



***Education For Development:  
The Voices of  
Practitioners In The Judiciary***

***JERITT Monograph Six***

**SJI**

560 Baker Hall, East Lansing, MI 48824-1118 (517) 353-8603

**Education for Development:  
The Voices of Practitioners in the Judiciary**

**Edited by  
Charles S. Claxton and Esther K. Ochsman**

1995

**The Judicial Education Reference, Information  
and Technical Transfer Project**

## ***Project Staff***

John K. Hudzik, *Project Director*

Dennis W. Catlin, *Principal Investigator*

Maureen E. Conner

Reneé D. Robinson

## ***Project Office***

The JERITT Project  
Michigan State University  
560 Baker Hall  
East Lansing, MI 48824-1118

517/353-8603

Copyright © 1995 by the Judicial Education Reference, Information and  
Technical Transfer Project

*Education for Development: The Voices of Practitioners in the Judiciary* was developed under Grant No. 91-008-P95-1 from the **State Justice Institute**. Points of view expressed herein are those of the JERITT Project and do not necessarily represent the official position or policies of the State Justice Institute. The JERITT Project is co-sponsored by the National Association of State Judicial Educators and the School of Criminal Justice at Michigan State University.

*MSU is an Affirmative Action/Equal Opportunity Institution*

## Table of Contents

### **Chapter 1: Introduction . . . . . 1**

Charles S. Claxton

### **Chapter 2: Transforming the Judicial System Through Education . . . . . 7**

Bruce E. Bohlman

### **Chapter 3: Learning Styles and Ways of Knowing: Critical Influences on a Judicial Educator . . . . . 13**

Paul L. Biderman

### **Chapter 4: Practicing Education for Development Along the *New Oregon Trail* . . . . . 19**

The Oregon Team (Rick Barron, Nori McCann Cross, Kip Leonard, Roosevelt Robinson, and Janice Wilson)

### **Chapter 5: Reflections Upon Blowing Rock, North Carolina: The Education of a Trial Judge . . . . . 25**

Linda Stewart Dalianis

### **Chapter 6: Building Community in the Arizona Court System . . . . . 31**

E. G. Noyes, Jr.

### **Chapter 7: The Vermont Experience: A Small State's Story in Educating Judges . . . . . 37**

The Vermont Team (James L. Morse, Stephen B. Martin, Lee Suskin, and Marna Murray)



**Chapter 8: A Judge's Perspective on Education for  
Development . . . . . 45**

Henry E. Williams

**Chapter 9: Judicial Education and the Law Schools . . . . . 49**

Donald J. Polden

**Chapter 10: Learning To Be Fair . . . . . 55**

Martha P. Grace

## Preface

It was with great curiosity and anticipation that Dr. Charles Claxton (hereinafter referred to as Chuck Claxton or Dr. Claxton) and I asked alumni of the Leadership Institute in Judicial Education (Leadership Institute) to submit proposals for chapters in a publication about how they had translated the ideas learned at the Leadership Institute into their work as judges and judicial educators. As you will see in this monograph, their achievements were impressive!

What we were most struck by was the authors' clear belief that through judicial education, judges and other court personnel could grow and change as professionals and as persons. They confirmed what I took to be the central tenet of the Leadership Institute: the purpose of judicial education is to support the ongoing development of the learners it seeks to serve.

This document is a companion piece to *Education for Development: Principles and Practices in Judicial Education: JERITT Monograph Three* (1992), co-authored by Charles S. Claxton and Patricia H. Murrell. The earlier report described the theoretical bases which undergird the work of the project. The new monograph was written by practitioners who discussed how they have used these frameworks in their work.

Judge Bruce E. Bohlman of North Dakota wrote about the need for courts to provide "humane and useful remedies to the problems presented . . . ." He argued that judicial education must go beyond helping judges simply keep up. It must address their personal development as well as provide ongoing support for institutional reforms.

Paul Biderman, judicial educator in New Mexico, demonstrated how values are an intrinsic part of judging and how New Mexico's curricula are designed to challenge the learners to examine their values "in light of the evidence, both logical and intuitive."

The Oregon team rethought its judicial education program after attending the Leadership Institute, and they wrote as a team about their amended mission and curricular purpose. The entire team—Judge Rick Barron, Judge Kip Leonard, Judge Roosevelt Robinson, Judge Janice Wilson, and Judicial Education Director Nori McCann Cross—also related how they as

individuals have integrated the concepts of education for development into their personal and professional lives.

Judge Linda Stewart Dalianis told of her personal journey from lawyer, to novice judge, to judge/educator. She also described New Hampshire's program, which has grown to include clerks and administrators as well as judges. In addition, Judge Dalianis described the regional approach to judicial education New Hampshire has undertaken with Vermont and Maine to offer outstanding judicial education courses at joint conferences.

Judge E. G. "Ted" Noyes described in detail the development of the Judicial College of Arizona. It is an exemplary state judicial education program. A significant number of judges are involved and form a "pool of leadership . . . with fresh insight but continuity of purpose and expertise."

The Vermont team, made up of Justice James L. Morse, Judge Stephen B. Martin, Court Administrator Lee Suskin, and Judicial Educator Marna Murray, also collaborated in the preparation of their chapter. They discussed the evolution of Vermont's Judicial Center and highlight how the concept of the "highly effective judge" has been integrated into Vermont's education programs.

Judge Henry E. Williams wrote about how his understanding of the concept of education for development, including the notion of learning styles, challenged him to reassess his concept of what a judge should be. This process has led him to change his approach to judging, to teaching, and, in an innovative way, to getting dropouts from the Albany-Dougherty County, Georgia, school system back into the classroom.

Donald J. Polden attended the first Leadership Institute in 1990 as a member of the Iowa team and is now the dean of the Cecil C. Humphreys School of Law at the University of Memphis. He described the commonalities of legal education and judicial education. He argued for the involvement of judges in educating lawyers and the participation of law schools in educating judges.

Judge Martha P. Grace of Massachusetts wrote the final chapter. In it, she reflected on the need of a judge to be self-aware, to "think about how she thinks." She emphasized that a judge must also be aware that the people with whom she interacts—staff, attorneys, and defendants—have different learning styles. Race, gender, and age also need to be acknowledged.

It is my hope that through this monograph, you as readers will not only gain ideas on how to meet the challenges facing your own courts and



yourselves as practitioners but will understand the benefit that derives from having an overarching plan, a vision, of what the courts can and need to be. It has been our intent at the Leadership Institute to provide a conceptual framework and a process that will enable the courts to attain their vision.

This project has evolved each year since its inception. That evolution has been carefully nurtured by its advisory committee; chaired by Justice Christine Durham, Utah Supreme Court and former president of the Women Judges' Fund for Justice; and members Justice David Brock, chief justice of the Supreme Court of New Hampshire; June Cicero, J.D., National Association of State Judicial Educators (NASJE) liaison; and Judge Faith Enyeart Ireland, King County Superior Court, Washington. They have all been generous in sharing their experience and wisdom as Leadership Institute faculty in addition to their role on our advisory committee.

The Leadership Institute has also benefited from the talents of the persons who have taught in the program. Faculty members have been judges, judicial educators, and university professors. In each year of the project, alumni of the Leadership Institute have returned to teach and demonstrate how theory was turned into practice. We thank each of them who served between 1990 and 1995, beginning with Dr. Patricia Murrell, who has participated as a faculty member from the first meeting and has succeeded Dr. Claxton as academic co-director; Honorable D'Army Bailey; Paul Biderman; Honorable David Brock; Dr. Dennis Catlin; Dr. Diane Cowdrey; Honorable Frank Gordon; Frank Gregory; Honorable John Hall; Krista Johns; Honorable Robert Kane; Dr. Robert Kegan; Dr. Marcia Mentkowski; Marna Murray; Honorable Jim Murrow; Marilyn Nejelski; Honorable Ted Noyes; Maureen Conner; Donald Polden; Honorable Roosevelt Robinson; Karen Waldrop Thorson; Honorable Henry Williams; and Dr. Carol Weaver.

We are also grateful to the persons who have served as external evaluators for their advice, suggestions, and perspective. These include Chuck Ericksen, Honorable John Hall, Krista Johns, and Catherine Pierce. We appreciate, too, our continuing relationship with NASJE.

The support and commitment of the members of the National Association of Women Judges and the Women Judges' Fund for Justice have been instrumental in the founding of the Leadership Institute and in its continuation. These organizations recognized from the beginning that their goal of improving the administration of justice, particularly where issues of concern to women in the courts were involved, would be well served by the development of judicial education programs that recognize diversity among learners and fosters a highly developed judiciary. We are also grateful for the support of the department of Leadership and Educational Studies at



Appalachian State University, where the project was located from 1990 to 1995.

And, finally, we thank the board of the State Justice Institute (SJI) for recognizing the possibility that the Leadership Institute could be a force to support the evolution of the state courts and for providing the funding that has made it a reality. We also thank the staff of SJI who have guided us with their wisdom, encouragement, and expertise: David I. Tevelin, executive director; Pamela Bulloch, program manager; and Catherine Pierce, formerly deputy director of the program division.

Esther K. Ochsman  
Executive Director  
National Association of Women Judges

## Chapter 1: Introduction

by

Charles S. Claxton

### Project Beginnings

Just as the following chapter authors tell their own *stories*, I thought it might be helpful to describe briefly the background of the Leadership Institute in Judicial Education (Leadership Institute) as a whole. In 1987, I had the opportunity to work with Justice Christine Durham as members of a think-tank established by the State Justice Institute (SJI). Together we drew on the advice of a number of judges, judicial educators, law school faculty, and others concerning the work it was doing and its future plans. Justice Durham is on the Utah Supreme Court and has had extensive experience in judicial education in her state and throughout the country. My own background was in adult education. As Justice Durham and I talked, it was clear we shared a *community of interest* concerning effective continuing judicial education.

She and I began to explore a proposal that we would later submit to SJI for funding. We toyed with the idea of creating a faculty development project, one that would provide training in adult education teaching techniques to judges who wanted to serve as faculty in judicial education programs. As our conversations progressed, I asked her, "Based on your experience in the field, what, fundamentally, is the biggest problem in judicial education?" She thought for a moment and then said simply, "Lack of vision."

In elaborating on her response, she observed that much of what happens in judicial education is akin to the story of the three blindfolded men, each feeling different parts of the elephant. None of them had any sense of the whole, of the overall entity with which they were working. She said that much of judicial education was that way. Judges, court administrators, judicial educators, and others work on programs, but they often are not guided by a shared vision of the court system as a whole and how its constituent parts interact.

With that as a starting point, we began developing a proposal for a *Leadership Institute in Judicial Education*. We asked Marilyn Nejelski, then executive director of the Women Judges' Fund for Justice (now the National Association of Women Judges) in Washington, DC, to join us in preparing the

document. We agreed that my university and Marilyn's organization would be co-sponsors of the project.

In working on the proposal, several veteran judicial educators were particularly helpful in describing major challenges facing the field. These included Mignon Beranek, deputy state courts administrator of Florida; Dr. Dennis Catlin, executive director of the Michigan Judicial Institute; Rita Culbertson, manager, Education Services in Kentucky; Paul Li, retired director of the California Center for Judicial Education and Research; and Richard Reaves, executive director, Institute of Continuing Judicial Education in Georgia. All these extremely knowledgeable persons provided valuable assistance.

SJI approved the grant proposal, and we carried out the project in conjunction with two other technical assistance projects supported by SJI: the Judicial Education Reference, Information and Technical Transfer Project (JERITT) at Michigan State University; and the Judicial Education Adult Education Project (JEAEP) at the University of Georgia. These two projects are co-sponsored by the National Association of State Judicial Educators. Catherine Pierce, then a member of the SJI staff, worked as our program manager and provided guidance in getting the Leadership Institute underway.

SJI has funded the Leadership Institute each year since its inception in 1990. As of the date of this writing, the project will be funded through 1996 and has now worked with teams from 36 states. As would be expected in a project of this duration, changes have occurred in terms of some of the key persons associated with it. In 1992 Pamela Bulloch became our SJI program manager. Esther Ochsman became executive director of the Women Judges' Fund for Justice and replaced Marilyn Nejelski as co-administrator of the project. In 1994, I decided to discontinue my work as project director to return to teaching full-time. Dr. Patricia Murrell, director of the Center for the Study of Higher Education at the University of Memphis and a lead faculty member in the project since its inception, became the project director.

## **Change Strategy**

We decided at the outset to work with five-person leadership teams from six states. Our goal was to provide leadership training in curriculum development, instructional strategies, and resource development, all in the context of some larger shared values concerning the court system and the learners being served by judicial education.



We knew that the kind of systemic change and shared vision we had in mind could not be accomplished simply through a series of workshops. Thus, we developed a comprehensive change strategy, made up of seven parts.

First was the invitation to apply, written in the form of a letter from Justice Durham to the chief justice of each state. The letter explained the project's purpose and emphasized the importance of the state's long-term commitment to the project. The letter also asked the chief justice to describe what the state was now doing in its judicial education program and what its major challenges would be in the next three to five years.

