

# NASJENews Quarterly

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NASJENews Quarterly • Spring 2009

Volume 24 • Number 2

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**34th ANNUAL CONFERENCE**

August 9-12, 2009

Asheville, North Carolina



Get more information [here](#).

**Resources**

- [Canada's National Judicial Institute: The Design, Development, and Delivery of a Signature NJI Course -- Preventing Wrongful Convictions](#)

*by T. Brettel Dawson and Natalie Salat*

The course, Preventing Wrongful Convictions, exemplifies the innovative approach of Canada's National Judicial Institute to program design and delivery. Steering clear of long lectures, the seminar employs the most up-to-date adult learning principles. It focuses on skills-based, experiential learning, and features thought-provoking videos, problem-solving activities and facilitated small-group discussions. [more >](#)

- [CUTTING EDGE: Cross-Discipline Training or "How to Herd Wary Adversaries"](#)

*by Daphne A. Burns*

Lawyers and judges serve the role as guardians of the law. Fulfillment of this role requires the understanding of their plenary relationship with and function in our judicial system. To further this role and improve the functioning of the judicial system in the administration of the death penalty, the Bureau of Justice Assistance recently awarded grants for cross-discipline training. [more >](#)

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

A publication of the Judicial Conference of Indiana, Judicial Balance includes stories and insights. [more >](#)

**Features**

- [Thiagi GameLetter](#)

Seriously fun activities for trainers, facilitators, performance consultants, and managers. [more >](#)

- [BLAST FROM THE PAST: Strategic Management in the Courts](#)

*by David A. Price, Ph.D.*

Reprinted from *NASJE News* (Spring 1992). [more >](#)

**Manager's Briefcase**

- [Court Administrators Use Kolb Model to Teach Meaningful Leadership Skills](#)

*by Rod Olson*

Courts have spent precious financial resources and many hours talking and teaching about leadership in the courts. Have we ever asked ourselves, "Is what we are doing working? Is there a noticeable difference in the people working for the courts who have attended leadership classes?" In short, are we receiving our bang for the buck? [more >](#)

**NASJE Newsletter Committee**

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*Adult Education*

**Kelly Tait** (NV)

*Cutting Edges*

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SJI News

The **April 2009 edition of the E-SJI News** is now available on the SJI website.

Key highlights include:

1. Board Awards New Grants for the 2nd Quarter
2. U.S. Marshals Service and SJI Continue Working to Improve Judicial Security
3. Guardian Assistance Network in New York

## SPECIAL ANNOUNCEMENTS

Next grant and scholarship application deadline: **August 1, 2009 (4th Quarter FY 2009)**

**Grant Guideline** for FY 2009 is available on the SJI website

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News

## CJEG Update

### FUNDING

#### 2011 SART Conference Solicitation Announced

*Application deadline: May 14, 2009*

OVC will award \$500,000 to a private, nonprofit organization or public agency to plan and implement the **2011 National Sexual Assault Response Team (SART) Training Conference**. The 2011 conference will provide state-of-the-art training for 1,000 SART professionals, including victim advocates, sexual assault nurse examiners and other medical personnel, law enforcement, prosecutors, and crime lab specialists.

#### Assistance Available for Mentoring Programs

*Application deadline: May 21, 2009*

The **Second Chance Act Mentoring Grants to Nonprofit Organizations program** provides grants to nonprofit organizations and federally recognized Indian tribes that may be used for mentoring projects to promote the safe and successful reintegration into the community of individuals who have been incarcerated.

#### Funding Available for Juvenile Agencies in Wyoming

*Application deadline: May 21, 2009*

The **Nonparticipating State Program** will help Wyoming develop a range of alternatives for juveniles in custody. It will also help the state revise policies and implement procedures to address compliance with the core requirements of the JJDP Act.

#### Funding Available To Reduce Underage Drinking

*Application deadline: May 21, 2009*

**Enforcing the Underage Drinking Laws Discretionary Program: Initiative To Reduce Underage Drinking** will provide funds to local communities to implement research-based and promising practices to enforce underage drinking laws. The program is also designed to prevent underage service personnel from consuming alcohol in collaboration with active duty bases implementing the underage component of the Air Force's Culture of Responsible Choices program.

#### OJJDP Seeks Innovations in Juvenile Justice

*Application deadline: May 26, 2009*

The purpose of the **Field Initiated Demonstration Program** is to foster innovations and advancements in juvenile justice-related practice at the local, state, and tribal government levels. The program's goal is to demonstrate the practical implications for policy and practice of innovative programs that enhance juvenile justice and delinquency prevention.

#### Improving Forensic Science and Medical Examiner Services

*Application deadline: May 29, 2009*

The **Paul Coverdell Forensic Science Improvement Grants Program** awards grants to states and units of local government to help improve the quality and timeliness of forensic science and medical examiner services. States may apply for both "base" (formula) and competitive funds. Units of local government may apply for competitive funds.

#### Apply for Grant To Evaluate Mentoring Programs

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*Application deadline: June 2, 2009*

OJJDP seeks proposals for its **Mentoring Research Program**. The evaluator will conduct both a process and an outcome evaluation to measure the effectiveness of paid and volunteer mentor programs in preventing delinquency.

### **Funding Available To Reduce Online Child Exploitation**

*Application deadline: June 2, 2009*

OJJDP invites applicants for its **Internet Crimes Against Children (ICAC) Task Force Program Expansion: New York and Texas**. The program is designed to maintain and expand state and regional ICAC task forces to address technology-facilitated child exploitation.

### **Applicants Sought for Training and Technical Assistance**

*Application deadline: June 4, 2009*

OJJDP is seeking applicants for the **Enforcing Underage Drinking Laws (EUDL) Training and Technical Assistance** program. The program will provide training to state and local EUDL programs working to prohibit the sale of alcoholic beverages to minors and the purchase and consumption of alcoholic beverages by minors.

### **Funding Provides Training on Death Penalty Issues**

*Application deadline: June 11, 2009*

BJA is seeking applications for the **Capital Case Litigation Initiative** grant. The program will provide high-quality training on death penalty issues to improve legal representation provided to indigent defendants and to enhance the ability of prosecutors to effectively represent the public in state capital cases.

## **NEWS**

### **Serving Victims of Individuals With Mental Illnesses**

On May 13, 2009, 2 p.m. ET, join **OVC's Web Forum Guest Host Session** on responding to victims of individuals with mental illnesses. Carol Dorris, J.D., advisor on Responding to People Who Have Been Victimized by Individuals With Mental Illnesses, and Dr. James Reinhard, Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services Commissioner, will lead the discussion.

### **Apply for National Victim Assistance Academy IV**

*Application deadline: June 30, 2009*

Apply now for **National Victim Assistance Academy IV**, to be held August 2-7, 2009, in Louisville, Kentucky. Continuing Education Units will be awarded to participants who complete all of the requirements of the Foundation-Level Training, Professional Skill-Building Institute, or Leadership Institute.

### **Ethics in Victim Services Curriculum Available**

Online OVC has released the online-only **Ethics in Victim Services curriculum**, which is designed to provide information and develop skills related to ethical standards in victim services and ethical decision-making. This download center contains all of the materials needed to conduct the training.

### **Enroll To Attend OVC Workshops**

Register for OVC's upcoming training workshops, including **Enforcing Victims' Rights**, May 19-20, 2009, in Minneapolis, Minnesota, and **Strategic Planning for Victim Service Leaders**, June 9-10, 2009, in Pittsburgh, Pennsylvania. To view course descriptions and learning objectives or to register, visit the **OVC TTAC website**.

### **Save the Date for the NIJ Conference**

The **NIJ Conference 2009** will be held June 15-17, 2009, in Arlington, Virginia. For more than a decade, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from research and technology. Attached are two conference ads should you wish to promote this event.

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## NCJRS News

On February 17, 2009, the President signed into law H.R. 1, the **American Recovery and Reinvestment Act of 2009**. The bill provides more than \$4 billion for state and local law enforcement and for other criminal justice activities that prevent and control crime and improve the criminal justice system.

The Office of Justice Programs (OJP), which provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims, has been designated as the lead agency in administering \$2.76 billion of this funding.

