008.

A Silver Lining?

The knee-jerk reaction to a diagnosis of depression is to make it go away – the sooner, the better. But what can we learn from depression? Are its symptoms rich with valuable information to help us lead a better life? Please see, "The Value of Depression," by Al Galves, PhD. *Lawyerswithdepression.com*.

Got Bias?

Judges have a profound affect on others' lives. Yet, implicit bias – a positive or negative preference for a social group based on stereotypes and attitudes – operates outside our awareness and influences most decisions. So how do we ensure fair treatment for all? Please see, "Got Bias?" by Shawn C. Marsh, Ph.D., *NASJENews Quarterly*, Summer 2009.

A Long Way to Go

It's a good question: how far have women come in the workplace, legally and culturally – not in theory, but in reality? Although the law places individuals over stereotypes, it seems as though workplace culture has yet to catch up. There's still a long way to go. Please see, "Have You Really Come A Long Way, Baby?" by Michael P. Maslanka, *Texas Lawyer*, August 2009 on *ExecutiveLegalAdviser.com*.

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Features

Thiagi Game Letter

The [August 2009](#) issue contains:

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- Thiagi Newsletter
- Blast from the Past

- DIVERSITY AND INCLUSION, fake quotes—and real ones
- FRAMEGAME, Exploring concepts through pithy sayings
- Guest Gamer Interview with Bruno Hourst
- NOVICE OR EXPERT? by Bruno Hourst Play with your weakness and strength.
- Guest Comment: How They Nearly Destroyed an Activities-Based Training Design by Patrick Dorpmund
- TWISTED PAIRS, a new type of anagram.
- SAY IT QUICK, The Best Holiday by Brian Remer
- *Play* by Stuart Brown — A book review by Brian Remer
- MIND GAMES by Brian Remer
- Go Play - Right Now! by Brian Remer
- Thiagi's Memory Trick — A magical jolt
- SURVEY: Social Networking Sites — Money makers or time wasters?

The [September 2009](#) issue contains:

- PARTICIPANTS FROM HELL, a structured sharing activity that helps you handle disruptive participants.
- MISSING SENTENCE, an interactive lecture that requires participants to reconstruct a summary sentence.
- An interview with Boyd Watkins who progressed from microelectronic circuits to action learning.
- DISCOVER THE MAGIC SECRET, an inductive thinking activity in which your score depends on the number of clues you don't need.
- Information about the 2009 NASAGA Annual Conference.
- Various descriptions of upcoming events conducted by the Thiagi group.
- A 99-word article on seeing the big picture by Brian Remer. # Brian's review of a mind mapping software program.
- Ideas and activities by Brian Remer about outlining and letting your mind wander.

- Tracy's single topic survey about religion in the workplace.
- Results from the single topic survey on social networking websites.
- A video on how Thiagi did the card trick from last issue.

The October 2009 issue contains:

- STAGE DIRECTIONS, a structured sharing activity about growing a team.
- WORDS AND PICTURES, a text game that uses two types of summaries.
- QUICK CHOICE, a rapid structured sharing activity by Rich Cox, Lisa Rowland, Chris Sams, Dominique Fredregill, and William Hall.
- An interview with Nigel Bailey about the joy of watching participants enjoying a game.
- BETTER CONNECTIONS, a dialogue game that helps build strong relationships in 6 minutes.
Information about the NASAGA 2009 Annual Conference, which starts on October 7, 2009.
- A 99-word article on management training by Brian Remer. # Brian's review of the X-Ball by Roger von Oech's.
- Brian's ideas about the language of hands, getting a handle on your job, and growing your brain by using your hands.
- Links to research reports on how playing Tetris boosts your brain power.
- Tracy's survey about going green in your workplace. # Results from last month's survey on religion in the workplace.
- Information about Tracy and Thiagi in South Africa and other upcoming events.

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BLAST FROM THE PAST: Humanities & the Professions

by Sanford M. Lottor

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- Thiagi Newsletter
- Blast from the Past

What can Shakespeare, Camus, Tolstoy, Melville, and Conrad teach professionals about the power and authority they exercise in society? Why have so many judges, physicians, schoolteachers, and executives in Massachusetts and throughout the country developed a new interest in reading great literature?

Read the entire article, originally published Spring 1988, here: [PDF](#).

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Humanities PROFESSIONS

by Sanford M. Lottor

What can Shakespeare, Camus, Tolstoy, Melville, and Conrad teach professionals about the power and authority they exercise in society? Why have so many judges, physicians, schoolteachers, and executives in Massachusetts and throughout the country developed a new interest in reading great literature?

Perhaps the answers are to be found in the following quote from Rene Dubois:

Only parables can express the full complexity of our times. If you define your subject too precisely, you'll stifle its living richness. But if you tell a story, then your listeners will sense everything that the story may contain. . . this is the way to make ideas grow.¹

This philosophy exemplifies the thinking behind the Humanities and the Professions program at Brandeis University. The program began in 1980, when Chief Justice Samuel E. Zoll of the Massachusetts District Court System requested that Brandeis develop a stimulating continuing education program for judges. He had observed that judges were overworked and understaffed, constantly faced difficult decisions, and had too little time for thoughtful decision making. He believed judges needed to be stretched intellectually, as adherence to the routine tasks of their jobs did not allow time for outside educational pursuits. And he suggested that judges needed an opportunity to discuss, reflect upon, and better understand the complex social and moral issues they faced in their courts daily.

The program was originally designed to address law issues, but it soon became apparent that the heart of the program was the way it allowed professionals to explore with one another, in a candid and supportive setting, how it feels to exercise power and responsibility in

our society, and to discuss human values. It was an easy step to go from judges to other professionals. Thus, we inaugurated Humanities and the Professions.

These daylong seminars reintroduce professionals to great literature and make them aware of the sensitivities of their colleagues.

... the program ...
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to explore with one
another ... how it feels
to exercise power
and responsibility in
our society.

Humanities and the Professions is based on a two-text idea: the written text and the text of personal experience. What the program tries to achieve is a balance between the two. It leads to discussions of universal themes in the texts and encourages participants to relate those themes to their own lives.