Second, the project staff conducted telephone interviews with the contact person in each of the applicant states. We explained that while some attention would be given to teaching techniques, the larger focus was systemic change and our desire to help teams develop a sense of shared vision for judicial education in their states. We stressed that the Leadership Institute would include a strong theoretical and research foundation concerning adult learning and development, as well as a clear focus on translating the theory into practical applications at home.

Third, our project advisory committee used the data collected from the interviews and the letters of application to make its decision as to which states to accept. The committee tried to get a mix of states that were at different levels of maturity in terms of the development of their judicial education programs as well as representation from different parts of the country. These criteria seemed important, since we wanted to create a context in which teams could learn from each other. They also reviewed the names of the persons assigned to the leadership teams to see whether it appeared they would be able to carry out deep, substantive change in their states.

Fourth, the staff conducted a second round of interviews with the team leaders of the six states that were selected. We asked that they conduct a face-to-face meeting with their teams in order to orient the members concerning the project. In this way, we hoped that the participants would arrive at the workshop with at least a beginning sense of shared vision for their state and the work that needed to be done. Our goal was for the workshop and subsequent activities to be a vehicle for deepening that vision.

Fifth, we conducted a five-day intensive workshop in April in North Carolina for the teams. The program was held at the Broyhill Inn on the campus of my institution, Appalachian State University in Boone and, in two of the years, at the Chetola Resort Center in Blowing Rock. (These workshops are now held at the University of Memphis in Tennessee).



The agenda included lectures, individual and group exercises, and full group discussion, all led by a faculty made up of judges, judicial educators, and adult educators. One of the most important parts of the workshop was an action plan to be developed by each team. The task of each team was to reflect upon what they were learning in the sessions, to examine their own state's problems, and then to devise ways to apply what they had learned in the Leadership Institute to their judicial education programs.

Sixth, six months later members of the faculty conducted follow-up visits to each of the states to assist the teams with further implementation of their action plans. This seemed to work reasonably well, but after three years, we made a major change in the follow-up visits.

Whereas the original focus was on meeting with the teams to have them talk about their progress with the action plan, we decided it would be more helpful to conduct a mini-Leadership Institute in each of the states. Many of these were funded through replication grants from SJI. As project advisory committee member June Cicero said, "The program in North Carolina helps the teams get a deeper grasp of what judicial education might be about. But they need help in broadening the circle of people who share this view." Thus, we asked the state teams to plan a program similar to the North Carolina one for the 20-30 other leaders in the state's judicial education program. These would be persons who would work with the team to implement the changes envisioned in the action plan. In this process, we hoped that the vision—as well as the concrete steps needed to make it a reality—would be broadened, reconstituted, and enriched, as more persons participated in the process.

The seventh and final event, an Advanced Leadership Institute, occurred about ten months after the follow-up visit and workshop. Two members of each team would participate in this program, which had two primary parts. One was a report by the team to the full group on the progress it had made in implementing the action plan. Second were sessions devoted to helping the team members develop further leadership skills.

## **Theoretical Foundations of the Leadership Institute**

The project has had a very clear and specific theoretical foundation, and you will see ideas from this theory base referred to by the chapter authors. They are briefly described here for the sake of readers who have not participated in Leadership Institute activities.

The major conceptual base is the notion of "stages of adult development." This field of inquiry illuminates the growth and development of

the mind, the evolutionary journey each of us makes as we move through the life cycle. It suggests that at any point in our lives, we construct our world in a particular way. But over time, that construction, that way of understanding ourselves, our experiences, and events in our lives, begins to change. We enter a new developmental stage, where we understand ourselves and our world in more adequate, more comprehensive ways.

We have found three sources on adult development to be of particular help to the participants in the Leadership Institute workshops: the work of William Perry (1970); Mary Belenky, Blythe Clinchy, Nancy Goldberger, and Jill Tarule (1986); and Robert Kegan (1982 and 1994).

The second conceptual framework is provided by David Kolb (1984) in his work on a theory of "experiential learning." According to this theory, learning occurs in a four-step process: concrete experience, where learners actually *do* something (for example, through case studies or role play); reflective observation, where learners reflect on the concrete experience they have just had (for example, through small group discussion or reflective papers); abstract conceptualization, where the teacher provides authoritative information which illuminates the learners' experience and their reflections on it (for example, through lectures or readings); and active experimentation, where learners apply what they have learned in a more complex setting (for example, through problem solving exercises).

Kolb's (1984) thesis is that we have not learned something fully until we have engaged with it in all four modes of the experiential learning cycle, or the "learning circle." Thus, the circle, used as a guide to teaching, is a substantial departure from traditional practices that are characterized by *the teacher talking* and *the learners listening*.

Further, Kolb (1984) argues that teaching "around the circle" not only helps learners master content but contributes to their development as well. This point becomes clear as we think of concrete experience and abstract conceptualization as two ends of a vertical axis, and reflective observation and active experimentation as two ends of a horizontal axis. Our task is to thrust learners into the dialectical tension between the two ends of the continuum, as they make connections between their direct experience and the larger abstractions of the discipline (the vertical axis); and as they move from reflections to action and from action to further reflections (horizontal axis). In the Kolb view, "the process of learning that fosters development requires a confrontation of the dialectical opposites inherent" in the learning circle (1984;134).



Kolb's work (1984) is also the basis for his "learning style inventory" (1993), an instrument we have used in the Leadership Institute to help participants identify their own preferred ways of learning. The Kolb model divides persons into four categories: *divergers*, who prefer learning through concrete experience and reflective observation; *assimilators*, who prefer abstract conceptualization and reflective observation; *convergers*, who prefer abstract conceptualization and active experimentation; and *accommodators*, who prefer concrete experience and active experimentation.

The third major theoretical framework used in the Leadership Institute is taken from the work of Belenky et al. (1986), referred to earlier, on adult development of women. They suggest the notion of "separate knowing" and "connected knowing." These are terms of epistemology, and I think of them as alternative avenues to the truth. Separate knowing is oriented to objectivity, skepticism, and detachment. On the other hand, connected knowing, is oriented to subjectivity, empathy, and connection. Separate knowing is analogous to Kolb's (1984) abstract conceptualization, while connected knowing is analogous to concrete experience. While not gender specific, men in this culture are probably oriented more to separate knowing and women more oriented to connected knowing.

The Belenky et al. (1986) argument is that all of education, including legal and judicial education, is heavily tilted to separate knowing. It suggests that as curriculum designers, we should rethink our practices and find ways to honor connected knowing as well. Teaching methods for abstract conceptualization and for concrete experience, used appropriately, provide experiences in separate knowing and connected knowing respectively.

We believe both ways of knowing are extremely important for several reasons. For one thing, they honor both the masculine parts of our selves (through separate knowing), as well as the feminine parts of our selves (through connected knowing). Embracing both is central to the position the Leadership Institute has taken: our focus is not so much on the judge who is a judge but on the person who happens to be a judge.

In closing, I wish to thank the authors of the chapters that follow for their willingness to share their thoughts and learnings with others in judicial education. People like them have made the Leadership Institute the success it has been.

## Chapter 2: Transforming the Judicial System Through Education

by

Bruce E. Bohlman

The process of learning and knowing is a search for one's personal identity and purpose within the judicial system. The insight I have gained through participation in the Leadership Institute has truly been a transformational experience. I discovered that education is the key element in the positive change or growth of the courts as effective and respected providers of justice in an ever-changing society. It is not politics, power, or money that drives the bus. Rather, it is knowing the needs of the people we serve, and having the ability to serve those needs, within an institutional framework that allows judges and their staffs to provide humane and useful remedies to the problems presented to us for solution.

Judicial education can no longer be content only to inform, but must be able to extend the traditional boundaries of such education. It is not enough just to *keep up*. Education must *go beyond*. Only education that is truly transformational can transcend the limitations of self-interest and institutional inflexibility. But, judicial educators and planning organizations must have the foresight and independence to lead in the development of a shared vision and curriculum for the future. Education cannot be relegated to teaching only legal rules, past and present. Education must be fully engaged in the business of personal development of judges and other court personnel, as well as in institutional reform.

The first step in making education a force for change in the North Dakota judicial system was to adopt a mandatory education rule. This was one of the primary objectives of the action plan that our state's team adopted at the Leadership Institute in Boone, North Carolina, in April 1992. The objective was realized in 1994 with the adoption by the North Dakota Supreme Court of Administrative Rule 36 (available from the author), and the establishment of the Continuing Judicial Education Commission. One of the guiding principles that has motivated us is the idea that unless education is mandated, it receives few resources and low priority of importance for judges.

The other major goal of our state team's action plan was to create and institutionalize the North Dakota Judicial Institute (Judicial Institute), a major



program each year at the University of North Dakota Law School. The goal was to meld together the academic and judicial arenas, and to emphasize five areas of the law over a five-year cycle, with one area receiving emphasis each year. The subjects chosen were: (1) criminal law and procedure; (2) family law; (3) evidence; (4) judicial writing; and (5) trial skills and techniques. The goal was to make the Judicial Institute the cornerstone of our judicial educational effort, and to serve as a major gathering of judges each year to discuss not only education, but the judicial system as a whole. The Judicial Institute is now well established, and many of the supreme court standing committees dealing with diverse areas such as futures planning, court administration, and gender fairness also meet during that time. In other words, education and administration are at the point where they are almost indistinguishable from each other.

North Dakota is a state with limited resources, and a relatively small number of judges serve a large geographical area. The situation is further complicated by the need to serve rural areas, but with cases concentrated in the four major cities of Grand Forks, Fargo, Bismarck, and Minot, there is much travel, and the logistics of judicial service are complicated. Furthermore, North Dakota is now undergoing a process of court consolidation. There will no longer be two tiers of trial courts. The county courts are being abolished and the district court will be the only trial court level in the state. Moreover, the number of judges in the state will be decreased by approximately 20%, with a final number at approximately 42 judges.

With a decreasing number of judges and an increasing case load assumed by the remaining judges, education takes on even greater importance in the future. Judges will need to be proficient in all areas, and specialization will not be feasible. The initial task is to help the remaining judges become generalists who can handle all types of cases, including traffic, domestic relations, probate, juvenile, mental health, criminal, and civil cases of all types and complexities. The danger is that the educational effort may be concentrated solely on enhancing skills or learning new subject matter leaving no resources for education that is designed for development, personal growth, or overall reform of the judicial system. The risk of becoming technocrats rather than effective resolvers of disputes is the educational dilemma of the next decade.

To counteract this risk, and to keep in mind the goal of education as a transforming experience, we are now entering into a curriculum revision phase to include course work in areas of law and literature, alternative dispute resolution techniques, and professionalism. It is very important to the personal growth of our judges as individuals that they find fulfillment in more than just being judicial technicians. The risk of burnout is extremely high with an

increasing case load and wide variety of legal issues to resolve. If we are to develop integrated and invigorated thinkers, we must constantly revise the curriculum to develop and improve the ability of each judge to function comfortably within the confines of the judicial role.

Since the future involves change at every turn, the goal is to have our educational programs focus on planning for the future of the judicial system. In the next century, our supreme court planning committee has determined that the goal of the judicial system should be to provide universal access to fair, humane, affordable, and cost efficient legal dispute resolution. Access will be quick with swift decision making by judges with assistance of lay experts, mediation, arbitration, and specialized resolution centers. If this is to occur, education must play a key role to transform the judicial system. Hence, one of the goals for our continuing judicial education commission is to form a partnership with our supreme court planning committee to provide the vehicle for positive change. The two organizations must work closely together in order to not only create a vision of the future, but to provide motivation through education of the judges to carry out the shared vision.

Education must also serve to make judges aware of what the public needs are for the justice system in the future. In order to integrate the public perspective, we will seek public forums on the role of the court system in society. Educationally, it is hoped that a special public television series can be produced and developed in conjunction with the University of North Dakota Law School. The program will provide a forum for public input into the structure and methodology used for dispute resolution in the future. The need for citizen input is crucial, and no educational endeavor can hope to succeed without having a solid basis of citizen support. The judicial system depends upon the public confidence for its success. Judicial education is an inclusive concept that must reach out to educate the public on the nature of the present system and seek further direction from the larger society in order to meet future needs.

Further liaison with the University of North Dakota Law School is also planned to encourage the use of judges as teachers. In that way, law school students could become aware of the professional needs of the courts and the necessity for a higher degree of professionalism than is now observed from some practicing attorneys. (Editors' note: For further discussion of the possible linkages between law schools and judicial education, see chapter 9 by Donald Polden). The adversarial system is in need of serious reform, and judges could play a significant role in the training of young lawyers in methods of practice considerably more civil than those frequently used by a large number of lawyers.