OJP funding for state and local law enforcement and other criminal and juvenile justice activities includes:

- **The Edward Byrne Memorial Justice Assistance Grant (JAG) Program**
- **The Edward Byrne Competitive Grant Program**
- **Assistance for Tribal Law Enforcement** (construction of jails on tribal lands)
- **Assistance for Rural Law Enforcement to Combat Drug-Related Crime**
- **Assistance for Law Enforcement along the Southern Border and in High Intensity Drug Trafficking Areas (HIDTA)**
- **Grants for Victim Compensation and Assistance**
- **Grants for Internet Crimes Against Children Initiatives**

To learn more about OJP's implementation of the Recovery Act and funding for which you or your organization may be eligible, visit the **Recovery Act Funding Page**.

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## News Futures Advisory Committee Conducts Survey

NASJE's Futures Advisory Committee is conducting a survey of the NASJE membership, non-member judicial educators, and other judicial educational groups and organizations as to programs they have conducted and/or attended that address cutting edge/emergent issues that affect judges and other judicial branch employees and stakeholders.

Committee Chair, Judge Bob Pirraglia, said the aim of the survey is "to gather, catalog and disseminate information respecting all such programs already in place that deal with such issues so that members can evaluate and present such programs to judicial branch audiences in their states sooner rather than later." He added, "While it is useful to suggest areas and concerns that are likely to impact judges and other court personnel in the years to come, it is better still to recommend ready-to-go programs including faculty and materials that our members can replicate with ease and swiftness."

Judge Pirraglia listed a few such programs as examples, including The National Judicial College's Courts and Media Center's presentation on the use of the new modes of communication available to the courts made possible by the creative use of the internet whether the mode chosen involves blogging, engaging in chat room discussions, teleconferencing, twittering, etc.; several ethics programs created by the Judicial Division of the ABA dealing with the new Model Code governing judicial behavior that was adopted by the Association in February, 2007 has been or is in the process of being adopted by more than the judiciaries of forty states.

The Judge said that "there was a wealth of knowledge about such programs out there and the Committee's job was to find out about them and bring them to the attention of NASJE's Program Committee and members. After receiving the survey responses," he concluded, "we will e-mail the resulting catalog of existing 'futures' programs with faculty to the membership".

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## News Thiagi's Summer Workshops in Switzerland

Thiagi is conducting two workshops in June 2009.

### Workshop 1. Interactive Training Strategies

This three-day workshop practices what it preaches. It helps you design and conduct 24 different types of effective training games, simulations, and activities. Based on 30 years of field research, these design formats enable you to create training faster, cheaper, and better. You will receive a hefty collection of training games during the workshop and have access to hundreds of web pages with additional games, activities, and facilitation tips. For more information, see [the brochure](#).

### Workshop 2. Evidence-Based Positive Psychology Activities

In this two-day workshop, Thiagi offers an intriguing alternative to stress-reduction. The workshop explores principles and procedures from positive psychology about how to measure, increase, and sustain your happiness. You will also learn how to help other people be happier, improve their health, and enhance their productivity. This is not an inspirational touchy-feely seminar but a workshop that incorporates scientific evidence-based facts, concepts, and techniques. For more information, see [the brochure](#).

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## NCJFCJ Update

### Juvenile Drug Court Training

The Alcohol and Other Drugs Division of the Juvenile and Family Law Department of the National Council of Juvenile and Family Court Judges planned and conducted two juvenile drug court workshops in the early part of 2009 with funding from the Office of Juvenile Justice and Delinquency Prevention. "Enhancing Your Juvenile Drug Court – Moving Your Juvenile Drug Court from Where it is To Where You Want it to be!" was designed to help take juvenile drug courts to the next level in program operation. In this innovative training, teams assessed their current practices; enhanced the continuum of care for their juvenile drug court clients; discussed practical solutions to on-going challenges; and engaged in valuable networking opportunities. A total of 215 juvenile drug court professionals completed this training held in Dallas, Texas and Louisville, Kentucky.

The Alcohol and Other Drugs Division anticipates announcing the dates and locations for the next series of juvenile drug court trainings in March 2009. This series of trainings will encompass planning issues and subject matter areas. Please check the [National Council of Juvenile and Family Court Judges website](#) for more information, or contact Jessica Pearce at [jpearce@ncjfcj.org](mailto:jpearce@ncjfcj.org) or at (775) 784-1661.

### Peer Reviewers Sought

The Alcohol and Other Drugs Division is seeking peer reviewers for a new Technical Assistance Brief and Component Checklist: "Moving Your Juvenile Drug Court to Where You Want it to Be: Managing and Sustaining Your Juvenile Drug Court Model" and "Ensuring Fidelity to the Juvenile Drug Courts: Strategies in Practice Monograph (16 Strategies) - A Program Component Checklist". The Component Checklist is a valuable tool for juvenile drug courts to use when assessing program operations and follows the 16 Strategies (see attached). The anticipated date of release for these resources is May 2009. If you are interested in reviewing this Technical Assistance Brief and Checklist, please contact Wendy Schiller at [wschiller@ncjfcj.org](mailto:wschiller@ncjfcj.org) or at (775) 784-1748.

### Judicial Training Opportunities

The Juvenile and Family Law Department of the National Council of Juvenile and Family Court Judges, with funding from the Office of Juvenile Justice and Delinquency Prevention, anticipates offering two statewide or regional trainings in the U.S. before June 2009. These 3-4 day trainings, traditionally offered as part of the Fall program series for juvenile and family court judges in Reno, Nevada, cover "Judicial Response to Alcohol and Other Drugs" and "Evidence in Juvenile and Family Courts". With reductions in travel budgets for many counties and states, the plan is to take these trainings to the field in collaboration with interested jurisdictions/training agencies. If you are interested in hosting or partnering on one or both of these trainings, please contact Iris Key at [ikey@ncjfcj.org](mailto:ikey@ncjfcj.org) or (775) 784-1663.

### Juvenile Delinquency Court Improvement Training and Technical Assistance

The Juvenile and Family Law Department of the National Council of Juvenile and Family Court Judges contracts to provide training and technical assistance to support the implementation of the Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases. The Juvenile Delinquency Guidelines is a comprehensive guide to improving juvenile court practice and outcomes for youth, families, and communities, and was developed with support from the Office of Juvenile Justice and Delinquency Prevention. After three years of work by over 100 experts in juvenile justice and allied fields, the Juvenile Delinquency Guidelines was published in 2005 for use by judges,

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prosecutors, defense counsel, child advocates, probation officers, law enforcement, and service providers nationwide. This important tool is framed by 16 Key Principles and numerous recommendations for practice. For more information about the Juvenile Delinquency Guidelines and implementation support, please **visit our website** under the “Juvenile Delinquency” link, or contact Cheri Ely at [cely@ncjfcj.org](mailto:cely@ncjfcj.org) or at (775) 784-6854.

### **72nd Annual Conference**

Plan to attend the 72nd Annual Conference of the National Council of Juvenile and Family Court Judges on July 12-15, 2009 in Chicago, Illinois. For more information about this conference and other upcoming training opportunities, please visit [www.ncjfcj.org](http://www.ncjfcj.org) under the “Conferences” link.

### **Juvenile Drug Courts: Strategies in Practice (2003)**

Juvenile Drug Courts: Strategies in Practice (2003) was created by a diverse group of juvenile drug court practitioners, researchers, and educators from across the country who were brought together by the National Drug Court Institute (a division of the National Association of Drug Court Professionals) and the National Council of Juvenile and Family Court Judges. The group included representatives from courts, prosecution, public defense, treatment, probation, court administration, academia, education, and training. Together these 16 strategies, summarized below, comprise the framework for planning and operating a juvenile drug court. For the complete monograph, including recommendations for implementation, please visit [www.ncjfcj.org](http://www.ncjfcj.org) or download at <http://www.ncjrs.gov/pdffiles1/bja/197866.pdf>.