At present, Brandeis has identified about 50 short novels, novellas, and short stories for use in the program. These texts are determined by the themes and issues recognized as being important to a particular profession. Judges discuss *Billy Budd* and the difference between law and justice, or read Von Kleist's *Michael Kohlhaas* and debate the pursuit of personal vengeance beyond the law. Executives see in *Othello* different leadership styles. And physicians understand the life-and-death struggles in Tolstoy's *The Death Of Ivan Ilyich*.

To ensure that professionals' life experiences be taken into account, faculty members who lead the seminars attend training sessions on their roles as discussion facilitators.

Approximately 30 faculty members are associated with the

program. They come not only from Brandeis but from Harvard University, the Massachusetts Institute of Technology, Mount Holyoke College, the University of Massachusetts at Amherst, Tufts University, Wellesley College, Simmons College, Hampshire College, Boston College, and Boston University. More than 50 faculty members from ten other states are also associated with Humanities and the Professions. Our faculty are scholars from virtually all disciplines, who are basically humanists first. They understand how to use literature and are able to work with adults in a non-threatening way.

Other colleges and universities may be interested in implementing similar programs on their own campuses. Since faculty selection and training are essential, these schools may want to ask Brandeis to conduct a two-day training session for them. During the first day we would lead a regular session for a group of professionals designated by the school. Faculty selected by the school to take part in the training session would be observers at this session. On the second day, we would train these faculty in methods we have developed and would expect the trainees to lead discussions of very short texts.

Training sessions similar to the above were conducted for the University of California at San Francisco Medical Center. The program has received wide national publicity through more than 50 articles in newspapers, newsletters, journals, magazines, and other publications and has been featured six times on radio and television. The program founders are Brandeis University's director of continuing studies, Sanford Lottor, and Professor Saul Touster, director of the Legal Studies program. ■

EDITOR'S NOTE: Sanford M. Lottor is co-director of Humanities and the Professions, Brandeis University.

¹ Dubois, R., and Escande, J.-P. (1979). Harcourt QUEST *Reflections on Medicine, Science and Humanity*, New York, Jovanovich.

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Post-Conference Review

Vision 2000-3000: Judicial Education in the New Millennium

by Jo Deyo

He didn't have a crystal ball, but futurist Stuart A. Forsyth gave NASJE participants a glimpse of the future, and encouraged participants to envision and prepare for that future.

Forsyth, a veteran bar executive, described today's information age and explained that converging technologies have created a global digital marketplace. In the information age, technology permits access to information anytime, anywhere, and by anyone. Customers, or the public, are more knowledgeable and more demanding about the goods, services, and information that they can access.

As Forsyth explained, consumers in this global marketplace will want access, control, and personalization in the justice system, much as they are able to have access and control in other areas of this digital world. Software and technology, rather than lawyers, may provide legal information, and may even alter the roles of lawyers and courts.

Considering implications for professional education, Forsyth suggested that the continuing legal education of the future (and perhaps also judicial education) will automate, integrate, personalize, and deliver education anytime, anywhere. He suggested that the challenge will be to use new technology tools to create a more effective educational experience that is:

- Curriculum-based,
- Personalized with regard to content and learning style,
- Focused on application in real-life situations, and
- Capable of measurable outcomes.

Recognizing that no one can really predict the future, Forsyth suggested that it is possible to prepare for the future by looking for connections between judicial education and the world beyond.

To stay ahead of the game, Forsyth encouraged participants to envision alternative futures, and to take action to pursue the preferred future. He also encouraged participants to have a vision – to see possibilities and prepare for the unexpected.

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Post-Conference Review

Summary: Learning Activity Lottery

In the Learning Activity Lottery, the instructor not only lectured about different types of learning activities, he also used a variety of learning activities while teaching about their importance. The overall learning objectives for the session were to allow the students to be able to (1) describe why the lecture method is used to exclusion of other methods; (2) choose learning activities that are suitable for the topics they intend to teach (e.g., debates, small and large group discussions, role plays, learning games, etc.); and (3) design learning activities that accomplish their learning objectives.

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The instructor began the session by introducing the game of poker with the participants to demonstrate the use of a learning game in which he provided cards to participants who provided meaningful information during the session. The game effectively attracted the participation of the participants throughout the session.

He then explained the "learning activity lottery" in which each group was assigned a learning activity to present on any subject matter they wished for up to eight minutes. The participant groups chose their respective learning activities from a hat (in a lottery format).

Next, the instructor used a brainstorming activity to identify the traits of the participants' most effective teachers. The purpose was to identify those qualities of effective teachers, so the participants can emulate them when they teach.

He then explained that effective learning activities help the students achieve the learning objectives. He noted that learning objectives define what the students will learn. The learning activities define how the students will achieve those learning objectives.

In discussing lectures, through a large group discussion, he asked the participants why we lecture to the exclusion of other learning activities. He facilitated a discussion about how lectures are easier to prepare but, in some ways, more difficult to present. The class members also noted that custom and tradition play a part in the use of lectures. Finally, lectures are a habit for many presenters.

Throughout the remainder of the presentation, he explored the effective use of tests and quizzes, debates, Socratic questioning, small groups, role plays, brainstorming, case studies, videotapes, and learning games. While doing so, he utilized a variety of learning activities including lectures, large group discussions, a quiz, Socratic questions, brainstorming, and a learning game. At the end of the presentation, he presented a prize to the participant with the winning poker hand.

After the session, the participants prepared their presentations for approximately one hour. They then presented according to the learning activities that they chose from the hat. The instructor provided constructive feedback of each group's presentation suggesting methods of improving their use of the particular learning activity. In providing feedback, he utilized a positive style that ensured that the participants were fully supported in their teaching efforts. At the conclusion, he provided prizes to each of the participating group members for their efforts.

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Post-Conference Review

Decision Making and the Biased Brain

by Kelly Tait

The effects of bias on decision-making were explored in a fascinating workshop at NASJE's 2009 Annual Conference called "The Empirical Psychology of Decision Making: The Brain and the Unseen Components of Bias." The session was taught by Dr. Jack Grinband, a neuroscientist at Columbia University, and Kimberly Papillon, Senior Education Specialist for California's Center for Judicial Education and Research.