The concept of education as a transforming experience is nowhere more evident than in the concept of devising more humane dispute resolution systems, as pointed out in the goal of our supreme court planning committee. Judging is more than decision making; it should be a process of consensus building. Participative justice in the future will be the norm, rather than the exception. Disputes are being resolved by mediation, arbitration, and combinations of mediation and adjudication. It is no longer sufficient simply to be an effective decision maker. It will be necessary for judges to be resolvers of disputes by using techniques of negotiation and mediation in seeking just solutions to problems. Judges will be encouraging parties to cooperate with each other, rather than engaging in litigation.

In *Education for Development: Principles and Practices in Judicial Education: JERITT Monograph Three* (Claxton and Murrell, 1992;43-44), a theoretical framework of developmental stages suggests that the highest stage of development is integrated thinking. Not only will the judicial system need integrated thinkers in the future, we will need integrated thinkers who can lead others to seek their own solutions using the same higher mental processes. That is a formidable challenge for judicial education in the future. Indeed, we have only begun to scratch the surface of the potential.

The sessions on curriculum development provided at the Leadership Institute have been a major force in helping our state enhance its judicial education programs. Separate curriculum committees have been established to guide the planning and presentation of activities provided by our continuing judicial education commission to foster student learning for personnel in the juvenile court, municipal courts, and the courts of record. Each member of our continuing judicial education commission is responsible for some part of curriculum design, presentation, and evaluation, thereby assuring close involvement of each member of the commission with a part of the learning experiences that are offered.

Our curriculum aims to provide each learner with a variety of experiences that not only will develop expert and confident handling of specific tasks, but also encourage critical thinking about the relationship between the task and the overall functioning and improvement of the judicial process.

The greatest curriculum challenge facing judicial education is the development of strategies to involve the individual learner in a pursuit of personal growth. It is clear that large group education is useful but can only effectively engage a limited number of learners for only part of the time because of differing learning styles and personal preferences as to subject matter being taught. Also, judges have widely different life and professional experiences and maturity levels, even as new judges. Perhaps there should be

individual plans for continuing education of each judge that are specifically designed for that person, consisting of a combination of traditional classroom courses, extension courses, readings, special projects, and sabbaticals.

Whatever curricular strategies our state decides to develop, of one thing we are sure: the Leadership Institute has provided a guiding light for us to follow. We will continue to seek a more profound impact upon the judicial system in order to meet the goal of providing universal access to fair, humane, affordable, and cost-efficient legal dispute resolution. Education will be the conduit by which the goal is achieved. Anything less will result in a massive failure of public confidence in the ability of the judicial system to be an effective force in their lives. We must not fail.





## Chapter 3: Learning Styles and Ways of Knowing: Critical Influences on a Judicial Educator

by

Paul L. Biderman

Somehow, I had done it: I had the job. I knew little about education and had never even heard of judicial education before applying, but somehow I had fooled the interview team into believing I could start a judicial education program for New Mexico. Now came the real challenge: what do I do when the job starts in a month?

I was about to check out whether Berlitz offered crash courses in educational jargon when help arrived. I was given materials from a program attended a few months earlier by a team from New Mexico made up of judges and court administrators, a program entitled "Leadership Institute in Judicial Education." Well, at least the name sounded on target, and the concepts I began to read about seemed generally appealing. But when I started to encounter strange terms like *assimilators* and *convergers*, I began to wonder why I was leaving my law practice with its familiar sounding writs of *ne exeat* and *quo warranto*.

Despite its newness to me, I realized that the 1991 Leadership Institute had inspired the New Mexico team in their determined efforts to get our center established. (Its formal title is the Rozier E. Sanchez Judicial Education Center of New Mexico. Judge Sanchez was the leader of the New Mexico team). I resolved to attend the next available session of the Leadership Institute to see what all the excitement was about. I was extended the courtesy of an invitation to attend the 1992 Leadership Institute without a state team, and I came away with an incipient understanding of the concepts and terms described in the materials. More importantly, I also developed invaluable ideas for the application of these principles to our center's program and, as a surprising bonus, to my personal development as well.

Two of the key concepts that I came away with were the different learning styles of different individuals and the different ways of knowing among different people. Drawing on my own (previously unreflected) experience as well as the explanations offered by the experts and materials, I began to understand that people have different styles of learning (personally favored methods for taking in and for processing information and ideas).

These learning styles may be diagrammed as quadrants of a circle (Kolb, 1984 and Claxton and Murrell, 1992), which identify those whose preferences are toward more concrete learning experiences and those who lean to the theoretical; and those who prefer to reflect upon new information versus those whose style is to process their knowledge by acting upon it. The important lesson from this material was that all these styles are equally valid, that persons should be able to experience learning in the style that they prefer, and that adult educators should employ techniques for presenting information and ideas that honor each style of learning.

The program also addressed the different ways that people have of knowing; particularly the yin and yang of separate versus connected knowing (Belenky *et al.*, 1986 and Claxton and Murrell, 1992). Separate knowing is objective, scientific, and oriented toward empiricism and fact. Connected knowing is subjective, intuitive, and oriented toward personal relationships and feelings. The former is recognizable in common experience in our culture as the more masculine approach, the latter as a more feminine; but neither is exclusive to men or women. As with learning styles, each way of knowing is valid and important. Indeed, knowledge cannot be grasped to its full potential without the presence of both aspects.

But the law, and particularly judging, with its emphasis on impartiality and objectivity, tends to acknowledge primarily the separate way of knowing. To the extent that legal practitioners reject the legitimacy of connected knowing, they make at least two errors: first, just because the law should not show favoritism based on invalid reasons (e.g., race bias, wealth or influence), a judge may still, and indeed is expected, to draw upon her feelings in deciding among competing claims; and, second, judges, like all of us, do draw upon intuitive resources whether they acknowledge it or not.

To demonstrate the unavoidable integration by judges of personal values in their decision making, one need look no further than the typical day in court. A judge may be determining child custody, dividing the assets of a divorcing couple, setting bail or imposing a sentence, signing an eviction order, or conducting a bench trial on a contract suit. In any of these contexts, even the clearest principles provided by the statutory and common law can take the judge only so far. The application of broad, controlling legal principles to the specific facts of the case typically will allow for more than one outcome. How many days will the child spend with each parent, or should one parent be denied custody altogether? Should the wife get all the child's furniture or should it be divided 60/40 or some other way? How much bond is enough for this defendant? How much jail time and how much probation will suffice for that one? Which of two conflicting sworn testimonies is a judge to believe and act on in the contract dispute?



The law requires the judge to make these determinations based on the evidence and argument presented and forbids his bringing in outside information. But the law does not expect the judge to leave his personal values and life experience at home; indeed, it expects the opposite. Our system is wise enough to recognize that no laws can anticipate every permutation of facts that the complexities of human relationships generate. It also recognizes that, however interminable the trial may be, only a very limited and carefully cultivated version of the facts ever enters the record in a contested case. Under these circumstances, the judge must *use his judgment* to decide which facts are true, how heavily each fact is to weigh in the ultimate application of the guiding principles, and which values should prevail among those competing in the case.

Thus, for example, the law may support a judge's ruling either to grant or deny a protective order to a wife who has been threatened but not battered by her husband. An appellate court would defer to the trial judge with her immediate grasp of the facts and opportunity to view the witnesses at the hearing. Presented with identical facts, one judge might perceive the order as essential to avoid even the potential of violence to the woman; another might fear undermining the family structure by imposing a court order before violence has occurred. The decisive factor in such a case is neither the law nor the facts; it is the choice the judge makes between two competing values, each validly inherent in the law. While the judge may claim that community values controlled her decision, it is likely that her values also played a part. The question is, which community does she mean? Values differ among different communities by factors such as economic class, gender, race, ethnicity, educational levels, national origin, or religious affiliation. The law does not expect the judge to take a poll and uphold the applicable values of the majority; on the contrary, sometimes the best decisions fly in the face of popular sentiment and prejudice. But the law invests in the judge the authority and the responsibility to apply her own values, so long as those values do not violate such overriding social policies as those prohibiting discrimination, personal favoritism, or corruption.

If judges must apply their values in their decisions, then they are responsible for reexamining and developing their values just as they continue to educate themselves in developments in the law. The judge who would deny the protective order to the threatened spouse might, for example, view the situation differently if she knew of findings concerning the psychology of domestic violence perpetrators and the likelihood of escalations in violent conduct when initial violent gestures have been overlooked. The Leadership Institute program inherently recognizes this component in the judge's role and

provides tools to judicial educators for the exploration and growth in the values of the judge.

The insights I have gained from the opportunity to explore these concepts came during a time of a personal, emotionally charged "growth spurt." As a result, they have had a profound influence on my way of looking at and relating to others. They have also helped me attain a greater understanding of certain aspects of my own mind (such as the integration of intuition into my thought process) that I had previously doubted as unscientific and "soft."

The concepts I learned at the Leadership Institute have had an even more determinative effect on the development of our center. My attendance at the Leadership Institute came early in the development of our center and the concepts were already understood by our state team that served as the driving force behind our program's creation. As a result, we have, virtually from the outset, varied our programming techniques to address the various learning styles favored by different people. We have directed appropriate facets of our programs toward the affective rather than the cognitive, the emotions rather than the intellect. And we have acknowledged the integration of values in judicial decision making, challenging program participants to examine and reexamine those values in light of the evidence, both logical and intuitive.

Thus, we begin our full-day programs on domestic violence with a play—often performed by actors coming from backgrounds of violent family conflict—demonstrating the variety of behaviors engaged in by abusers, victims, and others in the violent household and surrounding community. Opportunities are provided for reflection on the concrete experience presented through the play, and professionals in psychology discuss what has been shown. A mock trial of a domestic violence case may be presented, with judge participants asked for their rulings on various developments. Program participants are then informed of options under the law and of the support resources available within their community and asked to develop an action plan that would help address domestic violence cases in the most effective way. The program addresses learning styles based on experience, reflection, lecture, and action. It also appeals both to the intellect and the emotion by informing participants of facts while asking them to experience the pain and confusion of a domestic violence victim.

In doing all this, we assist the judges and other court personnel in proceeding on their own personal journeys of growth and exploration. Our goal, in attempting to facilitate and encourage these journeys, is to serve as a catalyst for constructive change. The team that attended the Leadership Institute and the follow-up programs conducted at home gained the understanding and skills that empowered them to become leaders for these



journeys. They gained an appreciation for the full breadth of education available to the judiciary, including the contribution that educational programs can make to the development of judges' skills and sophistication, and have led the effort to develop such programs. All of this, I have come to believe, embodies the Leadership Institute's concept of education for development.

The more we pursue education for development, the more we come to understand it as an infinitely varied and endless process. Far from establishing pat formulae, each application only seems to open additional possibilities, helping to keep our work continually exciting and creative. The Leadership Institute experience has helped us to understand and welcome this process.





## **Chapter 4: Practicing Education for Development Along the *New Oregon Trail***

by

The Oregon Team

(Rick Barron, Nori McCann Cross, Kip Leonard,  
Roosevelt Robinson, and Janice Wilson)

In April 1993, we attended the Leadership Institute: Nori Cross, team leader and Oregon's judicial education director; Rick Barron, circuit judge and then chair of the Judicial Education Committee (JEC); Kip Leonard, circuit judge and then JEC vice chair, now chair; Roosevelt Robinson, district judge and JEC member; and Janice Wilson, then district judge, now circuit judge and JEC vice chair. We knew it was a workable, even compatible group, perhaps because, as we later learned, our diverse learning styles complemented each other: one diverger, two assimilators, and two accommodators.

Our team had worked together primarily in the larger JEC context prior to attending the Leadership Institute. The judicial education director position was relatively new, JEC was struggling to define its mission, and planning and programming were yet unfocused. Programming was centered on presenting "hot topics" in large conferences and providing funding for judges to attend the National Judicial College. We were headed in what we now believe was the right direction, but we did not know enough then to articulate why it was the right direction or what steps we needed to take. Some, if not all, judge members of the team were skeptical of how much direction the Leadership Institute might provide. They were right. The project provided something more important: a compass. Now we choose our own compass and travel with intention.

### **How We Have Used Education for Development Concepts As A Team**

A week after returning to Oregon, we attended the Annual Judicial Conference. Rick Barron reported to the full conference about our Leadership Institute experience and our intent to incorporate education for development principles in our planning and programs. We scheduled a workshop, to be led by Dr. Pat Murrell, who was then a faculty member and is now the director of



the Leadership Institute. We applied for and received a grant from JEAEP. Dr. Carol Weaver, professor of adult education at Seattle University, helped plan the workshop and also taught at it. The workshop was scheduled for October 1993. Dr. Claxton taught at the workshop. He kindly filled-in for Dr. Murrell who was unable to attend.

We titled the workshop Judicial Education Leadership Institute (JELI), as did Washington State before us. The next one will be called JELO[regon]. We presented the workshop to our full committee and other key judges across the state from all levels of courts, to key judicial department administrative staff with training responsibilities, and to law school deans and professors from Oregon's three law schools. We did so to influence and enhance the professional education of our future judges.

