



NATIONAL JUDICIAL INSTITUTE  
INSTITUT NATIONAL DE LA MAGISTRATURE

# The Changing Role of the Judge



In Review 2019-2020

# The Changing Role of the Judge

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# Message from the Chief Justice of Canada

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The landscape of judging is constantly changing, but in the 21st century—especially now, in the midst of a pandemic—the terrain is becoming as varied as Canada’s topography, and just as complex to navigate.

The arrival of COVID-19 has caused a tremendous shift in the way Canada’s justice system operates, necessitating a move from real to virtual courtrooms. This has put into stark relief the other factors that have been changing the way judges work, including new technologies, demographic shifts, and the steady increase in case loads.

With such a fluid backdrop, ongoing professional development for judges is critical so that judges can thrive—and not just manage—in these evolving circumstances.

This is where the National Judicial Institute comes in. Even in the midst of a global health crisis, Canada’s primary judicial education provider continues to deliver innovative programs and resources to assist judges in dealing with a justice system that has forever been altered.

When Canadian society entered lockdown and the justice system moved towards virtual courtrooms, NJI already had many resources available online to assist judges in navigating this brave new world.

LAFOREST & SABOURIN – COURTESY OF THE SUPREME COURT OF CANADA



**The Right Honourable Richard Wagner, P.C.**  
Chief Justice of Canada  
Chair, NJI Board of Governors



The Institute quickly switched to an entirely digital platform, adding webinars to its vast array of offerings, which include podcasts, videocasts, e-Letters, bench books, and curated subject collections. Along with addressing substantive law issues such as the upcoming amendments to the *Divorce Act*, NJI webinars delved into how to manage a virtual hearing, the effects of COVID-19 on family justice, and the ways in which social media are used in the courtroom.

## Ongoing professional development for judges is critical so that they can thrive in these evolving circumstances.

As a judge-led organization with a dedicated cadre of faculty members from the judiciary, academia and the community, NJI is well placed to deliver relevant, high-quality education to Canada's 2,500-strong judiciary. Its curriculum—which encompasses substantive law, skills, and social context—enables judges to keep on top of legal developments, hone the skills they need, and understand the context of the people who come before them.

Improving access to justice for all Canadians is a preoccupation of all judges, myself included. I remain committed to working with NJI's excellent staff and faculty to ensure judges have at their disposal a range of educational opportunities and resources to be able to fulfill their fundamental roles in the service of Canadians.

Thank you to all those who tirelessly give of their time, knowledge, and experience to keep judicial professional development on a firm footing.

**The Right Honourable Richard Wagner, P.C.**

Chief Justice of Canada  
Chair, NJI Board of Governors



# Message from the Chief Judicial Officer

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I began to write this message in early 2020. We had chosen our topic for NJI's *In Review 2019-2020: The Changing Role of the Judge*, and my job was to give some judicial context to the publication as a whole. The original plan had been to release the annual review in June.

All that changed in March, when we were all told to go home and stay home as the country reacted and adjusted to COVID-19. NJI needed to undertake a major change in direction, from an institute that offered most of its education to judges in person (albeit with a small but growing digital presence), to an institute that needed to operate exclusively online. One of the first decisions we made was to focus entirely on making that change and to delay other projects (such as publication of the annual review) until we were satisfied that we were serving Canadian judges as best we could during the pandemic.

Making the shift itself provided lessons on the changing role of the judge. All of a sudden, access to justice took on new meaning. Not only were a very limited number of people permitted in courthouses, but access to the resources needed to attend virtual hearings varied around the country and according to economic means. Jury trials were suspended until we could collectively determine how long social distancing requirements were to be in force, and (if for a long time) how to address those requirements. Communicating with members of the diverse communities that make up Canada creates challenges that we address in NJI's skills-based programming. But those challenges have an added layer due to intermittent cellphone coverage, inadequate access to WiFi, and so on.



**The Honourable Justice C. Adèle Kent**  
Chief Judicial Officer, NJI



*In Review 2019-2020* stays true to our original objective by explaining how complex judging has become and what that means for professional development. But it also attempts to begin to identify what virtual judicial professional development can be as a result of the lessons learned in the past few months—lessons we continue to learn.

I wish to express my gratitude to my judicial peers and to the NJI staff for making my time here so fulfilling.

Finally, this annual review was not intended to be the last one with me as Chief Judicial Officer. But the delay has meant that we are now in the process of recruiting for my successor as my retirement takes effect in Spring 2021. In the next few months, NJI will be welcoming a new CJO.

I wish to express my gratitude to my judicial peers and to the NJI staff for making my time here so fulfilling.