The workshop explored how deliberation and unconscious processing combine to drive decision-making, and how bias can subvert the deliberative process. In a series of vivid examples, Dr. Grinband illustrated the effects of processes such as contextual priming, where seemingly irrelevant contextual/environmental factors influence behavior. For instance, studies have documented the impact of the venue where voting takes place, with voters who are casting ballots in a school (or who have just been exposed to school-related images) more likely to vote in favor of educational initiatives. Even the temperature of a beverage people were given—another thing that logically should not have any impact on decision-making—affects how the subjects rate the person they are evaluating. (Volunteers with warm coffee [vs. iced coffee] rated people as 11% "warmer.")

Dr. Grinband also discussed the Implicit Association Test (IAT), a psychophysical tool measuring associations between concepts such as gender and professions, weapons and ethnicity, etc. How are these associations made? "Cells that fire together, wire together" (Hebbian learning) – so, for instance, when media portray a particular group in a particular way (either positive or negative) over time, we begin to think of the group and the attribute together. Then these expectations affect decisions, as illustrated in studies such as "The Impact of Baby-Facedness and Attractiveness on Adjudications in Small Claims Court" in *Law and Human Behavior* (Zabrowitz and McDonald, 1991) which documented that as plaintiffs increased in attractiveness, they were more likely to win the case, and as defendants increased in "baby-facedness," they were more likely to win cases involving negligent actions.

According to Dr. Grinband, "Our brains are basically coincidence detectors," and "Associations can be made between things that are relevant or irrelevant" – the association is based on timing rather than necessarily on a more meaningful connection. Even really good decision-makers can never suppress irrelevant connections 100% - "Some people are better at it than others, but no matter how good you are, it's really a matter of degree," said Dr. Grinband. However, "With enough effort you can de-emphasize irrelevant connections" (dissociate ideas that have become connected through accidents of timing).

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Dr. Grinband also discussed how increasing the cognitive load can affect decision-making. Internal or external (environmental) stressors can affect our ability to suppress irrelevant factors. "It's how we're wired," he said. If we are aware of those stressors, we can more accurately evaluate our own behavior and how to improve our decisions. For instance, it can help for judges to understand that there tends to be a heavy cognitive load in some situations and that under those circumstances their decisions might be based more heavily on expectations and associations. An example of a heavy cognitive load could be when judges are dealing with lots of self represented litigants – working to make sense of what the litigants are saying, to judge competency, to explain processes, to move cases expeditiously, etc.

Dr. Grinband's presentation was complemented by Kimberly Papillon's contributions (via speakerphone). She had attendees participate in several activities that illustrated the influence of these mental processes on decision-making. She also discussed some revealing studies including one related to the impact of gender on evaluations of Curricula Vitae (Steinpreis et al, 1999). 895 professors of psychology (male and female) reviewed a CV for an applicant who had randomly been assigned the name "Jane Smith" or the name "John Smith." Researchers found that the professors of psychology were significantly more likely to recommend hiring the applicant when the CV had "John Smith" as the name rather than "Jane Smith." And the reviewers were four times more likely to write cautionary comments regarding hiring the "female" applicant than the "male"... with exact same set of qualifications!

Even with the progress our society has made in reducing overt expression of racist and sexist attitudes and stereotypes, bias is alive and well.

How this applies to us as judicial educators

Kimberly Papillon discussed how, as judicial branch educators, we need to have the conversation about science, to normalize the idea that we all have implicit biases in order to reduce the barrier to learning that defensiveness about them can create. The value of using research into social cognition to make fairness courses more effective was emphasized.

We also discussed other ways to change the automatic biases we have based on the way the brain works. One suggestion was to flash pictures (over and over) of people with positive personal associations to counter some of the culturally-ingrained stereotypes (for instance, show photos of people like Nelson Mandela to counteract negative stereotypes about Blacks). This led to the idea of a screensaver on judicial branch employees' computers with images that would counter stereotypes, hopefully helping to reconfigure our thinking so that negative associations are replaced in order to get the highest quality of decision-making possible. The session was interesting, informative, and lively. It was moderated by Crystal Banks, Deputy Director for Judicial Training, D.C. Courts.

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Post-Conference Review

The Empirical Psychology of Decision Making: The Brain and the Unseen Components of Bias

by *Crystal L. Banks*

This session was offered as part of the many topics coordinated by the Diversity Committee and was also an experiment into the ever changing world of technology. The session was taught by Jack Grinband, Ph.D., a research psychologist and scientist currently working on experiments at Columbia University and Kimberly Papillon, an attorney and a Senior Education Specialist at CJER's Education Department who was not on location but rather in the wilderness on a pre-planned family vacation. She taught her portion of the session by way of speaker phone and an on location PowerPoint presentation while Dr. Grinband appeared "live" with the audience and a moderator.

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The workshop explored access to fairness issues within courtrooms and courthouses as we looked at how deliberation and instinctive or unconscious processing combine to drive decision-making. Concepts such as physiological reactions during decision-making as seen through MRI's, unconscious processing, the halo effect, and stereotypes were investigated.

Originally we were hopeful that we would be able to "SKYPE" Kimberly into the session but were unable to do so because her location was too remote to lend itself to a strong enough signal. However, the session was still able to be conducted while an audience of participants was able to listen and discuss the subject matter of how our brains work to include or disassociate our biases toward things, including how we feel about people who are different than ourselves. It was quite interesting as Dr. Grinband pointed out that in many cases, these feelings are something that we all have and cannot do anything about other than to be aware that they exist and use our learned training to compensate for them. Issues of race, gender, educational level and profession were all discussed during the session.

The session was fairly interactive and required audience participation. In all, it was a session that demanded that we take an honest look at ourselves, our perceptions of others and how we interact with others based on these perceptions. With the studies that Dr. Grinband and Ms. Papillon put on display, it was far easier to embrace the idea that this is something common to all human brains and therefore not the "fault" or prejudice of any one person, but a part of all of us. The true test lies with what we do with this information and how we use it to make our lives and the lives of others more equitable.

If you are thinking of doing something like this session in your jurisdiction, please contact Dr. Jack

Grinband at jackgrinband@gmail.com or Kimberly Papillon at Kimberly.Papillon@jud.ca.gov to see if they would be available to present for you. You will certainly not be disappointed!