Immediately after JELI, JEC had a day-long curriculum development meeting. We amended our mission to be education for development. Specifically, we now see our curricular purpose to be:

effective and comprehensive education for the continuing development of persons performing judicial functions, tailored to meet their changing career needs and enabling them to perform their responsibilities in the community fairly, correctly, and efficiently.

We deleted the word *professional* before development, believing that personal development and growth are integral to professional development and therefore part of our curricular responsibility. We wanted also to acknowledge our many responsibilities to and roles in the community.

Perhaps most importantly, our purpose recognizes that educational needs change over time. It incorporates Erik Erikson's (1964) developmental concepts of identity, intimacy, and generativity. Dr. Weaver summed up Erikson's concepts:

- **Identity:** New judges need [a lot of help] and [generally] appreciate everything we can provide to develop their new professional identities as judges.
- **Intimacy:** Mid-career judges need new ways to do things or new things to do; having developed an identity, these judges now enjoy working with colleagues to develop new ways to do their jobs.
- **Generativity:** Later-career judges need to give back, by writing or mentoring, for example.

Our curricular goals specifically include and address these concepts.

It took us several months of meetings to develop a curricular framework for future planning, which we will review and update regularly. The final piece of the framework followed soon after: without dissent, the Oregon Judicial Conference adopted a vision statement in April 1994, developed by the Committee on the Future of the Courts. Five of that committee's ten judge members had attended the JELI program, and several are on our education committee. The vision statement embraces education for development and lifelong learning for judges and staff. It also recognizes, as Dr. Murrell told us, that courts have a formative role in society.

Meanwhile, the original Leadership Institute team and some other JEC members worked again with Dr. Weaver to develop a five-day, new-judge seminar that incorporates education for development both as a philosophy and as a topic. We hope to implement a mentoring program with formal mentor training to complement the new-judge seminar; both to guide new judges' development and to meet mid- and later-career judges' needs to do something new and to give back. This is intimacy and generativity, again.

JELI also caused JEC to rethink its priorities and move faculty development high on the list. We adapted the curriculum planning form used by Arizona (Conner and Waldrop, 1994) to help planners articulate their needs and expectations. Carol Weaver helped to develop a faculty information and planning packet and teach a one-day program in June 1995. This service was funded by JEAEP. Through this process we have been required to apply what we have learned and in so doing has made it part of us.

### **How We Have Used Education for Development Concepts As Individuals**

The written evaluations of JELI were quite positive, particularly the impact evaluations, which we adapted from *Judicial Education Needs Assessment and Program Evaluation: JERITT Monograph One* (Hudzik, 1991). The impact evaluations asked participants to list one or two changes each might make as a result of the program and what impediments to and benefits from change each foresaw. We followed up three months later to ask whether the participants had been able to make their changes. Some participants noted personal as well as professional progress. One judge had developed and sent us his personal action plan/mission statement. One prominent law school professor and dean told us that he had been to a lot of leadership programs, and he was not expecting to get anything new from JELI, but he did. He planned to use the learning theory in his own classes and convey it to a study



group on faculty teaching effectiveness "with [the] objective of causing a fundamental rethinking of second and third year curriculum." Several judge participants now use the theory in their own formal teaching, in classroom law projects, in developing local staff education and training, and in court—taking advantage of those "teachable moments."

We each have used the concepts in other parts of our professional and personal lives. Rick Barron works hard to listen with a non-rebutting mind and to teach around the circle. While Rick finds it tempting sometimes to revert to old habits, he finds substantial satisfaction in using new techniques, making them his own, and recognizing his progress.

Kip Leonard found learning about his own development, ways of knowing, and the learning process important to him in increasing and maintaining his comfort with the law and his role as a judge. He recognized that education can and should be transformational, and that his own legal education and the adversary system in which he practiced law promoted dualistic thinking. Becoming a judge brought Kip rapidly to the limits of that stage and the need to develop more satisfying, complex ways of thinking.

Soon after our return from the Leadership Institute, Janice Wilson interrupted a JEC meeting to interview with the governor for an appointment to the circuit court. When Janice returned, she told us how she and the governor discussed connected knowing and shared its importance in decision making. She was appointed soon after.

Roosevelt Robinson uses William Perry's (1970) developmental concepts in his work with the drug court program in Portland. He sees drug-dependent people move through the developmental stages and understands why they regress when they are more challenged than supported. Those who succeed in the recovery process are those who make a qualitative shift in thinking, acknowledge that they will trace over and over their journey to recovery, and acquire capacity to take personal responsibility for decisions and to make decisions in an increasingly uncertain world—key themes of Perry's developmental model. Understanding this model allows Roosevelt to bring more intentionality to the Drug Diversion Program and to better judge the balance of challenge and support each individual needs.

In a more personal example, Nori Cross attended training on Structure of Intellect, J. P. Guilford's (1971) model of multiple intelligences that identifies convergence and divergence as two essential creative processes and was the basis for the curriculum at her daughter's school. Because the terms were so similar, Nori reread the *Learning Style Inventory* booklet (Kolb, 1984), and found that the inventory terminology comes from Jean Piaget (1948) and

Guilford (1971). When the second- through fourth-grade students were preparing biography reports using three or more *intelligences* to present to the class, Nori showed the students how to use the Kolb learning circle to design their presentations. She simplified the terminology to *see it, think about it, read or hear about it, and do it*, and gave the students a list of activities to draw from for each part of the circle. The teacher found the learning circle a useful planning tool, and the students found they had already incorporated parts of the circle in their plans, demonstrating again that "there is nothing so practical as a good theory" and "nothing so theoretical as good practice"—two principles frequently mentioned by the Leadership Institute faculty.

### Focus On the Future: Development and Vision

Our next emphasis is on smaller, regional programs using the Kolb model for active learning. We plan to repeat the programs at several sites, limit the travel time and time away from work and family, and provide regional support while encouraging "cross-pollination." At our urging, the department developed statewide electronic bulletin boards as another vehicle to accomplish our purpose. Judges will have a secure board to query each other about issues in pending cases and about court administration. Other special topic boards will provide forums for judges and court staff who work in those areas. Several judges have suggested a book club board, perhaps supplementing it with book club meetings at larger, infrequent conferences. We hope to add law and literature programs as part of a broad category of personal and professional development topics. We will help our committee on the future of the courts implement the department's vision by developing curricula for lifelong learning for judges and eventually, we hope, for court administrators and staff.

In summary, the impact the Leadership Institute had on us as a team is made evident by the impact we are having on judicial education and on departmental planning for the future. The project provided a framework that not only accommodated our differences but embraced them. In examining ourselves as learners, we learned a lot about each other both in and out of our professional relationships. And we found common goals. Information on learning styles gave us common language and tools to use in planning, teaching, advising, and administering. Research on *ages* and *stages* gave us ways to think for the future, to anticipate, accept, and even welcome change and uncertainty, both anathemas to traditional judging and management. New insights on *ways of knowing* gave names for and value to our experience and intuition in our professional roles as well as personal lives.

As to the future, we again face limiting budget cuts, too little staff, and too little committee time to accomplish some of our current plan. The



temptation to fall back into old familiar patterns, especially when we are all geographically scattered making it difficult to work closely together without interruption, is very great. But our common Leadership Institute experience gives us confidence that our work does, can, and will make a positive difference to our judicial department and the public we serve.



## Chapter 5: Reflections Upon Blowing Rock, North Carolina: The Education of a Trial Judge

by

Linda Stewart Dalianis

For reasons having more to do with chance than volition, a lawyer becomes a judge. With that event comes an unspoken expectation that, as the lawyer dons a black robe, she will pass through a symbolic portal from ignorance to enlightenment, and will instantly be a fully-realized, wise judge. The reality is, of course, that she is the same person, with the same character and store of knowledge, as she was before the robe became her uniform. She has probably had a liberal arts undergraduate education followed by law school, and she knows nothing of education for development. She must, painstakingly and alone, develop her skills and abilities, all the while attempting to do justice to those who appear before her.

She would instantly be a better judge if her background included the study and understanding of learning theory and adult development theory. However, if she is like most judges, her background will not include this knowledge. Since a person cannot realistically be educated to be a judge before the fact, it is all the more important that the education she receives after the fact be effective at improving or enhancing her performance as a judge. In my view, this is the principal reason why the Leadership Institute in Judicial Education is essential to the judiciary in the United States, which brings me to Blowing Rock.

Early in 1991, the subject of judicial education as a *subject* was nothing I had ever really considered beyond my own obligation to attend at least one program each year. However, a chance encounter with New Hampshire's Chief Justice, David A. Brock, at the New Hampshire Supreme Court changed that cast of mind irrevocably. Chief Justice Brock is a strong proponent of judicial education, and he has been very active, at both state and national levels, in working to improve the judiciary through education. Judicial education must have been what he was thinking of as we happened upon each other that day because he asked me if I would be willing to be a member of a team from New Hampshire being sent in April 1991 to the Leadership Institute at Blowing Rock, North Carolina. Of course I agreed to go, but I really had no idea what the Leadership Institute was all about and had no particular interest in the large subject of judicial education. I was, however, interested in seeing the

mountains of North Carolina and in the prospect of getting away from court for a week.

The professional life of a general jurisdiction trial judge is very insular; one is isolated from most people, including other judges. A judge is essentially reactive, responding to whatever problem arises, often with little time for study and reflection. Unless a judge has a specific reason to think about the general subject of continuing education for judges, decisions about continuing education are made in a self-referential way: how interesting does a conference appear to be and when and where is it offered? That was certainly so in my case.

When the time came to travel to Blowing Rock, I was interested in what lay ahead, but still felt quite in the dark. I traveled with one other team member, Elizabeth Hodges, legal counsel to the New Hampshire Supreme Court, whose responsibilities included judicial education. I came to know her quite well. In North Carolina I also became well-acquainted with James Lynch, director of the New Hampshire Administrative Office of the Courts. (Sadly, Jim passed away in October, 1994). With hindsight, I recognize that these connections are invaluable. Judges and administrators tend not to work closely with one another, to the mutual disadvantage of both groups. I have found that collaboration between the groups, fostered by good personal relationships, yields faster and better results whatever the issue, including education for the New Hampshire judiciary. At that time, however, I simply considered it a bonus to be at a nice place with congenial people who would continue to be friends when we returned home.

It is safe to say that I arrived in Blowing Rock with no understanding of why I was there or what was expected of me. And, in truth, the Leadership Institute itself did little in the five days allotted to change my perception.

The faculty were interesting, engaging people, but the message was obscure. I was fascinated by what I heard concerning adult learning theory, learning styles, stages of development, and ways of knowing. I enjoyed the group exercises for the insight they provided me into the thinking and motivation of others. I was more than pleased to make the acquaintance of judges and judicial educators from other states for the opportunity presented to exchange ideas. But, I had no idea what all of this was supposed to mean to me or, more importantly, to New Hampshire. I was aware that I was expected to follow through with something I did not yet fully understand.

The one tangible thread I was able to grasp and hold on to through the various presentations at the Leadership Institute was the idea that my team would have to create an action plan for judicial education in New Hampshire.

I was certain that, even if I could not ultimately fathom what that meant, the other members of my team (all intelligent and talented people) surely would, and I could simply hide behind them. As it turned out, each of the others was thinking much the same thing as I was, so we all were forced to contribute actively to the development of our action plan in spite of our collective lack of knowledge. In that process lay my first glimmer of understanding of what the Leadership Institute was attempting to accomplish with us and what we, in turn, would attempt to accomplish for New Hampshire.

I began to see that there was a design for continuing judicial education much more intricate than a choice by a single judge to attend a single conference; that the judiciary would necessarily benefit if its individual members became even more well-educated and trained; that a coherent, centralized approach to the education and training of individual members would make the best use of scarce resources and insure that no member was overlooked; that the application of theories of adult development and learning would improve the quality of judicial education programs as well as their reception by the judiciary; and, that ultimately, New Hampshire would have a more satisfied and competent judiciary.

Perhaps the crystallization in the space of only five days of a strong team from a group of individuals who had never worked closely together was the single most important contribution that the Leadership Institute made to the New Hampshire judiciary. Each team member gained in individual ways from the acquisition of new information and knowledge, as well as from the newly created connections with the faculty and other participants. Our state gained by having the benefit of our individual gains fused into an effort which has yielded both short- and long-term results for judicial education that have been little short of amazing.

The second most important contribution of the Leadership Institute to New Hampshire was the momentum developed by the team which carried it forward from 1991 and has not been lost. Before Blowing Rock, the New Hampshire approach to judicial education had been haphazard and inconsistent. Many judges took advantage of high quality national or regional programs, but the cost was great. The courts—superior, district and municipal, and probate—made internal efforts to provide education to their judges, principally by using in-state judges and lawyers as faculty. Little or no attention was paid to the continuing education of clerks and staff. After Blowing Rock and as a direct result of our action plan, a central group, the Judicial Education Services Committee, was appointed by the supreme court. It included representatives of each constituent part of the New Hampshire judicial branch from clerks to administrators to judges and chose to take a "bottom up" approach to education. In other words, each constituent group identified its needs and



desires for education and our judicial education services committee worked to make sure that the needs of each group were regularly and predictably met with quality programs. The catalog of educational programs that has been developed, planned, and offered in New Hampshire since the 1991 Leadership Institute could fill a monograph by itself.

