
How Our Judicial Schools Compare to the Rest of the World

By Paul M. Li

The quality of justice in any nation ultimately depends on the quality of its judges. Legal rules and court systems do not operate automatically, nor do cases decide themselves. Even with the best laws and the most modern court system, justice can never be better than the people who administer it.

To ensure capable and effective judicial performance, many nations have established judges' schools. The United States alone has at least 65 state and national organizations actively engaged in educating the nation's 28,000 judges. Almost none of them existed 25 years ago; most were created within the last 10 to 15 years.

CIVIL LAW JUDGES SCHOOLS

Outside the United States, there are two widespread legal systems, one based on civil law and the other based on common law. Each has used a different approach to judicial education. The civil law countries of Europe, which follow the system of laws originating in ancient Roman law rather than the common law originating in England, confine their training almost exclusively to new judges before they serve on the bench. Such training is usually combined with the training of new prosecutors and, at times, of new attorneys. Little attention is given to continuing professional education.

For basic, new judges' education, the civil law countries rely on the traditional law school educational model, particularly as practiced in undergraduate law schools and colleges outside the United States. The judges' schools in this group include France's *Ecole Nationale de la Magistrature* (organized in 1971) and Spain's *Centro de Estudios Judiciales* (organized in 1955 under the Ministry of Justice; independent bylaws adopted 1986).

The law school educational model employed by the civil law countries typically involves a mandatory six- to 27-month preservice educational program to prepare young college graduates to assume entry-level, judicial civil service positions. These professionally trained judges normally hold an undergraduate law or other college degree and are 23-25 years old when they assume the bench. Indeed, some schools will not admit student judges

over the age of 27. The curriculum and teaching methods used are very much like those of law schools outside the United States, with academic lectures by law professors, sometimes accompanied by practical apprenticeships. Like most colleges, these judges' schools have a full-time professional faculty, including experienced judges detached from their courts for this purpose; a permanent academic building with classrooms, library, residence rooms, food service, and recreational facilities; and a general legal curriculum equally applicable to judges, criminal prosecutors, and other government and private attorneys. Graduates may choose between becoming judges and prosecutors and may change their decision in the first few years of their careers.

A common criticism of this system is that these professionally trained judges are too young and have too little of life's experiences to be wise judges upon graduation.

Judges' schools in civil law countries offer little or no in-service training—a relatively new development around the world—and experienced judges have often questioned its usefulness, at least if it consists of the interdisciplinary, academic lectures offered by civil law judges' schools. France's international judges' school in Paris, which puts an increasing emphasis on modern teaching and learning methods, is an exception to such an approach, as compared with the more traditional new judges' school in Bordeaux.

A related field, continuing education for attorneys, predated continuing education for judges by some two decades in the United States, but continues to be almost unknown outside the United States, Australia, Canada, and the United Kingdom.

COMMON LAW JUDGES SCHOOLS

Like the United States, the common law countries of Australia, Canada and England are primarily engaged in the in-service, continuing professional education of sitting judges. Very little attention has been given to the preservice training of new judges. For continuing education, these countries have adopted the peer group educational model, particularly as applied in the United States. The judges' schools in this group include England's Judicial Studies Board (1979), Australia's Judicial Commission of



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New South Wales (1986), the Australian Institute of Judicial Administration's educational programs (1987), Canada's National Judicial Institute (1981), and its Western Judicial Education Centre (1985).

The peer group educational model in the common law countries is primarily employed for the continuing professional education of judges. It incorporates much of what has been learned in recent years about adult education (andragogy, or the art of teaching adults), as compared with traditional undergraduate academic education (pedagogy, or the art of teaching children). The peer group educational model involves active judges sharing their judicial knowledge, skills and values, thus providing both new and experienced judges with the latest information about everyday problems they confront and emphasizing a practical, "how to" approach in dealing with these matters.

As is true for continuing professional education generally, the common law judges' schools have no full-time professional faculty (only a small administrative staff, with judges serving on an *ad hoc* basis as the faculty); no campus facility (the educational programs are usually held in convention-type hotels or, when available, school classrooms in the evenings and weekends); and no standardized curriculum (the courses address whatever problems may be confronting judges handling particular kinds of cases).

Unlike civil law countries, there is no preservice training—i.e., the training of individuals before their appointment as judges—for new judges in Australia, Canada, England, or the United States. Newly appointed or elected judges receive an orientation lasting from a week to a month. However, in contrast to the undergraduate background and young age of new judges in civil law countries, new judges in the United States normally hold a college degree plus an advanced law degree and, more importantly, have 10-15 years of experience as lawyers when they assume, generally at age 40-50, a second career as judge.

France, because of a shortage of professionally trained judges, has increasingly turned to the common law practice of appointing experienced lawyers to the bench. These new judges have been required to take a qualifying exam for lower or upper judgeships and only a three-month new judges' orientation program plus a three-month judicial apprenticeship, instead of the normal 27-month training program.

The peer group educational model has proven very successful in judicial education. Judges usually work in varying degrees of isolation and often feel the need to compare their working methods and judicial philosophies with their peers. They also profit greatly from sharing successful solutions to common problems, lessening the need to learn by trial and error. In short, the peer group educational

model emphasizes "law in action," and the law school educational model, "law in books."

PEDAGOGY VERSUS ANDRAGOGY

To understand the differences between the two educational models, one might visualize a spectrum with a class of kindergarten students at one end and a gathering of the world's top astrophysicists at the other. Between the two extremes lies an educational progression of grade school, high school, college, graduate school, postgraduate research, and professional experience. No one would question the pedagogical necessity for the kindergarten teacher to determine the learning needs of the beginning students, to personally provide that instruction with the help of textbooks and other teaching aids, to guide and monitor the students' learning, and to test the students' grasp of the subject. In discharging these functions, the teacher is guided by a standardized curriculum for each class level and by state and national educational needs assessments and achievement standards. Ultimately, the students' academic learning is measured by standardized tests and one or more accreditation process.

However, as one progresses toward the other end of the spectrum, students become increasingly self-directed and perform more of these educational functions for themselves. In a symposium of the world's top astrophysicists, one would expect them to define their own interests and needs; to meet these needs using mainly small-group, participatory methods without relying on a formal teacher or textbook; and then to be able to evaluate their learning experiences without being tested. In essence, the peer group educational model reflects the continuing education, learner-centered principles applicable to adult professionals. (See Knowles, *The Modern Practice of Adult Education* (Associated Press 1970).) The law school educational model, on the other hand, follows the traditional principles and teacher-centered methods of undergraduate school.

The two models are not in conflict. They differ mainly in the scope of their educational content, which is due to their differing learning objectives. Generally, undergraduate education and the law school model are concerned primarily with transmitting knowledge, whereas continuing education and the peer group model are concerned with both knowledge and how working professionals use that knowledge in the real world. The objective of undergraduate studies is to learn a subject, and its success is usually measured by some sort of formal exam. The objective of continuing professional education is not only knowledge, but also the acquisition of the practical skills, techniques, and values to apply that knowledge. For example, the teaching of contracts under the law school model typically consists of an exposition of the applicable law (law in books). But under the peer group model, the practical

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negotiating and drafting of contracts would be taught as well, for attorneys; and the adjudicating of contracts and drafting of judgments, for judges (law in action). Even an esoteric topic like jurisprudence can be taught from either model: emphasizing the various schools of legal philosophy (law school model) or emphasizing how to decide cases and prepare judgments under the differing philosophies (peer group model).

While law professors are expert in the law, many of them do not know how attorneys and judges apply the law in everyday work. For this reason, they are less preferred as teachers for continuing education; the best-rated teachers for this are always the professionals who know both the law and the skills, techniques, and values needed to implement that law. As modern educational experts have discovered, the learning objective of adults is to be able to do something, and not just to know. Indeed, these experts tell us that if something will not be useful tomorrow, adults won't learn it today. As Dr. Malcolm S. Knowles has pointed out, "Adults are almost always voluntary learners, and they simply disappear from learning experiences that don't satisfy them." The purpose of continuing education is to enhance the everyday competence and performance of professionals in society.

Continuing professional education does not require the same needs assessments and standard curricula as undergraduate education. Instead, it groups professionals according to the kind of work they perform. Trial court judges, for example, are grouped according to their court duty assignments, such as civil trials, criminal proceedings, family court matters, juvenile proceedings, and probate and mental health matters. Each group's educational committee identifies its particular educational interests and learning needs, then designs a program to meet them. An efficient educational planning committee, meeting for about four hours, can design an excellent program without resorting to any formal needs assessment. The group members serve as faculty, seminar discussion leaders, and "student" participants. The faculty gets training by experts in adult education techniques. Finally, each group evaluates its own program, primarily through professional user satisfaction (expert) measurements rather than formal tests.

MODERN LEARNING METHODS AND FACULTY TRAINING

In recent years, judicial education organizations in the United States have swung away from the traditional law school lectures and Socratic discussions, and toward participatory learning methods. The ancient Chinese philosopher Confucius is reputed to have said:

I hear and I forget,
I see and I remember,
I do and I understand.

Modern educational research bears out the wisdom of that saying. For example, a frequently cited Socony-Mobil study indicates that adults learn 83 percent by sight, 11 percent by hearing, 3.5 percent by smell, 1.5 percent by touch, and 1 percent by taste. It also estimates that adults remember and retain 50 percent of what they see and hear, 30 percent of what they merely see, 20 percent of what they merely hear, and 10 percent of what they read. Thus, the average listener can be expected to learn 11 percent of what a lecturer has to say and to retain 20 percent of that, for a net 2.2 percent gain in knowledge. A highly discouraging result for the lecturer, listener, and judges' school!

Tests have shown that audio-visual aids greatly enhance learning. In the United States, overhead projectors are widely used for judicial education. These project the speaker's topical outline and key points onto a screen and allow the speaker, using a pointer, to focus the audience's attention on each point as it is covered; it also lets the audience visualize how the points and topics relate to one another and review them as often as needed. The results are an increase, to 94 percent, in audience comprehension (83 percent by sight and 11 percent by hearing), and to 50 percent in retention, for a net 47 percent gain in knowledge. Of course, considerable variation in results can be expected depending on the speaker, audience, subject, and visual aids. Nevertheless, a dramatic increase in learning and considerably better use of limited resources can be expected from incorporating overhead projectors and other visual aids in judicial education.

A dramatic increase in what the students comprehend and retain also results from employing a participatory problem-solving approach. The material is presented in the form of case problems just as judges would encounter them in the courtroom. Each student receives a checklist with suggested oral scripts and written forms to employ when handling court proceedings. The class discusses the common difficulties that judges will likely encounter and the successful techniques to resolve them.

The participatory learning approach recognizes that a judges' objective is to be able to handle a particular court proceeding fairly, correctly, and efficiently; it is designed to facilitate judges' sharing with each other the pertinent knowledge and working tools needed to attain that objective. The role of faculty is to coordinate and facilitate that shared learning.

It takes special skills to do this. The judges who serve as faculty therefore receive special training in modern participatory learning methods, which emphasize what Confucius characterized as *doing* to gain understanding.

In continuing legal education for lawyers, the most successful learn-by-doing method is commonly referred to as

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the "NITA Method" after its principal developer, the National Institute for Trial Advocacy. In judicial education, this method involves the student-judge being videotaped while performing courtroom exercises such as conducting pretrial conferences, case introductions, and *voir dire* of jurors, and controlling problem jurors, litigants, and attorneys. After each exercise, experienced faculty judges and nonjudge communication specialists review the videotapes with the student, critique the performance and give advice for improvement. The NITA method is potentially the most effective, efficient, and exciting technique for educating judges.

In addition to live programs, modern judicial education methods include how-to-do-it benchbooks that provide judges with immediate answers to a broad range of common problems; audiotapes that allow judges to study at their own pace and at convenient times; and videotapes that can be used in moot court and courtroom demonstration situations for judicial self-critique or practice. These educational delivery systems emphasize independent and distance learning concepts that have proved most effective in continuing education for other professionals.

JUDICIAL EDUCATION CURRICULA

Modern curricula for continuing professional education of judges typically include three kinds of subjects: gener-

al subjects that all judges need to master; subjects relating to specific duty assignments; and new developments dealing with emerging areas of law and societal concern.

General subjects include judicial conduct and ethics; courtroom decorum and fairness; contempt; courtroom control and communication; court management; fact-finding and decision-making; and judicial stress.

Subjects for judges handling particular assignments include case settlement skills and techniques (U.S. courts have enough judges to dispose of generally fewer than 10 percent of all cases by formal trials, so courts must rely on other means, particularly civil case settlement agreements and criminal plea bargains, for processing the rest); civil pretrial, trial and posttrial proceedings; consumer law and protection; criminal proceedings; evidence; search and seizure; family proceedings; juvenile proceedings; landlord and tenant proceedings; probate and mental health proceedings; and trial skills and techniques.

New subjects of increasing concern to courts include cases involving AIDS, asbestos, child abuse, complex commercial litigation, computer literacy, domestic violence, environmental protection, gender bias, homosexual rights, intellectual property, jurisprudence, media relations, minority and handicapped rights, prisoner rights, rights of the aged, and sexual harassment. The best faculty for these subjects include a mix of judges who have handled such cases and nonjudge scientists and other professional specialists. The judge-faculty members identify for other judges what aspects of these subjects are of judicial con-

cern, and deflect the efforts of experts representing special interest groups to lobby judges to support their causes.

Courses and publications for appellate judges cover such subjects as handling oral argument hearings; appellate research and the best sources in each legal area; decision and judgment writing; writs; *stare decisis*; selection and use of law clerks and other staff; and collegiality with fellow judges.

The subjects tend to be the same for both new and experienced judges, but the depth and focus of courses and publications vary depending on whether they are for: (1) orienting new judges (basic); (2) updating all judges on new legal developments (intermediate); or (3) preparing experienced judges for new court duty assignments (advanced).

Basic courses instruct new judges on the substantive law and procedures governing a particular courtroom proceeding; highlight common problems likely to be encountered in handling that proceeding; and tutor them on the successful and unsuccessful methods used by experienced judges. Basic courses provide new judges with fundamental competence to discharge their duty assignments fairly, correctly, and efficiently.

Intermediate courses help judges maintain their competence by keeping them up-to-date on recent law changes; encourage judges to work together to explore new methods of handling court matters; and promote uniformity among judges in judicial practices and procedures.

Advanced courses broaden the competence and stimulate the growth of experienced judges. They prepare judges to undertake new assignments or brush up their skills when returning to former assignments; resolve unusual problems; and explore alternative approaches that have worked for other experienced judges. They also inform judges about scientific research in new areas of law and social concern that affect how they exercise their judicial discretion. Interdisciplinary seminars promote better understanding, communication, and cooperation with attorneys, prosecutors, probation officers, and correctional officials. Such courses also provide judges with in-depth reviews of relatively narrow areas of substantive and procedural law. They enable mid-career judges to re-examine their judicial philosophies, attitudes, and work habits; to renew their judicial perspectives; and to revitalize their dedication to public service.