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Post-Conference Review

What's in Store for American Grammar?

by Jo Deyo

At the "What's in Store for American Grammar" presentation, participants had a chance to hear from a grammar guru and to share their own thoughts about grammar and proper writing.

To consider the future of American grammar, presenter Nancy Tuten, an English professor at Columbia College in South Carolina, first looked back to the history of grammar. Grammar rules did not exist for centuries, but the printing press helped to spur a movement toward standardization.

As Tuten explained in the first theme of her presentation, the only thing certain is change.

American settlers brought English with them from Great Britain, but words and usage of settlers from other nations were incorporated into American grammar and style as well.

Tuten also described the grammar wars in America. At one point, educators used the "drill and (s)kill" method, which focused on isolated grammar rules but without connecting the rules to writing. When educators realized that students need to know how to write, the trend reversed to focus on writing with little instruction or emphasis on grammar rules.

The latest approach is rhetorical grammar, which teaches grammar but integrates it into writing. Other similar approaches are the "WAC" and "WID" educational approaches: Writing across Curriculums and Writing in Disciplines. These approaches provide opportunities for those working in science or other fields to learn how to write effectively for their topics and audiences.

Participants wondered about the impact on grammar of electronic communication, such as e-mail and texting, and speculated whether these modalities will lead to relaxed grammar and writing norms.

Looking ahead, Tuten said that good grammar is still important. And that was illustrated by her second theme: the more things change, the more they stay the same.

Style may change with time and delivery methods, and style may also be particular to any given discipline. But some rules are important for clarity and the logic of a sentence, Tuten noted. She explained that some key elements of writing that are always essential to consider are

- Purpose
- Audience
- Context, and

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- Clarity.

Tuten recognized that it's okay to bend or break some rules. But, she said, some grammar mistakes can be confusing or can change the meaning of a sentence. For example, faulty comparisons or misplaced modifiers can change the meaning of a sentence, or at least confuse the reader. When in doubt, Tuten recommended, it is generally safe to use conservative grammar rules, rather than test the waters with new grammar or usage.

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Post-Conference Review

NASJE Regional Reports

MIDWEST (submitted by Anne Jordan)

Members present: Anne Jordan, Jane Seigel, Barbara Harcourt (IN); James Landon, Milt Nuzum, Phil Schopick, Christy Tull (OH); Jill Goski (MN); Kimberly Dockter (ND); MariKay Bickett, Ann Blankenship, Anissa Vila, Lamar McCorkle, Dottie McDonald, (TX); Mary Stixrud, (MO); Karn Barth, (SD); Kevin Bowling (MI)

The meeting began at 8:30 a.m.

Evaluations: Members discussed the use of evaluations and whether to edit them prior to sending to faculty. The consensus was if a statement is hurtful or non-relevant, it is not shared. Evaluations are to be considered 'confidential' thus allowing edits. Members agreed to share their evaluation forms with one another.

Going Green with Materials: Texas is putting all conference materials online one week prior to the program. It is left up for 90 days. Conferees bring laptops and wireless internet connection is supplied. Minnesota began putting materials on a CD, available upon registration. Now they ask conferees to bring a flash drive with them. Ohio and Missouri do several 'webinars' in lieu of face-to-face meetings.

Best Practices: NASJE members reported on successful programs in their states. Missouri has done some 'blended learning' programs, requiring pre-reading and web follow up. Indiana does something similar with their Graduate Program. Minnesota is just starting. Texas reported use of an advanced program for judges on the bench eight years, delving into history and purpose, called the Cornerstone of Justice.

Several states (MO, TX, and ND) have done a 'poverty simulation' using principles developed by "Aha" (Ruby Payne). The conferees consist of judges, school counselors, court officers, clerks, child welfare staff, and the homeless coalition. States have used federal Court Improvement Program funds. All reported that the module required a great deal of work to plan and a lot of debriefing at the end; but that it is worth it.

Texas reported a series called "Beyond the Bench," in which juvenile court judges and their teams watch a video of a child welfare case from removal to the court hearings. A professional team of actors was hired. Conferees were asked to reflect on what they would do differently after watching the video and hearing the discussion.

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Indiana reported that Calamari Productions is a local company that films child welfare proceedings in the courts where it all occurs.

The meeting adjourned at 9:45 a.m.

NORTHEAST

In attendance: Crystal Banks, DC; Merry Hofford, DC; Louis Kelly, DC; Debra Koehler, MD; Melody Luetkehans, NJC; Janice Musterman, SJI; Mary O'Connor, CT; Lynn Schafran, NY; Barbara Sweet, NH.

The meeting came to order at 8:15 a.m.

The participants went around the table and introductions were made all around with a short description of what each person in attendance did in their various positions. Five jurisdictions were represented: The District of Columbia, Connecticut, Maryland, New Hampshire, and New York. Two guests joined us: Melody Luetkehans representing the National Judicial College, and Janice Musterman representing the State Justice Institute.

The group then shared current programs that could be used by others:

- The NJC has a course on Traffic Law funded by NHTSA that can come to all/any jurisdictions for in-state traffic courses.
- SJI has \$1,000,000 available for scholarships in compliance with Congressional requirements. Its curriculum on Juvenile Sexual Offenders is available to all of the states.
- Connecticut is in transition. Its Judicial Education Committee meets monthly to generate ideas for content of judicial conferences that are split according to the various courts – District and Circuit Courts and the Court of Appeals, that are represented by sub-committees with sub-chiefs – to plan the 2010 education year. They used what they call “grand rounds” (like round tables) at their last conference that included assigned reading relating to the topic to be discussed. Each “grand round” was very different; some were intellectual, and some “nuts and bolts” in the areas of juvenile, family, civil, magistrates, and criminal law. CT also conducts a “Baby Judge School” for new judges when new judges come on the bench, and it also provides transition courses as judges change terms and locations. Every fall each area has a program to apprise of new legislation, etc.
- New York asked about who uses on-line or distance learning: NH uses Webinars, CT is videoconferencing this fall. Melody from NJC talked about active registration for four unemployment conferences from ALJ that attracted excellent attention. NH has had a good reception with good numbers and is getting people who wouldn't go to an on-line program before.
- SJI is not getting scholarship requests for on-line program tuition and is looking to increase curriculum adaptation grant applications, technical assistance grant applications and program applications. Congress says no continuation program grants, and it requires a cash match for each grant given. Strategic initiative grants in immigration and court security and re-engineering courts (facing budget cuts) grants are available. 90% of SJI grants are to state courts.
- NH is using Webinars to provide training. The “GoToMeetings” conduit that allows Power Point to be shared and allows participants to subscribe to a teleconference system. They use very discreet topics and can be interactive. The participants are encouraged to be interactive. Several meetings can go

on simultaneously. "Webex" is another program. The cost depends on the number of users involved. "GoToMeetings" can have up to 1000 participants.