It was in connection with my work on our judicial education services committee that the other cogent ideas from Blowing Rock finally began to take on real meaning. At the conclusion of the Leadership Institute, I told Dr. Claxton that my principal criticism of the program was that it drew people with little or no understanding of theories of education into the development of educational programs without providing a road map or outline. I felt that, much like the first year of law school, I did not know where I was, never mind where I was expected to go. Now I know that this was because I was bogged down by *dualistic thinking*, a stage of simplistic thinking described by theorist William Perry (1970). As fine as the opening presentation by Justice Christine Durham (faculty member and project advisory committee chair) was, I would have been happier with the kind of opening statement I hear in a trial. So I felt uncomfortable and could not locate the meaning of the Leadership Institute until it was well behind me. I needed a context, which I finally found while giving thought to planning and curriculum development for real New Hampshire judicial education programs. Suddenly, the concept of education for development meant something.

Did those who created the Leadership Institute realize that its teachings would be well and meaningfully learned only after the participants gradually internalized the learning and, thus, assimilated it into their lives and minds? Did they understand that judicial education *leaders* would lead only after they made the relevant ideas their own? Did they know that, as befuddled as any of us might have been while at the Leadership Institute, we would eventually find our minds taking the experience around the Kolb learning circle (Kolb, 1984 and Claxton and Murrell, 1992)?

In fact, that is what eventually occurred: I had experienced the Leadership Institute directly; I reflected over time upon that experience; I read the book, *Experiential Learning*, by David Kolb (1984) in an effort to understand more of the abstractions and principles at work in adult learning theory; and, I applied what I learned to the task of organizing and offering education to the New Hampshire judiciary.

My work for the bench has changed because of my involvement in the Leadership Institute. As chair of the Superior Court Education Committee, I have been deeply involved in planning education programs. My role in curriculum development has been limited, but I do offer some input concerning

curriculum design based upon what I have learned at the Leadership Institute and Advanced Leadership Institute. As a member of the Judicial Education Services Committee, I participate in policy and planning for the judiciary as a whole and, perhaps most importantly, contribute to maintaining the momentum generated by the Blowing Rock team. Dedicated, interested individuals can make an enormous difference in almost any endeavor; in New Hampshire judicial education, these individuals have institutionalized a fine, ongoing effort to provide the judiciary with quality programs, and the effort appears likely to continue indefinitely.

In addition, I have participated actively with Maine and Vermont in the creation of a northern New England judicial education committee. We recognize that our states have sufficient similarity and joint efforts are likely to benefit all of us, providing better programs than any one state could afford by itself. Teams from Maine and Vermont have both attended the Leadership Institute and its advanced version and are just as serious about improving judicial education as is New Hampshire. This group, too, is comprised of members who wish to make a difference and believe that they can; it, too, appears likely to last for the foreseeable future. A strong program on evidence was conducted in October, 1994, hosted by Maine. In 1995, Vermont hosts the three states to a conference on medical/legal issues, and, in 1996, New Hampshire will host a conference on understanding sexual violence. Indeed, the committee is beginning to give thought to the subject matter of the 1997 conference, when it will again be Maine's turn to host. The curriculum development efforts for all of these joint conferences will be based upon the principles we learned at Blowing Rock.

What I have realized over the past three years of immersion in the subject of judicial education is that Blowing Rock was not an event; it was merely the first step in an ever-evolving process of personal growth and, I hope, of contributing to the improvement of the New Hampshire judiciary.

Founding Director Chuck Claxton reminds us that Robert Frost observed that the purpose of the law is to provide justice, but it is also to provide mercy. Frost also noted that "a theory if you hold it hard enough and long enough gets rated as a creed." Since judges try to provide justice tempered by mercy, perhaps we will be better able to do so if the theory of education for development becomes a judicial creed.

## **Chapter 6: Building Community in the Arizona Court System**

by

E. G. Noyes, Jr.

From 1983 through 1992, I was a judge on the superior court in Maricopa County, Arizona, a general jurisdiction trial court. I became involved in judicial education in 1989 and have had some experiences that are only suggested by titles such as founding dean of Arizona's New Judge Orientation Program for General Jurisdiction Judges and founding dean of the Arizona Judicial College. I was also a member of the Arizona team that attended the first Leadership Institute in 1990, and I have served as a faculty member at the Leadership Institute on several other occasions.

### **Theory**

It is clear to all of us that "the times they are a-changing"—and that fact alone is one reason why every organization has to engage in ongoing self-inspection and develop a competent system of education. The organization must change to maintain competence and relevance in the changing society. Arizona has about 400 judicial officers, and about one quarter are in the superior court in Maricopa County. But, despite the differences in the size of judicial organizations, all judges have much in common. The qualities that make for good judging in Arizona would do well in any other state, and vice versa. There is a universality to the qualities of being a good judge, and the principles espoused by the Leadership Institute clearly have relevance to any judicial environment.

Since I first got involved with the project, it has become increasingly clear to me that leadership is not something that you *are*; rather, it's something that you *do*. The best ideas go nowhere without leaders to implement them and to persist with them. As the Arizona team did its work in the 1990 program, we saw that our major tasks were (a) to develop a vision of where to go with judicial education, and (b) to develop the organizational structure by which that vision could become reality. But the key to everything was having strong people step up and accept responsibility for getting things done.



One aspect of the theory base was individual learning styles. We found that people have distinct preferences in learning, and there are those who prefer, for example, *not* learning about theory! But it was the foundation for the practice, so the Leadership Institute planners were taking the chance of irritating a few of us in the hopes of laying a solid foundation for all of us. We accept that. We found after we returned home to continue our work that there were many things from the theory base that benefited us in all aspects of our lives, both personal and professional.

I have come to the firm conclusion, for example, that there should be no real difference between professional and personal life, especially for judges. The best of us have an integrity, a wholeness in all phases of life. As a person becomes a more effective adult, that person becomes a more effective judge. That is why adult education theory is so relevant to the judiciary. We are in a profession where we do not have to split ourselves between home and work, sacrificing one for the other. The abilities of a successful judge are also the abilities of a successful parent, spouse, neighbor, and individual.

I suspect most of us became judges partly because there was an incompleteness about what we were doing before we came to the bench. There was some degree of success in what we were doing, but we felt some conflict, incompatibility between being successful on the job and feeling good about other parts of our life. I think it is fair to say that most judges want to do the right thing: they want to live with integrity, to be healthy, to be competent, to go home at night feeling that they have done well that day, and to be as fair and reasonable off the job as on the job. This aspiration is not exclusively true for the judiciary, but it is especially true for the work we do.

We are fortunate to be in a profession where we become better at what we do by becoming better at who we are. That is one reason why effective judicial education includes more than training and why it goes beyond merely the conveying of legal information. Training and legal information are important parts of a judicial education curriculum but they are not the parts that have the greatest impact on positive growth for individuals and for the organization. That is why we as judges benefited so much from an understanding of adult development and learning theory.

Complementing this new understanding was the greater skills and insights we developed concerning effective methods of teaching for development. Through that process, we were better able to move from theory to practice. We also learned about prioritizing and designing a practical curriculum so that judicial education programs made good use of limited time and money. All these are important issues, and finding answers and producing results is a continuing process.

In these changing times, the society looks to the judiciary for stability and leadership. People want integrity and competence in all branches of government, but they expect it in the judiciary. To maintain integrity and competence and to strive for excellence as an organization, the judiciary must continue to change, to develop intelligently as an organization. The best way to change the organization is to support the ongoing development of the individuals within the organization. That, I think, is the essence of education for development.

## **Practice**

How does one attain such lofty goals? In my experience, it is a constant quest. We are never there, but we can keep moving in that direction. The process of trying to get there is where the value is, even if there are failures along the way, as there always are.

A goal for our team—one we had before but was reaffirmed through our experience at the Leadership Institute—was to have a structure and a process that were likely to result in successful programs and meaningful participation by many judges. The following is a brief description of these two aspects.

The Judicial College of Arizona (JCA) is the Arizona Judicial Council's administrative body with direct responsibility for coordinating, directing, and providing education and training for all Arizona trial and appellate judges. The mission of the JCA is to achieve judicial excellence in the state of Arizona through education. It is led by a board of directors whose membership is representative of all Arizona courts, the state bar, the law schools, and the public. Board members serve for three-year terms and are appointed by the chief justice.

The JCA has no staff, per se; all staff resources are provided by the Education Services Division of the Administrative Office of the Court (AOC). The executive director of the college is the director of AOC's Education Services Division, Ms. Karen Waldrop Thorson, who was our team leader at the 1990 Leadership Institute. Funding for the JCA comes from monies allocated by the legislature to the supreme court and by the supreme court to the AOC to be used for judicial education.

The JCA Board of Directors sets the overall curriculum for the college but is not, as a group, involved in the presentation or planning of JCA programs. There are four standing JCA committees, each of which focuses on one specialized area of judicial education: continuing education, career

development, programs for new judges, and judicial conferences. Each program put on by the JCA is planned and prepared by a planning committee, generally comprised of several judges with interest in the program area, and chaired by a member of the pertinent JCA committee. The planning committees attend to the details of planning and presentation, such as establishing program objectives and selecting faculty.

All this committee structure sounds more cumbersome in reading than it is in practice. The net effect of all the committees is the general involvement of many persons in the planning and preparation of the programs and the specific leadership responsibility of a few key persons. While there are always critics about the bureaucracy inherent in any organizational structure, most everyone—especially those who have become involved—appreciates the numerous benefits to be had from the participation and responsibility fostered by the college structure. One of the direct benefits of the JCA structure is the increased participation by judges from throughout the state in the planning and presentation of education programs offered for judges.

The college institution is an evolutionary step. Arizona has enjoyed for at least the past decade an increasing level of participation and leadership by judges in judicial education. The committee process develops a pool of leadership to take over—with fresh insight but continuity of purpose and expertise—when the committee chair reaches that exalted position of immediate past chair. The core leadership of each committee is the chair and the vice chair, with the immediate past chair as an *ex officio* member.

One of the accepted principles of adult education is that a good way to learn is to teach. Another accepted principle is that the adult learner brings as much to the class as the teacher and that, in most cases, the participatory process is the most effective method of teaching. The JCA practices these principles by offering numerous opportunities for judges to be involved as faculty, as participant, as program planning committee member, as JCA committee member, and as a JCA board member. Inherent in this environment of participation is the sense of community and camaraderie that develops when judges, with expertise in an area, plan and present programs to their peers. The net result is that all participants, and the court system itself, benefit by the effort and the exchange.

Another benefit from the JCA committee process and the formalized oversight of the planning and preparation process is that the risk of a poorly conceived or presented program is lessened. A poor program is generally better than no program, but we all recognize that time and money are in short supply and that there should be assurances that education programming will be done right the first time. An accepted axiom in education programming is that



most presentations are won or lost before the speaker takes the podium. Another is that the process by which the participants learn is often as important as the content. The JCA provides some institutional control and direction over both the process and the content of our judicial education programs.

The decision to present one program is necessarily a decision to not present other programs. The programs presented should be well selected and planned and prepared with sufficient attention and skill so that, when delivered, they accomplish their objectives and are considered worthwhile by both presenters and attendees. There are numerous groups and individuals with good ideas and strong interests about which programs should be presented to the judiciary. Prioritization and processing of the requests for programs has to be done by somebody; and such a screening process is best handled by a broad-based governing body such as the JCA Board, with the advice of the committees.

The JCA provides the Arizona judiciary with a group of leaders with adult education expertise whose interest is to provide the most complete and effective curriculum possible to the judicial community, given the limited resources available. If there is no such governing body with broad perspective, authority, and oversight of the education process, then there is no overall plan for education. Where that is the case, we merely go from one hot topic to another, from one directive to another, from one pet project to another, without critical examination, without unified purpose, and without overall direction for judicial education.

A desirable and necessary component of any judicial education curriculum is the "hot topic" or the "chief justice sez" approach to programming. But these should be only part of a curriculum, fitting into the larger process of planning and development, not substituting for it. The JCA provides the institutional structure, identity, and expertise necessary for effective curriculum development and delivery. Although the JCA is—and always will be—in development, it is taking solid strides toward becoming an effective education institution, a mechanism that fosters a genuine sense of community within the court system.

The AOC Education Services Division personnel (there are now nine of them) are the staff of the JCA. There is an axiom from court management courses that says an administrator can't manage if the judges don't lead. Variations of that theme apply also to judicial education courses. A talented staff can do its job so much better if it has effective leadership and direction from the judges and some institutional standards and guidelines by which to operate. The JCA provides institutional direction for staff, and it also provides backup for staff when it comes time to implement JCA policies and procedures

in individual programs. Staff, in turn, provide adult education and technical expertise necessary to support the volunteer groups of judges who endeavor (in their spare time) to also be directors, committee members, faculty, and participants in a judicial college.