Sincerely,

**The Honourable Justice C. Adèle Kent,**  
Chief Judicial Officer, NJI



# Message from the Chief Executive Officer

The National Judicial Institute is Canada's primary judicial education provider. Led by judges, this independent, not-for-profit organization develops and delivers innovative bilingual programs and resources to the 2,500 members of Canada's judiciary.

In concert with its judicial leaders, NJI's small but versatile staff of 50 works to fulfill the organization's mandate to "build better justice through leadership in judicial education."

The COVID-19 pandemic has brought out the versatility of NJI staff like nothing else in recent memory. Everyone, from judicial education counsel to event planning professionals to staff in communications, translation, human resources, finance, information management, and IT have shifted towards an entirely digital platform for the delivery of judicial education during these times. We are actively learning lessons in this unique working environment that will enrich our future operations.

Working together with dedicated judges, other volunteer faculty, and the courts, NJI staff have switched gears from delivering in-person programs to producing webinars, podcasts, and videocasts. We continue to add to our digital resources, including Criminal Law and Family Law e-Letters, bench books, and curated subject collections, which include materials from national and court-requested programs.



**Danielle May-Cuconato**  
Chief Executive Officer, NJI

While NJI serves judges, it ultimately serves Canadians by helping to strengthen the justice system, and this is what NJI staff keep in mind in our daily work for this dynamic organization.



Until it is safe to deliver in-person programs, NJI staff will continue to provide virtual programming and resources. The Institute's counsel continue to collaborate with judges to keep the judicial education curriculum relevant and up to date. This curriculum encompasses criminal, family, and civil law; issues facing contemporary Canadian society; the *Charter*; evidence; social context; ethics; scientific developments, and a host of other topics for judges at every stage of their career.

While NJI serves judges, it ultimately serves Canadians by helping to strengthen the justice system, and this is what NJI staff keep in mind in our daily work for this dynamic organization.

**Danielle May-Cuconato**

Chief Executive Officer, NJI



# Board of Governors

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## Chair

### **The Right Honourable Richard Wagner, P.C.** **Chief Justice of Canada**

Appointed Chief Justice of Canada in 2017 after serving on the Supreme Court since 2012, Chief Justice Wagner has led numerous initiatives to improve the justice system throughout his distinguished legal career. He continues to do so by promoting access to justice and the ongoing professional development of judges.

## Vice-Chair

### **The Honourable Justice Andromache Karakatsanis** **Supreme Court of Canada**

Appointed to the Supreme Court in 2011, Justice Karakatsanis spent 15 years in the public service—including several years as Ontario's Deputy Attorney General and subsequently as the top civil servant. She has been actively involved in issues related to education and reform in the field of administrative justice.

## Board Members

### **The Honourable Judge Sanjeev Anand** **Provincial Court of Saskatchewan**

A former prosecutor and defence counsel with a particular interest in youth justice, Judge Anand served as Dean of the College of Law at the University of Saskatchewan before his judicial appointment in 2014. Prior to his appointment as Dean, he was a Professor of Law at the University of Alberta. His published works have been cited by courts across Canada.



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## Board Members (cont'd)

### **The Honourable Richard J.F. Chartier, Chief Justice Court of Appeal of Manitoba**

Appointed Chief Justice of Manitoba in 2013, the Honourable Richard J.F. Chartier began his judicial career in 1993. He has presided over numerous commissions, including electoral boundaries commissions and judicial conduct inquiry commissions. Since 2018, he has chaired the Judicial Education Committee of the Canadian Judicial Council.

### **The Honourable Justice Chantal Corriveau Superior Court of Québec**

Justice Corriveau, appointed to the bench in 2005, was the education chair of the Superior Court of Québec from 2015 to 2019. She has been on the board of directors of the Canadian Institute for the Administration of Justice and the Canadian Forum on Civil Justice, and has served as president of the Québec branch of the Canadian Bar Association.

### **Ms. Linda Lizotte-MacPherson**

Ms. Lizotte-MacPherson, a recently retired senior executive, provides strategic advice to senior executives in the federal government and industry. Her past positions include President of the Canadian Border Services Agency, and Commissioner and CEO of the Canada Revenue Agency.

### **The Honourable Lise Maisonneuve, Chief Justice Ontario Court of Justice**

Appointed Chief Justice of the OCJ in 2015, Chief Justice Maisonneuve continues to devote her efforts to modernizing the Court, improving access to justice, and promoting judicial education. Before becoming a judge in 2003, Maisonneuve practised criminal law and was a special legal adviser to former Chief Justice of Canada Brian Dickson on several military investigations.



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## Board Members (cont'd)

### **The Honourable J.C. Marc Richard, Chief Justice Court of Appeal of New Brunswick**

Chief Justice Richard, appointed to the Court of Appeal of New Brunswick in 2003, is actively involved in promoting judicial ethics and judicial education in Canada and abroad. He has served as co-chair of the Canadian Advisory Committee on Judicial Ethics and as president of the Canadian Superior Courts Judges Association, and has lectured extensively at NJI programs.