- 1. Collaborative Planning:** Engage all stakeholders in creating an interdisciplinary, coordinated, and systemic approach to working with youth and their families.
- 2. Teamwork:** Develop and maintain an interdisciplinary, nonadversarial work team.
- 3. Clearly Defined Target Population and Eligibility Criteria:** Define a target population and eligibility criteria that are aligned with the program’s goals and objectives.
- 4. Judicial Involvement and Supervision:** Schedule frequent judicial reviews and be sensitive to the effect that court proceedings can have on youth and their families.
- 5. Monitoring and Evaluation:** Establish a system for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field.
- 6. Community Partnerships:** Build partnerships with community organizations to expand the range of opportunities available to youth and their families.
- 7. Comprehensive Treatment Planning:** Tailor interventions to the complex and varied needs of youth and their families.
- 8. Developmentally Appropriate Services:** Tailor treatment to the developmental needs of adolescents.
- 9. Gender-Appropriate Services:** Design treatment to address the unique needs of each gender.
- 10. Cultural Competence:** Create policies and procedures that are responsive to cultural differences and train personnel to be culturally competent.
- 11. Focus on Strengths:** Maintain a focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves.
- 12. Family Engagement:** Recognize and engage the family as a valued partner in all components of the program.
- 13. Educational Linkages:** Coordinate with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs.
- 4. Drug Testing:** Design drug testing to be frequent, random, and observed. Document testing policies and procedures in writing.
- 5. Goal-Oriented Incentives and Sanctions:** Respond to compliance and noncompliance with incentives and sanctions that are designed to reinforce or modify the behavior of youth and their families.

**16. Confidentiality:** Establish a confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information.

The monograph was prepared by the National Drug Court Institute and the National Council of Juvenile and Family Court Judges with funding from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. For the complete document please visit our website at [www.ncjfcj.org](http://www.ncjfcj.org).

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Please join us in welcoming the following new NASJE members:

- **Ms. Karn Barth**, Judicial Branch Educator, South Dakota Unified Judicial Branch, Pierre, South Dakota
- **Mr. Eddie Davis**, Senior Education Specialist, AOC/Education Division, San Francisco, California
- **Ms. Johnnetta Davis-Joyce**, Center Director , Pacific Inst. for Research & Evaluation, Calverton, Maryland
- **Mr. Christopher J. Hamilton**, Education & Outreach Manager, Oregon Judicial Department, Office of Education, Training & Outreach, Salem, Oregon
- **Mr. Aidan J. Moore**, Program Director, Pacific Inst. for Research & Evaluation, Calverton, Maryland
- **Mr. Bart O. Moore**, Senior Attorney, Office of State Courts Administrator, Tallahassee, Florida
- **Mr. John Newell Esq.**, Program Attorney, The National Judicial College, Reno, Nevada
- **Ms. PhuongChi Nguyen**, Court Education Professional, Administrative Office of the Courts, Olympia, Washington
- **Mr. Dan Rettig**, Senior Attorney, Florida Supreme Court, Tallahassee, Florida
- **Ms. Nancy Fahey Smith**, Court Education Professional, Administrative Office of the Courts, Olympia, Washington
- **Ms. Tina L. Tubridy**, Program Assistant, Supreme Court of Nevada, Judicial Education, Carson City, Nevada
- **Ms. Anissa R. Vila**, Program Attorney, Texas Center for the Judiciary, Austin, Texas
- **Mr. Richard Young**, Chief, Judicial Education & Performance, NJ Admin. Office of the Courts, Trenton, New Jersey

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## From the President

by *Claudia J. Fernandes*



*Claudia Fernandes*

I have the great pleasure in this column to share with you some information on what the board and our committees have been doing on these past six months and to give you a sneak peak into some of the great programs being offered at the upcoming conference. The theme this year is "The Future of Judicial Branch Education" and the dates of the conference are August 9-12, 2009. It will be held at the Renaissance Hotel in Asheville North Carolina. Rooms are \$159 plus tax per night. The conference registration will be available soon. We hope you will join your colleagues at this one-of-kind conference for Judicial Branch Educators.

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In February we had our mid-year board meeting to discuss and implement some new ideas for NASJE, and to make some decisions on some of the more important issues facing all of our organizations, our economy, and NASJE. In the spirit of addressing the economic crisis, the board agreed to lower the price of membership this year to \$125 for all regular members, for many states it will be a decrease in the cost of their dues. In addition, we instituted a retiree membership fee of \$50 per year for those throughout the nation who have retired as judicial educators. We hope to retain our valuable members, who have given so much to this organization through the years: we value their commitment, knowledge, and expertise.

The membership committee and the mentor committee are working together to connect with members, and especially new members, to find out what it is our membership wants and needs today and into the future. How do we provide more education with less money? How do we even provide the same level of service as before? These are questions we ask ourselves time and time again, but these unprecedented times and our economic crisis has had an impact on us all.

The Futures committee is busy exploring the new issues and trends that will face our organizations in the coming years. The International committee is working on a survey to gather information on the skills and abilities we all possess to provide a database that members can use to connect with each other regarding specific topical areas where they may be seeking educational information and experts. This data base would also be used to provide a venue by which educators could be tapped for international work if they were so inclined.

The bylaws committee is working diligently to update our bylaws to reflect the changing world we work in and to bring NASJE up to date. The Newsletter and website committees are bringing you the news of our profession in different ways and looking to the future of communication and how we will learn with the new technologies available and in use today.

The fundraising committee is working diligently to provide the foundational funding to provide our membership with the best education possible and keep our organization healthy. The nominating committee is looking for the future leaders of our organization, so don't be surprised if you get a call asking for your interest in becoming one of our organization's leaders.

The education committee has outdone itself for you this year. The upcoming conference has excellent topics that are

relevant to the work we do as educators. This year our opening session explores Judicial Education in the New Millennium, the Vision of 2000-3000. Our speaker, Stuart Forsyth, will take us into what will be the wave of the future and how we prepare and survive. Other workshops will include New Skills for Tough Times: Tips on Successful Grant Writing, Technological Innovations for Educators on a Budget, Cultural Competency in Education, the Psychology of Decision Making, How to teach Using a Variety of Learning Activities, Intergenerational Workforce, Literature Review, What's in store for American Grammar?, The Future of International Education, Elder Abuse, and the COSCA white paper on Performance Measures. Our closing session with author Christopher Crowly, "Younger Next Year", will be about how important wellbeing is to effective decision making. This conference should prove to be a program that provides educators with new skills and ideas; it will inspire us to move forward in these tough economic times.

My thanks to the board, the committee chairs and their members for the stellar work and commitment that they are providing to NASJE and us all. I personally appreciate the great ideas, and the time and effort everyone is giving on behalf of the membership and educators everywhere.

We hope to see you all in Asheville!

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## Resources

### Canada's National Judicial Institute: The Design, Development, and Delivery of a Signature NJI Course -- Preventing Wrongful Convictions

by *T. Brettel Dawson and Natalie Salat*

Canada's National Judicial Institute (NJI) has earned an international reputation for its highly developed approach to judicial education – that is, judge-led, judging-focused and skills-based.

The NJI's three-day seminar on Preventing Wrongful Convictions exemplifies the Institute's innovative approach to program design and delivery. First presented to Canadian trial judges in 2001 as Frailties in the Criminal Justice Process, the course came about after several Commissions of Inquiry into wrongful convictions took place in Canada, and judges themselves began requesting education in this area. In response, the NJI has developed an intensive, skills-based judicial education program on this important topic.

Steering clear of long lectures, the seminar employs the most up-to-date adult learning principles. With a focus on skills-based, experiential learning, the program features thought-provoking videos, problem-solving activities and facilitated small-group discussions. It deals with topics ranging from eyewitness identification and false confessions to overzealous prosecution and expert evidence, which enables participants to hone their courtroom skills and learn from each other's experiences. The next Preventing Wrongful Convictions seminar will take place in Victoria, B.C. in early 2009.

Judging by the evaluations from previous seminar participants, attendees appreciate the skills and knowledge they gained over the three-day program, indicating that the sessions opened their eyes to new ideas and approaches. Participants from past seminars have commented: "This was an excellent program in all aspects. Every trial judge should take it." "I have a heightened sense of responsibility to ensure an accused gets a fair trial." Echoing the sentiments of her fellow judges, one participant reflected that she came away with the need to be "constantly vigilant" in the courtroom, "to recognize and respond to the very critical issues presented at this seminar." The steps to success for this seminar are the focus of this article.