- NY was represented not by a judiciary employee, but by a representative of the National Judicial Education Program that has a comprehensive program on adult victims of sexual violence that is funded by the Office of Violence Against Women. It conducts meeting to plan programs within the states, and is trying to integrate these ideas into other programs. The first meeting will be of the Mid-Atlantic region in September 2010. Web-based courses can add local jurisdiction information. The NJEP is also working on providing on-line information down the road.
- The DC Superior Court's Judicial Branch is training aspiring non-judicial court leaders two days per month for twelve months and is using curricula from other organizations including Virginia, Michigan, the National Center for State Courts, and the Institute for Court Management.
- DC has on-line tutorials for Spanish and computer software. They are very popular with the judges. It also has monthly training for 1 hour that the judges find very helpful –up to 80 trial judges attend. Court of Appeal judges have a brown bag lecture series that is very popular. New Judge Orientation is also provided in a 4 -week program where they choose mentor judges, shadow and observe trials, participate in mock trials and have meetings with court clerks.
- DC also has a strategic plan emphasizing a strong Judiciary workforce that uses a survey of all employees to find out how they like/feel working for the Judiciary, working conditions, supervisors, etc. The Chief Judge did a streaming video to encourage participation and got an 80% response rate.
- MD provided brochures that list and describe all of the 2009 and 2010 judicial education courses provided by the Judicial Institute of Maryland. Maryland has a three-year cycle of "core courses" and combines those offerings with a dozen or so "electives" for a total offering of approximately 30-40 courses per year. In addition, New Trial Judge Orientation is offered annually, and other specialty courses like the 3- day Family Law Seminar and Business and Technology courses are offered. 34 Circuit Court (general jurisdiction) and Appellate Court judges are ASTAR (Advanced Science and Technology Adjudication Resource) Fellows and must attend an education seminar at least once every two years.

The meeting adjourned in a timely fashion at about 9:45 a.m.

SOUTHEAST

The NASJE attendees from the Southeast Region enjoyed the chance to talk with their colleagues at the regional meeting. After introductions, attendees reported on some of their success stories from the past year. This report will mention some of the topics discussed.

Alabama made a foray into videoconferences this year. The videoconferences were two-way audio and video communications, using county extension offices. At each site a technical support staff person and a moderator assisted with the programs.

In other experiments with electronic delivery methods, North Carolina had three webinars this fall to replace a conference. The method seemed especially suited for updates or similar topics.

Also in North Carolina, to try to meet the needs of new judges appointed mid-year, judicial educators developed several asynchronous modules on various topics. North Carolina judicial educators also

compiled a Survival Guide compiled from materials that judges use in their own benchbooks.

Arkansas also is posting a searchable benchbook online. The state recently experienced a large turnover in judges, which resulted in a number of younger judges who want to have materials and resources available online.

Florida redesigned part of the program for new judges to include a three-day course on fundamentals in specific subjects. Reassigned judges with little or no experience were also invited to attend these fundamentals courses.

In concluding, the group considered the possibility of a mid-year meeting, realizing that tight budgets and busy schedules might derail such a possibility. However, the Southeast Regional Newsletter may continue, to foster communication among NASJE members in the region.

WESTERN

Sixteen participants attended the Western Regional Meeting at the NASJE conference in Asheville, North Carolina. The first portion of the meeting was spent on introductions and sharing of resources and current projects. Some of the information highlights included: a demonstration of a resource DVD and the "10 minute mentor" tool (California AOC); an education plan based on collaboration of stakeholders (Maricopa County); the availability of funded speakers to support state, regional, and national training (NCJFCJ and the Williams Institute); and the availability of technical assistance and a capital case benchbook (NJC). During this information sharing, several participants noted challenges associated with budget cuts, but did see the crisis of funding as a catalyst for change and rethinking how judicial education is done. For example, many states are looking to develop their online/distance learning capacities to improve access and efficiency in light of limited travel funds. The meeting concluded with a discussion around how to better share information (e.g., promote activities on the website). Although there was interest in having a regional meeting, identifying resources and a workable date were seen as challenges. Most noted quarterly conference calls would be a good step toward sharing information and moving the group forward.

Facilitators:

Michael Roosevelt - California, Administrative Office of the Courts
 Evie Lancaster - Nevada, Administrative Office of the Courts

Attendees: Judith Anderson - Washington, Administrative Office of the Courts
 Todd Brower - California, The Williams Institute/UCLA School of Law
 Hon. Lowell Castleton - Idaho, Supreme Court
 Eddie Davis - California, Administrative Office of the Courts/Education Division
 Elizabeth Evans - Arizona, Trial Courts of Arizona in Maricopa County
 Nancy Fahey Smith - Washington, Administrative Office of the Courts
 Lisa Galdos - California, Administrative Office of the Courts
 Steve Lee - New Mexico, Alamogordo NM Municipal Courts
 Joy Lyngar - Nevada, The National Judicial College
 Shawn Marsh - Nevada National Council of Juvenile and Family Courts
 Pauleen Schnaper - Utah, Administrative Office of the Courts
 Nanette Zavala - California, Administrative Office of the Courts
 Autumn Zemke - Nevada, Administrative Office of the Courts

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Post-Conference Review

Race: The Power of an Illusion

by Kelly Tait

In a continuing tradition at NASJE's National Conferences, a film was shown one evening followed by a facilitated discussion the next day. This year part of the California Newsreel documentary *Race: The Power of an Illusion* was shown. This powerful documentary questions the very idea of "race" as a valid scientific distinction. Participants watched Episode 3: "The House We Live In" which reveals how our institutions gave race its meaning and power by advantaging "whites" even while resorting to inconsistent categories to maintain the color line.