### **Dean Marie-Eve Sylvestre, S.J.D. Faculty of Law, Civil Law Section, University of Ottawa**

Dean Sylvestre teaches criminal law at the University of Ottawa and is the co-author of *Red Zones: Criminal Law and the Territorial Governance of Marginalized People* (Cambridge University Press, 2020). As well as being a founding member of the Observatory on Profiling and the Ottawa Hub for Harm Reduction, she is also a member of the Global Young Academy and the College of New Scholars, Artists and Scientists of the Royal Society of Canada.

### **Dr. Lorna Turnbull Professor, Faculty of Law, University of Manitoba**

Dr. Turnbull is a professor and former Dean of the Faculty of Law at the University of Manitoba. Her research focuses on the work of care, its importance to carers and those who depend on the care, and how legal frameworks support or fail these important relationships. She teaches Income Tax Law and Policy; Children, Youth and the Law; Legal Methods; and Legal Systems.

### **The Honourable Justice C. Adèle Kent\* Chief Judicial Officer, NJI (ex officio)**

Appointed to the Court of Queen's Bench of Alberta in 1994, Justice Kent has devoted many hours to judicial education, both as a faculty member for NJI programs and projects in Canada and abroad, and as NJI's Executive Director (2014-2018) and Chief Judicial Officer (from 2018 onward). She has contributed to many judicial committees, including the National Advisory Committee on Judicial Ethics.

\* *On secondment from the Court of Queen's Bench of Alberta*



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## Honorary Members

### **The Honourable Frank Iacobucci** **Retired Justice, Supreme Court of Canada**

A Companion of the Order of Canada, the Honourable Frank Iacobucci has had a distinguished career in the legal field—including 13 years on the Supreme Court—as well as in academia and government. Most recently, he has acted for the federal government on national issues and led independent reviews for several provincial governments and municipal authorities.

### **The Honourable William A. Stevenson** **Retired Justice, Supreme Court of Canada**

A pioneer of judicial education in Canada, The Honourable William A. Stevenson is a former Justice of the Supreme Court of Canada and a founder of the National Judicial Institute, originally known as the Canadian Judicial Centre. An Officer of the Order of Canada, Mr. Stevenson is renowned for his achievements as an educator and scholar, as a founding editor of the *Alberta Law Review*, and as a judge. He served on the Court of Queen's Bench of Alberta, the Court of Appeal of Alberta, various territorial courts, and the Supreme Court of Canada.

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## Chief Executive Officer

### **Danielle May-Cuconato**

Ms. May-Cuconato joined NJI as CEO in 2018 after more than 20 years as an executive within the federal government. Most recently, she served as assistant deputy minister at Public Services and Procurement Canada, and as secretary general of the Canadian Radio-television and Telecommunications Commission.



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## Secretary to the Board

**Ms. Renée Thériault**  
**Executive Legal Officer**  
**Supreme Court of Canada**

Ms. Thériault became the Executive Legal Officer to the Chief Justice of Canada in 2018 after serving as legal counsel with the Supreme Court for eight years. A graduate of the London School of Economics and McGill University, Ms. Thériault is a jurist with extensive experience in international litigation and arbitration, both in Canada and abroad.



# NJI's Rapid Response to COVID-19: Taking Judicial Education Online

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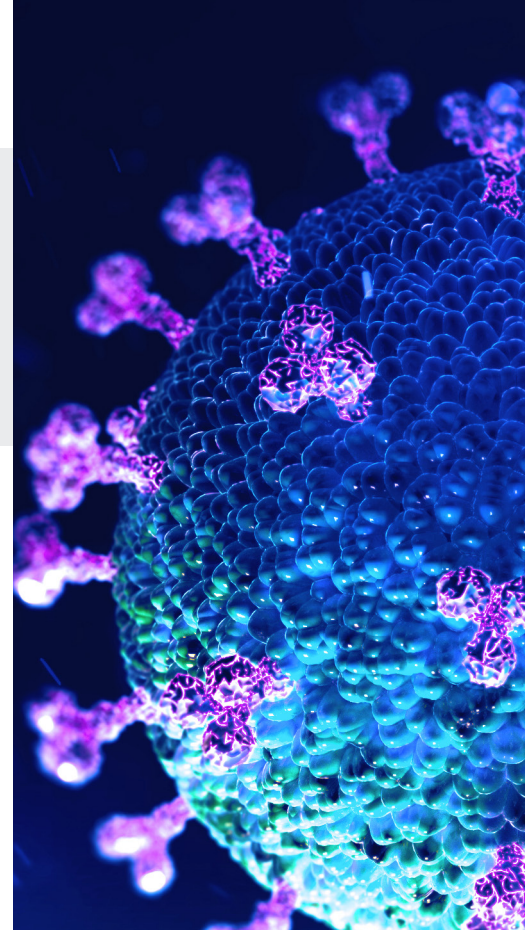
NJI planned to release *In Review 2019-2020* in June 2020. Like every other organization, NJI's plans changed in March 2020 due to the arrival of COVID-19. Although this review is intended to cover the period ending in March 2020, a résumé of NJI's response to the pandemic is necessary.