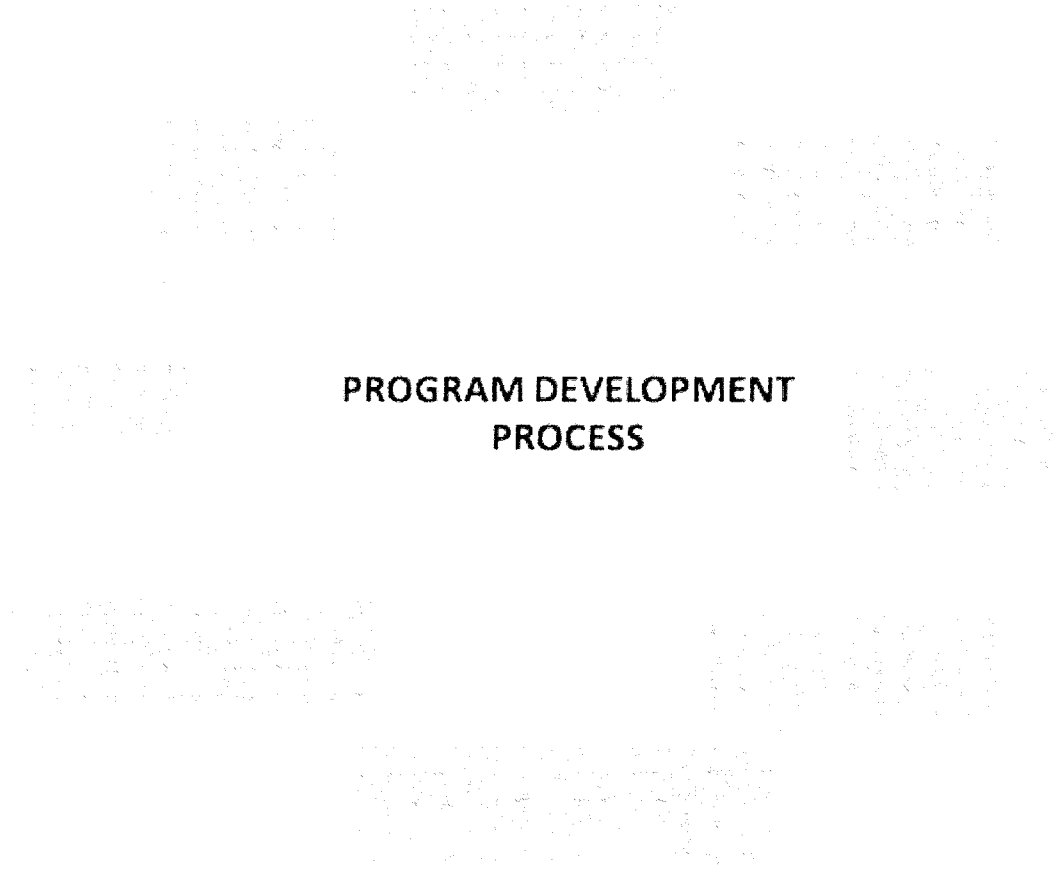
#### The Approach in Practice

As with all NJI courses, the design of Preventing Wrongful Convictions follows a multi-step process (see Fig. 1.), which includes forming a planning process, identifying learning needs, selecting the style of course (skills, substantive or social context), establishing learning objectives, clarifying content, selecting and sequencing learning activities, and developing each session in detail with the faculty members involved. Following the program, participants fill out a detailed evaluation form, providing feedback that assists in developing future seminars.

## Resources

- Canada's National Judicial Institute: The Design, Development, and Delivery of a Signature NJI Course -- Preventing Wrongful Convictions
- CUTTING EDGE: Cross-Discipline Training or "How to Hard Wary Adversaries"
- Balance: Lessons for Law and Life

**Fig. 1.**



Source: Dawson, T. Brettel, Academic Director, National Judicial Institute (Ottawa, Ontario, Canada), 2008.

**Planning**

All NJI seminars start with a planning committee of diverse and representative membership. For an intensive, multifaceted, skills-focused program such as Preventing Wrongful Convictions, planning begins at least a year before the seminar is to take place. The committee brings together a group of judges, along with academics from related fields, and senior legal counsel. The NJI convenes the process, contributing a Senior Advisor, who is a lawyer and an expert in judicial curriculum design, and a program logistics manager. An articling student provides research and materials development support to the team.

Criminal law expert Justice Marc Rosenberg, a judge with the Court of Appeal for Ontario and a Judicial Associate with the NJI, played a key role in leading the development of Preventing Wrongful Convictions. He notes that the balance of expertise from the judiciary, academia, and the wider community is critical to program development, both in terms of acquiring the most up-to-date information and in presenting participants with a range of perspectives.

The committee meets regularly (either in person or through conference calls) to plan the substantive program. Each committee member is assigned to a sub-group that takes responsibility for a portion of the program, and reports regularly on progress to the full group.

**Identifying Learning Needs**

Applying the NJI’s “three-dimensional” learning philosophy to each iteration of the seminar, the planning committee’s scan of learning needs attends to the core knowledge judges require (in terms of cases, statutes, inquiries, etc), the judicial skills and tasks involved, and how social context dimensions interact with judicial process. Methods of needs assessment used by the committee include discussions with judges, previous course evaluations, examination of case law, and developments in the legal environment.

When the NJI began planning the original Preventing Wrongful Convictions program, not only did the high-profile Commissions of Inquiry provide context and suggest priority content for the seminar, but trial judges highlighted issues they wanted addressed based on their experiences and reflection on the Inquiries' findings. While much public attention focused on the impact of advances in forensic technology, such as DNA evidence, judges focused on perennial concerns, such as keeping out unreliable evidence. Specifically, these issues included suspect evidence, eyewitness identification – a factor in more than 80 per cent of wrongful convictions – false confessions and jailhouse informants. Assessing credibility was another major concern, due to changes to Canadian law that have resulted in more cases where the evidence consists of the testimony of the complainant without a broad range of other material (so-called “he-said, she-said” cases). Over the last few years, other issues have gained prominence, including flawed expert evidence, ineffective defence counsel, and an increase in self-represented accused.

Clearly, there was no shortage of potential topics for the course. As Justice Rosenberg notes, the Commissions of Inquiry focused on systemic problems in prosecution and policing. Given the NJI's forum of judicial education, the planning committee decided to focus the seminar on areas of interest to judges, with particular attention to the judge's role in helping to prevent miscarriages of justice.

The topics for *Preventing Wrongful Convictions* reflected this choice: expert and eyewitness identification, use of suspect evidence in high-visibility cases, suspect witnesses (alibis, paid informants, co-accused), ineffective assistance of counsel, overzealous prosecutions, admissibility of confessions (false confessions and ‘noble-cause’ corruption of procedures), expert witnesses (including pathologist testimony and social science theories), and the judicial role.

### **Learning Objectives**

What is it that the course should achieve? In addition to knowing more about the law and its social context, how can the program help judges to be better able to apply concepts to the tasks they face in fulfilling their roles? These are the questions that animate the next phase of the planning process. By defining learning objectives for the seminar as a whole and for each topic to be included, the shape of a course will begin to emerge. Planners will be able to define the kinds of learning activities that will achieve these objectives and develop a framework for meaningful evaluation of the program. Participants will also be able to see more clearly the knowledge, skills, and attitudes they are expected to acquire or improve upon.

With respect to dealing with suspect witnesses, for example, the stated objective in *Preventing Wrongful Convictions* is that “participants will be able to identify problems in relying on stereotypes, unproven assumptions and demeanour contributing to incorrect or inadequate assessments of credibility, and reliability of witnesses.”

This objective forms the starting point for the seminar's segment on credibility assessment and recognizes that, while guided by principles of law, this task is a daily staple of a judge's work and engages a range of skills. The learning activities, then, need to extend beyond lectures on the law. In the seminar, the topic is introduced from a judge's point of view by Justice Rosenberg and from the point of view of a forensic psychologist, who discusses the psychology behind credibility assessment. With this legal and social science primer in mind, judges then view a video of simulated testimony in a robbery case. Evidence is given by a co-accused and by an alibi witness, and subjected to cross-examination, through which various inconsistencies emerge. The evidence is diametrically opposed. Judges are then asked to assess the witnesses' credibility by completing a short questionnaire. The results of the questionnaire indicate that judges, like others who have watched the same demonstration, can come to very different conclusions about the credibility of the witnesses. Using this dilemma as a springboard, Justice Rosenberg and the psychologist then engage judges in a discussion about the various techniques and tools they can use to deal with suspect witnesses, to counteract variability in credibility assessment.

