
EDUCATING JUDICIAL EDUCATORS: TWO PERSPECTIVES

Of the many judicial educators working today, none grew up wanting to have a career in this field, nor did they get a university degree in continuing judicial education. They found their way into judicial education from a variety of backgrounds. One estimate is that 10 percent come from academia, 40 percent are non-lawyers with some teaching experience who serve mainly as conference facilitators, and the remaining 50 percent are lawyers who are in the continuing education business (P. Li, personal communication, October 20, 1990). How do they become effective judicial educators? How do they learn what they need to know? Can educational programs be developed to help them?

Although little research has been done on these important questions, we can draw on the literature about how professionals learn. The purpose of this chapter is to discuss how judicial educators learn and what implications this has for their continuing education.

Judicial Educators as Learners

Like other professionals, judicial educators make judgments in everyday practice using a repertoire of practical knowledge. Although we lack systematic research to support this view of judicial educators, a compelling body of theory and research has accumulated over the past 15 years about the development of professional expertise. This research has found that professionals actually use *practical knowledge*, as opposed to formal principles, in their everyday practice and that this knowledge is best learned through practice or reflection on practice (Dreyfus & Dreyfus, 1986; Glaser, 1984; Schon, 1983, 1987).

Although the knowledge acquired through practice is known by several names (such as know-how, practical knowledge, implicit theory), it clearly forms the basis of expert practice. The point is repeatedly made that the use of practical, not abstract, knowledge is the basis of expertise. That is, a major difference between experts and non-experts in any field is that experts have far more practical knowledge, meaning they “know how” to perform their craft. For example, Lesgold et al. (1988) found that radiologists interpret x-rays using mental processes different from those taught in medical school courses, textbooks, and even hospital teaching rounds. Dreyfus and Dreyfus (1986) show that when expert pilots try to use the rules they are teaching to apprentice pilots, their performance regresses. They must rely on the practical knowledge acquired through years of practice.

Philosophers have long recognized that the value of practical knowledge stems from its two main features: (a) it is time-bound and situation-specific and (b) it is personally compelling and oriented toward action. It can best be acquired by engaging in practice or at least simulations of practice. The research literature supports this finding. Benner (1984) found in her research with nurses that “expertise

develops when the clinician tests and refines propositions, hypotheses, and principle-based expectations in actual practice situations” (p. 3). Most researchers agree that although expertise evolves as professionals practice, the correlation between the two is not perfect. There are many people who learn from practice better than others. This ability distinguishes experts in a particular profession.

Many of these ideas were confirmed in a research study regarding judges’ practical knowledge. The study viewed judging as a special form of professional problem-solving in that problems are always ill-structured, solutions are inconclusive, and important features of the problem become apparent only as the situation unfolds (Lawrence, 1988). As with other professions, the goal of practice is wise action, with the legal criterion for good judgment being the judge’s “personal satisfaction beyond reasonable doubt, with a public statement of reasons” (p. 229).

This research found that expert judges bring to bear their own implicit theories on situations that include penal philosophies, the immediate sentencing objectives, a view of the severity of the particular crime, and a definition of the judging role in relation to particular cases. These implicit theories have a major impact on not only the final decision but also on the process whereby that decision is reached. As one magistrate put it: “You’re going to follow a pre-existing pattern where whatever does happen is going to fit between extremes of what you have dealt with before” (Lawrence, 1988, p. 255). Thus, implicit theories are judges’ personal perspectives and values developed from prior experience, and this influences how they look at the particular case before them.

These implicit theories, developed through experience, are the major criteria distinguishing expert from novice judges. In the conclusion of her study, Lawrence (1988) said:

In a highly personalized professional role, with individualized ways of defining outcomes and processes, experience provided the experts with patterns for reducing workloads....Experience also brought with it ideas about what to look for, and ways to follow up leads in the data....Experts were markedly different from...the novice in pulling leads out of files and reports (p. 257).