Until March 2020, when community transmission of the coronavirus required Canadians to stay home, NJI mainly delivered education to judges at in-person programs. Given the COVID-19 travel restrictions, NJI cancelled all in-person programs up to the end of August 2020. From September 2020 until at least the end of the calendar year, education seminars that had been planned as in-person programs are either being delivered virtually, postponed, or cancelled.

The Institute was already planning an increased online presence, including the launch of a new digital learning platform, in fall 2020. Again, the pandemic required a change in those plans. NJI knew that judges continued to hear and decide cases—mostly through electronic means, though in some cases in person—and they needed to continue their professional development.

The Institute quickly responded to that need by creating a series of webinars released to judges throughout the spring. These webinars covered three broad areas: issues arising due to COVID-19, education in changing areas of law, and topics prepared for in-person delivery but readily transferable to a digital platform.

Throughout summer 2020, NJI staff focused on studying and developing effective educational techniques for online learning, all the while planning to deliver online courses throughout the fall.



# The Changing Role of The Judge

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Ever since the National Judicial Institute came into being in 1988, the organization has continued to adapt to the changing role of the judge. The last couple of years—and especially the past few months, the pandemic age—are a good example of how the pace of change has accelerated in the modern era, both for society and for judges.

The arrival of COVID-19 and the March 2020 lockdown in Canada necessitated a rapid shift towards conducting as much of the judicial process online as possible. While some judges and courts had already adopted digital ways of doing business, such as the online Civil Resolution Tribunal in British Columbia, judges across Canada have had to quickly get up to speed on running a virtual courtroom. The Supreme Court began to hold virtual hearings in June 2020.



New laws and changing societal norms and attitudes have also affected the judicial role, and thus the nature of professional development that judges require.

New laws and changing societal norms and attitudes have also affected the judicial role, and thus the nature of professional development that judges require.

Key decisions such as *Delgamuukw v British Columbia* (the Supreme Court's 1997 ruling on aboriginal title) and *Reference re Same-Sex Marriage* in 2004, several commissions of inquiry into wrongful convictions, and the Canadian Judicial Council's publication of the *Ethical Principles for Judges* have all spurred on NJI's curriculum development.



With judges as its leaders, and a large roster of sitting judges volunteering their time to help develop its curriculum, the National Judicial Institute provides seminars and resources that are both timely and relevant.

An example: shortly after lockdown, NJI began producing webinars on topics related to COVID-19—including judicial responses across Canada, and how the pandemic has affected parenting, family justice, and domestic violence—as well as other noteworthy issues, such as an update on bail and bail reviews.

Another recent development that will affect how judges do their jobs is the amended *Divorce Act*, which takes effect in March 2021. While it might be a simple matter to read the new provisions, understanding the context of domestic violence—for the first time embedded in divorce legislation—is a skill judges must learn. NJI programs, such as the annual *Family Law Seminar*, are updated regularly to provide judges with up-to-date substantive knowledge and opportunities to enhance their skills.

*R v Jordan*, decided in 2016, continues to ripple through the court system as judges work to conclude cases within the time limits mandated in that decision. Among other things, this has meant that judges need to hone their skills in courtroom management to ensure that cases are tried efficiently as well as fairly. NJI programs address the implications of *Jordan* for judges.

The Supreme Court's decisions in cases such as *R v Barton* and *R v Goldfinch* have had a considerable impact on sexual assault trials. While this document is not intended to delve into their ramifications, those decisions also touched upon important attitudinal issues, including improper myths and stereotypes surrounding victims of sexual assault. It is essential for judges to receive training on those decisions and how to apply their principles.

In addition to dealing with these important issues in its seminars, NJI began developing videocasts in 2017 for judges to view at any time. Those videocasts were updated in 2019, after the Supreme Court decided *Barton* and *Goldfinch*.

Another area of law that has undergone change is the way in which judges must review administrative decisions. In 2019, the Supreme Court explained the process by which judges must review such decisions. This field of law may seem obscure, but is,



in fact, important in the lives of all citizens because it pertains to matters such as who is entitled to Canadian citizenship, how employers and unions relate to each other, and the process of getting a driver's licence.

Canadian society is becoming more diverse—a fact we warmly embrace. This being so, judges must become familiar with the context of a more diverse citizenry to ensure that everyone feels that the courtroom is a place where they can be heard.