Objectives for other segments of the course reflect active learning goals, where knowledge is integrated with applications to the tasks judges perform and the social context in which the issues arise. With respect to eyewitness identification, the learning objective is to be able to identify problematic areas and develop tools to reduce the risk of improper convictions based on such evidence; for overzealous prosecutions, it is to be able to identify the flags or markers of such a situation, along with options and methods for appropriate judicial intervention; and for expert evidence, it is to correctly rule on admissibility.

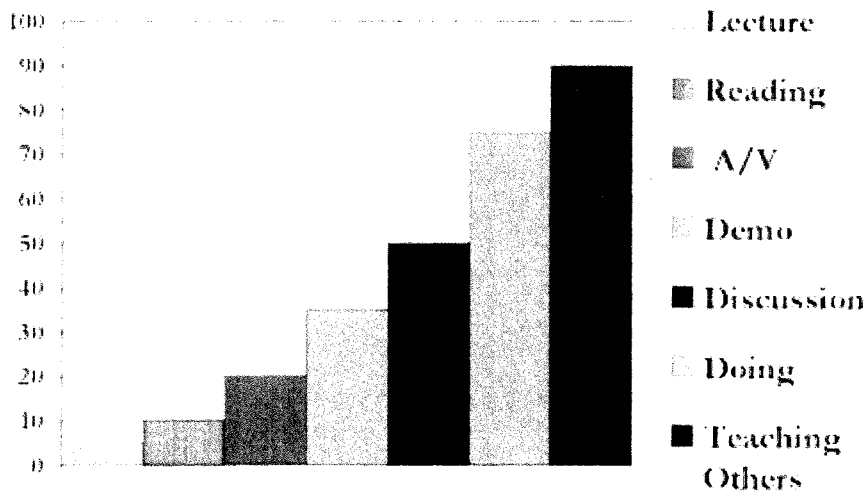
### Selecting and Sequencing Learning Activities

In the judging-focused model of experiential learning, course design begins rather than ends once content and learning objectives are identified (see Fig. 1.). Different methods of instruction yield different levels of engagement and retention. Judges, like all adults, have varied learning styles and preferences. Some prefer to brainstorm and view concrete situations from several viewpoints, others to use analytical models; some are problem solvers, while others prefer to use a hands-on, intuitive approach. This corresponds to the concept of differential learning styles or preferences (Kolb, David. Kolb's *Learning Styles*, 1984). As NJI Senior Advisor Susan Doyle observes that the more involved the person is in the learning activity, the more information he or she retains. In fact, Ms. Doyle often quotes a Chinese proverb that says, "I hear and I forget, I see and I remember, I do and I understand." (Robert Andrews, Mary Biggs, and Michael Seidel, eds. *The Columbia World of Quotations*. (New York: Columbia University Press, 1966)

Research indicates that material imparted by lecture alone results in limited retention – perhaps as little as five per cent after a short period has elapsed (see Fig. 2.). That figure rises as learners are asked to read, discuss or apply the information. In fact, the best way to thoroughly learn a subject is to teach it. As such, *Preventing Wrongful Convictions* features a considerable amount of small group work, with NJI-trained facilitators (many of whom are judges) encouraging and guiding discussion.

Fig. 2.

## Retention by Teaching Strategies



Source: Adapted from the *Learning Pyramid* chart with permission from the NTL Institute for Applied Behavioural Science, Arlington, VA.

In general, the learning model seeks to move around a cycle of learning activities, first connecting learners to their own experience or views on a topic and then creating an opportunity to reflect with others or to observe performance of a task. To capture participants' attention right from the start, the *Preventing Wrongful Convictions* segment on eyewitness identification begins with a video called *What Jennifer Saw*. This documentary, produced by the Public Broadcasting System in the U.S., highlights the numerous eyewitness identification errors that led to the wrongful conviction of Ronald Cotton, who spent 11 years in prison for a sexual assault he did not commit.

After the video, an eyewitness identification expert explains what went wrong. The expert has the judges do several exercises, including one where she asks them to look at a page of 26 composite photos and identify which one describes the accused. A debate inevitably ensues, with everyone voicing a different opinion. Ultimately, the participants learn that all 26 images are composites based on the same person, and that they are vastly different – bringing home the dangers inherent in using composite photos.

With these elements of experience, reflection and observation completed, the expert then moves to the next phase of the learning cycle: providing concepts and guiding principles based on research. From this foundation, she provides judges with the tools to deal with what may be going on in their own courtrooms, and alerts them to possible frailties in the eyewitness identification procedures adopted by the police in the case before them.

Participants then proceed to the next phase in the cycle: application. They break into small groups and examine a number of vignettes, from which they then attempt to identify problematic procedures or signs of mistaken identity.

A similar pattern applies to the other topics in the course, with learning activities varying in order to keep up the energy level and interest of the participants.

### **Detailed Planning with Faculty**

Intensive collaboration with faculty members and facilitators is a core feature of the NJI planning process in the months leading up to the seminar. Lecturers work with the committee to develop problems and scenarios, and produce the scripts for videos or demonstrations to ensure a close match among learning objectives, content and application.

Without this linking together of people and ideas, a seminar could easily meander away from the main learning focus. For small-group discussions, the committee and lecturers carefully shape the group tasks and the information the participants will need. They also prepare notes for the facilitators, to guide them in leading the discussion with respect to process and core issues. Given how precious and short is judicial learning time, every effort is made to produce a tightly focused program.

Another crucial feature of the NJI process is the 'pre-program' faculty meeting, which brings together the planning committee, presenters or panellists and facilitators, along with the program manager. This may take place the day or evening before the program, as people assemble on-site. The meeting addresses substantive content, including issues, key knowledge points, the range of options, and preferred outcomes. The session reviews the planned activities, sets out goals for each particular session and gets everyone on the same page. Equipment can be pre-tested, facilitators can trial-run their sessions, and any final questions can be asked and answered.

Collaboration continues throughout the seminar. At the end of every day, faculty, the planning committee, the Senior Advisor, and the Program Manager meet to review progress and make any necessary adjustments.

### **Evaluation**

The final step in the NJI process is a thorough evaluation of the program by both participants and the planning committee. At the end of seminars, judges are requested to fill in a detailed form asking them to assess various elements (speakers, format, materials, organization, etc.) and whether course objectives were met. Suggestions for changes or improvements are also invited.

After the comments are compiled, the members of the planning committee meet to reflect on the feedback. They also ponder the extent to which the seminar has offered potential to enhance judicial practice.

The committee looks very carefully at participant evaluations, and uses them to evolve the program. For instance, the first two offerings of Preventing Wrongful Convictions included a segment on jailhouse informants. But following the recommendations of a public inquiry, jailhouse informants were rarely called, and then only when there was solid, independent confirmation of their testimony. Judges noted this development in their evaluations and, as a result, the committee took the opportunity to replace this segment with more current topics.

For the 2009 seminar, expert evidence and incompetent defence counsel are two of the issues the planning committee has identified as requiring special attention. This comes in response to a series of high-profile disclosures of apparent professional incompetence or overzealousness on the part of health professionals. Judges are keen to discuss these challenging issues, which, unfortunately, will always present themselves. The NJI is likewise committed to addressing these challenges, with a focus on what judges can do to identify and respond to them.

### **Conclusion**

While the full, three-day seminar on Preventing Wrongful Convictions takes place only in Canada, the NJI continues to present program elements, such as Credibility Assessment, to judges as far away as Ethiopia, Ukraine, and Russia. In so doing, the Institute is sharing its cutting-edge approach to judicial education with its counterparts around the world.

However, the organization neither wants nor intends to lecture others on their own legal systems. Rather, the NJI is keen to show other judicial education providers how we teach so that they can adapt and develop programs for their own contexts.