Together, the basic, intermediate, and advanced courses comprise a curriculum of career-long education, growth and development.

JUDGES' SCHOOLS IN ASIA, AFRICA AND LATIN AMERICA

The common law system is also found in former British colonies in Asia and Africa, including Bangladesh, India, Kenya, Malaysia, Nigeria, Pakistan, South Africa, Sri Lanka, and Tanzania.

Common law judges' schools have been established in Bangladesh (1985), Malaysia (1986), Pakistan (1987), Philippines (1985), Singapore (1986), and Sri Lanka (1985), primarily due to efforts of The Asia Foundation in the United States, with financial support from the United States Agency for International Development (US AID).

These schools have generally adopted the peer group educational model.

In Africa, apparently only Egypt and Nigeria have judges' schools. US AID and the United States Information Service (USIS) are just beginning to help strengthen the African countries' democratic institutions. Their civil law judges, however, have at times received training from the judges' schools of France and Germany. Recently, more African countries have expressed interest in creating their own judicial schools, including Botswana, Kenya, Malawi, Mozambique, Senegal, Swaziland, and Uganda.

Parenthetically, non-English-speaking countries have found it impractical to adopt the common law system because their judges and lawyers cannot read the English case law. English must be at least a second or third language within a country (generally, a former British colony) if it is to adopt the common law system. Thus, nearly all non-English-speaking countries have adopted the civil law system, which requires generally the translation of only the single-volume Napoleonic Code into their native languages, and not the innumerable volumes of English case law.

As former colonies of Spain and Portugal, rather than of Great Britain, most Latin American countries also have the civil law system. Nearly all the judges' schools in Argentina, Brazil, Chile, Colombia, Costa Rica, Guatemala, Paraguay, and Uruguay were created in the past five years, with substantial financial support from US AID. Most of those schools are still debating whether to follow the law school model of the European civil law countries or the peer group model of U.S. schools. Considerable information on these and other judges' schools was presented at the October 1991 International Symposium on Judicial Schools conducted by FORES (Foro de Estudios sobre la Administracion de Justicia).

JUDICIAL INDEPENDENCE AND THE PEER GROUP MODEL

Today, the special features of the peer group educational model are: (1) the inclusion in judicial education of both legal knowledge and the practical skills, techniques, and values of judges; (2) the alignment of judicial curriculum around court duty assignments and generally recognized judicial specialties, rather than traditional needs assessments; (3) the structuring of basic, intermediate, and advanced courses into a career-long professional curriculum; (4) the use primarily of active judges as faculty, with assistance as needed from law professors, lawyers and other nonjudges; (5) the training of faculty in the use of modern participatory learning methods; and (6) the reliance on judges' committees to plan, present, and evaluate education programs.

Adopting the peer group model is often a political decision, not related to its special features. The choice between that model and the law school model sometimes depends on whether a judges' school is under the executive branch of government (ministry of justice) or an independent judicial branch (chief justice, supreme court, or judicial service commission). In civil law countries, the judges' schools fall under the ministries of justice. They generally

follow the law school model because the schools combine new judges' education with that for public prosecutors and, at times, attorneys. The scope of their courses tends to be limited to general principles of law common to all three professions.

In nearly every common law country the judges' schools are under the judicial branch, follow the peer group model in using primarily active judges as faculty, and are separate from schools for public prosecutors or attorneys. In the United States, nearly all state judicial education organizations are under the chief justices. All use primarily active judges as faculty, with the more experienced states also training them to use modern participatory learning methods. None combine judges' education with that for prosecutors or attorneys.

Most of the larger organizations in California, Michigan, Texas, Mississippi, and Georgia operate somewhat independently from the Administrative Office of the Courts (AOC) in those states. In the remaining states, judicial education is provided by an AOC educational department.

Separation of judges' schools from the AOCs, and of education for judges from that for nonjudge court personnel, often strengthens the judiciary's commitment to judicial education. It creates a professional staff dedicated solely to judicial education and avoids diversion of limited energy and resources. More importantly, separation insulates judicial education from politics.

The national judges' schools in the United States are generally independent public entities affiliated with a national judicial organization. Today they provide perhaps less than 20 percent of the educational programs for the nation's 28,000 judges, and the state judges' schools provide the rest. The national schools all use the peer group model as regards judge faculty; they are also giving increasing emphasis to the modern participatory learning methods. Because their student judges come from many different states, the skills and techniques they teach are necessarily generalized and not based on the specific laws of a particular state. Although judges are interested most in their own state's laws, practices, and procedures, they also benefit from comparing their judicial work with other judges from around the country.

In Australia, Canada, and England, the judges' schools are national public entities, with independent boards of directors chaired usually by the chief justice or a designee. They too use the peer group model and have separated judges' education from that for prosecutors, attorneys, and court support personnel.

A dichotomy exists in many Asian and African common law countries and also in some civil law countries. The lower courts with their special jurisdiction judges are under the ministries of justice, while the higher courts and their general jurisdiction judges and appellate judges are under the chief justice, supreme court, or judicial service commission. Many proposed judges' schools in these countries have been stymied by lack of agreement on whether they should be under the chief justice or ministry of justice, or be an independent public entity. The general preference of judges is to be under the chief justice and to use the peer group model.

CONTINUING JUDICIAL EDUCATION IN ASIAN CIVIL LAW COUNTRIES

As the civil law countries have discovered, the law school model does not work well for in-service, continuing judicial education. After graduation from judges' schools, experienced judges everywhere have resisted attending further lectures by academic professors; instead, they want the practical "law in action" knowhow that only their fellow judges possess. For this reason, such Asian civil law countries as Korea, Taiwan, and Thailand are now establishing continuing education programs embodying the peer group model to complement their long-established law school model training for new judges. They also have expressed considerable interest in videotape and audiotape programs and in judges' benchbooks for modern off-site education. In short, continuing judicial education has become an increasingly important objective of the civil law judges' schools, which, like the common law judges' schools, are finding the peer group model better suited to that purpose.

NEW JUDGES EDUCATION IN ASIAN COMMON LAW COUNTRIES

The common law countries in Asia are confronted with a dual educational problem. Because of the Asia Foundation's efforts, they have become deeply interested in judicial education in the United States and particularly in the peer group educational model. However, their method for selecting new judges is generally the same as in the civil law countries, and their new judges generally need preservice training.

Some Asian common law judges' schools, in such countries as Bangladesh, Pakistan, and Sri Lanka, are adapting the peer group model for that purpose, for a six-month to two-year preservice program to prepare college law graduates to assume entry-level, judicial civil service positions. As in civil law countries, they will be in their mid-20s when they assume the bench. Because of the length of the educational programs, these judges' schools will require a permanent academic building with classrooms and other facilities, but in other respects will conform with the peer group model.

For example, the Bangladesh Judicial Service Academy has designed a two-year curriculum for new judges that alternates monthly between formal classroom instruction regarding a particular type of case (e.g., landlord-tenant, divorce, tort, or partition of land) and the actual handling of such cases in the courtroom under the supervision of experienced judges. There the prospective new judges are required to prepare case records during the actual trials, including the recording of evidence, the hearing of attorney arguments, the researching of law, and the writing of judgments. They also learn how to maintain court diaries, cause lists, and related matters regarding processing cases before and after trial. Their performances are then evaluated by the experienced judges. Finally, the case records and evaluations are examined by the Judicial Service Commission before it appoints the graduates as judges.

The Sri Lanka Judges Institute has opted for a six-month program to educate prospective new judges, with continuing education seminars to enhance their knowl-

edge and skills. The subjects include: (1) judicial ethics and conduct, including relationships with the bar, police, and public (13 hours); (2) legal English and the basics of reading and writing English law (two hours per week plus evening tutorials); (3) evidence and its admissibility (52 hours followed by courtroom visits and seminars); (4) criminal law and procedure, including codes and ordinances pertaining to police, prisons, juveniles, and youthful offender facilities (78 hours plus visits to courts, prisons, and juvenile facilities); (5) investigation of criminal offenses, including search and seizure (39 hours); (6) bail and remand (39 hours); (7) criminal trial and inquiries, including the forms and principles of sentencing (39 hours); (8) assessment and evaluation of evidence and writing of judgments, including burden of proof, elements of offenses, and findings of fact (52 hours); (9) court administration, including office, records, courtroom, and caseload management (39 hours); and (10) visits to courts each week to observe cases involving the subjects under study and to appellate courts to hear appeals from trial courts, and meetings with judges, lawyers, and academics. At the conclusion of this program, a confidential assessment of the performance of each participant will be submitted to the Judicial Service Commission.

Upon promotion from entry-level magistrate courts to district courts and high courts, Sri Lankan judges will participate in additional one-month orientation programs in cases and procedures peculiar to those courts.

In both Bangladesh and Sri Lanka, the new judges' training will be followed by continuing education activities such as: (1) an annual conference for the entire judiciary and for each type of court (three days); (2) advanced judicial studies programs to prepare judges for new duty assignments and provide them with periodic comprehensive reviews of various substantive and procedural laws (one week each); and (3) judicial benchbooks, benchguides (checklists), audiotapes, and videotapes.

MANDATORY CONTINUING JUDICIAL EDUCATION AND RECOMMENDED STANDARDS

In the United States, 35 states have mandatory judicial education requirements for judges. In 28 states, the mandatory requirements cover all judges, with 20 of them requiring a minimum of 10-20 hours of continuing education annually and the other eight states requiring attendance at one annual conference.

In 18 states, the mandatory requirements are for various classes of judges (eight states, new judges; six states, limited jurisdiction judges; three states, magistrates; two states, non-lawyer judges; and two states, general jurisdiction judges). Mandatory education rules for judges in these states generally follow comparable rules for lawyers.

About 75 percent of judges can be expected to participate voluntarily in peer group-based education, but mandatory requirements are necessary to compel the rest to take part. Unfortunately, mandatory requirements are often regarded as maximums rather than minimums in continuing education. Thus, some local court rules allow judges to take official time off to participate in only the mandatory number of educational hours.

To avoid suggesting that judicial education should be limited to a few hours, some states have adopted policy guidelines, and avoided calling them rules for mandatory judicial education. For example, California has adopted a Judicial Council Recommended Standard of Judicial Education, Section 25, providing that:

- All judges should consider participation in judicial education activities to be an official duty.
- New judges should receive a minimum of 15 court days of orientation during their first year.
- All judges should be given at least eight court days each year for continuing education.
- Additional leave for faculty service should be given when a judge's services are requested for educational purposes.
- Judges' travel and subsistence expenses should be reimbursed by their courts.
- Attendance at judicial education programs is not deemed vacation time if court-approved.

Except in the United States, there are no mandatory continuing judicial education requirements in common law countries. In civil law countries, graduation from judges' schools are required for appointment to the bench, although there may be alternative paths open to experienced lawyers and government officials. After appointment, participation in continuing education is voluntary.

In 1991, the National Association of State Judicial Educators (NASJE) formulated Principles and Standards of Continuing Judicial Education for the United States, dealing with organizational structure, administration, and program development, and serving as a guide for organizations developing mission plans, goal statements, and quality educational programs and publications.

CREATING THE FUTURE

A standard judicial education model could be developed incorporating the experience of judges' schools around the world, giving countries a common standard against which to measure their own schools.

Such a model should separate the judges' school from schools for public prosecutors, attorneys, and court support personnel and be based on the peer group educational model. It should also provide for (1) new judges' orientation, (2) continuing education updates, (3) advanced education for experienced judges, and (4) benchbooks, benchguides, videotapes, and audiotapes for self-study and in-court use.

Other issues include: Should successful completion of a new judges' school curriculum be required for appointment to the bench? Should policy guidelines for annual continuing education be promulgated for all judges? Should a minimum amount of continuing education be required of every judge annually unless excused by the chief justice for good cause? Should there be no testing of judges after graduation from new judges' school? Should judicial education be the responsibility of the judiciary, under the leadership of the chief judge of the highest court? And finally, should the staff for judicial education be responsible to the judiciary and devoted solely to this purpose?

Upon appointment or election, every judge should

receive benchguides (procedural checklists, with spoken scripts and written forms) for handling all common court proceedings. Initially, these benchguides would be in printed form, but because judges are equipped with personal computers, the benchguides would be placed on a CD-ROM disc. On being assigned a court matter, the judge could immediately access the benchguide with confidence that: (1) all substantive and procedural requirements for handling that matter would be identified on a checklist; (2) the judge's spoken words would be suggested at each step in the proceeding, together with oral forms for pronouncing the judge's judgment or order; and (3) all written forms to record or effect the judge's decision would be there for convenient consideration.

Each step in the checklist should contain a reference to the relevant statutory authority or appellate court decision. If the checklist is in CD-ROM form, the judge would simply touch the reference and the computer screen would display that statute or case, in full text, with the relevant words highlighted for quick identification. In both printed and CD-ROM form, annotations at each step would discuss common court problems and how best to resolve them. The CD-ROM benchguides would also provide immediate access to the more extensive benchbook and textbook treatment of these problems. In addition, for particularly sensitive kinds of court proceedings such as contempt-of-court hearings, the CD-ROM benchguides, using modern multimedia technology, could combine the text with videotapes showing at least one highly experienced judge's handling those proceedings. Those judges would advise the viewer how best to prepare for each hearing and what questions to ask and to avoid. These benchguides would be regularly updated. Since all court computers would be linked with the judges' school's computer, the updates would be input at the school and all the CD-ROM benchguides in the judges' hands would automatically be brought up to date.

For continuing education purposes, the linkage with the judges' school's computer should provide both live coverage and videotapes of presentations made at judges' conferences. The judges should also be able to obtain research help on legal questions from a central legal staff at the judges' school.

Regarding curriculum development and program design, judges' schools should consider adopting a university structure, i.e., separate departments specializing in the various court duty assignments. Each department would be responsible for meeting the educational needs of judges handling a particular assignment, such as civil cases (pretrial, trial, post-trial), criminal cases, family matters, juvenile matters, and probate and mental health matters. Each department should be supervised by a committee of highly experienced judges who are actually handling the particular cases or matters involved. The committees should design the basic programs for new judges; intermediate programs to maintain judges' competence; advanced programs to enhance judges' expertise; and "how to" benchbooks, benchguides, and tapes needed for those particular assignments. Each faculty member should be required to complete a faculty development course on using participatory learning methods, and these methods

should be featured in all presentations.

Each department should have its own staff and draw on the general assistance of central staffs for faculty development, the production of publications, videotaping, and conference arrangements. The various committees should be appointed by and responsible to a governing board overseeing the entire school, which would also coordinate the work of the various departments.