The research into the acquisition of professional expertise strongly supports the notion that judicial educators need practical knowledge in order to make the best judgments in their everyday work. However, this view does not hold that practical knowledge is best simply because it is what educators use. For example, we can all think of colleagues whose years of experience have produced ineffective forms of practice. That is, the knowledge acquired from practice is not always both necessary *and* sufficient for making the best judgments. Educational principles and theories have a role to play in facilitating the best judgments because of their ability to generate new ways of looking at old realities. Principles can help alert us to problems, point to strategies, remind us of what we should care about, or prompt our practical insights into specific cases. The challenge is to be able to integrate these principles into judicial educators’ repertoire of practical knowledge and reasoning.

Educating Judicial Educators

This view of judicial educators as learners has implications for what they must learn to be effective, as well as how it can best be learned. The focus of this approach must be on the development of practical knowledge, which is generally understood as a repertoire of examples, images, metaphors, practical principles, and rules of thumb that are used in practice. Generally, judicial educators are not fully aware of the knowledge in their repertoire; therefore, this knowledge is often implicit and unacknowledged. To improve practice, it is as important that this implicit knowledge from practice become explicit as it is to develop new knowledge. I would like to suggest some ways that judicial educators' repertoire of practical knowledge can be improved by judicial educators and by those who plan educational programs for them.

The primary responsibility for improving the everyday practice of judicial education falls to judicial educators. They must see themselves as researchers of their own practice. Their goal should be to understand how they view their roles and frame problems and to uncover their own practical knowledge and the processes by which they use that knowledge. Individual reflections on practice can be fostered by institutionally supported activities such as staff meetings where educators discuss how their practice is affected by the constraints of their organizational settings. A tremendous amount of practical knowledge exists with judicial educators in the workplace. Unfortunately, this practical knowledge is often not fully tapped by others. There is a wealth of uncovered practical knowledge among judicial education staff within a particular organization that is not systematically made available to everyone. Finding ways to identify and share this knowledge can offer many ways to improve the practice of individual judicial educators as well as the collective work of a judicial education unit.

Practice can also be improved by participating in formal educational programs such as workshops and conferences. In these programs, formal knowledge and principles are usually stressed. To increase the likelihood that this kind of knowledge will be incorporated into judicial educators' repertoire of practical knowledge, it should be presented in such a way that the judicial educator uses it to reflect on his or her own practice situations in the presence of the instructor. This can also be done in informal ways such as visiting other state judicial education organizations. The visiting judicial educator can observe the work of others and then discuss what happened and why.

Many specific methods have been proposed and used to make formal educational programs more practice-oriented, including discovery methods (Glaser, 1984), case studies (Dreyfus & Dreyfus, 1986), and coaching (Schon, 1987). A typology of these methods has been proposed (Collins, Brown, & Newman, 1989) that suggests a developmental sequence for their use. The first three methods (modeling, coaching, and scaffolding) would help learners develop their practical knowledge in an area in which they were unfamiliar through processes of observation and guided, supported practice. **Modeling** involves showing an expert carrying out a task so that the novice can observe and build a

mental model of the processes that are required to accomplish the task. *Coaching* involves experts observing learners while they carry out a task and offering hints, feedback, modeling and reminders aimed at helping them improve their practice. *Scaffolding* refers to the support expert provides to help the learner carry out the task, which usually involve the expert carrying out parts of the overall task that the learner cannot yet manage.

Following these methods, articulation and reflection are designed to help learners gain conscious access to and control of their own knowledge and reasoning processes as well as that of the expert. *Articulation* includes any method of getting learners to speak about their knowledge, reasoning, or problem-solving processes. *Reflection* involves enabling learners to compare their own problem-solving processes with that of an expert or other learner. The final method (*exploration*), which is aimed at encouraging learner autonomy in defining and formulating problems, pushes learners into a mode of problem-solving on their own.

Summary

How can judicial educators learn to become more effective in their everyday work? This chapter has stressed the importance of judicial educators' practical knowledge, which is best learned through daily practice and reflection on practice. Judicial educators can also improve their practice by participating in formal educational programs that are designed so that they can reflect on their own practice situations in the presence of the instructor.

PROFESSIONAL DEVELOPMENT: A JUDICIAL EDUCATOR'S PERSPECTIVE

Judicial educators play many roles within a complex system that demands proficiency in a myriad of capacities. Judges, administrative directors, fiscal officers, legislators, trial and appellate court personnel all demand that judicial educators perform with precision, accuracy, grace, and dignity.