When the JCA was in the formative stages, many of us did not know many judges from other jurisdictions or from other parts of the state. Such distance and unfamiliarity are unfortunate. There is much about effective judging that holds true for all courts, regardless of location or jurisdiction. And, where there are differences, it is healthy for those of us on one court to develop some understanding of the realities and problems facing our peers on other courts. A necessary component of the process that led to the creation and ongoing development of JCA has been the increased communication between numerous judges of all courts in the state. This increased contact, which has been apparent in the JCA board and committees and programs, is a significant factor in the expanded sense of unification and community that the Arizona judiciary is developing in recent years.

From an educational perspective, the benefits of networking, the sharing of resources, and the informal mentoring that have been fostered by the JCA are significant. These experiences, in and of themselves, make a valued contribution to the development of individual judges and the Arizona judiciary as an ever-developing organization.

## **Chapter 7: The Vermont Experience: A Small State's Story in Educating Judges**

by

The Vermont Team

(James L. Morse, Stephen B. Martin,  
Lee Suskin, and Marna Murray)

### **Background**

Twenty years ago, judicial education in Vermont was either solely self-directed or nonexistent, augmented sporadically by national programs. By the 1980's, however, a turning point was reached when the judiciary began to take seriously a judge's development. Vermont's participation in the 1993 Leadership Institute was an important and dramatic turning point in the evolution. Today, all judges in the state are given a wide variety of educational options, and the Vermont judiciary insists that on-going education be the cornerstone for carrying out its mission.

The practice in the early 1980's was to require attendance at a national program for new judges and permit attendance at a shorter national course every three years. In-state programs began in 1981, with a half-day lecture that first year. The Vermont programs gradually expanded, and in June 1985, a week-long program called Judicial College (*judge camp*) was held at a college in Burlington. The week-long Judicial College has occurred every June for the last ten years. Its permanent home now is Middlebury College's Bread Loaf campus in Ripton, Vermont.

As our programs evolved, a philosophy of purpose took shape. Judges needed exposure to the national scene to gain perspective, and interaction with their colleagues in Vermont was needed to coalesce and thrive locally. We realized that not only did judges need training, they needed intellectual stimulation and a revived sense of fulfillment. Consequently, programs were developed to address the judge as a complete human being and improve the judge's outlook on life. For instance, health and exercise programs tended to counteract the effects of a sedentary career, and humanities programs presented broader themes to expand the mind's view and the framework for legal thinking.



While the most significant development in the 1980's was the advent of the week-long Judicial College, the biggest achievement so far in the 1990's has been Vermont's participation in the Leadership Institute. The Leadership Institute's influence on the Vermont judiciary's education effort was threefold. First, it served as a catalyst to bring about inspired change. Vaguely existing ideas gained focus, new ideas developed, and thoughts turned to action. Second, for the first time, educational theory about development was learned. Much of that theory was foreign to the team members. Third, the Leadership Institute provided follow-up assistance to make our projects come alive. An in-state program, called the mini-Leadership Institute, was held at a college in Randolph, bringing adult learning theory to the entire Vermont judiciary. Also, the supreme court created a policy-setting advisory committee on judicial education.

The message became clearer and clearer as the Leadership Institute's influence affected the Vermont scene. Judicial education is the best means to improve the quality of justice because self-awareness is self-rewarding. The educational process toward greater self-awareness is the single most significant factor stimulating morale. People feel better when they understand the process of growing more competent, dedicated, and caring.

Vermont's judicial education framework has come a long way from an occasional course, in or out of state. Today, a newly appointed judge in Vermont is assigned a mentor who works with the judge to develop and carry out an orientation program. Within the first year, the judge attends a program at the National Judicial College. In a state as small as Vermont, with nearly thirty trial court judges, meeting colleagues from other states and gaining a national perspective on judging is instructive.

While the week-long Vermont Judicial College is the core of the program, all Vermont judges participate in five more in-state judicial programs each year developed by our advisory committee and its staff. Some are one-day programs in conjunction with the Vermont Bar Association meetings, while others are two-day programs.

After the initial year, each judge develops an individual educational plan. While judges once attended a week-long national program every three years, today the framework has been expanded to afford greater flexibility and scope. Judges are now expected to teach, mentor, and plan.

## The Vermont Judicial College

The week-long judicial college program remains the centerpiece of the Vermont judicial education experience. Its retreat atmosphere gives judges the opportunity to visit with each other away from the everyday pressures of work and home. Time is planned to allow for informal discussion and activities, increasing the opportunity for friendships to develop.

The key attributes of the Vermont Judicial College program include:

- **a campus setting** and an academic atmosphere to convey the purpose of the program, and a residential experience to allow for time away from everyday life and thus time to devote to the development of collegial relationships;
- **a week-long program** to allow sufficient time to explore a number of topics in-depth;
- **half-day sessions** to provide the opportunity for participants to explore a single topic with sufficient participant involvement;
- **interdisciplinary topics** rather than just the typical substantive legal topics to broaden the discussion, including programs in the humanities. An important part of the humanities program was the inclusion of spouses. Family members are important in the life of judges, particularly in reducing the sense of isolation; and
- **health and personal programs** for the *whole person*. Because of the sedentary nature of the judge's role, topics include nutrition and exercise, stress reduction techniques, and strength and flexibility assessment.

## The Leadership Institute

In 1990, three of us who had long worked together on Vermont's judicial education offerings were introduced to a national program that seemed suitable to our efforts here in Vermont. Project Director Chuck Claxton's introduction to the Leadership Institute addressed the complex needs of judges in an on-going education program. He emphasized the educational needs of adult learners. It was apparent that this program offered a great deal to promote Vermont's goals.

The year 1990 was a turning point for Vermont in another way. Like many states, Vermont experienced declining state revenues. Judicial education, appearing to some to be a luxury (after all, judges are already educated, aren't they?), was an area to be examined closely in the budget process. Vermont judges, however, felt strongly about judicial education and elected to forfeit a part of their away-from-home meal allowance if the money saved would be used to support judicial education. The symbolic value of this gesture was significant. It made clear to the supreme court that Vermont judicial education was important to Vermont judges.

Vermont was selected to attend the 1993 Leadership Institute. We sent a team, even though we believed that we had an excellent program already in place. Blowing Rock was the place to think together about educational ideas away from the daily pressures of our usual tasks. The Leadership Institute brought us together to work out, philosophically and practically, what Vermont judicial education needed.

First, we proposed, and the Vermont Supreme Court created, the Advisory Committee on Judicial Education, a policy-making group. This broadly-based committee includes an associate justice of the supreme court (chair), trial judges, a clerk, legislators, president of the bar association, chairs of the Judicial Nominating Board, Judicial Retention Commission and Judicial Conduct Board, as well as educators—a law school professor and dean of education of the University of Vermont. Wide representation reflects diversity and provides an effective way for ideas and information to flow to and from our advisory committee.

The mini-Leadership Institute program for all Vermont judges and our advisory committee served to cement purpose. During the mini-Leadership Institute, judges learned to identify their different learning styles and life cycles and to reflect on their own lives more fully. The sharing of these insights with colleagues deepened bonds of friendship and the sense of commitment.

The mini-Leadership Institute amplified the six-point list of qualities from the original monograph, *Education for Development: Principles and Practices in Judicial Education: JERITT Monograph Three*, associated with the highly developed judge (Claxton and Murrell, 1992). The qualities are that highly developed judges: (1) can think in complex ways; (2) possess a high level of competence; (3) accept responsibility for their behavior; (4) believe that understanding of their own experiences is the best guide for actions; (5) are consistently and tenaciously authentic; and (6) have a commitment to goals which transcend their own immediate needs and situations (1992;45-47). Vermont judges identified two additional qualities as follows:



- **Highly effective judges have a commitment to their own physical and mental health and that of their colleagues.** They are aware of the importance of their physical well-being, the inherent challenges of a sedentary and isolating career and make conscientious efforts to address these concerns in their everyday life. They share that concern for the physical and mental well-being of their colleagues on the bench.
- **Highly effective judges integrate their sense of family and community with their identity as a judge.** They recognize their unique role as leaders in society, but also acknowledge their membership and participation in a family unit and in their community.

These additions were not only important to the Vermont judges, but further expressed the spirit of Vermont's mini-Leadership Institute—one of caring about each other while advancing the idea of improvement as an individual in a community and as a judicial body. The amended "highly developed judge" profile continues to serve as a model to guide the Vermont judiciary.

All members of our advisory committee were invited to attend the 1993 mini-Leadership Institute. This gave the non-judiciary members the opportunity to meet with our judges in an educational setting and know them as individuals. The mini-Leadership Institute faculty also remained to meet with the committee and help the planning process. The committee drafted a mission statement and identified educational needs in four areas: (1) the law, judicial/administrative skills, personal/judicial authenticity, and personal health and growth; (2) establishing individual education plans; (3) ensuring that theories of adult education are used; and (4) evaluating programs and recommending policy changes as needed. The committee has four subcommittees: continuing education (substantive education), personal development (enhancement of one's abilities as an effective person), special projects (mentoring program), and judicial college subcommittee (specific plans for the next judicial college).

Participation in the mini-Leadership Institute workshop prompted one advisory committee member to take positive steps to improve her leadership as the chair of the Judicial Nominating Board. From experience, she knew that many on her board thought that judicial candidates had little need for continuing education. This mistaken perception stemmed from the notion that lawyers qualified to be judges were at the pinnacle of their legal careers. She observed that the board had little understanding of what happened once an individual became a judge, such as jurisdictional assignment, geographic

rotation, and the personal and professional isolation associated with the job. She suggested that the committee share some of the specific aspects of the mini-Leadership Institute with her board before their next round of interviews. A program was designed and presented to the board.

Shortly after the work of our special projects subcommittee was underway, two new judges were appointed. In Vermont, it is rare that two judges are appointed at one time, but the event allowed for a consolidation of orientation efforts. Our special projects subcommittee developed an orientation program for these judges and used it to serve as a model for future programs. The subcommittee also designed a mentoring process and called upon various judges to work with the new judges. The subcommittee has continued the efforts by recognizing the benefit to mentors as well as protégés of career-long mentoring relationships. Other work of the subcommittees included a needs assessment for substantive and procedural law topics and subjects relevant to human development.

The Vermont judiciary has also shared ideas and programs by extending invitations to other New England judges to attend the June college. Maine and New Hampshire have sent judges the last two years to our annual program; their presence and participation invigorated those programs. Speakers are invited to stay at the Judicial College beyond their own presentations. At the conclusion of this year's Judicial College, the college subcommittee decided to invite two professors from the Vermont Law School to participate in the 1995 Judicial College. Advisory committee members have a standing invitation to attend college activities.

Still other initiatives were undertaken. In planning for Vermont's tenth Judicial College, an educator was hired to evaluate the program. The goal of an independent evaluation was to learn ways our college could be improved. Michael Meltsner, the Matthews Distinguished Professor of Law at Northeastern University, agreed to do the evaluation. As a law professor and former law school dean, he is not only well grounded in traditional legal education, he has been a leader in experimental approaches in legal education. Professor Meltsner summed up his evaluation by saying, "I know of no other judiciary which has so successfully delivered such a range of materials or defined the effective judge in such a challenging manner."

### **Tri-State Efforts**

Vermont's judiciary is relatively small—still under fifty judicial officers, including the supreme court. A way to engage new ideas and consolidate resources is to expand regionally. This year, we began a

collaboration with Maine and New Hampshire to share in-state programs and to develop joint programs. Because Maine and New Hampshire also attended the Leadership Institute, we have a common theoretical framework for judicial education. Because our states are similar in size and composition and share a common need, we formed a six-member, Tri-State Judicial Education Committee (a judge and a judicial educator from each state). The first tri-state program, called the Tri-State Judicial Education Conference on Evidence, was held in October 1994 for more than 150 judges, including our supreme courts and three Russian judges (state of Karelia). The program was successful, and we expect to do future ones as an annual event, rotating the location among the three states.

## **The Future**

There is always more to do. Just as the Leadership Institute spurred us on to greater achievements, we look forward to other opportunities to develop a richer climate in judicial education. The network of those who have attended the Leadership Institute is growing. As judicial education grows stronger nationally, we expect to keep pace and perhaps in some ways be out in front.



## Chapter 8: A Judge's Perspective on Education for Development

by

Henry E. Williams

### My Introduction to the Concept of Development

When I assumed the role of municipal judge for the city of Albany, Georgia, in January, 1986, I did not have any appreciation for the awesome responsibility that it entailed. A municipal judge in Georgia is a part-time position except in the city of Atlanta. Therefore, I continued to operate a law office for the general practice of law. After getting weary of the rush of calling the cases, quickly accepting pleas, imposing fines, and sending people on their way so that I could return to my law practice as soon as possible, I sought out other judges who might provide information and suggestions for change. Our combined efforts led to the Georgia General Assembly creating the Municipal Court Judge Training Council in 1990.