This university structure would serve to promote the development of career-long educational curricula for all significant court duty assignments, and the broadening of judicial education to include ancillary courses in related scientific and behavioral fields

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Every country today recognizes its responsibility to provide a fair, timely, and economical justice system for its citizens. An essential part of that system is a well-informed and expert judiciary, equipped with the best working tools and techniques of their craft. That judiciary is the product not only of a proper selection, compensation, and discipline system, but also of a comprehensive and continuous program of education. This recognition has led to the creation of judges' schools in the modern world.

Many significant advances in judicial education have been made in the last 20 years. These include:

- Rapid expansion of judicial education to all 50 states and some 30 countries.
- Transformation of the traditional law school educational model into the peer group educational model of continuing education, with its emphasis not only on legal knowledge but also the practical skills, techniques, and values of judges.
- Broadening and aligning of piecemeal educational courses into a career-long curriculum that includes orientation for new judges (basic), continuing education updates for all judges (intermediate), and continuing judicial studies for experienced judges (advanced).
- Widespread reliance on active judges as primary faculty, with assistance from nonjudge specialists as needed.
- The institution of faculty training for judges, with its emphasis on modern participatory learning methods rather than the traditional lecture.
- Increased reliance on representative committees of judges to plan, present, and evaluate judicial education programs.
- Development of "how to" benchbooks, benchguides, videotapes, and audiotapes for judges' self-study and in-court use.
- Adoption of mandatory education rules and guidelines to ensure continuing judicial competence.

The next step may be to develop a standard judicial education model incorporating the best features of today's judges' schools. This model could well conform with the university structure of having separate departments specializing in different court duty assignments, with central staffs for faculty development, publications, videotape production, etc. A basic service of each department would

be to publish a CD-ROM benchguide for its particular court duty assignment and to provide legal research assistance to judges handling that assignment.

Judicial education has become an indispensable means for enhancing the fair and efficient administration of justice in the modern world. The success or failure of courts to protect the public welfare and individual freedoms may well require creating high-quality judges' schools in every state and nation.

1. For an excellent overview of these judicial education organizations, see The JERITT Project's *Issues and Trends in Judicial Education*, Michigan State University, 560 Baker Hall, East Lansing, MI 48824-1118. The term "judges' school" is used only as a generic reference to the many judicial education organizations throughout the world. In practice, few organizations are called judges' schools; the preferred term is judicial.

2. For a comprehensive description of France's judges' schools, see Lafon, *The Judicial Career in France: Theory and Practice Under the Fifth Republic*, 75 *Judicature* 97 [1991].

3. For an overview of these schools, see The Commonwealth of Learning's *Continuing Judicial Education: A Review of Practice and Potential in the Commonwealth* (March 1992) Box No. 10428, Vancouver, British Columbia, Canada V74 1K4.

4. For tips on how to plan a planning committee meeting, see The Foolproof Committee Meeting, 5 *NASJE News* No. 4 (Fall 1990).

5. See *ABA Benchbook Planning Manual* (1985) on the preparation of judges' benchbooks. For a list of recent judges' publications, see The JERITT Project's *Judicial Education Products Review* (1991).

6. Address: Arroyo 894, 1º of. 1 (1007), Buenos Aires, Argentina.

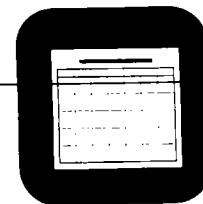
An overview of the better known judges schools around the world has been prepared, in Spanish, by the Instituto de Estudios Judiciales de Chile, entitled *Escuelas Judiciales: Antecedentes Para Un Estudio de Derecho Comparado* (Mayo 1991), Corporacion de Promocion Universitaria (CPU), Santiago, Chile.

List of States with/without Mandatory Education Provisions.

State Name	Mandatory	Contact Person	Phone Number
Alabama	No	Frank Gregory	205/834-7990
Alaska	No	Janna Stewart	907/264-8237
Arizona	Yes	Karen Waldrop	602/542-9431
Arkansas	Yes	Kay Boothman	501/376-6655
California (CJA)	No	Constance Dove	415/495-1999
California (AOC)	Yes	Sherri Camps	415/396-9146
California (CJER)	Yes	Paul Li	510/450-3601
Colorado	Yes	Virginia Leavitt	303/837-3654
Connecticut	Yes	Anthony Fisser	203/566-8567
Delaware	Yes	Franny Maguire	302/577-2501
District of Columbia	Yes	Ulysses Hammond	202/879-1700
Florida	Yes	Mignon Beranek	904/922-5079
Georgia	Yes	Richard Reaves	706/542-7491
Hawaii	Yes	Irwin Tanaka	808/548-4605
Idaho		Carl Bianchi	208/334-2246
Illinois	Yes	James Marcanti	312/793-3250
Indiana	Yes	Catherine Springer	317/232-1313
Iowa	Yes	Jerry Beatty	515/281-8279
Kansas	Yes	Denise Kilwein	913/296-2256
Kentucky	Yes	Rita Culbertson	502/564-2350
Louisiana	Yes	Frank Maraist	504/388-8825
Maine	No	David Roberts	207/822-4180
Maryland	No	Ellen Marshall	410/974-2475
Massachusetts	No	Robert Clayman	617/742-8575

State Name	Mandatory	Contact Person	Phone Number
Michigan	No	Dennis Catlin	517/344-7805
Minnesota	Yes	June Cicero	612/297-7590
Mississippi	Yes	Leslie Johnson	601/232-5955
Missouri	Yes	Michael Baumstark	314/751-3585
Nebraska	No	Janet Hammer	402/471-2643
New Hampshire	Yes	Elizabeth Hodges	603/271-2521
New Jersey	No	Richard Saks	609/292-0622
New Mexico	Yes	Paul Biderman	505/277-5006
New York	Yes	Edward Borrelli	212/417-5823
North Carolina	Yes	James Drennan	919/966-4160
North Dakota	Yes	Keith Nelson	701/24404216
Ohio	Yes	Laurence Stone	614/752-8677
Oklahoma	No	Juanita Holley	405/521-2450
Oregon	No	Nori Cross	503/378-6046
Pennsylvania	No	Bunny Cantor	215/560-6325
Rhode Island	No	Holly Hitchcock	401/277-2500
South Carolina	Yes	Motte Talley	803/734-1800
South Dakota	Yes	Dan Schenk	605/773-4869
Tennessee	No	Suzanne Keith	615/741-4416
Texas (Municipal Courts Training Center)	Yes	Hope Lochridge	512/320-8274
Texas (Justice Court Training Center)	Yes	Scott Smith	512/245-2349
Texas (Center for the Judiciary)	Yes	Roy Rawls	512/463-1530
Utah	Yes	Diane Tallman	801/578-3800
Vermont	No	Mama Murray	802/528-3278
Virginia	No	William Capers	804/786-6455
Washington	No	Ann Sweeney	206/705-5315
West Virginia	Yes	Richard Rosswurm	304/558-0145
Wisconsin	Yes	V.K. -Wetzel	608/266-7807
Wyoming	No	Robert Duncan	307/777-7581

Master CALENDAR



March

March 9-10 New York, NY
Cable Television Law
Practising Law Institute

March 11-16 Key West, FL
Criminal Trial Skills
American Academy of Judicial Education

March 11-16 Phoenix, AZ
The Civil Trial—Process, Problems, and Recent Developments
American Academy of Judicial Education

March 11-16 Key West, FL
22nd National Conference on Juvenile Justice
National Council of Juvenile and Family Court Judges and the National District Attorney Association

March 13 New York, NY
Counseling Clients in the Entertainment Industry—Sound Recordings—Basic/Advanced
Practising Law Institute

March 13-17 Atlanta, GA
Automating Court Systems
National Center for State Courts, Institute for Court Management

March 14 New York, NY
Counseling Clients in the Entertainment Industry—Music Publishing, Ethics and Entertainment Law Practice
Practising Law Institute

March 15 New York, NY
Counseling Clients in the Entertainment Industry—Film—Basic/Advanced
Practising Law Institute

March 15-17 Coral Gables, FL
25th Annual Advanced Antitrust Workshop
Practising Law Institute

March 16-17 New York, NY
Ins Exempt Financing
Practising Law Institute

March 16-17 Reno, NV
Basic Word Processing for Judges
The National Judicial College

March 19-22 Phoenix, AZ
Litigants Without Lawyers: Exploring Trends and Solutions to a Changing Client Base in the Nation's Courts
Superior Court of Arizona, Maricopa County

For further information, contact Karlene Rosevare, (602) 506-0711, fax (602) 506-2280

March 19-22 Phoenix, AZ
22nd National Conference on Juvenile Justice
National Council of Juvenile and Family Court Judges

March 19-24 Reno, NV
Judicial Writing
The National Judicial College

March 19-24 Reno, NV
Current Issues in Family Law
The National Judicial College

March 21 New York, NY
Child Abuse, Neglect and the Foster Care System—Effective Social Work and the Legal System
Practising Law Institute

March 22 New York, NY
Child Abuse, Neglect and the Foster Care System—The Attorney's Role and Responsibilities
Practising Law Institute

March 23 Broadcast via satellite to multiple locations across the country
Copyright and Trademark Law for the Nonpractitioner
Practising Law Institute

March 23-24 New York, NY
The Problems of Indenture Trustees and Bondholders
Practising Law Institute

March 23-24 San Francisco, CA
Insurance: Excess and Reinsurance Coverage Disputes
Practising Law Institute

March 26-30 Monterey, CA
Appellate Judges Seminar
American Bar Association

March 27-28 New York, NY
Multimedia and the Law
Practising Law Institute

March 28-April 2 Reno, NV
Drinking Driver Cases
The National Judicial College

March 28-April 2 Reno, NV
Mediation
The National Judicial College

March 27-29 Scottsdale, AZ
Fundamentals of Caseflow Management
National Center for State Courts, Institute for Court Management

March 29 New York, NY
6th Annual Litigation Management Supercourse
Practising Law Institute

March 30-April 1 Scottsdale, AZ
Collecting Fines & Fees in Traffic Cases
National Center for State Courts, Institute for Court Management

March 30-31 San Francisco, CA
Technology Licensing and Litigation
Practising Law Institute

April

April 2-7 Reno, NV
Advanced Evidence
The National Judicial College

April 2-7 Reno, NV
Effective Sentencing & Probation Management
The National Judicial College

April 3 San Francisco, CA
The Pulse of Justice '95
National Center for State Courts, Institute for Court Management

April 5-8 New York, NY
Structures of World Order 89th Annual Meeting
The American Society of International Law
For more information, contact Melissa Scott, (202) 939-6020

April 7 Washington, DC
The Pulse of Justice '95
National Center for State Courts, Institute for Court Management

April 7-9 Washington, DC
National Association of Women Judges Multicenter Meeting
For more information, contact Mary Kay Telecourt, (202) 872-0963

April 10-12 Philadelphia, PA
Designing for Decisions: Facilities, Space & Organizational Goals
National Center for State Courts, Institute for Court Management

April 15-20 Carmel, CA
Criminal and Civil Cases: Philosophical Ethics and Decision Making
American Academy of Judicial Education

April 19-21 Orlando, FL
Personal Computer Applications in the Courts
National Center for State Courts, Institute for Court Management

April 23-27 Chattanooga, TN
Management Forum
National Council of Juvenile and Family Court Judges

April 23-27 Chattanooga, TN
Mental Health Issues in Juvenile Courts
National Council of Juvenile and Family Court Judges

April 23-27 Chattanooga, TN
Special Issues in Juvenile Probation
National Council of Juvenile and Family Court Judges

Master Calendar and Supplemental Calendar
The Master Calendar contains notices of seminars, conferences, and other events scheduled in the Court community. Send all the information to the National Center for State Courts, Master Calendar, P.O. Box 9728, Williamsburg, VA 23107-9728, (804) 243-7833, fax (804) 243-7834.
The Supplemental Calendar contains notices of seminars, conferences, and other events scheduled in the Court community. Send all the information to the National Center for State Courts, Supplemental Calendar, P.O. Box 9728, Williamsburg, VA 23107-9728, (804) 243-7833, fax (804) 243-7834.
The information in this calendar may be reprinted, provided the words "Reprinted from the National Center for State Courts Master Calendar" and a copy of the notice to the Master Calendar editor. Please specify the correct reprinting organization and phone number. If the words "by invitation only" accompany an entry, please include that information.

May 23-26 Dallas, TX
No Reversals - Correct Ratings: Evidence in Action
 American Academy of Judicial Education

April 23-28 Reno, NV
Special Problems in Criminal Evidence
 The National Judicial College

April 23-May 12 Reno, NV
General Jurisdiction
 The National Judicial College

April 27-29 Memphis, TN
American Judges' Association Midyear Meeting
 For more information, contact Shelley Rockwell (804) 259-1841

April 27-29 St. Louis, MO
Spring '98 Road Conference: More Strategies to Fight Crime Against the Elderly
 American Association of Retired Persons, International Association of Chiefs of Police and the National Sheriff's Association

April 30-May 2 Reno, NV
Opinion Writing
 The National Judicial College

April 30-May 4 Newport, RI
National College of Probate Judges Annual Meeting
 For more information, contact Shelley Rockwell (804) 259-1841

May

May 1-5 Reno, NV
Logic for Judges
 The National Judicial College

May 3-5 Williamsburg, VA
Court Organization and Structure
National Center for State Courts, Institute for Court Management

May 7-9 Reno, NV
Ethics for Judges
 The National Judicial College

May 7-12 Reno, NV
Computer Uses in Courts
 The National Judicial College

May 8-10 San Diego, CA
Managing Court Financial Resources
National Center for State Courts, Institute for Court Management

May 10-12 Reno, NV
Expenditure Issues in Understanding Financial Statements
 The National Judicial College

May 13-19 Reno, NV
Mediation: Resolving Family Cases
 The National Judicial College

May 14-19 Reno, NV
Administrative Law: Advanced
 The National Judicial College

May 14-19 Reno, NV
Traffic Court Proceedings
 The National Judicial College

May 16-19 Washington, DC
Phase IV: Summation and Review: Court Executive Development Program
National Center for State Courts, Institute for Court Management

May 20-25 Nashville, TN
Alternatives to Incarceration
 American Academy of Judicial Education

May 20-25 Nashville, TN
Schools of Law
 American Academy of Judicial Education

May 21-24 Reno, NV
Forensic Social Work
 National Council of Juvenile and Family Court Judges

May 23-26 Dallas, TX
Open Computer Systems
National Center for State Courts, Institute for Court Management

June

June 1-9 Reno, NV
Summer College: The Role of the Judge
 National Council of Juvenile and Family Court Judges

June 4-9 Reno, NV
Basic Juvenile Justice Management Institute
 National Council of Juvenile and Family Court Judges

June 11-14 Reno, NV
Law & Philosophy: Application for Judicial Practice
 National Council of Juvenile and Family Court Judges

June 17-22 Washington, DC
Judicial Reasoning
 American Academy of Judicial Education

June 17-22 Washington, DC
Juvenile Cases: Philosophical Ethics and Decision Making
 American Academy of Judicial Education