On any given day, judicial educators are expected to forecast the economic future; manage their staff, resources and products; present ideas; be bright, committed and “in the background;” host meetings; and be a strong leader and champion for “the cause.”

Trying to play such divergent roles is difficult, particularly without a script. Judicial educators, out of necessity, write their own scripts, cognizant that others hold the majority of the power and influence. Therefore, judicial educators must have what others need -- practical knowledge about how to successfully produce learning experiences.

Judicial educators can only fulfill their duties by developing their practical knowledge base so that they become experts. As Dr. Cervero suggests in the first section of this chapter, judicial educators can become experts through the fusion of practical knowledge and formal education comprised of theory and principles. This fusion, called professional development, must be an ongoing practice which keeps the judicial educator in top form.

Professional Development at the Individual Level

Many formally recognized careers have extensive professional development in place. Because judicial education is a relatively new field, fewer opportunities exist for the development of individual expertise. Judicial educators are now creating their own professional development opportunities, mostly at the individual level.

Professional development is most profound when undertaken at the individual level because this level is the closest to the action. The question that is always asked is how can a judicial educator develop at the individual level. What follows are some suggestions; however, the individual who embarks on this path must be reflective as this is a reflective undertaking.

Know What you Know

- Make a list of the skills you must be able to execute successfully. Now rate yourself in each area.
- Make a list of the knowledge and information you must possess and use in order to be successful. Identify your strengths and weaknesses in both the amount of knowledge and information you possess and how you use it.

Know Who You Need to Know

- Analyze your environment and identify the authority figures and the power brokers. Determine what influence they can have over you and rate your ability to influence them.
- Identify who you can collaborate with or lead to accomplish your plans. Rate your ability.

Know What Others Know About You

- Make a list of everyone with whom you have contact. Determine what they know about you and what they would say about you.

Know Your Desires, Wishes, Goals, and Aspirations

- Identify where you want to go. Be clear and concise about what you want.
- Develop a plan with time frames to realize your desires, wishes, goals, and aspirations. Develop a long-term plan by building a foundation on daily, weekly, monthly, and yearly objectives that, when accomplished, will result in the manifestation of all that you want.

Record Your Life

- You win, lose, and draw every day of your life. Keep a journal of those events. Record with clarity and detail every aspect of each event. Remember what you did and all of the results.

As evidenced by these suggestions, individual professional development is an intimate self- and situation-assessment which results in a thorough understanding of all that is real about the educator and the work environment. Deficiencies will be exposed and assets will be acknowledged. Most certainly, the judicial educator's role will be known. From this, the judicial educator can then make his or her role known to others. With a newfound understanding, the judicial educator can meet with the other characters in the script and negotiate a role which is congruent with the judicial educators' new understanding. Dr. Cervero referred to this process of assessment educator's new understanding. Dr. Cervero referred to this process of assessment when he said judicial educators must be the researchers of their own practice. Further, Dr. Cervero said sharing this information will not only improve the practice of the individual judicial educator but will collectively improve the work of judicial education.

Professional Development at the Collective Level

The knowledge that the judicial educator gains from this personal assessment process is not only valuable to the educator but has implications for all judicial educators. When judicial educators identify who they are and what they know at the individual level, they can share that knowledge for the collective benefit of all judicial educators. Through this, a recognized body of information can be developed and articulated. Formalized systems can then be delivered for the professional growth of all judicial educators. This information will become a body of practical knowledge from which all judicial educators can draw.

Professional development at an individual level will make the judicial educator eager for more information, knowledge, and identification with others engaging in the same pursuit. This will lead to involvement in a variety of different activities. This is where professional development becomes external and can be accomplished in numerous ways.

Judicial Educator as NASJE Member

- Involvement in NASJE provides a formal place for judicial educators to meet and expand their practical knowledge base. The annual conference provides a forum for theoretical principles and practice to converge and blend.
- NASJE informally promotes mentoring of new judicial educators. Mentoring is an excellent avenue through which the exchange of practical knowledge can be accomplished. Practice in the field can be guided and expertise can be gained.
- Networking is encouraged and promoted by NASJE. The NASJE Annual Conference has a schedule and format which is intentionally designed for networking. Networking keeps fresh ideas flowing and supports individual professional development.
- Specialized educational programming is presented at the annual conference which provides theories and principles to expand individual views, beliefs, and values about old realities. Further, the programming includes an application component to enlarge the judicial educator's skill bank.
- Lastly, NASJE offers additional professional development through membership on its various committees. Committee work enables the judicial educator to invest in the development of the field as well as him or herself.