Judicial education serves as a core support to law reform and administration of justice, and Preventing Wrongful Convictions exemplifies this. The seminar aims to assist judges in their responsibility to prevent future miscarriages of justice – including highlighting, where appropriate, the need for better investigative practices. In the dialogue that the seminar fosters among judges, policy-makers, academics, and lawyers, Justice Rosenberg has observed an interesting and promising back-and-forth dynamic. Many faculty members for the seminar regularly present their research to the police and other key participants in the criminal justice process, often taking what they gleaned from their discussion with judges to these settings. This can have a direct effect on procedures. Partnership with the NJI enhances understanding across the entire criminal justice system.

*Preventing Wrongful Convictions* is a signature course of the NJI. It adopts adult learning methods to create judging-focused education that provides judges with the knowledge, skills and contextual awareness that are the hallmark of effective judging. The seminar responds to a pressing need in the criminal justice process in our country and provides relevant and timely education. Though judge-led, it is the result of the efforts and collaboration of many experts. The program is evolving over time and promises to continue to contribute to judicial excellence in Canada and elsewhere in the world.

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This article also has been accepted for publication in the premiere issue of *Judicial Education and Training*, the Journal of the International Organization for Judicial Training, as “Innovations in Judicial Education: Preventing Wrongful Convictions.” For more information on the JET Journal and the International Organization for Judicial Training (IOJT), go to [http://www.iojt.org/iojt2/IOJTNewsletter~2/iojt\\_newsletter\\_more.html](http://www.iojt.org/iojt2/IOJTNewsletter~2/iojt_newsletter_more.html)

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## Resources

### CUTTING EDGE: Cross-Discipline Training or "How to Herd Wary Adversaries"

by Daphne A. Burns

In a recent Op-Ed column in the New York Times, Mark Taylor, chairman of the religion department at Columbia University, urged an end to the university as we know it, suggesting, in part, that the university curriculum be restructured "like a web or complex adaptive network (Mark C. Taylor, Op-Ed., *End the University as We Know It*, N.Y. Times, Apr. 27, 2009, at A23). " In short, "[r]esponsible teaching and scholarship must become cross-disciplinary and cross-cultural." Taylor was speaking of broader cultures on the university campus—religion, politics, history, economics, anthropology, philosophy, art and the like. But in the legal profession—in the criminal law arena, for instance—the provinces of the prosecutor, defense counsel, and the bench are as far apart as university colleges (if not more so).

For example, judges, prosecutors, and defense counsel who try death penalty cases tend to be rather polarized in their approach to continuing legal education. According to Scott Sundby, who is the Sydney and Frances Lewis Professor of Law at Washington & Lee University School of law and teaches at capital cases courses, the judges and attorneys use the legal education courses as support groups to share their war stories and brainstorm on how to deal with difficult situations. Sundby says this support group function plays a heavy role in the desire of the judges, prosecutors, and defense attorneys to hold separate educational sessions that exclude the others.

However, lawyers and judges also serve the role as guardians of the law. Fulfillment of this role requires an understanding by lawyers and judges of their plenary relationship with and function in our judicial system.

To further their role and improve the functioning of the judicial system in the administration of the death penalty, the Bureau of Justice Assistance recently awarded grants for cross-discipline training. Pursuant to the grants, the grantee-states and grantee-organizations invite an equal number of prosecutors and defense counsel to participate in a capital cases training along with a number of judges. A model curriculum for the training is substantively revised by a faculty of state judges, prosecutors, and defense counsel to meet the individual state's needs. Although, initially, prosecutors and defense counsel may be reticent to participate; once convinced to do so, the outcome is compelling and convincing.

The National Judicial College conducted such cross-discipline trainings this year with the states of Virginia and Pennsylvania. A well-respected judge-jurist from Virginia kicked-off their two-day program with a talk on the many hats judges and lawyers wear in the fulfillment of their roles. He invited the participants to shed their adversarial cloaks and meet at the crossroads of their oaths to support the state and U.S. constitutions.

Although the energy of decades-long adversarial relationships bubbled up on a few occasions, the prosecutors, defense counsel, and judges were able to work through a host of issues relative to discovery, negotiations, voir dire/jury selection, and mitigating and aggravating circumstances in death penalty cases. And they broke bread.

On a survey of state judicial educators, roughly 30 percent of those responding say they specifically tailor continuing education courses for a combined judicial and attorney audience. Only 23 percent of those who responded in the affirmative include consensus-building dynamics in the courses. Thirty-six percent of the responding state judicial educators have attempted cross-discipline training in a particular substantive law area. Of note is a comment from one judicial educator who said the training was very helpful for judges because it "gives them access to issues faced by

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other participants in the litigation process." Indeed, Jules Epstein, associate professor of law at Widener who also instructs judges and attorneys at capital cases courses, said the Pennsylvania training "exposed judges to the dilemmas attorneys—both prosecution and defense counsel—face in capital cases."

It may be that cross-discipline training serves as a good antidote to the lack of civility complained of by judges and attorneys in the judicial system. Ideally, however, it brings the players out of their delineated roles and into their ultimate role as guardians of the law in the justice system.

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Resources

**Balance: Lessons for Law and Life**

by *Judicial Conference of Indiana*

**IN THE MARCH ISSUE:**

**The Judge's Gauntlet**

You wear a black robe. You sit elevated from the rest of us. And you probably have seen it all. So how do you balance appropriate objectivity and distance with compassion for those before you? Can you do your job and maintain your humanity?

**Balance on the Back Burner?**

What does the economic downturn mean for work-life balance? Some say it's on the back burner; others say this is prime time for flexible scheduling and telecommuting. As a judge, it's worth contemplating how shifting priorities might affect the climate in your courtroom.

**How Judges Work**

How do you do your job? How Judges Think, by Judge Richard A. Posner, examines how judges evaluate and decide cases. Posner suggests that most judges apply intuition – based on experience and judgment – and constraint from the rules of the judicial “game.”

**Character**

The American Heritage Dictionary defines character as “moral or ethical strength.” No where is quality of character more important than in the legal profession – the lives of many are determined by your actions. Demand excellent character of yourself and those appearing before you.

**Think Better**

People become really quite remarkable when they start thinking they can do things. – Norman Vincent Peale. The power of thought is inestimable. Our way of thinking can direct our mood, our accomplishments, our quality of life. Think differently – better – this year.

**"The Best is Yet to Come"**

This book contains 64 of Michael Josephson's commentaries on character and ethics, each perfect for a daily read. Josephson addresses issues that affect our daily lives, with particular emphasis on family and relationships.

**IN THE MAY ISSUE:**

**Law As Therapy**

Judges in problem-solving courts enjoy the highest levels of job satisfaction on the bench. They work therapeutically – they believe in one's capacity for change and are privy to the transformation. But you don't have to be in a problem-solving court to use its techniques.

**Count Your Blessings**

Gratitude and happiness are inextricably related. Research shows that gratefulness correlates with a higher level of well being, greater creativity, and a sharper intellect. It is a sense of wonder for what we have. So how do we cultivate gratitude in a profession such as ours?

**The Ultimate Role Model**

This year marks the bicentennial of the birth of Abraham Lincoln – arguably the greatest American president. Perhaps

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- CUTTING EDGE: Cross-Discipline Training or "How to Herd Wary Adversaries"
- Balance: Lessons for Law and Life

the ultimate role model for our profession, Lincoln's brilliance, self-control, emotional intelligence, and sense of purpose are an inspiration.

### **Character Counts**

Your character is the common denominator between work and personal life. It is a reflection of who you are. In this diverse collection of essays, 41 accomplished Americans discuss the role of character in community, work, and family life, and lend insight for its preservation.

### **Stress Free?**

Not all stress should be avoided. Let's face it, you wouldn't be where you are if you were stress-averse. Yet, stress can be harmful. Learn how to distinguish between negative and positive stress, and how to manage the two to your benefit.

### **Time Off**

Taking significant time off doesn't have to mean career suicide. Four legal professionals share how getting off the treadmill injected new meaning into their personal and professional lives, and gave them a new perspective. And all of them were happy to get back to work.

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JUDICIAL CONFERENCE OF INDIANA

Volume 4, Issue 4

The pressures that weigh on the men and women who serve as America's judges come from many directions and in multiple forms. Many judges must make their way through political processes without all the tools available to most political actors. Others labor under unreasonable case burdens, but are still expected to do their best for litigants and lawyers. Virtually all will find me understanding that they frequently take into their hands matters that affect the dearest interests of real live people.