June 18-23 Reno, NV
Introduction to Personal Computers
 The National Judicial College

June 18-30 Reno, NV
Special Court Jurisdiction
 The National Judicial College

June 18-30 Reno, NV
Special Court: Advanced
 The National Judicial College

June 18-July 7 Williamsburg, VA
Phase II: Management in the Courts, Court Executive Development Program
National Center for State Courts, Institute for Court Management

June 21-23 Orlando, FL
Employee Relations
National Center for State Courts, Institute for Court Management

June 25-30 Reno, NV
Sentencing Misdemeanants
 The National Judicial College

June 28-30 San Francisco, CA
Integrated Computer Systems
National Center for State Courts, Institute for Court Management

July

July 9-12 Baltimore, MD
38th Annual Conference
 National Council of Juvenile and Family Court Judges

July 9-14 Reno, NV
Constitutional Criminal Procedure
 The National Judicial College

July 9-14 Reno, NV
Managing Trials Effectively
 The National Judicial College

July 9-14 Chicago, IL
National Association for Court Management Annual Conference
 For more information, contact Linda Perkins, (804) 259-1841

July 9-28 Reno, NV
General Jurisdiction
 The National Judicial College

July 13-28 Reno, NV
Essential Skills for the Appellate Judge
 The National Judicial College

July 16-21 Dallas, TX
Appellate Judges' Seminar
 American Bar Association

July 16-21 Reno, NV
Judicial Writing
 The National Judicial College

July 16-21 Reno, NV
Forensic: Medical and Scientific Evidence
 The National Judicial College

July 16-21 Ashland, OR
Great Issues in Law as Reflected in Literature
 The National Judicial College

July 16-28 London/Cambridge
Anglo-American Judicial Education Seminar
 The National Judicial College

July 23-28 Reno, NV
Effective Caseload Management
 The National Judicial College

July 30-August 4 Reno, NV
Advanced Evidence
 The National Judicial College

July 30-August 3 Monterey, CA
Conference of Chief Justices and Conferences of State Court Administrators Annual Meeting
 By invitation only
 For more information, contact, contact Brenda Williams, (804) 259-1841

August

August 6-11 Reno, NV
Advanced Juvenile Justice Management Institute
 National Council of Juvenile and Family Court Judges

August 6-11, 1995
National Conference of Appellate Court Clerks Fall Conference
 American Bar Association
 For more information contact Shelly Rockwell, (804) 259-1841

August 7-9 San Francisco, CA
Total Quality Management in the Court
National Center for State Courts, Institute for Court Management

August 14-16 Seattle, WA
Court Automation Design
National Center for State Courts, Institute for Court Management

August 20-25 Reno, NV
Train the Trainers (Probation)
 National Council of Juvenile and Family Court Judges

August 20-25 Reno, NV
Train the Trainers (Judges)
 National Council of Juvenile and Family Court Judges

August 21-23 San Diego, CA
Differential Case Management
National Center for State Courts, Institute for Court Management

September

September 10-15 Reno, NV
Introduction to Personal Computers
 The National Judicial College

September 10-29 Reno, NV
General Jurisdiction
 The National Judicial College

September 11-13 Philadelphia, PA
Court Security Management
National Center for State Courts, Institute for Court Management

September 13-15 Washington, DC
Enhancing Diversity in the Courts & Communities
National Center for State Courts, Institute for Court Management



The National Judicial College

1996 Course Offerings

Course	Location	Dates	Weeks	MJS / Certificate Credits	
Handling Capital Cases	Phoenix/Scottsdale, AZ	Feb. 4-9	One	2	G
Current Issues in Civil Litigation	Phoenix/Scottsdale, AZ	Feb. 4-9	One	2	D
Current Issues in Family Law	San Diego, CA	Feb. 11-16	One		G, D
Conducting the Trial	San Diego, CA	Feb. 11-16	One	2	G, D
Dispute Resolution Skills	San Diego, CA	Feb. 18-23	One	2	S,A,C, D
Domestic Violence	San Diego, CA	Feb. 18-23	One		G,S, D
Advanced Evidence	Las Vegas, NV	Mar. 10-15	One	2	G,S, D
Sentencing Misdemeanors	Las Vegas, NV	Mar. 10-15	One		S
Civil Mediation	Reno	Mar. 17-22	One		A, D
Special Court Jurisdiction	Reno	Mar. 17-29	Two		S,C, D
Special Court: Advanced	Reno	Mar. 17-29	Two		S,C, D
Settlement Techniques for Judges	Reno	Mar. 24-26	2.5 days		D
Equal Justice in the Courts	Reno	Mar. 27-29	2.5 days		G,S,A,C, D
Managing the Complex Case	Reno	Apr. 21-26	One	2	C, D
General Jurisdiction	Reno	Apr. 21-May10	Three	6	G,S,C, D
Computer Uses for Judges	Reno	Apr. 28-May 3	One		S,A,C
Judicial Writing	Reno	May 5-10	One	2	A, D
Traffic Court Proceedings	Reno	May 5-10	One		S
Civil Mediation	Reno	May 19-24	One		A, D
Administrative Law for Regulatory Agencies	Reno	May 19-24	One		A
Logic for Judges	Reno	May 19-21	2.5 days		A, D
Opinion Writing	Reno	May 22-24	2.5 days		A, D
Administrative Law: Fair Hearing	Reno	June 16-28	Two		A, D
Essential Skills for the Appellate Judge	Reno	June 16-28	Two		
Constitutional Criminal Procedure	Reno	July 7-12	One	2	G,S
Introduction to Personal Computers in the Courts	Reno	July 7-12	One		S,A
Judicial Productivity, Time, and Stress Management	Reno	July 7-12	One		S,A,C, D
Family Mediation	Reno	July 14-19	One		D
Managing Trials Effectively	Reno	July 14-19	One	2	C, D
General Jurisdiction	Reno	July 14-Aug. 2	Three	6	G,S,C, D
Forensic, Medical, & Scientific Evidence	Reno	July 21-26	One	2	G, D
Logic and Opinion Writing for ALJs	Reno	July 21-26	One		A, D
Judicial Writing	Reno	July 28-Aug. 2	One	2	A, D
Great Issues in Law as Reflected in Literature	Ashland, OR	Aug. 4-9	One	2	D
Advanced Evidence	Reno	Aug. 4-9	One	2	G,S, D
Administrative Law: Advanced	Reno	Aug. 4-9	One		A
Civil Mediation	Reno	Sept. 15-20	One		A, D
Court Management for Judges and Court Administrators	Reno	Sept. 15-20	One		C
Decision Making	Reno	Sept. 29-Oct. 4	One	2	G,S,A,C, D
General Jurisdiction	Reno	Sept. 29-Oct. 18	Three	6	G,S,C, D
Judicial Writing	Reno	Oct. 6-11	One	2	A, D
Handling Small Claims Effectively	Reno	Oct. 6-8	2.5 days		S
Critical Issues in Search & Seizure	Reno	Oct. 9-11	2.5 days		G,S
Administrative Law: Unemployment Compensation	Reno	Oct. 13-18	One		A
Dispute Resolution Skills	Charleston, SC	Oct. 27-Nov. 1	One	2	S,A,C, D
Special Problems in Criminal Evidence	Charleston, SC	Oct. 27-Nov. 1	One	2	G,S
Advanced Evidence	Reno	Nov. 3-8	One	2	G,S, D
Court Technology for Judges (NEW)	Reno	Nov. 3-8	One		
Drug Courts: The Judicial Response (NEW)	Reno	Nov. 17-22	One	2	G
Effective Caseload Management	Reno	Nov. 17-22	One	2	C, D
Understanding Financial Statements	Reno	Nov. 17-19	2.5 days		S,A, D
Ethics for Judges	Reno	Nov. 20-22	2.5 days		G,S,A,C, D

Certificate in Judicial Development Legend: G=General Jurisdiction Trial Skills; S=Special Court Trial Skills; A=Administrative Law Adjudication Skills; C=Court Management Skills; D=Dispute Resolution Skills

[7/26/95]

CHARACTERISTICS OF EFFECTIVE JUDICIAL EDUCATION PROGRAMS

The world of judging is unique, a fact that judicial education programs must recognize and address. Here are seven important characteristics of such programs.

by Charles S. Claxton

Speaking recently at the Second National Conference on Court Management, Supreme Court Justice Sandra Day O'Connor said that what leaders in the court system have to be about is "preparing the courts—and ourselves—for change."¹ Her comment is exactly on target, for leaders in the court system have to find ways to address change.

This article is adapted from a presentation to the Conference of Chief Justices and Conference of State Court Administrators in Philadelphia, August 7, 1991.

1. O'Connor, Presentation, "Managing courts in changing times," Second National Conference on Court Management, Phoenix, AR, September 9, 1990, published in N.Y. St. B. J., 8-15 (February 1991).

Judicial education is a potentially powerful resource in this regard.

Traditional approaches to professional education won't do, however, for the world of judging has some special features that are not characteristic of other professions. A friend recently served on a jury. She said what most impressed her was the judge's sense of dignity and gravity of responsibility as he led the participants through the various courtroom procedures. He continuously impressed upon them the importance of what they were doing. "A court is not the post office," she said. "It represents a fundamental right of our society. It's what holds the

social fabric together."

Another special feature of judging is the fact there is no one to pass the buck to. Judges frequently comment that in every other profession the decision can almost invariably be delayed or referred to someone else. But in judging there is no one else to turn to: the judge has to decide. He or she is the bottom line.

Further, the complexity of the issues brought before a judge are remarkable. They include concerns about liberty, property, racial justice, the environment, children, and questions of life and death. This complexity is compounded by three factors: (1) there is

no way a judge can have all the technical knowledge needed to decide cases in such a wide array of circumstances; (2) there is no sure-fire way for judges to really know which witness to believe and which way to go when there is conflicting evidence; and (3) the discretion judges frequently have means they themselves must decide what the best decision would be. This suggests that judges need to think at a level of complexity consistent with the intricate nature and the subtlety of the problems they are called on to address.

All this leads to the conclusion that there must be a soundness, a power, and even a wisdom in the kind of judicial education that court systems create. Programs that are unfocused and not based on thoughtful, long-range planning won't do. Planners of judicial education programs need to bear in mind that curriculum can't be developed simply with the "judge as judge" in mind. What is important is the *person who also happens to be a judge*. Good judicial education starts with the realization that, *fundamentally, we are dealing with a person*. This person-centered approach suggests there are seven characteristics of good judicial education programs: a clear and compelling purpose; helping judges think in qualitatively richer ways; helping participants become more competent; promoting active learning; adequate resources; a sound, integrated curriculum; and commitment and support of administrative leadership.

A clear and compelling purpose

The most important word in crafting good education is *purpose*. All subsequent considerations are shaped by how judicial education programs define their purpose. What is it we are really trying to achieve?

Most discussions of purpose are oriented to the question, "What do judges need to *know*?" But there is a much more compelling question: "What do judges need to *know*, and what do they need to be able to *do*?" This expands the purpose from helping participants in judicial education learn "in order to know" to helping them learn "in order to do." This broader definition suggests a highly action-oriented approach that is de-

There must be a soundness, a power, and even a wisdom in the judicial education programs courts create.

signed to help judges develop the *abilities* they need to do a good job as they move through their careers.

Judicial leaders are committed to helping their court systems develop the capacity for change, to respond to new challenges, and to go into the future with a sense of vitality, flexibility, and responsiveness. But change in a system can only occur when the people within it are themselves changing and growing. That is why judicial education programs explicitly oriented to fostering the development of the people within the system are so important.

Helping judges think in qualitatively richer ways

Adult education research clearly indicates that all people have their own way of looking at the world. Further, as we mature, we see the world in more complex ways. Not only do we know more, we think differently.

Judges who are new on the bench—particularly those who feel insecure about their new role—sometimes see things in very simple terms. They view the act of judging as a process of looking at a factual situation, drawing on the applicable law, and making a ruling. An academic term that describes this way of thinking is "dualism."² People who are at a dualistic stage think in simplistic ways. Things are either this way or that way, right or

wrong, black or white.

More experienced judges realize that cases are typically more gray than black and white, and it's sometimes hard, for example, to know who is the victim and who is the criminal. These judges draw on precedent and law but are able to take into account the particular context of a case, the specific circumstances, and the nuances and subtleties represented by the people and factors involved. Further, they realize—and can deal with—the consequences of the decisions they make. The term for this second way of looking at the world, that of the more experienced judge, is "contextual relativism." People who think in this way are sensitive to the "issues behind the issues" and can see the event within its broader context.

We can take comfort in the fact that part of being human is to grow, to move to more comprehensive and more adequate ways of seeing the world and understanding issues. With respect to legal education, however, Professor Paul Wangerin, writing in the *Tulane Law Review*, says that while law schools do a good job of helping students think in analytical, objective ways, they do not foster development of the abilities required to see a case in its context and then to take action consistent with the multilayered nature of so many legal situations.³

The problem is that the issues, not just in the courts but throughout society, are outrunning the complexity of thought that people, including many judges, bring to the task. That's why judicial education should be explicitly designed to help participants think in more complex ways.

Helping participants become more competent

Judicial education must meet the continuing developmental needs of the participants, but what does this mean? A "developmental" orientation to education is grounded in the need all people have for two kinds of compe-

2. Perry, *Cognitive and ethical growth: The making of meaning*, in *THE MODERN AMERICAN COLLEGE* (Chickering and Associates (eds.) (San Francisco: Jossey-Bass, 1981)).

3. Wangerin, *Objective, multiplicitous, and relative truth in developmental psychology and legal education* 62 *TULANE L. REV.* 1237-1301 (1988).

tence: instrumental and expressive.

Instrumental competence refers to the ability to do practical things. An example is a course designed to help trial judges better understand the latest decisions of a state supreme court concerning procedures in taking a guilty plea. Here, learners are assisted in expanding their instrumental, practical competence. Participants learn these things because they need to have this information to do their daily work.

Expressive competence, on the other hand, refers to abilities that are broader in scope and that enhance the capacities of judges more generally. For example, judges need to continually expand their abilities in critical thinking and decision making. They need not only to know the principles of the law, but to understand the particular situation, to have some sense of what makes the people involved in the case tick, and to understand the consequences of the rulings they make.

Expressive competence requires that judges continually enhance their thinking skills. They can do this best by "thinking about their thinking." This is the capacity to step back from ourselves, to understand that how we see a situation involves not only the reality of that situation but what we bring to it. It is the ability to engage in self-monitoring, to reflect on what we are thinking as we deal with an issue, and to ask ourselves if our thinking is adequate for the task.

The ability to think about one's thinking is characteristic of what Yale University Professor Donald Schon, an expert in organizational development, calls the "reflective practitioner."⁴ He has carried out extensive studies of practitioners in a wide array of professions, and he concludes that outstanding professionals don't simply "apply" knowledge to a problem. Instead, they interact with the situation and develop "theories in action" that guide them in their work. Major corporations, universities, hospitals, and others are real-

izing that their people must have this ability to be successful. "Thinking about our thinking" is the mark of a highly developed professional.