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In addition, two short films that had been nominated for Academy Awards were shown to illustrate additional ways of approaching the topic of differences and similarities between people: "New Boy," an eleven minute film from Ireland, and "West Bank Story," a twenty three minute film from Israel.

The session was facilitated by Joseph Sawyer, Distance Learning and Technology Manager for The National Judicial College, and Kelly Tait, judicial branch Communication Consultant and instructor at the University of Nevada, Reno.

The facilitated discussion and other learning activities included much information that was new to most participants. The starting point was that there are NO subspecies in the human species—humans haven't been around long enough and haven't been isolated enough to evolve into separate subspecies or "races." In fact, we are one of the most similar of all species on earth, notwithstanding surface appearances. Put in scientific terms, "the within-group variability is greater than the between-group genetic variability" (Dr. Joseph Graves, Jr., professor of evolutionary biology at Embry-Riddle University, and author of *The Emperor's New Clothes: Biological Theories of Race at the Millennium*).

Part of the difficulty in discussing this issue is that there are obvious outward physical differences – group tendencies in physical appearance, but differences like skin color really are only skin deep. Most of the different outward characteristics have evolved in response to environmental factors such as the amount and intensity of the sun in particular geographic regions. However, even skin color does not map consistently to all racial groups.

It was shocking to many participants to learn that "race" and "freedom" (as we know it in the U.S.) evolved together. While the U.S. was founded on the radical principle that "All men are created equal," it had an economy based largely on slavery, so there needed to be something that justified the huge social inequalities between people. The idea of superior and inferior races was advocated

when slavery was challenged on moral grounds.

Some examples from the documentary of how the socially constructed concept of race was institutionalized by our government:

- Of the \$120 billion in home loans underwritten by the federal government between 1932 and 1962, 98%+ went to white homeowners. (For comparison purposes, approximately 13% of inductees into the military in 1944-45 were minorities.)
- The U.S. government helped institutionalize racist practices in home loans by pronouncing that there was significant financial risk in approving home loans in a neighborhood that was “infiltrated” by even one person of color.
- 50-80% of one’s lifetime wealth depends on opportunities created by past generations. Thus, the opportunities lost to the generations who were not allowed to own property or were considered property themselves are to a significant degree lost to future generations, as well.

In addition, the section of the three-hour documentary that we watched, “The House We Live In,” included details on some of the landmark U.S. Supreme Court cases regarding “race” in the early twentieth century including the 1922 Supreme Court case of *Ozawa v. United States* which declared Japanese ineligible for citizenship because they weren’t considered “white” based on the “best science” of the day. This was followed in 1923 by the Supreme Court case of *United States v. Thind* which declared Asian Indians ineligible for citizenship because, even though they could be considered “white” by the “best science” of the day, the “common man” would not consider them white.

The film looked at the inherent contradictions in the arguments, the personal impact on the individuals involved, and the social impact of these decisions – such as naturalized citizens having their citizenship revoked and their property confiscated, and people being denied citizenship because of their ethnic backgrounds.

Participants were tasked with thinking about what role judicial education can play in neutralizing the impact of the illusion of race on the justice system. We also discussed the challenges of teaching a whole new way of looking at the concept of “race” when an invalid approach is so strongly ingrained in most Americans’ world views. Ideas for teaching included having multiple exposures to the new approach and team-teaching the topic with an expert in genetics.

The session was an eye-opener for many.

For more information, teaching materials, and ideas, go to the [Independent TV Service’s website](#) and the [PBS companion site](#). Another good website is sponsored by the [American Anthropological Association](#). The three sections of the documentary are one hour each. They are: “Episode 1 – The Difference Between Us,” “Episode 2 – The Story We Tell,” and “Episode 3 – The House We Live In.” Short films such as “New Boy” can be purchased on iTunes for very reasonable prices.

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Educating on Elder Care

Jennifer White, Attorney for Legal Programs with the Family Violence Prevention Fund and the lead attorney /curriculum writer for the Enhancing Judicial Skills in Elder Abuse Cases (a 3.5 day judicial education program that has been delivered nationally several times since 2007), led conference participants through the course offered by the National Judicial Institute on Domestic Violence.

Format for this Elder Abuse course, which is offered at no expense to judges by the Institute, is similar to the very successful Enhancing Judicial Skills in Domestic Violence courses that have been offered for the Institute for a number of years. Funding for the Elder Abuse course is similarly covered (except travel) for groups of up to fifty judges who hear such cases.

Ms. White very successfully taught attendees that adult protection services (APS), where many of these elder care cases originate, is just not “CPS for old folks”! APS (Elder Care) cases are based on incapacity of the party to be protected and those who are competent can refuse services. Judges need careful training to distinguish elder abuse cases since they present as many other different kinds of cases (e.g., criminal, civil, and even domestic violence). However, whereas APS can provide support and an array of service to an older victim, the victim’s consent is required unless the victim is legally incapacitated.

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Tips on Grant Writing

Janice Munsterman, Executive Director of the State Justice Institute, excited us all with her report of substantially increased funding to SJI, and thus to its many grantees, as a result of the economic stimulus programs of the federal government. "Project Grants", which can range from \$150,000 to \$200,000, now have a discretionary (with SJI) match of 50% to 0%, representing a very substantial change from past practice. "Technical Assistance" grants up to \$50,000 will only require a 10% to 40% match, including "in-kind" services. Curriculum Adoption and/or Training Grants (CAT) are available for amounts from \$20,000 to \$30,000 and will require a 10% cash match or up to 40% in-kind matches.

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"Scholarships for Judges" have also been increased in number with a budget of \$175,000 available this fiscal year. Those anticipating losing this source need to become engaged and apply. \$1,500 is available per scholarship per judge for defraying tuition, travel and lodging. No meals are allowed with these grants.

All application and reporting forms are on the [SJI website](#). This brief report does not list all grants affected or the amounts of increased amounts available. However, the rule that grants cannot supplant otherwise normal state court funds, e.g., indirect costs and personnel costs, remains in place. This was a most valuable session, and those who could not attend should call Janice or make contact via the SJI website above.