Coupled with the need to ensure that all are welcome in the courthouse is the challenge of addressing the increasing expense of coming to court. For the rule of law to be strong, citizens must see it in action. If they cannot have an impartial person decide disputes, they will see no value in the rule of law. The issue of ensuring access to justice continues to weigh heavily on the minds of judges. Part of the answer is managing the court process in an efficient and accessible way.

The pace of change is only getting quicker for judges and the rest of society. Ongoing judicial education is one of the keys to ensuring that judges keep in step with the demands of their ever-changing role.



# Judicial Education Delivered

84%

of all judge respondents rated  
NJI National Programs  
as “Excellent” or “Very Good”



# NJI Curriculum: April 2018 to March 2020

Seminar for New Federally Appointed Judges: Joint CIAJ and NJI Spring Program

Oral Judgments

Criminal Jury Charge Workshop

Court of Queen's Bench of Manitoba Education Seminar

Mastering the Skill of Judgment Writing: Joint CIAJ and NJI Program

The McLachlin Court

Indigenous Law Symposium

Superior Court of Justice (Ontario) Spring Education Seminar

Class Actions Seminar: A National Forum on Taming the Multi-Jurisdictional Class Action

Civil Law Seminar: Resistance is Futile – The Technological Transformation of Substantive and Procedural Civil Law, Evidence, and the Administration of Civil Justice

Judicial Ethics Seminar: Ethics in the Age of Disruption

Supreme Court of British Columbia Education Seminar: New Judges Program

Tax Court of Canada Court Meeting

Joint Annual General Meeting of the Ontario Court of Justice & the Association of Ontario Judges

Supreme Court of British Columbia Education Seminar

Supreme Courts of Prince Edward Island and Nova Scotia Education Seminar

Court of Queen's Bench of Alberta Education Seminar: Difficult Issues in Sexual Assault Trials

Supreme Court of Newfoundland and Labrador Education Seminar

Superior Court of Québec: Divisional Meeting (Montréal)

Newly Appointed Provincial and Territorial Judges' Skills Seminar

Court of Queen's Bench for Saskatchewan Education Seminar

New Brunswick Education Seminar: St. Andrews Lectures 2018 XI

Look to the Future: Preparing for Life after the Bench (English)

Evidence Workshop

Court of Queen's Bench of New Brunswick Fall Education Seminar

Ontario Court of Justice Annual Family Law Seminar

Court of Appeal and Supreme Court of Prince Edward Island Education Seminar: "Children"

Federal Court Annual Education Seminar

Court of Queen's Bench of Alberta Education Seminar: Family Law 101

Court of Queen's Bench of Alberta Education Seminar

Preventing Wrongful Convictions

Criminal Jury Trials Seminar

Joint Education Seminar for the Courts of Appeal of Newfoundland and Labrador and Prince Edward Island

Ontario Court of Justice East Regional Seminar

Ontario Court of Justice Toronto Regional Seminar

Superior Court of Québec: Annual General Meeting



Court of Queen's Bench of  
Manitoba Fall Education  
Seminar

Federal Court of Appeal  
Education Seminar

Seminar for New Federally  
Appointed Judges: Joint CIAJ  
and NJI Fall Program

Court of Appeal for  
Saskatchewan Education  
Seminar

Ontario Court of Justice  
North Regional Seminar

Judges and Jails:  
The Realities of Incarceration

Superior Court of Justice  
(Ontario) Family Court Branch  
Heidi S. Levenson Polowin  
Education Seminar

Ontario Court of Justice  
West Regional Seminar

Superior Court of Justice  
(Ontario) Fall Education  
Seminar

Nova Scotia All Courts  
Education Seminar

Supreme Court of British  
Columbia Education Seminar

Supreme Court of  
Newfoundland and Labrador  
Education Seminar

CAPCJ National Education  
Conference and AGM

Newly Appointed Provincial  
and Territorial Judges'  
Skills Seminar

Hearing and Deciding  
*Charter* Issues

Joint Seminar of the Superior  
Court of Québec and the  
Court of Québec: Judicial  
Settlement Conferencing

Tax Court of Canada  
Education Seminar

Superior Court of Québec:  
Family Law 201

Court of Queen's Bench for  
Saskatchewan Education  
Seminar

Moving from Bar to Bench:  
Developing the Education Plan

Court of Appeal of New  
Brunswick Education Seminar

Judging in Your First Five Years:  
Criminal Law (Federally  
Appointed Judges)

Dealing Effectively with Judicial  
Review: Joint CIAJ and  
NJI Program

Superior Court of Québec:  
Oral Judgments

Court of Queen's Bench of  
Alberta Education Seminar:  
Judicial Dispute Resolution 101