Promoting active learning

An old joke takes on new meaning when placed in the context of education for development. Three umpires are discussing their craft. The first umpire says, "Some are balls, some are strikes, and I call 'em as I see 'em."

The second says, "Some are balls, some are strikes, and I call 'em as they are."

The third umpire thinks for a moment and then says, "Sure, some are balls. And sure, some are strikes, but until I call 'em, they ain't nothin'."

The third umpire, without knowing it, has hit upon an important point about a concept that adult educators call "construction." In the words of Kegan, "we construct reality; we don't simply stumble upon it."⁵ The concept suggests that knowledge isn't simply something that those who have give to those who don't. Knowledge is something that learners have to "construct" for themselves. Until the learners do so, "it ain't nothin'." This means that learners have to be engaged actively in a learning activity for it to be worthwhile. Not only do they have to take in information, they also have to think through whether it is consistent with things they already know. And they must have opportunities to apply it in their work.

The need to ensure that learners are active in the learning process is consistent with the pioneering work of adult educator Malcolm Knowles. He urged that persons working with adults be guided by an approach he called "andragogy" rather than "pedagogy."⁶ To him this latter term refers to the teaching of children, with its frequent emphasis on the teacher simply conveying information to relatively passive learners.

In contrast, andragogy—the teaching of adults—emphasizes the teacher as facilitator of learning, rather than as an authority figure who is the repository of all wisdom. In andragogy the experiences of the learners themselves become a major resource for the teaching-learning event. Thus it is clearly a

much more valuable way to think about judicial education than is pedagogy.

The most powerful active learning—learning in the service of development of abilities judges need—is at the intersection of what we might call the "wisdom of practice" and the "wisdom of specialized knowledge." Good educational programs honor the expertise and experiences that judges bring to the classroom. They provide settings in which judges can step back from the work and reflect on it. In so doing they can synthesize what they have been learning from the demands placed on them. This kind of reflective activity leads to the "wisdom of practice." Teaching methods such as case studies, discussion, and small-group projects are useful in these areas.

But these activities need to be enriched by leading edge thinking about the law, recent court decisions, or research in such areas as caseload management. These activities represent the "wisdom of specialized knowledge." Teachers who bring this kind of expertise can make available to participants the information they need to see their work, their problems, and possible solutions in a broader context. Teaching methods, such as lectures, and materials, such as bench books and research reports, can help them develop this kind of knowledge. Judicial education programs in which participants make the connections between the wisdom of practice and the wisdom of specialized knowledge are helping them become "reflective practitioners."

Adequate resources

The faculty who teach in judicial education programs must bring the knowledge that judges need in their work as well as the most recent thinking in the field. Judicial education programs often find that many people have the knowledge that is needed, but are not highly skilled in teaching methods. This problem is particularly acute where a program has embraced a developmental approach as advocated here. Faculty development thus becomes paramount. Sound planning of judicial education is also essential. Because judges play such an important role in the court system, judicial education should be designed to reflect

4. Schon, *THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION* (New York: Basic Books, 1984).

5. Kegan, Keynote presentation, Leadership Institute in Judicial Education, Appalachian State University, Boone, NC (April 1991).

6. Knowles, *THE ADULT LEARNER: A NEGLECTED SPECIES* (Houston: Gulf, 2nd ed., 1978).

the centrality of their role.

Many people think this means *only* judges should be involved in planning and carrying out judicial education programs. Certainly they should be at the heart of these programs. But court systems have become complex organizations staffed by highly trained professionals not only in judging but in other areas such as administration, information technology, and finance. Judges are increasingly seeing their role not simply as the authority figures in the court system but as leaders of teams of highly trained professionals. Thus, judicial education programs should make provisions for the continuing education not only of judges but of all who work in the court system.

Planning committees should include representatives of those to be served by the program, such as trial judges. Most states now have a judicial education officer and staff who provide the staff support to carry forward the work envisioned by the planning committees.

In addition to having the right people involved, adequate funding is also necessary. Money is needed to hire staff and, sometimes, faculty, and to pay other expenses associated with a good program. But, although funding is always an issue as judicial education staff scramble to deal with other demands on the court budget, quality programs come about not so much because of massive budgets but because of the thoughtful and skilled work of judges and staff.

A sound, integrated curriculum

Dr. Dennis Catlin, director of the Michigan Judicial Institute, has suggested that a curriculum should include services for new judges, experienced judges, and judges who have extensive experience and are in the latter part of their careers.⁷ Regarding content, he believes that an integrated program should include focuses on:

- Specific information judges need to do their work (e.g., new decisions, rules of evidence, rules of the court);
- Judicial skills (e.g., writing, decision making, management, time management);
- Issues of personal or judicial authenticity (e.g., attitudes, bias, jurisprudential philosophy, interpersonal

The only people who can provide genuine leadership in judicial education are those with vision.

behavior, ethics); and

- Personal health and growth (e.g., physical wellness, financial security).

This framework resonates clearly with the earlier discussion of instrumental and expressive competence. Both place the emphasis on helping judges develop the practical skills and understandings they need to do their work. But they also take into account the fact that demands of the day-to-day responsibilities take place within the larger context of the professional as a developing, growing person.

The process of curriculum development itself calls for a program to have (1) an agreed-upon purpose, (2) clear instructional objectives that are based on the needs of the people to be served; (3) a comprehensive delivery system, including annual conferences, workshops and seminars of various length, as well as methods that help judges learn on their own, such as through the use of audiotapes and benchbooks; (4) effective learning experiences such as those alluded to earlier; and (5) sound program evaluation.

Commitment and support of administrative leadership

Even more important than funding is vision on the part of administrative leadership. The only people who can provide genuine leadership in judicial education are those who have a kind of dual vision—vision that sees the intertwining nature of change in organi-

zations and change in people. They realize that any one part of an organization affects all the others and that a piecemeal approach to change, one not guided by a larger vision, is not effective over the long haul.

But this way of thinking cannot be limited solely to the administrative leader—systems thinking has to permeate the organization. Otherwise, little meaningful change will occur. Since individual and organizational change necessarily involves learning, the process of learning itself must become a central mission of the organization.

This emphasis on learning is echoed by Dr. Peter Senge, an MIT professor, who says, "The rate at which organizations learn is their only source of competitive advantage."⁸ He maintains that organizations that are heavily knowledge intensive (and court systems are certainly in that category) have to become "learning organizations." By this he means organizations that take learning as an integral part of the organizational culture. In the late 1940s Albert Einstein is reported to have said, with some poignance, "Everything has changed—except our way of thinking." His comment has relevance for our present discussion, and the phrase, the "learning organization," points the way to a new way of thinking about the development of court systems.

* * *

The field of judging and the field of adult education need to find a common ground, one in which each learns from the other. Judicial education programs can be the bridge between these two fields. Such an integration of expertise may be a helpful resource as leaders create ways to make the courts more responsive to the challenges judges face each day.

7. Catlin, "Program management in judicial education," *Leadership Institute in Judicial Education*, Appalachian State University, Boone, NC (April 1990).

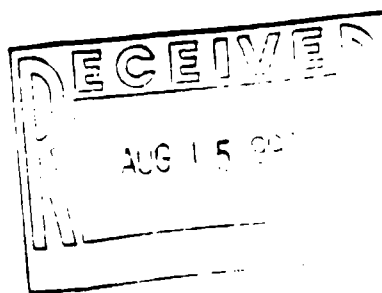
8. Senge, *THE FIFTH DISCIPLINE: THE ART AND PRACTICE OF THE LEARNING ORGANIZATION* 349 (New York: Doubleday, 1990).

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*Principles
and
Standards
of
Continuing
Judicial
Education*

National Association of State Judicial Educators

UPDATE



We are very pleased that a Resolution endorsing the Principles and Standards of Continuing Judicial Education was adopted by the Conference of Chief Justices on July 23rd.

INTRODUCTION & FORWARD

Judging is a specialized profession. To do the job well requires extensive legal knowledge and a wide assortment of complex, unique skills. The need of the judiciary for specialized knowledge and skills is universal, transcending state and even national boundaries. How can the judiciary enrich their knowledge as well as acquire and maintain skills? The *Principles and Standards of Continuing Education* offers insight into requisite educational opportunities and processes.

The *Principles and Standards of Continuing Judicial Education* contains several firsts. It is the initial delineation of a comprehensive judicial education process that will assist judges to meet society's expectations. It is the first to go beyond process by identifying specific skills and subjects that should comprise career judicial education opportunities. It is the first to incorporate extensively in judicial education appropriate adult education practices by focusing on needs assessments, learning objectives, learning activities, adult learning methodologies and faculty development. Finally, it frames continuing adult education activities within an organizational context - in this case, the Judicial Branch of government or courts.

NATIONAL ASSOCIATION OF STATE JUDICIAL EDUCATORS

The field, activity, process, and occupation known as judicial education has burgeoned in all respects over the past nineteen years. The National Association of State Judicial Educators (NASJE) reflects that growth, expanding from a 1973 meeting of six state judicial educators to an organization composed of judicial educators from 44 states, and leading national education providers, working on behalf of more than 20,000 state trial judiciary.

It is a natural and necessary step for the Association of individuals who work within court systems, and who are thereby directly responsible

Principles and Standards of Continuing Judicial Education

for judicial branch education, to use its expertise and resources to develop principles and standards that will guide all organizations and individuals responsible for the professional development of the judiciary throughout the United States. It is anticipated the Association soon will undertake a similar effort for management and technical support staff in the courts.

THE COMMITTEE AND ITS WORK

The *Principles and Standards of Continuing Judicial Education* is the result of a difficult, yet rewarding two-year project of NASJE's Standards Committee. The Committee's goal was to describe the characteristics of good continuing education, not only in terms of the educational activity that eventually occurs, but also the structure, organizational commitment, and individual work needed to ensure quality results. The Committee's efforts included an in-depth study of the national standards of more than twenty professions ranging from doctors and accountants to teachers and architects. They also included analysis of existing standards issued by the American Bar Association for judges, the American Law Institute - American Bar Association for continuing legal education (CLE) providers and sponsors, and the seminal work of the Council on the Continuing Education Unit for adult continuing education practitioners.

With the knowledge gained and its understanding of the current stage of development of continuing judicial education in the United States the Committee began the lengthy drafting process. Drafts were subjected to many critiques by numerous individuals throughout the country. The final draft was approved by the Board of Directors of NASJE in December, 1991 effective January 1, 1992.

USING THE PRINCIPLES AND STANDARDS

The concepts and practices in the *Principles and Standards* are not necessarily expressions of minimums, nor ultimate ideals, they can serve either purpose. They are what one makes them. Objectives they can serve are:

- as a guide to the internal organizational structure, administration, and program development that supports effective continuing judicial education,
- as a guide to national and state sponsors and providers of continuing judicial education programs and activities, suggesting the educational principles, practices, and processes which generally lead to good educational results;
- as a reference for organizations developing their own mission plans or goal statements;
- as a guide to advance the quality and quantity of educational opportunities for the judiciary, from minimums to higher levels of accomplishment;
- as criteria for review of programs and activities seeking approval for the awarding of mandatory judicial education credits.

ACKNOWLEDGEMENT

As any project of this scope requires, numerous individuals have labored diligently in service to their profession. Foremost are the members of the Standards Committee, named below, who contributed their extensive

experience and knowledge of state and national judicial education as well as their personal time during the many weekends and holiday meetings. I thank them for the grace and good spirits with which they tackled the paper mountains of drafts and revisions.

Thanks are also offered to Paul Li, Director, and the staff of the California Center for Judicial Education and Research, for their early assistance, and to Dean V. Robert Payant, National Judicial College, Dean Louis W. McHardy, National Council of Juvenile and Family Court Judges, Geoff Gallas, formerly Vice President of Research & Technical Services, National Center for State Courts (currently Executive Administrator, First Judicial District of Pennsylvania), and Harvey Solomon, Vice President, Institute for Court Management of the National Center for State Courts, for their critiques and thoughtful input.

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PREAMBLE

The National Association of State Judicial Educators (NASJE) has adopted these Principles and Standards of Continuing Judicial Education to meet the goals and objectives of an effective continuing judicial education program.

COMMENTARY

The goal of continuing judicial education is to maintain and improve the professional competency of all persons performing judicial functions, thereby enhancing the performance of the judicial system as a whole. Chief justices, state court administrators, judicial educators, judges, judicial education organizations, education committees, and others who are responsible for continuing judicial education have identified the following objectives:

1. To assist judges to acquire the knowledge, skills, and attitudes required to perform their judicial responsibilities fairly, correctly, and efficiently;
2. To promote judges' adherence to the highest standards of personal and official conduct;
3. To preserve the integrity and impartiality of the judicial system through elimination of bias and prejudice, and the appearance of bias and prejudice;
4. To promote effective court practices and procedures;
5. To improve the administration of justice; and
6. To enhance public confidence in the judicial system.

PRINCIPLE I:

The Need for Continuing Judicial Education

Formal continuing judicial education for trial and appellate court judges and others performing similar judicial functions is essential for the proper performance of the judicial system.

STANDARD 1.1 Responsibility

The responsibility for continuing judicial education properly rests in the judiciary, under the leadership of the Chief Justice of the highest court of the state.

STANDARD 1.2 Availability

Continuing judicial education opportunities should be available to every individual serving in a judicial capacity.

STANDARD 1.3 Integral Part of Judicial Duties

Participation by judges in continuing judicial education activities should be considered an integral component of judicial duties.

STANDARD 1.4 Educational Leave

Judges should be given leave as needed to attend continuing judicial education activities.

COMMENTARY

- These Principles and Standards of Continuing Judicial Education apply to all persons serving in a judicial capacity or performing judicial functions.
- The professional responsibility of the individual judge includes a duty to attain, maintain, and advance judicial competency (Cf. Code of Judicial Conduct, Canon 3; see also Model Rules of Professional Conduct, Rule 1.1, and Comment, Maintaining Competence.)
- The responsibility for continuing judicial education should rest with the chief justice and a designated oversight committee which includes the judicial education director as a member. Written continuing judicial education standards or administrative rules should include such issues as mandatory judicial education, criteria for approval of qualified activities, reporting requirements, sanctions for non-compliance, exemptions, and confidentiality of records. The judicial education organization or entity responsible for the professional development of persons performing judicial functions should receive the resources necessary to develop and manage the continuing judicial education program and to provide judges with sufficient opportunities to attend judicial education activities.
- An August, 1991 survey conducted by the National Association of Judicial Educators identified thirty-one states that have some form of mandatory judicial education. The mandatory element may be ex-

pressed by statute, rule, or supreme court order, or it may be a long-standing practice. Requirements vary from a minimum number of hours per year to attendance at an annual seminar or participation in orientation. For states which require a minimum number of hours, the standard normally is fifteen hours annually or forty-five hours over a three year period.