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Post-Conference Review

How to Educate the Intergenerational Workforce

At NASJE's 2009 National Conference Professor Willow Jacobson of the University of North Carolina taught a lively session about how to function more successfully in the multigenerational workplace. She discussed the value of understanding some of the general traits that employees in different age groups tend to share, including the main values and approaches of the four generations currently in the workforce. Through a combination of activities and lecture, she went through formative events, values, and assets and liabilities on the job for each of the generations. Dr. Jacobson made a point to

acknowledge that the discussion of generations necessarily includes many generalizations, and that there obviously are numerous individual differences within each generation.

The four generations currently in the workplace:

1) **Matures** (born <1945)

Assets on the job: stable and thorough, detail-oriented, loyal and hardworking

Liabilities on the job: challenged by ambiguity and change, reluctant to buck the system, uncomfortable with conflict, reticent when they disagree

2) **Baby Boomers** (born 1946-1964)

Assets on the job: service oriented, driven, good at relationships, team players

Liabilities on the job: not naturally "budget minded," uncomfortable with conflict, may put process ahead of result, overly sensitive to feedback

3) **Gen Xers** (born 1965-1977)

Assets on the job: adaptable, techno-literate, independent, un-intimidated by authority, creative

Liabilities on the job: impatient, poor people skills, inexperienced, cynical

4) **Millenials** (born 1978-2000) Assets on the job: collective action, optimism, tenacity, heroic spirit, multi-tasking capabilities, technologically savvy Liabilities on the job: need for supervision and structure, inexperienced particularly with handling difficult people issues

The fifth generation, obviously not yet in the workplace, is the Homelanders.

Looking at the workplace through the lenses of the different generations can be useful. According to Dr. Jacobson, Matures and Boomers embody the culture of most organizations today, but clearly

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changes will be coming. It was illustrative to consider the differences in generations' experiences with technology: Matures and Boomers are "techno-immigrants" while Gen Xers and Millennials for the most part are "techno-natives."

Dr. Jacobson discussed strategies and techniques to better meet the needs of the different generations and to minimize workplace conflict. She also asked the question: "Are we preparing and transitioning the next generation to replace those who are retiring?"

This question led to discussion of differences in teaching the generations and some general tendencies to be aware of:

--**Mature learners:** Like a traditional classroom structure, do not like to contradict or disagree with instructor, do not enjoy being singled out in group discussions or questions, like to practice alone not in groups

--**Baby Boomer learners:** Enjoy working in creative and independent manners, sensitive to criticism, possess significant experience, require lots of interaction and talk time, enjoy icebreaker and introduction activities, prefer a spirit of collegiality in classroom

--**Gen X learners:** Consider themselves fiercely self-reliant, require regular feedback, may lack interpersonal skills, can be cynical, are often impatient, consider themselves to be technologically capable, are adaptable and informal

--**Millennial learners:** Accustomed to group work, comfortable with active learning, multi-task with ease, technological experts, goal and achievement oriented, require more structure and mentoring, motivated by money and earning potential

Dr. Jacobson cautioned against talking about "young people" as a single group because there are some major differences in the generations, and she anticipates that the biggest clash organizationally will be between Gen Xers and Millennials.

So, as a judicial branch educator, what should you do when the participants in a training session are from multiple generations? Some general strategies from Dr. Jacobson:

- Ask for professional experiences from members of different generations
- Change activities often
- Tap into the technological savvy of Gen Xers and Millennials
- Require participation in some form each class period
- Find the right mix of guidance, structure, and visibility for all groups
- Encourage discussion between groups
- Recognize excellent performers individually

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Cultural Competency in Judicial Education

At NASJE's 2009 National Conference, Michael Roosevelt of the California Administrative Office of the Courts and John Martin of the Center for Public Policy Studies facilitated an in-depth discussion among session participants of Martin's recent *Court Manager* article "Becoming a Culturally Competent Court (John Martin, Marcus Reinkensmeyer, Hon. Barbara Rodriguez Mundell, and Jose Guillen "Becoming a Culturally Competent Court," *Court Manager*, Vol. 22 No. 4)."

Many salient points were discussed, including:

- The concept of culture is broad and deep. It encompasses behaviors and language, such as appropriate dress and attire, how people display contrition, and styles of written and verbal communication. Culture also encompasses values and norms, such as the meaning of respect, justice, fairness, compliance, and family. Moreover, the concept of culture includes fundamental assumptions about essential aspects of life, including assumptions about time, the causes and treatment of illness, gender roles, human nature, and human motivations.
- To operate effectively and serve increasingly diverse populations, courts must deal with multiple types of culture including professional, organizational, ethnic/national, and intergenerational cultures.
- Courts and American justice have a culture and the content of the culture is heavily Anglo/European. For example, built in to American justice are notions that illness is largely organically based and thus can be treated medically, people can be motivated to alter behavior by punishments and rewards, and judges and other persons of authority within the court and justice system should be listened to and obeyed because of the positions they hold and the important roles they play in society.
- Cultural competency means both understanding and working with your own culture and the cultures of those you serve. Cultural competency means first understanding where, how and why culture matters and understanding the content of court culture. Cultural competency also means developing individual, organizational, and system capacity for culturally appropriate service delivery that helps individuals successfully navigate the courts, process information, make wise decisions, and understand and comply with court orders.
- Working with culture effectively means working with key processes that shape how the courts work and why they do what they do.

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- Becoming culturally competent courts is not a program but a way of organizational being and life.
- Effective learning about cultural competency requires integrating materials about culture with the practical realities of court operations.
- Effective learning about cultural competency requires making the topic accessible to judges and court personnel in a variety of training forums that use a variety of adult education techniques.

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Post-Conference Review

Roundtable Discussion: Best Practices in Online Learning

The effervescent Joseph Sawyer of the National Judicial College could hardly talk fast enough to share all the ideas and respond to all the questions of the group in his roundtable about online learning. In addition to a most helpful five page handout with information on the simple steps to set up an online session, Joseph shared many things he and the faculty with whom he works have learned through experience. Various software options were reviewed and some simple tips were given on how to get judges to register and participate, e.g., notice 1 month before, 1 week before, 1 day before, and 1 hour before the start of the conference call. “Ice breakers” for use by the host, the “producer” – and every online course needs a producer as well as a presenter, the “faculty” – were discussed and many different approaches were shared by all members of the group.