Judicial Educator as Private Consultant

- Once judicial educators identify their own expertise, they can aid other judicial educators or justice system organizations as consultants on special projects. Judicial system education is a small and specialized field. If a judicial educator has a special talent for needs assessment, for example, he or she can be called upon to use that talent in conducting a needs assessment for another organization. Not only does the judicial educator gain more experience and practice, but the field develops recognized experts.

Judicial Educator as Author

- One way of adding to the knowledge base of judicial education is for individual educators to formalize their knowledge base and commit it to paper. The number of people who can be reached through publication is significantly higher than through individual contact. Additionally, the field of judicial education will receive increased recognition through publications which are committed to its theory and practice.

Judicial Educator as Learner

- Judicial educators must constantly challenge the premises and belief structures upon which their work is based. New ideas and concepts from fields not directly related to judicial education should be pursued. These lessons at the individual level will enhance the field as a whole and therefore positively affect judicial education at the collective level. Judicial educators perform functions in many areas -- human resource management, fiscal management, instructional design, teaching, strategic planning, project management, needs assessment, evaluation, and forecasting are some of the major areas. All of these functions are carried out in a highly political environment requiring political astuteness and communication finesse. For a judicial educator to have a myopic view of his or her professional development will surely lead to failure.
- The judicial educator should take courses or seminars which focus on people and money management, communications, chaos and change, political survival, accelerated learning, systems design and analysis, curriculum design, creativity, and managing competing priorities.
- Such education can be found in seminars offered through many national professional associations, all of which have local chapters. Colleges and universities offer many courses in all of these areas. Again, the most important factor for the judicial educator to remember is that exposure to non-judicial environments and fields of study is most important in broadening the judicial educator.

A Guide for Professional Growth

Dr. Cervero focused on the judicial educators' skill and knowledge bank as practical in nature with an emphasis on application. He suggested that judicial educators must, to keep the competitive edge, continue to develop and refine their repertoire of skills and knowledge. This can be done at the individual level by going inward through assessment and reflection. The judicial educator can then go outward by involving him/herself in professional activities with other professionals. This internal and external process is professional development and should be done continually if the judicial educator is to be viewed as an expert. What follows is a guide which can be used to help the judicial educator achieve the desired level of growth.

I AM WHO I SAY I AM: A Judicial Educator's Guide to Professional Development

Finding Your Purpose: Why Do I Do This?

1. Explain your purpose for being a judicial educator.
2. List why you do or do not feel passionately about your purpose.

Define Your Reality: So This Is What I Do!

1. List the responsibilities of your job.
2. List your areas of authority.
3. List what you control.
4. List who you control.
5. List what you like about what you do.
6. List what you do not like about what you do.
7. List your allies.
8. List your opponents.
9. List who you can count on.
10. List what you are good at in your job.

11. List what you are not so good at in your job.
12. In which arenas do you feel most vulnerable?
13. In which arenas do you feel most powerful?

Contemplate What You Know About Your Reality: Self-Assessment Results With a Purpose

1. Read and contemplate what you just wrote.
2. What did you say about your reality and purpose that surprised you?
3. What did you say that made you feel positive about your reality and purpose?
4. What did you say about your reality that made you feel less than positive?
5. Identify and list areas which need to change before you can be satisfied the majority of the time.

Make A New Reality: A Life Of My Choosing

1. Decide if you need a new purpose. If you do, describe it here.
2. Develop a plan to align your job with your purpose.
3. Decide what you can let go and then let it go.
4. Make your allies part of the plan.
5. Co-opt those whom you control and those who control you.
6. Determine what skills, information, knowledge, and influence you need to activate your new reality. Evaluate your level in all four areas.

Skills:

Have:

Need:

Information:

Have:

Need:

Knowledge:

Have:

Need:

Influence:

Have:

Need:

Through self-assessment you can discover deficiencies which you must rid yourself of if you are going to be successful. Some of what you may find may be surprising. Surprised or not, you must take this information and select experiences from which you can learn and strengthen who you are and what you do.