Insolvency Seminar

Court of Queen's Bench of  
Alberta Education Seminar

Ontario Court of Justice  
Judicial Development  
Institute

Family Law Program:  
Family Law and Social Media

Family Law Seminar: Children

Provincial and Territorial  
Education Chairs' Seminar

Communicating Effectively  
in Your Courtroom

Superior Court of Québec:  
Class Actions

Superior Court of Québec:  
Family Law 201

Building Cultural Capacity

Criminal Law Seminar

Seminar for Chief Justices,  
Chief Judges and Associates

Criminal Jury Charge  
Workshop

Seminar for New Federally  
Appointed Judges: Joint CIAJ  
and NJI Spring Program


Oral Judgments

Court of Queen's Bench of  
Manitoba Education Seminar

The Modern Court: Adapting  
to Judging in a Complex Age  
(Joint CCIAWJ and NJI  
Program)

Superior Court of Justice  
(Ontario): Judging in Your  
First Five Years Seminar





“By understanding what has moulded us into the persons we are, we should be able to understand our implicit biases and maintain a check on them when we have other cultures or diverse persons before us.”

**Participant, *Building Cultural Competence* (NJI Seminar)**



Superior Court of Justice  
(Ontario): Family Court  
Branch Education Seminar

Superior Court of Justice  
(Ontario) Spring Education  
Seminar

Judging Outside Urban  
Centres

Joint Annual General  
Meeting of the Ontario  
Court of Justice & the  
Association of Ontario  
Judges

Supreme Court of British  
Columbia Education  
Seminar

Joint Federal Court of  
Appeal and Federal Court  
Bill C-59 Education Seminar

Supreme Courts of Nova  
Scotia and Prince Edward  
Island Education Seminar

Joint Education Seminar  
of the Court of Appeal and  
Court of Queen's Bench of  
Alberta: Implementing  
the Truth and Reconciliation  
Report's Calls to Action

Supreme Court of  
Newfoundland and Labrador  
Education Seminar

Superior Court of Québec:  
Divisional Meeting  
(Montréal) – The Art of  
Everyday Judging

Court of Queen's Bench for  
Saskatchewan Education  
Seminar

Northern Courts  
Education Seminar

New Brunswick Education  
Seminar: St. Andrews  
Lectures 2019 XII

The Art and Craft of Judging:  
Your "Sophomore Years"

Your Supernumerary Years and  
Beyond (English)

Tax Court of Canada  
Court Meeting and  
Education Seminar

Nova Scotia All Courts  
Education Seminar

Evidence Workshop

Judging Better, Judging  
Smarter (Joint CSCJA and  
NJI Program)

Court of Queen's Bench  
of New Brunswick  
New Judges' Program

Court of Queen's Bench  
of New Brunswick  
Fall Education Seminar

Ontario Court of Justice  
Annual Family Law Seminar

Transitioning to the  
Appellate Court

Court of Queen's Bench of  
Alberta Education Seminar:  
Jury Trials 101

Appellate Courts Seminar

Court of Queen's Bench of  
Alberta Education Seminar

Federal Court Annual  
Education Seminar

Ontario Court of Justice  
East Regional Seminar

CAPCJ National Education  
Conference and AGM

Superior Court of Québec:  
Annual General Meeting

Federal Court Oral Judgments  
Education Seminar

Atlantic Courts Education  
Seminar for Federally  
Appointed Judges

Ontario Court of Justice  
Toronto Regional Seminar

Court of Queen's Bench of  
Manitoba Education Seminar:  
Family Division

Court of Queen's Bench of  
Manitoba Education Seminar:  
General Division

Federal Court of Appeal  
Education Seminar

Ontario Court of Justice  
North Regional Seminar

Seminar for New Federally  
Appointed Judges: Joint CIAJ  
and NJI Fall Program

Criminal Jury Trials Seminar

Superior Court of Justice  
(Ontario) Family Court Branch  
Heidi S. Levenson Polowin  
Education Seminar

Ontario Court of Justice  
West Regional Seminar

Superior Court of Justice  
(Ontario) Fall Education  
Seminar



Dialogues on Judging: Challenges and Rewards of a Long-Serving Career (Joint CIAJ and NJI Program)

Supreme Court of British Columbia Education Seminar

Newly Appointed Provincial and Territorial Judges' Skills Seminar

Joint Seminar of the Superior Court of Québec and the Court of Québec: Judicial Settlement Conferencing

Supreme Court of Newfoundland and Labrador Education Seminar

Hearing and Deciding  
*Charter* Issues

Court of Queen's Bench for Saskatchewan Education Seminar

Tax Court of Canada Education Seminar

Superior Court of Québec: Family Law 201

Judging in Your First Five Years: Criminal Law (Federally Appointed Judges)

Court of Queen's Bench of Alberta Education Seminar: 101

Superior Court of Québec : Oral Judgments

Court of Queen's Bench of Alberta Education Seminar

Survive and Thrive: Decision-Making and Judicial Productivity Seminar

Insolvency Seminar

Family Law Seminar: Evidence and Procedure

Court Martial Appeal Court of Canada Education Seminar

Gatekeeping Expert Evidence

Ontario Court of Justice Judicial Development Institute

Communicating Effectively in Your Courtroom



# Featured Seminars

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## Family Law Seminar

The cycle of topics for this three-day program rotates annually between evidence and procedure, financial and property issues, and children.