The Municipal Court Judge Training Council is composed of five judges who are appointed by the governor for a two-year term. I was fortunate enough to be appointed as a member. Our mandate was to have a training program in operation by July, 1991. Richard Reaves, executive director of the Institute of Continuing Judicial Education in Georgia, helped supervise our work.

We applied and were accepted into the 1991 Leadership Institute, which was held at the Chetola Lodge and Conference Center in Blowing Rock, North Carolina. Upon arrival at the Leadership Institute, the Georgia team members expected a blueprint for a plan to train some 350 municipal judges in Georgia. Upon departing the Leadership Institute, we realized that what lay ahead was an even greater challenge: to expand our vision from that of *training* judges to one of helping judges *develop*.

Following a week's attendance at the Leadership Institute, I not only understood more about my role as a jurist, but my approach to teaching adult learners was enlarged as well. Each of us took the Kolb learning style inventory (1984) to identify our learning style: diverger, converger, accommodator, or assimilator. We were exposed to Kolb's model of experiential learning, which describes the learning of adults as a process of

concrete experience that is then reflected upon, from which larger abstractions or theoretical concepts are formed and then used to guide our work in active experimentation. This four-step process in turn leads the learner to another concrete experience, and so on. Knowledge is increased as the learner is exposed to each point of the Kolb learning circle. In following this approach, the teacher is reasonably assured that the information is processed and evaluated by the participants. Genuine learning is the result.

The Leadership Institute was supposed to teach me how to train other judges, I thought. Instead, it opened my eyes to the inner self and as we went through the sessions on ages, stages, and styles, it fostered the realization of my own need for growth and development. As I interacted with others on my team, as well as judges and other court personnel from around the country, I felt I was able to get beyond the resistance that can easily arrive in such a setting. I think I was able to follow Justice Christine Durham's admonition to listen to these ideas *with a non-rebutting mind*.

As mortal finite beings, we know that none of us is perfect. Each of us has areas of our lives that could stand some improvements. It became clear to me that I needed to first develop a habit of excellence in my role as judge in order to expect the same from those I was to teach. At the conclusion of the Leadership Institute, I realized that I was experiencing a significant change in my thinking. The shift was from focusing on "how should I do my work as a judge" to "how should I be thinking about my role as a judge."

My on-going struggle with that fundamental question could then inform my work toward the development of an improved continuing judicial education program in Georgia. This process is what Leadership Institute faculty member Bob Kegan (1991) referred to as "the growth and development of the mind."

Engaging in self-evaluation and criticism can hurt, of course. After all, these two processes may force us to realize that we may not be where we thought we were. While facing that critical reality may at first seem threatening, genuinely hearing the information can turn the moment into an opportunity to become a better person and indeed a more effective judge.

### **What Does All This Have To Do with Judging?**

The notion of education for development not only afforded me the opportunity for reflection upon my past work as a judge, but it additionally provided me the direction, the courage, and the foresight to select new approaches to judging. I have been particularly aided in this understanding by the work of the Leadership Institute on the need for judicial education to honor

not only what Belenky et al. (1986) have called separate knowing (a rational approach to the truth) but connected knowing (a more relational, intuitive approach) as well.

For a long time I had been concerned about the dropout rate within the Albany-Dougherty County, Georgia, school system, which tends to hover around 37 percent. As the issue of alternative sentencing was explored, it occurred to me that, as a judge, I was able to do something about the problem.

That led me to establish what I call the Municipal Court Student Achievement Program (MCSAP). The MCSAP concept involved teenage violators being given a deferred adjudication or sentence, in the nature of a pre-trial intervention program. One of the conditions of the program was daily school attendance, unless the students had parental approval for an absence. If the teenage student had dropped out of school, he or she was required to re-enroll or to enroll in some equivalent school or general education degree (GED) program that was approved by the court or the school system.

Each class during the school day had to be attended, and no cuts were allowed except with parental approval. Academic achievement had to be at par as indicated by several factors, including standardized test scores, previous years performances, current and previous teachers' assessments of the student's ability, and parental input. Participants were required to observe a curfew, which was flexible, depending on the student's age or grade level and whether the youngster was accompanied by an adult. Report cards and progress reports were monitored by requiring the student offenders to give them to the court during the Christmas, spring, and summer vacation periods.

The youths who met the conditions I had outlined either had their charges dismissed, suspended, or reduced, as appropriate under the facts, circumstances, and the law. Students were also given academic assignments, such as essay writing and research projects. Other measures involved the students participating in extracurricular educational programs that are provided by local nonprofit agencies and organizations. Jail time was imposed only as a last resort. Where the law permitted, house arrest measures were employed as an enforcement tool and offers of assistance to the parents were made as appropriate.

The results of this program have been remarkably successful. The dropout rate has decreased, and students have sent letters of belated gratitude after they have entered colleges, universities, technical schools, or the military.



In effect, the idea of education for development has helped me to frame the type of sentences that not only exact appropriate retribution but also promote the offender's rehabilitation.

## **Applications in Judicial Education**

I was particularly struck by the comment made by faculty member Justice Christine Durham during the Leadership Institute: "The courts cannot be responsive to the demands for change if the people who run them do not have the capacity for growth in their own skills and vision." This was underlined by Chuck Claxton's and Patricia Murrell's comment (1992;1) that "Development of the (courts) and (the) development of the people who staff the court system are . . . critically linked: *courts will change only as the people within them change.*"

After I returned home from the Leadership Institute, I continued to reflect on my experience there. I had some mixed emotions about the practicality of some of the concepts. But in time my worries subsided. I concluded that our task was not so much to focus on any particular approach; rather, the most important thing was our commitment to improving judicial education.

In my own teaching, I clearly pay more attention now to meeting the needs of the learners. In our continuing education program as a whole, we are clear that the programs should be designed to accomplish two objectives: (1) to ensure that genuine learning on the part of the participants occurs; and (2) that, afterwards, the judges' practices in the court system improve as well. One result of the Municipal Court Judge Training Council's change of focus from training to development has been that the interest level of the learners has been heightened and the practical benefits to them have become greater.

As one example of our team's work, the 1995 12-hour recertification course for municipal judges includes a *judging and humanities* set of readings from selected areas of literature, philosophy, and social theory. Our council sees this type of course as an important process for development, and we feel certain that improved practices in the judges' day to day work will be the result.

## **Chapter 9: Judicial Education and the Law Schools**

by

Donald J. Polden

One of the most significant developments in judicial education has been the recognition that judges, like other professionals, must continue developing the skills needed for their work through a lifetime of continuous education and professional development. This process has been recognized as being essential to enhancing the competence of judges and has been the subject of training and education programs for many years (Tevelin, 1990). Another more recent perspective on judicial education seeks to promote a grander vision of helping judges continue to enhance the abilities needed for working on the bench. Referred to as education for development (Claxton and Murrell, 1992), it describes the intertwining nature of both professional and personal development. It is a cornerstone for the structure of judicial education developed through the work of the Leadership Institute.

This concept of education for development is applicable to continuing education for other disciplines and learners as well (Claxton, 1992). Indeed, it describes an important view of the potential for a more encompassing vision of legal education in which law students learn essential lawyering skills and a process in which lawyers continue to develop their competence (Wangerin, 1988).

This essay argues that legal education and judicial education are closely related in several essential respects: they both represent the fundamental enterprise of professional learning; they both are built upon a common commitment to understanding and promoting a culture of professionalism; and they both foster a shared vision of roles that law schools can play in educating for the development of fundamental lawyering skills and values. This essay also argues that there exist opportunities for reciprocal advantage where law schools associate with judges and judicial educators in seeking common areas of educational purpose by incorporating judicial viewpoints into the basic law school curriculum.

In the following paragraphs, I describe the apparent congruities of these forms of professional education and describe how law schools can be more closely connected to the process of judicial education. I also attempt to sketch

the benefits which law schools can expect from their greater involvement with the judiciary and judicial education.

### **A Common Enterprise of Learning**

The process of educating law students, which is the principal focus of American legal education, involves three essential components. The first is the development of analytic skills which permit students to reduce legal doctrine (precedence) to principles which may be extended, through a process of inductive reasoning, to new applications. These skills require law students to distill the logic of judicial reasoning into rules of general applicability which can be used predictably to resolve other cases (Minow, 1990). Second, law schools train students for essential lawyering skills, such as advocacy, negotiation, and factual investigation (American Bar Association, 1992). These skills prepare students for the rigors and demands of the modern practice of law, which emphasizes the efficient and competent resolution of disputes and the ordering of clients' personal and business affairs. Third, law schools educate by describing and articulating standards of ethical values essential to the legal profession and the attorney-client relationship (Amsterdam, 1984).

Increasingly, law schools are using direct experience (such as clinical experiences, client interviewing opportunities, and mock trials) as an integral part of the learning activities provided in their curriculum. As such these learning activities strongly echo the action steps depicted by the Kolb learning circle, direct experience, and active experimentation (application) (Kolb, 1984 and Claxton and Murrell, 1992). Law schools also provide opportunities for students to reflect on these experiences and to connect what they have learned with the more conceptual notions provided through lectures.

The early development of these skills can support student learning in all areas of the law and reinforce the soundness of the student's decision to attend law school. At the same time, however, it must be said that much of a law student's education today places such a heavy emphasis on the acquisition of reasoning skills that the use of experiential learning models, with their orientation to helping students develop a fuller range of important lawyering skills, is still in its infancy.

Much of what goes on in judicial education is similar to what happens in the traditional law school curriculum. The primary emphasis is on helping judges develop the learning capabilities that are associated with abstract learning. Not enough attention is given to providing judges with opportunities to engage in reflections upon their experience and applications of sound principles to their day to day work (Claxton and Murrell, 1992). Therefore, the



need for a broader vision of learning exists in law schools and in judicial education. These shared needs present significant opportunities for collaboration between law schools and the providers of judicial education.

### **Associates in Judicial Education**

There are other reasons why a law school is a natural associate in the process of judicial education. First, the education of lawyers involves their understanding of, and the development of lawyering skills concerning, judicial decisions. Thus, it is appropriate to think of the craft of judicial lawmaking and the craft of preparing students to be lawyers as intricately interrelated.

Second, the process of educating law students by law schools involves a greater understanding of judicial decision making and the roles played by judges in furthering the criminal and civil justice systems and dispensing justice to litigants. The pedagogical connection between judicial decision making and legal education presents opportunities for involvement of judges in the process of educating students to assume and properly fulfill the roles of lawyers. Thus, judges can help develop good lawyering skills and values in law students and create a sense of joint enterprise in advancing the role of justice in law.

### **The Mission of Legal Education**

Law school educators, for the most part, are lawyers who have been required to develop skills as teachers. Because many legal educators were trial lawyers (or had commonly shared roles as advocates in practice), they bring to the craft of teaching the skills they developed in organizing and effectively presenting materials. Thus, a vision of the law school as an integral part of judicial education sees law school teachers as agents in the process of planning effective judicial education and implementing educational programs which are meaningful to judges. Further, law school faculty are engaged in the continuing process of curriculum assessment and refinement, and they can promote effective models of judicial education by assisting in setting curriculum.

Many law schools are actively involved in the continuing education of the legal profession and, generally, law schools promote law school pedagogy in training lawyers. Furthermore, many law schools and many legal educators are actively involved in training lawyers in in-house training programs, continuing education programs, and specialized seminars to promote substantive knowledge and lawyering skills. The mission of training lawyers after they

leave law school should be an important undertaking of law schools—resources permitting—and should encompass the training of judges as well. The sharing of learning among all participants—lawyers, judges, and educators—ensures the high quality that is needed in all professional programming (Tevelin, 1990).

### **Reciprocity: The Connection Between Teaching and Learning**

As previously described, the reciprocal nature of judicial education and basic legal education presents opportunities for judges to become involved in the process of educating law students. Indeed, several law schools have developed very successful jurist-in-residence programs, the purpose of which is to bring distinguished jurists to campus and have them teach law school classes, meet with students and faculty, and generally contribute to the intellectual and professional atmosphere at the law school.

Such programs make real to law students the process of decision making by judges and the influence that the judiciary has on the legal profession and society. For example, in a recent jurist-in-residence program, a distinguished judge, who was a civil rights lawyer in the 1960's, educated law students about the role that lawyers played in extending human and civil rights to African-Americans in the Deep South (Brenner, 1994).

Furthermore, judges should be involved in law school efforts to develop a sense of professionalism in its students. In 1980, the American Bar Association issued a call for greater efforts by lawyers, judges, and the law schools to instill and develop a heightened sense of professionalism in all lawyers (American Bar Association, 1986). Law schools can fulfill that challenge by bringing competent judges and lawyers into the school's training mission.

One of the sessions at the Leadership Institute drew on the work of Erik Erikson (1963), who discusses the concept of generativity. He means the capacity of people, particularly as they become more mature and more established in their work, to care for, sponsor, and mentor younger persons in the profession. In years past, law firms provided the kind of mentoring experiences that recent law school graduates needed. In today's legal work place, that process has, to a large extent, been neglected.