1. Take a course or get another degree.
2. Go to workshops and seminars.
3. Join professional associations or groups.
4. Find a mentor or mentor someone else (you learn more by doing).
5. Teach others what you know.
6. Visit someone else in a similar position.
7. Network - tell others what you need.
8. See a career strategist.
9. Read.
10. Find other people who exhibit the actions and beliefs you value and model their behavior.
11. Honor who you are.
12. Always start from a place of integrity.

All Dressed Up With A Place To Go: Activating Your Plan

1. Be courageous.
2. Be bold.
3. Be confident.
4. Announce your plan.
5. Be prepared for questions and concerns and advice.
6. Revamp if you need.
7. Do it.

Summary

For professional development to be profound and successful it must combine reflection and action at each juncture and through every step. Without continually engaging in deep and honest reflection, the judicial educator may pursue an avenue which is not appropriate or will not result in the desired outcome.

Professional development requires action -- action which is built on an accurate understanding and truthful appraisal of self, others, and the environment.

Professional development is evolutionary. Therefore, unless the judicial educator is vigilant and willing to make the activity of professional development a part of everyday living it will become staid. Professional development is not a quick fix for any problem or deficiency. To put it another way, at first engaging in professional development is something that you do, but over time, developing yourself professionally is just characteristic of who you are.

The field of judicial education is comprised of individual judicial educators. The field of judicial education is no better than the individuals which comprise the field. To professionalize the field, individual educators must be professionalized, as the educators will lead the field. This process is, again, evolutionary and will result in a collective consciousness that is dedicated to striving for the very best and will never settle for anything but the best.

DEFINITIONS

Articulation: any method of getting learners to speak about their knowledge, reasoning, or problem-solving processes.

Coaching: a method to develop practical knowledge which involves experts observing learners while they carry out a task and offering hints, feedback, modeling and reminders aimed at helping them improve their practice.

Exploration: encouraging learner autonomy in defining and formulating problems; pushes learners into a mode of problem-solving on their own.

Modeling: a method to develop practical knowledge which involves showing an expert carrying out a task so that the novice can observe and build a mental model of the processes that are required to accomplish the task.

Practical Knowledge: the knowledge acquired through everyday practice or reflection on practice.

Reflection: enabling learners to compare their own problem-solving processes with that of an expert or other learner.

Scaffolding: a method to develop practical knowledge which refers to the supports the expert provides to help the learner carry out the task, which usually involves the expert carrying out parts of the overall task the learner cannot yet manage.

REFERENCES AND SUGGESTED READINGS

- Benner, P. (1984). *From novice to expert: Excellence and power in clinical nursing practice*. Menlo Park, CA: Addison-Wesley.
- Cervero, R. M. (1988). *Effective continuing education for professionals*. San Francisco: Jossey-Bass.
- Collins, A., Brown, J. S., & Newman, S. E. (1989). Cognitive apprenticeship: Teaching the craft of reading, writing, and mathematics. In L. B. Resnik (Ed.), *Knowing, learning, and instruction: Essays in honor of Robert Glaser* (pp. 453-494). Hillsdale, NJ: Erlbaum.
- Dreyfus, H. L., & Dreyfus, S. E. (1986). *Mind over machine*. Oxford: Basil Blackwell.
- Glaser, R. (1984). Education and thinking: The role of knowledge. *American Psychologist*, 39, 93-104.
- Lawrence, J. A. (1988). Expertise on the bench: Modeling magistrates' judicial decision-making. In M. T. H. Chi, R. Glaser, & M. J. Farr (Eds.), *The nature of expertise* (pp. 229-259). Hillsdale, NJ: Lawrence Erlbaum.
- Lesgold, A., Rubinson, H., Feltovich, P., Glaser, R., Klopfer, D., & Wang, Y. (1988). Expertise in a complex skill: Diagnosing x-ray pictures. In M. T. H. Chi, R. Glaser, & M. J. Farr (Eds.), *The nature of expertise* (pp. 311-342). Hillsdale, NJ: Lawrence Erlbaum.
- Schon, D. A. (1983). *The reflective practitioner*. New York: Basic Books.
- Schon, D. A. (1987). *Educating the reflective practitioner*. San Francisco: Jossey-Bass.