- Judicial education is an integral component of judicial duties. Judges should be granted educational leave for participation in state, regional, and national judicial education programs. Recognizing that resources are limited and heavy caseloads are endemic, it may not be feasible for the judicial system always to grant full leave or full reimbursement. Any reimbursement, in accordance with applicable rules, should be for actual and necessary travel and subsistence expenses.

PRINCIPLE II:

Organization and Resources

Each state judiciary should have an organization dedicated to meeting its continuing judicial education needs.

STANDARD 2.1 Mission Statement

Each state's continuing judicial education organization should have a clear, written statement of its mission, goals, and objectives.

STANDARD 2.2 Staff

Each state's continuing judicial education organization should have a full-time director, assisted by full-time staff in order to meet continuing judicial education needs. The director should be responsible for the management and administration of the organization.

STANDARD 2.3 Staff Development

The continuing judicial education organization should provide staff with opportunities to maintain and improve their professional skills.

STANDARD 2.4 Advisory Committee

The continuing judicial education organization should work with an advisory education committee appointed by the Chief Justice or the appropriate appointing authority.

STANDARD 2.5 Fairness

All judicial organization activities should support fairness to all persons regardless of race, religion, gender, sexual orientation, age, disabilities, or ethnicity.



STANDARD 2.6 Adequate Resources

Each state's continuing judicial education organization should possess appropriate resources to plan for and provide effective education over an extended period of time.

COMMENTARY

- A continuing judicial education organization is any entity with the responsibility for the professional development of persons performing judicial functions.
- The effective management of a continuing judicial education organization or entity requires a comprehensive assortment of diverse, yet specialized skills and knowledge ranging from an understanding of the judicial role and emerging legal trends and court administration issues to the utilization of highly-refined interpersonal skills. Educational leave and reimbursement should be provided to permit the attainment, maintenance, and improvement of such skills and knowledge.
- Advisory committees are important to the judicial education function for such activities as planning, resource allocation, publications, needs assessments, curriculum development, programming, and evaluation. Advisory committees can take several forms. One form may be a single committee of judges with responsibility to determine all aspects of judicial education, ranging from administration to the number and content of programs and materials. Another form may be separate committees composed of judges and non-judges to provide advice or

determine more narrow issues, such as the subject matter of a seminar. Most judicial education committees fall between these two examples. The composition of advisory education committees is determined by their responsibilities. In general, judges should comprise a majority of the membership. Terms of members should be staggered.

- Appropriate resources include human, fiscal, and physical resources necessary to achieve the organization's goals and objectives. Long term and appropriate resource allocation demonstrate commitment to maintaining and improving the career performance of the individual judge and the judicial system as a whole. It also is required to attain the high ideals expressed within this document. Quality programming in continuing education is seldom achieved in "one-shot" efforts. The organization should have both a plan and the resources to meet short and long term goals.

PRINCIPLE III:

Education to Meet Career Needs of Judges

Commencing with orientation, continuing judicial education should meet the changing career needs of judges.

STANDARD 3.1 Orientation

New judges, including experienced judges with new judicial assignments, should participate in a multi-faceted orientation process which includes substantive instruction, written materials, and an advisor judge process.

STANDARD 3.2 Continuing Education

Throughout his or her career, a judge should participate in a comprehensive series of continuing judicial education activities, whether basic, advanced or specialized, at least once a year, and for a minimum of fifteen (15) hours annually, exclusive of orientation.

STANDARD 3.3 Curricula

Curricula for continuing judicial education should include, at a minimum, offerings in the following areas: Legal Ability; Comportment and Demeanor; Judicial Management Skills; Contemporary and Interdisciplinary Issues, and Personal Development.

STANDARD 3.4 Regional and National Education

Judges should have opportunities to participate in regional and national continuing judicial education in order to obtain a broader perspective on judicial functions and to share judicial knowledge, skills, and attitudes with judges from other areas of the United States.



COMMENTARY

- The orientation should include such matters as the transition to the bench, the Code of Judicial Conduct, fairness issues, the effective use of court staff and resources, court system management, case management techniques, overviews of substantive law, courtroom communication skills, demeanor, community and media relations, and meetings with administrators of various court-related agencies and programs.
- New judges should receive written materials whose scope, content, and format are specifically designed to promote the orientation process. These materials should include such quick reference items as checklists, sample procedural language, forms, model instructions, and directories of support resources and agencies.
- Crucial to the orientation process are the appointment and role of an advisor or mentor judge for each new judge. The advisor judge should be the primary responsibility for assisting the new judge upon election or appointment to the bench. Typical duties should include offering advice and suggestions on ethical issues, providing opportunities for the new judge to conduct court, observing and critiquing the new judge, introducing the new judge to local court agencies and personnel, and providing support and guidance as necessary.
- Advisor judges should be carefully selected and should be provided with materials and training in order to perform their duties.
- Many judicial educators believe that new judges should devote a minimum of several weeks to in-state judicial education during their first year on the bench. An orientation program held four to six months

after the judge assumes the bench, when the judge has had some judicial experience, is the method chosen by several states. A multi-week pre-bench orientation is the route chosen by a few other states. Both methods are very helpful. The ideal orientation would include sessions both before and after new judges assume the bench.

- As an orientation process is crucial to a new judge, so too a formal, structured continuing education process is crucial to a judge throughout subsequent stages of a career. The goal of a continuing education process therefore should be to meet needs that change, as the individual judge's knowledge and skills change with increased experience and as court systems, court organizations and society itself change.
- Continuing judicial education should include at least the following topics within the five major areas enunciated in Standard 3.3. Legal Ability - updates on law, court rules, and court procedures; in-depth analysis of complex legal issues; examination of judicial decision-making practices and philosophies; and effective opinion writing through identification, analysis and clarity in expressing legal issues, reasoning and conclusions. Comportment and Demeanor - judicial code of conduct; fostering fairness through the recognition and elimination of bias or prejudice; cultural awareness; decisiveness; and judicial temperament. Judicial Management Skills - case management; effective trial and jury management; settlement skills; personnel management; skills to cope with the growth of litigation and the increasing complexity of legal issues and proceedings; and, when appropriate, court system planning administration. Contemporary and Interdisciplinary Issues - updates on scientific and behavioral sciences relevant to

any judicial practice, knowledge of contemporary social issues, and the law and the humanities. Personal Development - revitalization and rededication to public service; awareness of the need to maintain high levels of personal well-being; and stress management.

- Each state has primary responsibility for the education of its judges. If appropriate, several states may wish jointly to conduct regional judicial education programs. Nevertheless, the instruction should be particularized to each state's laws, procedures, and organizational needs. Regional programs, and programs offered by national providers, should complement but not replace on-going, in-state continuing judicial education efforts.

PRINCIPLE IV:

Use of Adult Education Methods

Continuing judicial education programming should be the result of the application of adult education methods to assess needs, design and implement curricula, and evaluate results.

STANDARD 4.1 Needs Assessment

Continuing judicial education should be based on the periodic systematic assessment and analysis of the participants' learning needs, responsibilities, and performance.

STANDARD 4.2 Learning Objectives

Each continuing judicial education activity, and its related instructional materials, should have a clear, concise, written statement of intended learning objectives and should be specifically designed and implemented to achieve the objectives. Learning objectives should specify the performance level at which each participant should be able to express or demonstrate intended changes in knowledge, skills, or attitudes.

STANDARD 4.3 Learning Activities

Learning activities should be designed and implemented to promote active participation.

STANDARD 4.4 Learning Environment

The physical environment for continuing judicial education activities should be conducive to learning and appropriate for intended learning objectives, and should provide appropriate instructional aids and support services.



STANDARD 4.5 Evaluation

The evaluation method should determine whether the stated learning objectives and the expectations of the participants were achieved

Education activities should be evaluated during and after the activity

COMMENTARY

- A needs assessment is a process used to define the gap between existing and desired knowledge, skills, and attitudes. It is an integral part of the education cycle. From this, learning objectives can be established, curriculum designed, instructional methods selected, and pre- and post-evaluation conducted. Other benefits of conducting an assessment are: to facilitate change; to gain support for and increase participation in education activities; to validate areas of strength; and to complement other internal review processes.
- There are various types of needs assessments, some formal, some informal, each of which has advantages and limitations. Some common needs assessment techniques are: group or individual interviews, open and closed-ended questionnaires; observation or task analysis; group performance analysis; records and reports; and superior or subordinate competency studies. Ideally, several approaches should be used
- Assessment should be an ongoing process that considers the changing needs of judges, thereby ensuring that education activities are relevant and timely.

- Learning objectives describe what participants should achieve as a result of participating in judicial education activities. The objectives for each activity will determine the selection of instructional methods, faculty, instructional materials, the use of specialized and other learning technologies, and appropriate learning environments.
- Judicial education committees, judicial educators, and faculty need to be actively involved in developing measurable learning objectives for each activity. The statement of learning objectives should be provided to participants prior to or at the beginning of the education activity.
- Adults often learn best by participation. Educational formats should be designed to promote active participation, which stimulates interest, prevents boredom, and enhances learning. A variety of adult education methods can be used to encourage participation. Some methods include panels, workshops, simulations, use of case studies, discussion groups, problem-solving sessions, audience reaction teams, demonstrations, question and answer periods, and group tasks.
- Judges attending continuing judicial education programs should be given ample opportunities to test their acquisition of knowledge, skills, and attitudes.
- Evaluation is necessary to determine whether objectives have been achieved and participants' expectations met, and to assess whether additional education is needed.

- To assess the impact of education activities on the participants' performance, evaluations should be based on written or oral exit interviews and, if feasible, follow-up questionnaires distributed three to six months after the activity. Evaluation may include assessments by persons other than the participants. Open-ended or fixed response questionnaires, interviews, and observational rating scales can be used to determine if the topics were satisfactorily covered, the faculty knowledgeable and prepared, the learning environment appropriate, the materials useful, and the educational methods effective.

PRINCIPLE V:

Faculty

Faculty for continuing judicial education activities should be qualified by education or experience to effectively facilitate the attainment of the learning objectives.

STANDARD 5.1 Qualifications

Faculty should be able to plan and conduct education activities for adult learners. They should use adult education methods to provide a forum for participative learning.

STANDARD 5.2 Selection and Development

The core of continuing judicial education faculty should be drawn from the judiciary. Faculty development training should be provided to all judicial education faculty.

STANDARD 5.3 Educational Leave

Courts should make special efforts to grant educational leave to judges who serve as faculty, when their services have been requested by a continuing judicial education organization. Judges serving as faculty should be reimbursed for actual and necessary expenses.



COMMENTARY

- In addition to knowledge and experience, faculty members should possess the following essential skills: fluency in verbal communication; effectiveness in two-way communication; adaptiveness and creativity; and competence in the use of adult education methods.
- Opportunities to serve as faculty should be open to all qualified individuals. Newer judges, and those who have not participated in the past, should be encouraged to become faculty. Opportunities should be rotated commensurate with experience, skills, training, and interests.
- Judicial education faculty should commit the necessary time to participate in faculty development training and to prepare supporting written materials and audiovisual aids. Judicial faculty should be supported in their research, writing, and teaching by the continuing judicial education organization.
- Judges who serve as faculty members in their own state continuing judicial education program should not be paid an honorarium, but should receive reimbursement for their necessary expenses. Teaching at judicial education activities should be recognized as an appropriate judicial responsibility, and judicial faculty should be accorded adequate time from their regular judicial duties.
- Under the ABA Code of Judicial Conduct, judges may receive a reasonable amount of compensation (see Canon 4 H (1) and Commentary) for extra-judicial activities permitted under the Code of Judicial Conduct, such as teaching (see Canon 4 C (3)). Individual states may prohibit such compensation.

PRINCIPLE VI:

Resource Materials

The continuing judicial education organization should provide all judges with educational resources to enable them to perform their judicial duties in a knowledgeable, effective, and efficient manner.

STANDARD 6.1 Written Materials

Judges should receive well-researched written materials, including benchbooks, deskbooks, manuals, benchguides, and other publications that assist their performance of normal duties in a knowledgeable, effective, efficient, and correct manner.

STANDARD 6.2 Program Materials

Judges should receive well-researched written materials produced in conjunction with orientation, continuing education, and advanced/specialty programs as a method of increasing the attainment of learning objectives.

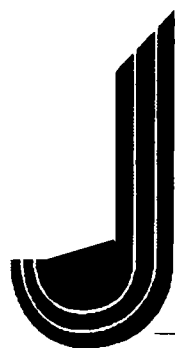
STANDARD 6.3 Lending Library

The judicial education organization should maintain a lending library of written materials and audio and video tapes.

VI

COMMENTARY

- Educational materials should be the responsibility of the judicial education organization, thereby promoting the coordination of education programs with education materials. Materials should be updated regularly, at least biennially.
- Separate judicial committees should have responsibility for advising the development and maintenance of written materials. A standing committee could be established to advise and monitor ongoing publications such as benchbooks and manuals. The materials may be written by judges or persons with knowledge and experience in not only legal research but judicial practices. Written materials should include checklists, forms, and scripts for everyday use on the bench.
- A lending library should include education materials in addition to recent publications and tapes regarding any matters affecting judicial responsibilities.



NATIONAL ASSOCIATION OF STATE JUDICIAL EDUCATORS

NASJE News

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DAVID
JOHN
12/15

Creating Presence

Maureen Conner

"When you have a clear intention to have something, you generate energy that is focused like a laser beam to go out and get what you want. If you intend to have something, you will."

Roman and Packer, *Creating Money*, 1988:13

Theorists, practitioners, and recipients proclaim the benefits of professional development, while at the same time cautioning that in hard times or during political warfare the first thing cut is continuing education. This same battle is being fought between congressional leaders who cry that the cost of educating America is too high and the president who fights back saying the cost of not investing in education is even higher. From the nation's capital to state houses to local governments, K-12, education is being carefully scrutinized. Sud-

denly everyone has become an expert in education. These self-identified experts offer plans that will improve, transform, or eliminate education as we know it. Therefore, it should come as no surprise that in this environment, continuing education budgets, content, and delivery are of prime interest.

Many in judicial branch education say they have been living with intense scrutiny for years, while others may be experiencing it for the first time. Regardless, the goal is always garnering and maintaining strong and unwavering support for continuing education no matter the political or economic climate.

Creating Presence v. Preventing Marginalization

Building strong support depends on whether those involved want simply to prevent judicial branch education from being relegated to the fringes of the judicial bureaucracy, or whether they want it to be central to the business of doing justice. This distinction is critical to how judicial branch education is approached. As an operating mode, preventing marginalization is more reactionary in nature and practice. It focuses on ferreting out weaknesses and predicting the next assault. Defending the value, worth, and contribution of judicial branch education becomes a constant activity, thus preventing the building of broad-based commitment and quality programming. When judicial branch education is marginalized, so are the educators. Therefore, neither the educator nor the education comes from a place of strength. This vulnerability makes it impossible for the educator to exercise leadership or express knowledge or expertise. The likely result is diminished programming, not only in number of offerings but also in meritorious substance.