That is an example of the important role experienced judges could play by being involved in the education of law students. Often, the very best mentors for students are judges who have had outstanding careers as lawyers and who take the opportunity to reflect on the social and ethical implications of the practice of law. The involvement of judges in the process of legal

education can promote the acquisition of good judgment and intellectual growth of law students by demonstrating the pedagogical, or teaching, nature of judge-made law.

## **Conclusion**

This essay attempts to identify the fundamental issues of the relationships of judicial education and the law school. It contends that congruities exist between training of judges and the process of educating lawyers and that the law schools can bring together these developmental processes. Moreover, it points out that the process of educating judges and educating law students can be enhanced by broadening the concept of professional education to include a process of lifetime personal and professional learning.

This essay also argues that a closer connection between judges and law students presents real opportunities to improve the education of lawyers and judges and enhance the legal profession. Perhaps less obvious, the essay intends to encourage a thoughtfulness about joint enterprises between lawyers, judges, and law schools and to generate interest in discussing the possibilities promised by such an enterprise. There is a great deal to be learned about the ways judges, lawyers, and law students learn. The concept of education for development promoted by the Leadership Institute is clearly a promising approach to that task.



## **Chapter 10: Learning To Be Fair**

by

Martha P. Grace

"For here we are not afraid to follow truth wherever it may lead,  
not to tolerate error as long as reason is free to combat it."

Thomas Jefferson

My experience with the Leadership Institute convinced me that one of its primary values is in helping judges learn to be fair both on and off the bench. When I attended the program as a member of the Massachusetts team in 1990, I was not yet a judge. I was a clerk-magistrate of a small county court where, as magistrate, I had some quasi-judicial functions and also functioned as the administrator of the court. I understood the frustrations of my staff when a judge would impose an order that could not be carried out or when a judge would keep litigants and staff well after hours without seeming regard or apology for the inconvenience. I understood how difficult it was for probation officers to make a recommendation as to sentencing or disposition, only to have the judge disregard it or not listen at all.

Now, as a judge, I more fully understand my role and how it relates to others with whom I work. I understand that I might be impatient with those who do not understand what I am explaining right away. I understand that when I do not do what is recommended, the probation officer making the suggestion has put thought and effort into his/her recommendation and would appreciate some feedback on my decision insofar as it differs from his or hers.

When I set the bail on a defendant whom I believe to be dangerous or at risk for not returning, the court officers will, on occasion, grumble about the fact I have done so. I need to know (and hear) that their concern is not necessarily that I have set bail but that the holding facility in the courthouse is overcrowded at that point and that there are real or perceived security issues. I need to have them communicate to me that other considerations within their sphere of operation are the real concerns. I may not be able to change the situation, but I can be sensitive to the problem and let them know that.

While I do not for a moment mean to suggest that court officers are the determinative factor in whether I set bail, it is essential that a judge listen to and address their concerns in a manner suggestive of solutions. That approach should be the same for everyone with whom the judge interacts, whether it is courthouse staff or citizens.

One of the most significant factors in my experience at the Leadership Institute was the emphasis on judicial education as an integrated whole, that is, the necessity of building teamwork within the court system. I came to understand that the traditional image of the judge, as the person to whom everyone in and out of the courtroom must defer unquestioningly, is not the ideal way to build a cohesive staff who, in turn, are better able to serve the client population.

In a juvenile court, where parents are involved in every case, there are frequent concerns of which I am unaware until someone makes a point of bringing them to my attention. I am reminded of a woman whose child I had just ordered removed from the home and placed in the temporary custody of the Massachusetts child protective agency. Upon hearing the decision, the mother became upset. She freely admitted to me she could not handle the child at that time and did not object to his being removed from the home. What she was concerned about was who would give the child, a juvenile diabetic, his daily insulin shots.

In addition to the tasks that a mother would be required to do in order to achieve a reunification of the family (a goal sought in all cases unless otherwise indicated), the social workers, attorneys, and the judge would all have to be cognizant of the mother's specific concerns. She could then more effectively address her problems with a clear mind, knowing that her child's special needs were being met. Such a scenario demonstrates that the judge's role extends far beyond knowledge of the law and requires sensitivities to special situations.

I would like to think that I operate as a judge by following and urging others to follow the truth wherever it may lead. Further, I would like to think that my errors, or the errors of those who work with me, are tolerated as we apply our reason to the situation.

The first day of being a judge is at best, awesome, and at worst, terrifying. Most of the rest of the days fall somewhere in between, as we try to negotiate the journey between accelerating blood pressure and the aftermath of reflection.

How precious is the freedom of the individual! How weighty the decision to strip one of his/her liberty, a decision that must, as with others, be clearly and carefully thought through. To sit in judgment of others has been described by one woman judge as "exquisite torment that few will experience . . . ." Those words echo my sentiments and describe my feelings as I assess my role as a judge.

While at the Leadership Institute I learned that, according to the Kolb learning style inventory, my learning style is that of a converger. As a converger, I am described as a relatively unemotional person, good at problem solving, and oriented to action. But I have to say that I am in some sense uncomfortable when I read the definition of converger because it does not square with my image of myself.

Is the problem then with my image of myself or do I simply not fit the converger definition? The inventory might or might not be correct. What is important here is that the results stimulate me to think about myself as a learner. Since we are all able to find tiny warts on others and miss the large ones on ourselves, the inventory leads me to understand myself more fully as a learner and as a person. That seems to be its central value.

Most agree that teaching, and therefore learning, around the learning circle (Claxton and Murrell, 1992), utilizing the diverse skills and talents of all the personnel in any given organization, is the optimum goal towards which one should be striving. In practice, however, the extreme pressures of the courthouse work place, including substandard physical facilities and inadequate staff to handle constantly increasing demands, work against achieving that goal. Those factors, in addition to having to face the often angry and/or frightened public everyday, do not allow time to process and apply what one has learned to change behavior or work well with others in the courthouse.

It is one thing to learn in the context of a classroom devoted to judicial education how a judge should or could seek to interact with staff in the courtroom. Upon hearing it, it seems achievable. But in the frantic pace of most days, the lessons of the classroom recede quickly into memory. If one were dealing only with staff in trying to apply the lessons of judicial education programs, it would be hard enough. But members of the public are a whole other picture. Often they are confused or afraid and angry at the *system* for making them wait, for having to hire attorneys when their innocence is strongly maintained, for having to appear as witnesses on multiple occasions, missing work, only to be told that the case would not be reached that day.

I have spent the past three months training new judges who have just been appointed to the bench. It is not a formal judicial education process.



Rather, it consists of their sitting on the bench with me, observing what I do and say, while I explain what factors dictate how I rule or decide. It has been enlightening, at the very least, to instruct on an individual basis. Clearly the new judges learn in different ways, while it seemed to me that my manner of instruction remained the same.

But I began to realize that my manner of instruction was, in fact, not identical. An obvious factor that made a difference was the learner's own background and what experiences they brought to the position. Less obvious were the new judges' perceptions of themselves and their comfort level in learning from me personally.

These judges' ability to absorb information from me was directly related to what they expected to learn and whether they regarded me as the right teacher. Age and gender of both parties must be considered also as issues that are more subtle in the learning process, but always present, particularly in one-on-one-learning. The processing of the information, questioning methods, and clarification of fine points were also factors to be considered.

The juvenile court, where I sit exclusively, is an intensely interactive court. It is simplistic to say that the judge needs only to know the law. What I am confronted with many times a day are decisions about where a teenage child in crisis should go that night, or under what circumstances, if any, should a small child who has been abused be placed back in his home. I need to intuit whether a drug-addicted mother is successfully rehabilitated and "fit" enough within the meaning of the law to have her children returned to her.

It is precisely when I most need to apply logic and analytic, reasoned thinking to the case at hand that I feel the pull of caring and compassion, the empathy of parenthood, tugging at my shoulder. I would like to think that these latter qualities have a place in judging. The Jewish philosopher, Moses Maimonides, is reported to have said that no judge should be childless. I think he meant to warn of the danger of exclusively analytic thinking without the temperance of compassion. I have often said that my job as a judge has as much, if not more, to do with being a parent as with what I learned in law school.

It occurs to me that because judges do or should continually engage in reflection, the possibility exists that at any given time, such reflection may lead to a different decision than that which might have been contemplated at first. It is critical to the process that judges have the confidence and self-esteem to change or alter their decisions if they feel they may have been in error. Not to do so suggests an intellectual and professional dishonesty. What understanding

one's own way of processing information does is to allow for critical self-examination.

It would be dangerous to think that gender has no place here because it clearly does, often in ways that are indefinable. A woman sees things with a different eye, not better or worse, but different. Conversely, she is seen and assessed differently.

This perception does not change when the woman becomes a judge. Litigants and attorneys may listen differently to a judge who is female, and one may conclude that a woman judge may listen differently to women litigants and attorneys than to their male counterparts. It is not a better or worse situation, and hopefully it is not outcome-determinative. But not to acknowledge the existence of that difference would be wrong. It is confronting that particular bias or any other and acknowledging the effect of one's background on processing information when making decisions that is the critical element.

The Leadership Institute has included in its curriculum a focus on what Belenky et al. (1986) call separate knowing and connected knowing (Claxton and Murrell, 1992;29-35). I would suggest that when one examines these concepts, it is important to keep age in mind as well. Age is critical in making the link between objective/analytical reasoning and subjective/relational thinking. Such a linkage involves a "letting go and letting it happen" kind of processing, something that one learns not simply through legal experience but life experience as well.

It is not an accident that judges have traditionally been appointed (or elected) in the later years of their careers. That is a time when they are presumably open to a more balanced view of life than might have been possible earlier in their lives. As the tradition of the older judge gives way to younger appointments to the bench, it will be interesting to see to what extent judges who go on the bench when they are in their thirties or forties manage the necessary *in-between* state of accommodating heart and head at the same time.

Despite our diversity (whether it is learning style, developmental stage, age, or propensity for connected or separate knowing), most judges seek to be careful, thorough, and sensitive to the real-life situations of the litigants. Legal scholars who would argue that there is no place for the heart in legal problem solving or decision making are misguided. Indeed, it is the agonizing over cases that are intellectually difficult as well as personally painful that is the basis for growth as a judge.

## Monograph References

- American Bar Association. 1986. *Commission on professionalism "... In the spirit of public service": A blueprint for the rekindling of lawyer professionalism.* Chicago: American Bar Association.
- American Bar Association. 1992. *Legal education and professional development: An educational continuum. Report of the Task Force on the Profession: Narrowing the gap.* Chicago: American Bar Association.
- Amsterdam, A. 1984. Clinical legal education: 21st century perspective. *Journal of Legal Education* 34:612.
- Belenky, M., B. M. Clinchy, N. R. Goldberger, and J. M. Tarule. 1986. *Women's ways of knowing: The development of self, voice, and mind.* New York: Basic Books.
- Brenner, M. Judge Motley's verdict. *The New Yorker* (May 1994): 65.
- Claxton, C. S. 1992. How we should be thinking about the teaching of adults. *1992 PSAL Proceedings*: 37-43.
- Claxton, C. S., and P. H. Murrell. 1992. *Education for development: Principles and practices in judicial education: JERITT monograph three.* East Lansing, MI: Judicial Education Reference, Information and Technical Transfer Project.
- Conner, M. E., and K. Waldrop. 1994. *Program management: Managing deadlines, details, activities, and people: JERITT monograph five.* East Lansing, MI: Judicial Education Reference, Information and Technical Transfer Project.
- Erikson, E. 1963. *Childhood and society.* New York: Norton.
- Guilford, J. P. 1971. *The analysis of intelligence.* New York: McGraw-Hill.
- Hudzik, J. K. 1991. *Judicial education needs assessment and program evaluation: JERITT monograph one.* East Lansing, MI: Judicial Education Reference, Information and Technical Transfer Project.
- Kegan, R. 1982. *The evolving self: Problem and process in human development.* Cambridge: Harvard University Press.



- Kegan, R. 1991. Keynote presentation. The Leadership Institute in Judicial Education. Blowing Rock: NC.
- Kegan, R. 1995. *In over our heads: The mental demands of modern life*. Cambridge: Harvard University Press.
- Kolb, D. 1984. *Experiential learning: Experience as the source of learning and development*. New York: Prentice-Hall.
- Kolb, D. 1993. *Learning style inventory*. Boston: McBer & Co.
- Minow, M. 1990. *Making all the difference: Inclusion, exclusion, and American law*. Ithaca, NY: Cornell University.
- Perry, W. G., Jr. 1970. *Forms of intellectual and ethical development in the college years: A scheme*. New York: Holt, Rinehart, and Winston.
- Piaget, J. 1948. *The moral judgment of the child*. Glencoe: Free Press.
- Tevelin, D. The practice and profession of judicial education. *SJI News* 2, (Fall 1990): 5-7.
- Wangerin, P. T. 1985. Objective, multiplistic, and relative truth in developmental psychology and legal education. *Tulane Law Review*, 62, 1237-1301.