“ Family law has been criticized for being adversarial, costly, slow, complex, and difficult to understand. The family justice system is seeking to provide litigants with simpler, quicker, and less costly dispute resolution processes that are less adversarial and more problem-solving in orientation. These changes mean that judicial roles in family law are expanding and changing.

NJI programming has sought to support these changes—encouraging such innovation, exposing Canadian judges to practices and developments in other countries, and ensuring that local or provincial changes are shared across Canada. In addition, NJI family law programs address substantive legal issues related to children; monetary, property and evidence issues; traditional trial processes; and cultural, race, and gender issues, and have developed a wide variety of interdisciplinary education modules.”

**The Honourable Justice R. James Williams**  
Supreme Court of Nova Scotia (Family Division)



## Survive and Thrive: Decision-Making and Judicial Productivity Seminar

Managing judicial productivity is a complex blend of handling matters within and outside of one's control. This cutting-edge program offers participants the chance to work with judicial mentors to develop tailored strategies for becoming more productive and less stressed in their work environment and beyond.

“The role of Canadian judges has undergone significant changes in the past 15 to 20 years. Today, judges must not only keep abreast of developments in procedure and the law, but they are also engaged in managing and settling cases to a degree never seen before. Increased workload, fewer resources, greater public scrutiny, the rise of self-represented litigants, and longer and more complex trials have also changed the way in which judges work.

Helping judges to recognize the impact of increasing demands and constant changes to their role—both personally and professionally—and teaching them skills and strategies to respond effectively, including judicial self care, are essential components of the judicial education NJI provides.”

**The Honourable Justice Deborah J. McCawley**  
Court of Queen's Bench of Manitoba



## Newly Appointed Provincial and Territorial Judges' Skills Seminar

This course is designed to help newly appointed judges of provincial and territorial courts develop and enhance their skills in a variety of interrelated areas. The spring session focuses on criminal law, jury selection, jury instructions, civil law, courtroom management skills, and judgment writing. The fall session focuses on the *Canadian Charter of Rights and Freedoms*, family law, judicial review, evidence and remedies, good communication skills, and the preparation and delivery of oral judgments. The programs also address judicial independence and ethics, sexual assault law (including myths and stereotypes), social context, and Indigenous law and legal traditions.



“As a provincial court judge who presides exclusively over criminal law matters, judicial education is particularly important to me, as this area of law changes rapidly, either as a result of emerging jurisprudence or new legislation. For example, in the past year alone, there have been significant common law and legislative developments in the area of sexual assault. One important way that I stay on top of this evolving area of the law is through NJI initiatives such as the *Criminal Law e-Letter*, which provides synopses of recent court decisions and insightful academic commentary. In addition, NJI seminars provide judges like me with direct access to wonderful instructors drawn from both the legal academy and the courts, as well as state-of-the-art resources and hands-on learning.”

**The Honourable Judge Sanjeev Anand**  
Provincial Court of Saskatchewan



## **Judging in Your First Five Years: Criminal Law (Federally Appointed Judges)**

This intensive five-day program enables new judges to build their competence in managing criminal trials, from judicial pre-trials to sentencing. As sexual assault trials pose some of the greatest challenges in judging, the seminar uses a sexual assault fact scenario to anchor the issues and allow participants to practise the relevant skills.

“Despite coming from a criminal law background, I found this program incredibly valuable. Not only was the substantive content informative, but I particularly enjoyed the small-group discussions facilitated by an experienced trial judge.”

***Participant, Judging in Your First Five Years***



## Building Cultural Competence

As Canadian society grows increasingly diverse, this seminar gives judges a forum in which to assess and build their intercultural competence. The program offers practical and skills-based exercises to enable judges to improve their ability to interact with others in this ever-changing landscape.



“This was easily the most compelling seminar I’ve attended since being appointed. All the speakers were excellent. The personal stories were engrossing and eye-opening. I can’t recommend this program strongly enough.”

**Participant, *Building Cultural Competence***



## Superior Court Of Justice (Ontario) Spring Education Seminar

### **Sex, Gender Identity, Gender Expression, Sexual Orientation and the Work of the Superior Court**

History, anthropology, natural science, and legal theory remind us that sex, sexual orientation, gender identity and gender expression are not limited to oppositional binaries. This seminar explored how family law, criminal law, civil law, and the administration of justice have developed—and may need to develop further—to reflect sex, gender identity and expression, sexual orientation, and the lives of people beyond the binary.