Because it is in the nature of being a good judge, judges usually mask these burdens and put a brave face on their daily work. Litigants come to the courtroom expecting to encounter a capable and calm decision-maker, and we do our best to make it so.

Still, how can the judge balance these multiple challenges and those of the judge's own life can be as important as jurisprudence. This bulletin seeks to give judges food for thought on such matters. We hope that it may assist the thoughtful and diligent to do more substantive justice.

Richard T. Scofield,  
Chief Justice of Indiana

### The Judge's Gauntlet

You wear a black robe. You sit elevated from the rest of us. And you probably *have* seen it all. So how do you balance appropriate objectivity and distance with compassion for those before you? Can you do your job and maintain your humanity? Please see, "Running the Judge's Gauntlet: Thoughts From A Non-Judge," by Saad Gul, *Judges' Journal*, Spring 2008, ABA Judicial Division.

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### Balance on the Back Burner?

What does the economic downturn mean for work-life balance? Some say it's on the back burner; others say this is prime time for flexible scheduling and telecommuting. As a judge, it's worth contemplating how shifting priorities might affect the climate in your courtroom. Please see, "Is Work-Life Balance Tipping in Work's Favor?" by Gina Passarella, *The Legal Intelligencer*, Feb. 5, 2009.

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### How Judges Work

How do you do your job? *How Judges Think*, by Judge Richard A. Posner, examines how judges evaluate and decide cases. Posner suggests that most judges apply intuition – based on experience and judgment – and constraint from the rules of the judicial “game.” Please see, “Judicial Intuition,” by Judge Curtis E.A. Karnow, *California Lawyer* 2008, a book review of *How Judges Think* by Judge Richard A. Posner.

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### Think Better

*People become really quite remarkable when they start thinking they can do things.* – Norman Vincent Peale.

The power of thought is inestimable. Our way of thinking can direct our mood, our accomplishments, our quality of life. Think differently – better – this year. Please see, “Thinking Better in 2009,” by Pat Yevics, *Maryland Bar Bulletin*, Dec. 2008.

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### Character

The American Heritage Dictionary defines character as “moral or ethical strength.” No where is quality of character more important than in the legal profession – the lives of many are determined by your actions. Demand excellent character of yourself and those appearing before you. Please see, “Character,” by Martin Cole, *Bench & Bar of Minnesota*, Dec. 2008.

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### "The Best is Yet to Come"

This book contains 64 of Michael Josephson's commentaries on character and ethics, each perfect for a daily read. Josephson addresses issues that affect our daily lives, with particular emphasis on family and relationships. Please see, *The Best Is Yet To Come: More Thoughts On Being A Better Person and Living A Better Life*, by Michael Josephson, Josephson Institute of Ethics.

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Features

## Thiagi Game Letter

The **February 2009** issue contains:

- Three "games after the games": Debriefing Games that enable participants to review their experiences, gain valuable insights, and share them with each other
- A Graphics Game called VALUES COMPASS by talented South African designer Gareth Kingston that helps you to navigate through company values
- A short article on how to benefit from a Jolt without conducting it
- A simple Jolt, SYNCHRONIZED CLAPPING, that requires less than 2 minutes for the activity, and teaches valuable concepts related to leadership, change management, and other topics
- 99 words from Brian that explore how to roll perfectly round pie crusts--and how to think about pressure
- An invitation to join a social network for learning professionals--and to attend training webinars that don't cost you anything
- A single item survey about trends in the training industry

Features

- Thiagi Game Letter
- Blast from the Past – Strategic Management in the Courts

The **March 2009** issue contains:

- A Board And Card Game called 90 DAYS about the first days in a new management job
- My favorite Closer, which is called KINESTHETIC EVALUATION
- An interview with Michael Cardus, who has used experiential activities for training since high school
- A Construction Game called BOTTLE TOWER by Michael Cardus
- An invitation to my 2009 Summer Workshops in Switzerland
- Feedback from readers
- A new section of the newsletter called Firefly News Flash, which incorporates four articles from Brian Remer's online newsletter
- A Single Item Survey from Tracy Tagliati about situations a new manager faces

The **April 2009** issue contains:

- UP AND DOWN, a framegame that helps you to instantly create a card and-board-game on your own training topic
- BUYING HAPPINESS, a thought experiment to explore whether money can buy happiness
- An interview with Jay Clancy, a talented game designer who has 20/20 hindsight
- Reviews of two books on evaluation and one on happiness
- A 99-word piece on taking a stand at meetings by Brian Remer

- Invitation to a recorded webinar by Brian Remer
- An article on priceless stories by Brian Remer
- Guidelines for being a story listener by Brian Remer
- A link to an online test that measures the ratio of your positivity and negativity
- A single item survey by Tracy Tagliati on how you plan to adapt the UP AND DOWN framegame

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**Blast From The Past:  
Strategic Management In The Courts**  
*by David A. Price, Ph.D.*

Originally published in the Spring 1992 issue of NASJE News.

Read the article [here](#).

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# Strategic Management in the Courts: *Training Staff in How to Plan for the Future*

David A. Price, Ph.D.

"Good management requires good planning." This aphorism links management, the process of directing an organization toward achieving objectives, with planning, the series of steps by which goals, methods, and means are wedded. It assumes a future and a desired place in that future. A discussion of this principle most likely would be found in a textbook on business management. Yet, within the last few years and with increasing frequency, it has found a place in primers on court management as well. Its application to the court environment has begun to alter dramatically the posture many courts have historically taken toward management demands. Through planning, they have begun to learn that they can take a proactive rather than a reactive posture toward change. Evidence for this shift in focus is abundant. Many courts from Maine to Hawaii have had or have recently established futures commissions to examine the health of and offer a prescription for the judiciary that will take it into the next century.

Why has there been this surge of interest in planning for the future? After all, the courts have for years been experiencing rapid changes in the nature of their caseloads (e.g., white-collar crime increasing in proportion to traditional street crime) and increasing demands from society to provide leadership in newly emerging areas of criminal and civil

justice (e.g., drug-related offenses, product liability litigation). Therefore, it cannot be said that courts have suddenly discovered the future, because they have already seen it and experienced its effects. What they seem to have discovered, however, is that they can anticipate and help to shape that future. How? Through good planning, which in turn provides the basis for good management.

Historically, there has been a scarcity of good planning in the courts. This can be attributed to a number of factors, but one that seems key is

that the courts frequently lack the knowledge about what constitutes good planning and lack the skills to undertake it. Therefore, good planning will only occur when the judges, court staff, practitioners, researchers, and policymakers involved in shaping the court's responses to demands are adequately trained in the theory and processes involved in planning. Herein lies the role of and challenge for the judicial educator.

The outcome of good planning is usually a written document that sets  
*continued on page four*

## What Is Good Planning?

Good planning is a linear process, partially repetitive, that involves a series of interrelated steps. Listed below are eight steps that may define the scope of the planning process in the courts:

- Initiating and agreeing on a planning process (i.e., what should be the scope and outcomes of planning?);
- Identifying organizational mandates and clarifying missions and goals (i.e., what is the court's mission?);
- Developing a comprehensive organizational vision for the future (i.e., ideally, how would the court be organized to accomplish its mission?);
- Conducting trends analyses and constructing scenarios (i.e., what external demands will potentially affect the court, and what implications do these demands have on the operations and structure of the court?);
- Conducting an organizational assessment (i.e., what are the relative strengths and weaknesses of the courts relative to their established goals?);
- Outlining strategies to manage issues (i.e., what actions should the court initiate to achieve its objectives?);
- Operationalizing the strategies (i.e., implement the plan!); and
- Monitoring and evaluating organizational performance (i.e., how well did the plan work?).

*Dr. Price is a senior researcher at the Center for Policy Studies, a nonprofit corporation located in Denver, Colorado. This article is derived from an SJI-funded project, "A Futures Planning Program for Judges and Court Administrators." The project is developing an approach to long-range, strategic planning and a set of curriculum materials for the approach. Final products from the project should be available this summer.—ED*

forth objectives and defines a method for implementing and measuring the effects of those objectives. The document serves many purposes, perhaps the most important being that (1) it establishes a blueprint for action that is tangible; (2) it can be revised by others in developing a shared commitment to its successful implementation; and (3) it can be revised in developing courses of action.