The direct opposite of preventing marginalization is creating presence. Creating presence is an operating mode that depends on clarity, acknowledged values, stated intentions, hard work, and mastery of people and process. It is not about

continued on page eight

Maureen Conner is a senior associate with the JERITT Project.

Transitions

A warm welcome is extended to: **Jan Carol Bouch**, trial court training administrator, Colorado Judicial Branch; **Roger Rountree**, executive director of the Texas Justice Court Training Center; **Gwen Spivey**, senior attorney with the Florida Office of the State Courts Administrator; and **Sheila Sewell**, deputy director of the Administrative Office of the Courts, Oklahoma. Good luck wishes are sent to **June Cicero**, former director of continuing education for the Minne-

sota Supreme Court. June has recently started her own consulting business, Cicero Enterprises, focusing on adult and legal education. A fond farewell will be sent in February to **Larry Stone**, executive director of the Ohio Judicial College. Larry plans to retire from the college, but promises to remain active in NASJE activities. Congratulations to **Karen Waldrop Thorson** and **Kay S. Palmer** on their recent marriages. ■

Driving Fear out of the Workplace, *continued*

- If you can think of some, suggest options for action or new behavior.
- Acknowledge your part of the problem, own that this is your feedback, your perception of the problem and welcome feedback in return about what you might be contributing.

There are no guarantees in this tough work. In deciding whether to speak up, rely upon your own values. Carefully evaluate the damage you and your organization may sustain if you do not share your observations. Define the opportunities before you in positive terms. Then be driven both by what is right and by what is feasible. After considering your options, you may decide legitimately the time is not appropriate and you must cope with the status quo. If the situation is truly hopeless, you may decide to

leave the organization to protect yourself from an untenable situation. This also is a legitimate choice.

Challenges of the Path

The work of trust building is challenging and will be gradual. Leaders committed to this work may feel caught between their personal vision of a high-trust, quality organization and a slowly changing reality. To use the phrase of one manager who believes in these ideals, many of us operate somewhere in the "gray spaces between what ought to be and what can be."

The good news, and it is profoundly good, is that managers and employees in many organizations are responding to new patterns of thinking. "Them" and "Us" is no longer a satisfactory or inevitable mindset. Many people are discovering, whatever their organizational

level and role, that we all basically want the same things: pride in what we do and the organizations we work for, a sense of being all one team. We want to use our skills constructively, contributing to products or services highly valued by others. We want to be listened to, respected, appreciated, and trusted.

Increasingly, there are leaders who want to facilitate the transformation to the new kind of organization in which these discoveries are a way of life. They have as their goal breaking down barriers between levels, departments, teams, people. They work daily at listening to the workplace, at building a new kind of relationship, at transforming negative energy into positive accomplishment. The effort to understand and to reduce fear holds promise for moving organizations more quickly toward an extraordinary future. ■



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The writing is intended to reflect the opinion of the author; the editorial committee finds it appropriate to give a byline to make clear that the writing does not reflect the opinion of the editorial committee; or the writing reflects a substantial piece of work that occupies a prominent place in the newsletter and is at least one newsletter page in length.

In applying these guidelines the committee will resolve close issues against giving bylines to committee members and in favor of giving bylines to noncommittee members. When noncommittee members make contributions not otherwise credited, their names will be listed as contributing to that newsletter.

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The Judges Network

Project proves it's what you know *and* who you know that counts

FORGET WHAT IT SOUNDS LIKE AND PUT DOWN THE remote control. The Judges Network isn't a new channel on your cable lineup.

Rather, it is the pet project of a couple of faculty members at the Center on Children, Families and the Law to study the learning habits of judges with regard to child sexual abuse cases.

CCFL director Gary Melton and assistant to the director Kathryn Olson set out to prove that judges learn more about current court-related issues from informal contact with their peers than they do from articles or formal training.

"Our theory was that there are informal judge 'networks' in which they ask one another for advice," Olson says. "There is a set of judges who are considered experts in a certain area by their peers. One judge could be identified by his colleagues as an expert in bankruptcy or criminal procedure or child sexual abuse issues, for example." Other judges then go to this "know-it-all" with a question about a case, rather than use a more formal source like a journal, she says.

"Many researchers or educators have these rigid assumptions that the best education is through formal settings,"

she says. "But I think real learning takes place most often on the job, in one-on-one informal meetings with your peers."

A grant from the American Bar Association Center on Children and the Law to evaluate judicial child abuse education gave Olson and graduate assistant Aleisa McKinlay the opportunity to test the theory. Funding for the project originated from the National Center on Child Abuse and Neglect.

CCFL formed a study group of 18 judges from Nebraska and Iowa who were recognized by fellow judges as experts on child sexual abuse. In two hour-long conference calls, these 18 judges were given state-of-the-art information about child-sexual-abuse cases in the courtroom. They were then asked to record each time they shared some of that information with another judge.

A follow-up survey conducted four months later revealed that 17 of the 18 judges (94 percent) had "officially" networked and added to the information

grapevine with a total of 36 contacts. Although the bulk of the contacts (75 percent) were initiated by the participating judge, one-fourth of these contacts were *reactive*, meaning the test judges had been contacted by a colleague specifically for information from the training calls.

The significant number of reactive contacts and other data from the study will interest those in the law-psychology field and in judicial education, Olson says.

"This study is really applicable for people who want to get research information to judges," she says. "especially those who are socially conscious and want to help the (judicial) system with new information."

Naturally, CCFL also has a lot to gain from the findings. "We're accessing judges with our research and education of what judges need to know," Olson says. "We concentrate a lot on service workers and policymakers, but not as much on the judicial side on child welfare. Now we're more familiar with the learning processes of judges, and we can get our information to them to improve the handling of child abuse cases in the court system."



W. J. ...

National Association of
State Judicial Educators



School of Criminal Justice
Michigan State University

Judicial Education Programs Catalog

July 1, 1992 to June 30, 1994

Volume 2, Part 1
Program Listing

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Preface

This is the second edition of the *Judicial Education Programs Catalog*. It provides judicial education program information collected by the JERITT Project for the period of July 1, 1992 through June 30, 1994. The catalog is in two parts and can be kept as a permanent record of judicial education programming for the period. The first part lists over 1,600 judicial education programs for which JERITT has information. The second part, besides listing all topics presented in the various programs, contains a table of contents and a key word index. The topics listed in part two are arranged according to the JERITT subject matter classification. Also, both parts one and two contain a "How to Read" section that provides additional direction for using this catalog. Parts one and two are intended to be used in conjunction with one another.

Data for this catalog was provided monthly by judicial educators from throughout the United States and from some foreign countries. Educators completed a "cover page" for each program offered by their educational organization and attached a copy of the program's agenda.

Project staff reviewed program agenda topics and categorized each according to the JERITT subject matter classification system. The classification system is under constant revision so that it accurately reflects the dynamic nature of judicial education programming.

The JERITT Project receives and stores a wide variety of data on each program. Included are data on: program title, instructional hours, instructional methods, program date, sponsoring agency, target audience, audience type, number of participants, session times, instructional materials, type of faculty, subject matter, and program materials and their availability. A portion of these data are reported for each program in the Programs Listing. Data collected by JERITT but not included in the catalog can be obtained by contacting the JERITT Project offices.

The JERITT Project staff thank the many judicial educators who provide data. The catalog would not be possible without their effort.

Issues and Trends in Judicial Education

John K. Hudzik

With Assistance From

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1995

The Judicial Education Reference, Information
and Technical Transfer Project

Introduction and Executive Summary

The fact that there are at least 67 national and state level organizations in the United States actively engaged in providing continuing judicial education is noteworthy in the context that almost none of these organizations existed 25 years ago. Most have come into existence within the last 10 to 15 years. There is a great breadth of programming offered by these organizations (breadth both in subject matter and in the numbers and types of participants). Thus, continuing judicial education in the United States has evolved within the last decade to a sizeable enterprise of national scope.

Until recently not much was known about the number of court personnel given continuing education or about subject matter provided by judicial education organizations. The first efforts to remedy this lack of data were undertaken by the National Association of State Judicial Educators (NASJE) which began collecting program and organizational information from its members in the early 1980s. In 1989 the State Justice Institute (SJI) funded the Judicial Education Reference, Information and Technical Transfer Project (JERITT)--a cooperative venture of NASJE and the School of Criminal Justice at Michigan State University--to expand knowledge about the scope of judicial education and to create an information clearinghouse.

Since its inception in 1989, JERITT has become the national clearinghouse for information on continuing judicial education for judges, other judicial officers, and court personnel. Funding from SJI supports a number of *interrelated* activities that provide state, national, and federal-system judicial educators access to the latest information on judicial education programming, educational techniques and methods, and educational materials. Information is provided through publications, customized searches of JERITT databases, and direct technical assistance. Monthly, JERITT receives program data from 65 state, national, and federal-system judicial education organizations. Information is received also from cooperating judicial education organizations in other countries. JERITT regularly surveys all judicial educators to gather information on conditions and trends in judicial education and it also maintains the judicial-educator and judicial-education-organization rosters.

Although the judicial education enterprise in the United States is large, so is the potential audience. Of the nation's 28,000 judges and 200,000-300,000¹ support personnel, it is estimated, based on the JERITT data, that the majority of American judges have a continuing education opportunity of some kind available each year. It is quite another matter when considering key support personnel (e.g., court administrators and managers, clerks, probation officers, docket managers, and others). The availability of programs for them compared to the number of potential participants suggests that about 25% have access to a continuing education experience in a given year. The vast majority of court-support personnel receive little, if any, training (certainly not on a regular basis). And, if you exclude the snippets of educational opportunity provided in the traditional annual judicial conferences, many judges don't receive regular and meaningful continuing judicial education either.

Later in this introduction, we provide a summary view of several general findings based on surveys of judicial educators conducted by JERITT in 1990, 1992, and 1994. We also base these findings on an analysis of information contained in the various databases maintained by JERITT since March of 1990.

¹ As a result of data collection activities of the National Center for State Courts, we now have fairly accurate counts of the number of judges nationally. Far less reliable data exist regarding the total numbers of relevant non-judicial court personnel. Part of the problem is in definition: (1) there is no agreement as to who falls appropriately under the category of "judicial-system" employee, and (2) there is substantial variation from state to state regarding the agencies which fall within the judicial branch. The 1989 edition of the *Sourcebook of Criminal Justice Statistics* puts total state and local judicial system employment nationwide at about 178,247 for the court function, 82,611 for prosecution and legal services, and 12,993 for public defense. Probation is not included in these figures because they are lumped within the corrections statistics. Even assuming some accuracy to these figures, it remains a matter of considerable speculation as to how many would be appropriate candidates for court management education. A figure which we have heard repeated often (one given without supporting hard data), is that nationally, there are between 10 and 15 "key" support personnel per judge. Without knowing the meaning of "key," but considering positions of court administrator and deputy administrator, clerk, chief probation officer, managers of court divisions, programs and services, docket analyst and manager, key staff support personnel in areas such as budget and personnel, etc., a total potential audience of 150,000-200,000 is probably not an unreasonable estimate of the number of support personnel needing management training of some kind. The number is much larger if one includes specialty training in areas such as records, counseling, etc. A very rough estimate and very conservative of the core number of those who could profit from training and education in one or more of the subjects listed in Table 3-15 might comprise about 5-6 key staff per judicial position on average.

American Judicial Education Organizations²

Organizational Origins, Affiliations, and Authorizations

There are both state-based judicial education organizations and organizations which exist to serve national markets (called national organizations by us). In total, JERITT collects data regularly from 56 state organizations and 7 national organizations. Profiles of these organizations are in Chapter 1. Over two thirds of state judicial education organizations are affiliated with either their Supreme Court, with their state court administrator's office, or with both. The remainder of state organizations are affiliated with a university, a judges' conference, a non-profit corporation, or with combinations of the above. Eight of the national organizations identify themselves as being, or as associated with, non-profit corporations. Three of the national organizations also see themselves as associated with judges' conferences and four identify themselves as associated with universities.

Nearly a third of the state judicial education organizations exist by way of statutory provision, another third by court order or court rule, three by way of articles of incorporation, and the remainder by "other" means. The "other means" include, for example, "judicial council rule," "administrative decision of the supreme court," "constitutional provisions, or "no specific action." For most judicial education organizations, however, their existence and, presumably, their basic purpose is fairly well set by some formal action (whether statutory, court order, court rule, or by articles of incorporation). As one would expect, the dominant institutionalizing mechanism used by the national organizations is articles of incorporation.

The vast majority of state judicial education organizations see judges in their state as their primary constituent group, although not their exclusive clientele group. There is a relatively stable distribution of the proportion of programs having judges and non-judges as target audiences, in that year after year programs of state organizations target judges a little more than two thirds of the time and non-judges the remainder.

However, there is substantial variation among state judicial education organizations as to how important they see other groups to their educational missions (e.g., court administrators, court professional personnel, and clerical staffs). Some organizations, by charter or choice, provide programs for judges only, others for non-judges. The "newer" organizations (i.e., those dating from

² See Chapters 1 and 2 for detail.

1975 onward) devote on average a somewhat larger proportion of their judicial education budgets to continuing education for quasi-judicial and non-judicial court personnel.

Directors of State Judicial Education Organizations

As a group, judicial education directors are highly educated. Among those who provided biographical data, all have at least a baccalaureate degree and 95% of them have a post-graduate degree of some kind. Of these, over 40% have a master degree, a little less than 40% have J.D. degrees and 16% have Ph.D.s. A little less than 40% of judicial educators list their primary disciplinary field as law. The remainder list social science, humanities, education, and public administration as their primary disciplinary fields.

Judicial Education Policy Boards in States

Three-quarters of state and national judicial education organizations have a judicial education policy-making board. All of these boards have the function of providing information, advice, and ideas for curriculum and programming. But, the powers of these boards vary from organization to organization. In some states the boards have broad policy-making authority to shape programs and priorities, and in other states the boards are largely advisory to the judicial educator and/or the supreme court and court administrator's office. With all but one of the national organizations, the function of the policy board appears to be more advisory than definitive.

About a quarter of the states' boards are advisory only, while a little more than another third have policy-making authority to shape curricula, allocate education budgets, and set programming priorities. The remaining boards (also a little more than a third) appear to have policy "recommending" power--recommendations being made to supreme courts, judicial councils, or the state court administrator. Over 80% of the responding state organizations indicate that they use specific program planning committees or program advisory committees for gathering advice on the content and design of specific programs.

The reality in most states is that decisions about programming priorities, budget allocations, and so forth are determined through a process of joint consultation and input from a variety of sources which include several or all of the following: the supreme court and state court administrator, the judicial educator, policy boards, judicial conferences, and various professional associations.