“Spectacular! Timely, needed  
content delivered professionally  
and accessibly.”

**Participant, SCJO Spring Education Seminar**



# Digital Education

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Lifelong professional development is a must for judges, whose role and responsibilities are constantly evolving as society changes. This is in line with the *Canadian Judicial Council Professional Development Policies and Guidelines*.

To support such ongoing training—and to make it possible for judges to access it anywhere and at any time—NJI continues to add to its array of online electronic resources. Since March 2020 the Institute has accelerated its move towards an enhanced digital education platform, including webinars, facilitator-led online courses, podcasts, and videocasts.

## Digital Education Resources

- Program materials
- e-Letters
- Jury instructions
- Podcasts, videos, and webinars
- Bench books
- Note-taking template



## NJI's Digital Education Resources:

### ESSENTIAL

- Support the *Canadian Judicial Council Professional Development Policies and Guidelines*
- Offer three-dimensional training materials—integrating substantive knowledge, skills development, and social context—linked to personalized online professional development planning
- Provide curated content (e.g., subject collections)

### INNOVATIVE

- Employ cutting-edge formats, such as podcasts, videos, facilitator-led online courses, and on-demand webinars
- Are available immediately on multiple platforms via **nji-inm.ca**
- Are forward-thinking, e.g., materials on juror mental health, sexual assault trials, etc.

### TIMELY

- Provide professional development on topics such as technology law (e-trials and e-courts, global privacy law), sexual assault trials, and bail reviews



# NJI's International Work

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NJI's International Cooperation Group (ICG) seeks to strengthen the rule of law through judicial education and reform. Working closely with partners in Canada and in developing countries, ICG responds to requests for judicial expertise from around the world. While ICG has a small staff operating out of NJI headquarters in Ottawa, most of its work occurs abroad. In 2019, ICG focused its efforts on implementing a major judicial reform project in Ukraine, conducting skills-based judicial training in the adversarial system in Mexico, implementing a judicial education program for Azerbaijan in movable property and security interests, and working in partnership with the Organization for Security and Co-operation in Europe (OSCE) in Uzbekistan to assist the country's new Judicial School through capacity building in judicial training as well as institutional strengthening.

ICG is grateful for the support of our funders, particularly Global Affairs Canada, without whom our work would not be possible.

## Highlights

This year, NJI finished its multi-year project in six states of Mexico in partnership with the University of Ottawa. More than 200 judges were trained in rendering oral judgments and evaluating evidence within Mexico's adversarial judicial system. The Mexico project is an excellent example of how ICG works with the judiciaries of host countries. The Mexican judges contributed their expertise about the national criminal code and the adversarial system, together with a wealth of other important contextual information, while NJI contributed international and Canadian best practices in the subject matter, along with essential skills in judicial education and training and institutional strengthening. All activities of this project were conducted in Spanish.



In 2016, NJI began working with its Canadian partner—the Office of the Commissioner for Federal Judicial Affairs—and Ukrainian partners on the multi-year Support to Judicial Reform Project (SJRP) in Ukraine, which aims to assist in implementing reforms in support of an independent, effective, fair, and accountable justice system in Ukraine. A judgment writing course is under development for implementation across the country by Supreme Court, Appellate Court, and trial court judges; this program will be piloted first to the Supreme Court in the fall due to delays caused by COVID-19. In addition, a new and innovative approach to addressing domestic violence is being undertaken in pilot regions for eventual national dissemination. Several other important project activities include contributions to policy change in court communications, appointments and selection of judges, conflict of interest and ethics, judicial education, court security, and other areas of judicial reform. At the end of this reporting period—in March 2020—the SJRP project and the Uzbekistan project began postponing and cancelling events due to COVID-19. At the time of writing, although in-person events are still not taking place in Ukraine or Canada for the SJRP, the transition to virtual and distance learning has been undertaken. As a result, many activities have been adapted, ensuring that technical assistance to judges in Ukraine continues despite the pandemic.



Conference:  
November 2022, Ottawa

# IOJT 2022

## Effective Judicial Education: Understanding Vulnerable Populations

NJI is proud to host the IOJT 2022 conference in concert with the International Organization for Judicial Training (IOJT).

The IOJT was established to promote the rule of law by supporting the work of judicial education institutions around the world.

A volunteer, non-profit organization, the IOJT has 123 member-institutes from 75 countries.

The theme for the 2022 Ottawa conference is *Effective Judicial Education: Understanding Vulnerable Populations*.

This event will be an important avenue for collaboration and a learning exchange among judges and judicial trainers. Through such international collaboration we enhance our ability to confront common emerging issues.