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Joseph offered to share his outline and other materials (ask for “Bloom’s List”) by emailing him at sawyer@judges.org. The outline is well worth your time spent in writing to Joseph!

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Post-Conference Review

Roundtable Discussion: Program Assessment / Impact Evaluation

Fourteen attendees participated in a facilitated roundtable discussion on the subject of program assessment and impact evaluation. Handouts illustrating elements of needs assessment, the planning cycle, and levels of evaluation framed the discussion of challenges faced by judicial educators in an era of accountability. Specifically, the group noted difficulty balancing “forward thinking” training committees with “responsive” planning, and difficulty balancing what a needs assessment indicates about training versus what the Administrative Office of the Courts wants to do (or can do). Much of the remaining discussion focused on core competencies and on evaluation of courses.

The group noted a general dissatisfaction with existing evaluations and expressed frustration with emerging requirements to assess behavior change and results after training, particularly with limited resources. One participant noted that the ABA and NCJFCJ have been working on a standardized training evaluation that might assist in addressing these challenges, and indicated he would forward more information to NASJE when the document was finished. The discussion concluded with thoughts on using online surveys to assess learning and the types of participant feedback planners share with faculty.

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Post-Conference Review

How to Educate on the Theory & Mechanics of Performance Measures

by *Mary T. Sammon*

This session was based upon a recent COSCA white paper that explored the reasons why courts fail to embrace performance measurement. The challenge for the judicial educator is how to plan, design and deliver a curriculum that moves courts toward adopting performance measurement.

The approach used in this education session was to explore how to reach the various audiences in a court setting from the policy makers (judges) and non-judicial leadership (court administrators/managers) to the front line, where all the heavy lifting takes place. For performance measurement to be embraced in the courts, all the players need to understand what it is and how to use it to demonstrate transparency and accountability to both court users and the court's funders. The session explored ideas that might speak to the various levels of the court:

What Speaks to the Judiciary?

- Preservation of the independence of the judiciary
- Constitutional responsibility for administration of justice
- Interdependencies with other two branches of government
- Capable stewardship of public trust and confidence
- Court-wide perspective of court operations
- Defining mission and vision of the court
- Achievement of court outcomes

What Speaks to Court Management?

- Accountability to other two branches of government
- Transparency in use of resources and conduct of business, internal and external to court
- Ability to assess efficacy of resource allocation
- Ability to confirm perceptions with data
- Responding to customer expectations
- Justifying budgetary requests
- Court as a service institution

What Speaks to the Front Line?

- Whose idea was this anyway?
- Fostering creativity among staff
- Bring part of something bigger than themselves
- Having their institutional knowledge valued in finding solutions to systems and process problems

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- Having a voice (*not a vote*) in how organizational change takes place
- Sharing responsibility for success
- Sharing credit for success

The session explored ways to determine the criteria for a good set of performance indicators by first identifying what things matter to the court and marrying those concepts to what the court has the ability to measure in a sustainable manner that is both feasible and meaningful. The session explored some lessons learned from the field, the benefits of transparency, reasons why the courts should assess performance and some common elements to achieving successful performance measurement, including

- Effective communication, internal and external to the court
- Focusing on discreet measures
- Developing best practices and standards
- Transparency: publishing results to web site
- Executive/legislative branches view court as well-managed
- Performance measurement becomes institutionalized as *the way courts do business*

Designing effective education sessions on performance measurement for the various levels of the court has the potential to initiate real organizational change in the courts.

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Younger Next Year

It wasn't the Fountain of Youth, but Chris Crowley, one of the authors of the book, *Younger Next Year*, shared his secrets to living longer and enjoying better health. Closing the conference with an entertaining and motivating session, Crowley touted the benefits of physical activity.

Often crediting his co-author, Henry S. Lodge, M.D., for the medical or scientific underpinnings of his comments, Crowley explained that humans are built to move, and that movement is a signal for youth.

Aerobic exercise, Crowley said, can benefit circulation, change blood chemistry and help decrease unhealthy inflammation. He said that another benefit of aerobic exercise is improvement in mood.

Crowley also recommended strength training. He said that strength training can increase physical strength and also can make bones stronger. Strength training, he explained, can also improve balance and coordination.

Exercise can not only help the body, Crowley said, but can also benefit the mind.

Crowley also recommend consulting a physical trainer if possible before beginning a new exercise program. *[Editor's Note: Of course, consultation with a physician before beginning any activity is wise as well.]*

To illustrate his initial efforts to begin an exercise routine, Crowley read humorous excerpts from his book. He explained that while it may be difficult at first, improvement – and even transformation – is possible.

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THE SUPREME COURT OF OHIO JUDICIAL COLLEGE
Criminal Procedure by the Numbers: Part IV
October 7, 2016
Quest Conference Center, Columbus

AGENDA

- | | | |
|-------|-----------------------------------|--|
| 8:55 | Welcome and Introductions | <i>Debra E. Weinberg, Esq.</i>
Education Program Manager
Judicial College
The Supreme Court of Ohio |
| 9:00 | Criminal Rule 43 | <i>Hon. Kate Huffman</i>
Montgomery County Common Pleas Court |
| 9:30 | Criminal Rule 41 | <i>Hon. Gary Dumm</i>
Circleville Municipal Court |
| 10:30 | Break | |
| 10:45 | Criminal Rule 32.1 | <i>Hon. Stephen L. McIntosh</i> |
| 11:30 | Criminal Rules 32.2 and 32 | <i>Hon. Stephen L. McIntosh</i> |
| 12:15 | Lunch | |
| 1:15 | Criminal Rules 33 and 34 | <i>Hon. James L. Kimbler, Retired</i>
Medina County Common Pleas Court |
| 2:15 | Break | |
| 2:30 | Criminal Rules 35 and 36 | <i>Hon. Kate Huffman</i> |
| 3:30 | Criminal Rule 32.3 | <i>Hon. Stephen L. McIntosh</i> |
| 4:00 | Conclude | |