Board composition varies widely as well from state to state. Very roughly speaking, however, there emerges two types of boards according to membership composition: (1) judges only or judges and quasi-judicial officers and (2) judges and other court personnel, or these and other non-court personnel. As one would expect, having the latter type is closely associated with mandates to service a mixed clientele group.

Full and Part-Time Staffing Patterns

The vast majority of employees in judicial education organizations are full-time. The state organizations vary greatly in size as measured by numbers of full-time employees. The range for state and national organizations is from zero to forty-one full-time employees. The median number in state organizations is three and about double that in national organizations. Unlike the typical college or university where a substantial portion of staff are engaged directly to instruct, personnel in most judicial education organizations provide support for others who are engaged on either a pro-bono or a paid consultancy basis to provide the instruction. These staffing levels have remained relatively stable over the last five years (1990-1994), suggesting that the growth spurt in organizations and staffing that occurred during the 70s and 80s in the United States ended by the late 80s, and as state budgets began to tighten. There is the possibility that growth will be renewed if the states' budget situations improve dramatically. So, too, investments made by SJI to develop judicial education in those states having little will also pay off.

Use of Consultants

The use of pro-bono or contractual personnel for instructional purposes is an important component of state and national judicial education organization staffing. Until recently not much was known, except through anecdotal information, about the pay policies of judicial education organizations when contracting with outsiders for instructional services. Actual policies and rates vary appreciably from organization to organization and from contractor to contractor even within a given organization. These variances are dictated by a complex set of factors which include organizational policy, availability of funds, the perceived worth or market value of the outside lecturer, and local culture and norms.

Some judicial education organizations have long-standing policies not to pay at all, or not to pay certain types of outside instructors, except in unusual situations. For example, it is unusual for a judge in a given state to be paid by the judicial education organization of that state for instructional services. Many state organizations generally will not pay for the services of those already on the

public payroll in the state (this includes not only employees of courts, but can include university faculty or employees of local governmental entities). One national judicial education organization has a policy of not paying honoraria to judges, other court personnel, law school professors or attorneys, but does pay other university faculty and private consultants. Two others pay no one. A third pays everyone. Table 2-2 in Chapter 2 summarize fee schedule information for these various types of faculty consultants for state and national organizations.

Budgets

The budgets of state judicial education organizations vary greatly, partly dependent on state size, partly according to the degree of support within the state for judicial education programming, and partly dependent on the breadth of programming (i.e., judges, quasi-judicial officers, court-support personnel). The median annual state judicial education organization budget is slightly under \$500,000 based on survey data collected in early 1994. This median figure is based on a range of budgets from a low of \$100,000 or less per year in four reporting states to a high \$950,000 to \$1.5 million or more in another four reporting states. The range for reporting national organizations is from a low of \$100,000 to a high of over \$4.2 million per year. We estimate roughly that total direct expenditures for judicial education in the United States ranges from a very conservative estimate of \$30 million annually (based on data reported directly to JERITT) to as much as double that when considering overhead and other indirect costs not reported and expenditures of some local trial courts.

Organization Designs and Missions

Many of the larger state and national organizations sampled by JERITT not only have traditional educational responsibilities but allied research, legislative analysis, publication, and consultation functions. The mid-range of judicial education organization size and function reveal a greater concentration of organizational activity in the areas of training and education per se, and less so (but not completely omitted) in areas of legislative analysis, research, and publications. The least complex design is roughly representative of the size of nearly half of the state judicial education organizations in the JERITT sample. These are lean organizations consisting of a full or part-time director and one or two support staff. Ancillary support is provided through pro-bono and contractual faculty and through the voluntary program planning assistance provided by education committees and by the state's judicial conference or professional associations representing various court employee groups. Although such ancillary support is utilized by the larger and more complex organizations, outside support

takes on far greater importance in *both* program design and program delivery in the smaller judicial education organizations.

Judicial Education Programming³

Mandatory Education Provisions

Most state judicial education organizations (71%) report the existence of mandatory educational provisions in their states. Unfortunately, the term "mandatory" does not have a clear, nor a uniform, meaning from state to state; both meaning and practice vary widely. Those which indicate that mandatory provisions exist in their states include under the label "mandatory" a range of requirements from, on the one hand, statutory provisions and court rules which enforce attendance to, on the other hand, the "expectation (as part of the local legal culture) that judges will or should attend."

The vast majority of mandatory education provisions are established by court rule or court order, and then mainly for appellate judges, general jurisdiction judges, and law-trained limited jurisdiction judges. For other groups such as non-law-trained judges and quasi-judicial personnel, court rule is still frequently the basis of requirements but the use of statute and administrative order also plays a greater role in establishing mandates for these groups.

The majority of reporting states having mandatory provisions require from 15-20 hours of continuing education per year. For the majority of these states, mandates apply more so to appellate judges (22 states), general jurisdiction judges (23 states), law-trained limited jurisdiction judges (21 states), and law-trained quasi-judicial personnel (13 states).⁴ Only a handful of states mandate continuing judicial education for non-judicial personnel.

There are many mechanisms employed in most of the states for meeting mandatory education provisions. In addition to various kinds of in-state mechanisms, nearly 80% of respondents permit out-of-state programs to count. In about a third of the states, law school courses may be used to satisfy requirements. Also in a third of the states, other mechanisms which count include,

³ See Chapters 3 and 4 for detail.

⁴ Not all states mandate continuing education for the full range of judge groups. Thus, there is some variation in the states that form the list of mandating states when moving from a consideration of one judge group to another. See Chapter 4 for more detail.

for example, judges serving as speakers at educational seminars or preparing an article for publication.

New Judge Orientation and Judicial Mentoring

An issue closely allied to general issues of mandatory education concerns which states either offer or require education for new judges. The 1992 survey asked judicial educators several questions about new-judge orientation and mentoring programs. These results, together with additional research and consultation by JERITT staff, provided the basis for a JERITT monograph entitled, *Mentoring in the Judiciary*, issued in late 1992.

Mentoring programs exist in 29 states for a wide variety of types of judges. Programs for general jurisdiction judges are most common while, in order, programs for limited jurisdiction judges, non-law-trained judges, quasi-judges, appellate judges, and administrative judges are less available.

Mentoring programs for new judges are almost always linked to pre-bench and new-judges' seminars, and there is a fair amount of redundancy with respect to topics being covered in all three educational formats. Judicial conduct and ethics is the highest rated topic for all three formats. This finding is not surprising given that new judges are immediately subject to a judicial code of ethics which differs from any ethical code they may have been subject to before becoming a judge.

Judicial demeanor received the second highest rating for pre-bench seminars and mentoring programs, but is ranked eighth for new-judge seminars following swearing in. A review of the top third topics in each format shows that topics heavily oriented toward substantive and procedural law are more prevalent in the seminars, but not apparently dealt with much in the mentor programs. Topics relating to courtroom management issues are more prevalent for pre-bench orientation seminar and mentoring program formats. See Table 3-5 for more information about the frequency with which certain topics are presented using these three educational formats.

Methods and Scope of Program Planning and Evaluation

The 1990 JERITT survey of judicial educators preliminarily explored options used by them for conducting program planning and needs assessments and also for conducting program evaluations. Following, we present summary findings. A more complete explication of these findings and a guide on conducting program planning and evaluation for judicial education programs is

provided in JERITT's first monograph entitled, *Judicial Education Needs Assessment and Program Evaluation*.

Program Planning Information Sources: A hallmark of good continuing professional education is its connection to the work environment of the profession being served. Among other things, this requires an understanding of job tasks and skill-development needs. Judicial education organizations make heavy use of information coming from participant feedback (program evaluations). The feedback is usually of two generic kinds: first, did participants "like" the program and do they wish certain topics discontinued or others added; and second, do participants think that they will use any of the information or techniques conveyed when returning to the job. Formal surveys or needs assessments are used not at all or only occasionally by most of both the state and national organizations. Both national and state organizations similarly rate relatively highly the impact of "external influences" (e.g. new legislation) as providing informational input to the planning process.

Approaches to Program Evaluation: Nearly all of the state and national judicial education organizations regularly use participant feedback as a data collection method. Based on additional anecdotal data, we believe that the most common form of feedback questioning includes a general assessment of how good participants think the program was, a general assessment of how job relevant the program was, whether certain topics should be omitted or added in future programming, and (in some cases) whether participants intend to use any of the information or methods presented once they return to their courts. To no great surprise the vast majority of both state and national respondents report either never or only occasionally measuring outcomes (i.e., actual impact on participants in their work settings and impact on court performance). We suspect that respondents who indicate that they occasionally use these methods are, for the most part, collecting anecdotal feedback data as opposed to rigorous and systematic evaluative data.

Priority Participant Groups

An essential component of judicial education organization policy is determining which types of court employees receive attention through the organization's programming. Which are the organization's primary target audiences; which are the secondary; which are not to be serviced?

We asked judicial educators in the 1990, 1992, and 1994 surveys, reporting for their respective organizations, to consider all programs which they offered during the last, most recently completed program year and to estimate the

percentages of total participants who were from several personnel/professional classifications: law-trained judges, other law-trained judicial branch officers, non-law-trained judges, and all others. Results from the 1994 survey are fairly consistent with those from the previous surveys.

Law-trained judges were the dominant types of attendees in a majority of state programs as reported in the 1994 JERITT survey. For a little over half of the responding state organizations, law-trained judges accounted for 70% or more of their program enrollments. However, non-judicial court personnel (including a wide range of personnel classifications from court administrators to clerical personnel) comprised sizeable participant groups for several reporting organizations: nearly 30% of the responding organizations report over half of their program participants being non-judicial court personnel; over half report that at least 25% of their participants are non-judicial court personnel. Thus, although judges are the dominant target participant group for most state judicial education organizations, some organizations (28%) service more non-judicial than judicial clients, over half devote at least a quarter of programming to these non-judge groups, and almost all provide some programming for them. Overall, taking enrollments and programming of both national and state organizations into consideration, we estimate that about 58% of programming is provided to law-trained judges, about 15% to other judicial-branch officers, and 27% to court-support personnel.

Program Enrollments

The average (median) annual enrollment for reporting state and national organizations is a little over 1,100 participants. In our 1994 sample, the reported actual total enrollments were nearly 50,000 participants. Taking missing data into account, we can estimate that between 60,000 and 70,000 participants are serviced annually by state judicial education organizations. Annual enrollments for nearly 40% of the reporting organizations are between 1,500 and 3,000 participants. In nearly a quarter of the reporting states, annual enrollments exceed 2,000. A little less than a quarter of the reporting organizations have modest annual enrollments of 500 participants or less.

Subject Matter and Topics

The aggregate number of programs offered each year by state and national organizations appears relatively stable--in the area of 750 to 800 per annum. The JERITT programs database sorts subject matter according to 18 general subject matter categories and, within these, 362 more specific subcategories. Table 3-15 lists all JERITT subject matter categories and subcategories along with a count of

the number of program entries in each, reflecting instances of the presentation, by year, of a topic by state and national organizations. Some of the subcategories have several hundred individual entries, reflecting their relative popularity and presumed importance to judges and others. While all of the specific subcategories have at least one entry, the vast majority (well over 90%) have at least five entries, over 75% of the subcategories have at least ten entries, and about two thirds have at least twenty entries. These data provide a clear view of the breadth of programming subject matter now relatively routinely addressed by continuing judicial education programs.

Almost half of the programming relates to the fundamental business of courts--law, sentencing, procedure, and so forth. However, about 23% of all topical offerings during the five-year period relate to organizational and personnel management; juvenile justice topics at another 10%, social sciences, humanities, ethics and discipline at 12%, and domestic relations at 7% account for nearly another 29% of topical offerings. Additionally, when considering the over 14,000 topical entries in the 50 sub-topics of the miscellaneous section, it becomes clear that continuing judicial education has a substantively very heterogeneous meaning.

Other Programming Characteristics

Other programming characteristics of interest for which JERITT assembles information concern program length, numbers of participants, types of faculty used, subject matter of faculty, and types of instructional methods and materials used, and time of year offered. Programs vary in length from a few hours to one or more weeks in length. Over 60% of all programming is between one and two days in length; about a quarter is one day in length and about a third is two days in length. Programs of nearly a week in length or longer comprise about 12% of the sample.

Most programs are relatively small in size defined by number of participants. A little less than a third are seminar size, admitting 25 or fewer participants. A little more than a quarter admit from 25 to 50 participants. Proportionately speaking, very few of the programs in the database (about 7%) are large enrollment affairs of 200 participants or more. Of course, although few in number, these large conferences offer many "seats" to participants who otherwise might go without a continuing education experience in a given year.

Types of faculty and faculty subject matter specializations are varied, although lawyers and judges dominate. Judges were used as faculty in 60% of programs in the database and lawyers in 44% of them. Various kinds of university faculty were used in 36% of the programs and private consultants in

27% of the programs. Non-judicial court personnel were used about 21% of the time, and personnel from the state court administrator's office were used in about 16% of the programs.

The subject matter specializations of these faculty reflect their parent professions. Most are educated and experienced in the law and in adjudication. After this, the most frequently used specialization is from management and administrative science, followed by, in order, communications, psychiatry/psychology, caseload, computers, criminology, social work, humanities, and biology/medicine.

A variety of instructional methods and materials are used in a large number of programs. Not surprisingly, lecture is used in nearly 80% of the programs and discussion and question/answer in almost two-thirds of them. Problem solving exercises are used in about a third of the programs and small group work in nearly 40%. Various other forms of group and individual exercises are used in a fifth to a third of the programs. Action planning, which typically asks respondents to devise actions that they will take after the program, is used in 10% of the programs. The most infrequently used methods include one-way and two-way teleconferencing and tutorials.

A little less than two-thirds of the programs provide participants with notebooks or manuals; about a quarter provide them with readings. Other kinds of materials are relatively infrequently supplied as part of the programming.

Summary

As observed in the first edition of JERITT's *Issues and Trends* in 1991, as well as in the second, the most striking trend of the last twenty years in continuing judicial education in the United States has been its virtual spread throughout the states and its emergence as big business. With this growth has come tremendous variability in subject matter and groups serviced under the label "judicial education." Indeed, "judicial education" is no longer education for judges alone as the majority of state and national judicial education organizations regularly offer instruction to non-judicial court personnel. So, too, the subject matter of continuing judicial education in the United States has become very diverse. Traditional topics in the law and procedure have been supplemented with a wide range of information from numerous other fields and disciplines. Continuing judicial education programming in the United States annually provides 50,000-70,000 educational spaces, covering well over 300 topical categories.

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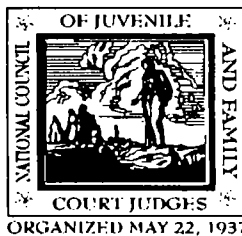
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**The Juvenile Court
and the
Role of the
Juvenile Court Judge**

By Judge Leonard P. Edwards

National Council of Juvenile and Family Court Judges