This last feature of a written plan, flexibility, may be its most potent. That is, the plan that results from good planning should be capable of being modified and updated. Modification may be necessary if the plan is not practical, possibly because the funds to implement it fully are not allocated. Alternatively, the plan may not work either because it cannot be implemented as designed or because it fails to meet its intended objectives. Or the external demands that led to the plan may change, which may require revising the plan or discarding it for a different plan. Good planning will produce a flexible plan that can accommodate these unanticipated obstacles.

**Education—The Key to Good Planning:** As courts begin to look toward the next century and take a more proactive posture toward changing demands for services, the role of the judicial educator will be ever more important. This results because the consequences of good planning are court structures and services that meet demands adequately. The consequences of poor planning, on the other hand, may be a misallocation of resources and a court system that administers justice ineptly. Education in the fundamentals of the planning process is necessary before the court can identify and adopt adequate and appropriate responses to emerging demands.

Before education in the planning process can begin, however, there are certain characteristics participants should possess. Choosing the right team can be critical to the success of training and to its effectiveness in fostering change in the courts.

- Participants should be convinced of the merits of good planning. If they do not believe that good planning is a key to good strategic

management, the impact of education in the planning process may be diluted.

- Participants should look beyond the frenetic present and be able to formulate strategic options to meet emerging and future needs.
- Participants must not be expecting a "quick fix." If done correctly, the planning process is lengthy and may consume considerable resources.
- Participants should understand that whatever strategic plan is



*The next several years will offer tremendous opportunities to judicial educators because their actions will help shape the complexion of the courts.*



outlined as a result of the planning process is flexible. It can and should be changed as experience and demands dictate.

- Participants should be part of a team that includes a judge and a court administrator. No matter how good the planning process, the prospects of implementing a plan are reduced if judges and court administrators do not support it.

**Resources Available to the Judicial Educator:** Training the judiciary in the planning process is no different from training them in other skills. That is, it uses the same edu-

cational tools as those used in other learning situations. Before applying those tools, however, educators will need a thorough understanding of each of the eight steps in the planning process (see page three).

The Center for Public Policy Studies, under a grant from the State Justice Institute (SJI), is developing a set of curriculum materials for training the judiciary in the planning process. This effort is part of a larger project on futures planning in the courts. By June 1992, with the help of an advisory board representing a broad range of perspectives on the courts, the project will have accomplished three major tasks:

- Detailed an approach to long-range, strategic planning in the courts;
- Developed a set of curriculum materials to teach the approach to teams representing a broad range of trial courts nationally; and
- Conducted a seminar to provide selected court teams with (1) a basic level of understanding about planning concepts; (2) how to use those concepts with available economic, demographic, and general trends data to estimate demands on the courts; and (3) methods of developing appropriate court responses to those future demands.

A major purpose of the training seminar is to test both the planning approach outlined in the guide and test the usefulness of the curriculum materials. Final versions of the guide and curriculum materials will be available to all interested individuals sometime during the summer of 1992.

SJI also is sponsoring other projects related to futures planning in the courts. Videos, handouts, reports, and other educational materials are or will be available from these projects. In some instances, funding to use or to help disseminate the products from these projects also may be available from the Institute.

The next several years will offer tremendous opportunities to judicial educators because their actions will help shape the complexion of the courts. Materials now being developed under a wide range of projects will assist judicial educators in their critical role as facilitators for change. ■

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Manager's Briefcase

## Court Administrators Use Kolb Model to Teach Meaningful Leadership Skills

by Rod Olson Trial Court Administrator, Administrative Unit 2 North Dakota

Courts have spent precious financial resources and many hours talking and teaching about leadership in the courts. Have we ever asked ourselves, "Is what we are doing working? Is there a noticeable difference in the people working for the courts who have attended leadership classes?" In short, are we receiving our bang for the buck?

Many of us have attended court leadership classes and seminars and listened to nationally recognized speakers on this subject. Most times we have come away disappointed. The major problem is this type of training is strong on theory and weak on practical application ([see this](#)). People who run the office need to take responsibility for what happens in the office but it is unclear how leadership seminars instantly make people better leaders.

We believe there are two fundamental flaws in the way leadership is taught. First, there is a tendency for courts to take the easy road and invite a "leadership" speaker to a conference once a year and mark it off the list as a topic that has been covered. There are no ongoing meetings, no follow-up to see what people have tried to use, no assurance that we have learned from our experience. Second, courts believe that leadership is important—but do we take that next step and let people take the lead without micro-managing them?

With regard to the first point we need to realize that leadership needs to be developed like any skill. There has always been the controversy over whether people are natural-born leaders or if they can develop leadership skills (Sharon Daloz Parks, *Leadership Can Be Taught: A Bold Approach for a Complex World*, Harvard Business School Press, 2005, page ix). Our fundamental assumption is that leadership **can** be taught.

We felt there was a need to have a leadership class for our state-employed Clerks of Court and Juvenile Director. Our goal was to approach teaching leadership in a new way. This would involve regular monthly meetings, each lasting approximately three to four hours, with open discussions, setting expectations of managers and yes, there would be homework.

Having recently attended an educational workshop on how adults learn, we knew that using straight lecture would not work. We also knew we had people who would each learn in a different way. Therefore, we decided to use Kolb's Learning Circle to ensure we would provide enough variety to the class so all participants could benefit ([see this](#); 3/15/2007; pages 1 – 3).

As an icebreaker, we spent fifteen minutes of the first few meetings telling each other about ourselves; we took turns going through our education, work place experiences and anything else that people wanted to share. This helped us get to know each other better and be more comfortable speaking in the group. With initial assistance from our Judicial Branch Education Director, Lee Ann Barnhardt, we located articles on leadership and posted three or four each month in a folder on a shared network drive. Our managers were asked to read them and post comments in the folder one week before class. This was done for two reasons; one, to make sure everyone read the articles before we met and two, to give them enough time to think about the articles in depth before the meeting.

At the meeting the group would spend time going over points we agreed and disagreed with in the article. There were also discussions focused on how some of the ideas could be implemented in our offices. We also purposely posted articles we did not agree with. This was done because at first there is a tendency to agree with the "boss." We wanted to instill immediately that it was okay to disagree with us. Only by doing this could we have free and open discussions. Each month the managers would bring back something we had discussed the previous month and discuss how each had incorporated an idea in his or her office and whether it had the potential to work. In addition to articles, we would discuss daily situations that come up in offices and pro and cons for different ways to deal with those situations.

After a few months it was very apparent people felt much more comfortable in saying how they felt. The group would bring problems forward and problem-solving would take place within the group. Managers have expressed appreciation for the small group atmosphere and the opportunity to discuss issues on a local level.

After meeting monthly for nine months we wanted to have a short test to see how far we had come. We asked the managers to view a movie about training soldiers who go into combat in World War II. (For history buffs it was the first installment of "Band of Brothers" from the HBO series.) We asked the managers to point out the different leadership styles of characters in this movie focusing on the strengths and weakness of each character. We were pleased that they found the same strengths and weakness in these characters' leadership skills that we had found.

So, to go back to our original question, "Is what we are doing working?" As Court Administrators we no longer feel we have to provide direction on every problem that might arise. Our managers now view leadership as something that takes place every moment of every day. They express an appreciation for the opportunity to develop as leaders and managers and, most of all, for the time to meet face-to-face to build relationships and discuss issues of importance both locally and to the court system as a whole. They also recognize these meetings present a unique forum for them to work through ideas and share their failures as well as their successes.

Why did this work? Answering this question brings us to our second point. Upper management must truly want leaders. There must be trust in the people you are developing as leaders. We let our managers become leaders. As managers made decisions we supported these decisions. We admit not all decisions were the way we would have done it, but by allowing the managers to try new things without having to look behind them or be continually corrected we believe we helped build the confidence leaders need.

Does this program take time? The answer is yes, but we believe the results have more than made up for the cost in time. Too many times Court Management is looked on as putting out fires. By implementing this program we have moved to fire prevention.

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