



NATIONAL JUDICIAL INSTITUTE
INSTITUT NATIONAL DE LA MAGISTRATURE

Innovation in Judicial Education



In Review 2021-2022

Innovation in Judicial Education

Message from the Chief Justice of Canada	2
Message from the Chief Judicial Officer, NJI	4
Message from the Chief Executive Officer, NJI	6
Board of Governors	8
Innovating the Way Forward	14
Judicial Education Delivered	17
Digital Education	23
Featured Seminars and Resources	25
NJI's International Work	32
Farewell to Two ICG Colleagues	35
Tribute to Justice C. Adèle Kent	37



Message from the Chief Justice of Canada

As the world gradually emerges from the COVID-19 pandemic, Canada's 2,600-strong judiciary is more committed than ever to professional development. The pandemic not only changed the ways in which the justice system operates, it also reinforced the importance of state-of-the-art judicial education.

As Canada's primary provider of in-person and online judicial education, the National Judicial Institute has continued to meet that challenge. Judges at every stage in their career can count on the Institute's world-class curriculum encompassing substantive law, skills, and social context to help them fulfill their fundamental roles in the service of Canadians.

From self-study courses addressing family law to podcasts devoted to judicial ethics to digital resources on intimate partner violence, NJI delivered dynamic judicial education in both official languages to meet the needs of federal, provincial, and territorial judges.

In building judicial professional development, NJI is committed to involving the expertise and experience of a diverse and wide range of groups and individuals. Working in collaboration with community members, academics, and judicial faculty, the Institute designs programs and digital resources to help judges better understand the social and cultural context of the communities they serve.

LAFORREST & SABOURIN – COURTESY OF THE SUPREME COURT OF CANADA



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



Improving access to justice for all Canadians is a priority for every member of the judiciary. I am dedicated to working with NJI's outstanding staff and faculty to provide judges with the highest-quality educational opportunities and resources to help them address systemic barriers to access to justice for our most vulnerable and ensure all voices are heard in the courtroom.

Improving access to justice for all Canadians is a priority for every member of the judiciary.

Canadians can take pride in knowing that the NJI's outstanding judge-led and judge-developed programming contributes to the development of a highly competent, skilled, and well-trained judiciary.

I would like to express my deep appreciation to all the dedicated judges, faculty members, and NJI staff who ensure Canada's system of judicial education ranks among the best in the world.

The Right Honourable Richard Wagner, P.C.

Chief Justice of Canada
Chair, NJI Board of Governors



Message from the Chief Judicial Officer

The National Judicial Institute (NJI) is recognized as a world leader in judicial education. Judge-led and judge-focused, its comprehensive curriculum is carefully designed to support Canadian judges at every stage of their career. I have had the privilege to attend many of the NJI's professional development programs, both as faculty and participant. After serving as a member of NJI's Board of Directors, I am now honoured to have the opportunity to jointly lead the Institute as Chief Judicial Officer.

It is an exciting time of innovation for the NJI. Integrating in-person, digital, and hybrid methods of learning, we continue to build a more accessible and user-focused system of judicial education to help judges thrive in a technology-driven world.

The successful delivery of our live online programming over the past year confirmed NJI's ability to integrate virtual platforms to provide judicial education that is both relevant and responsive. We continue to expand our range of digital resources, including podcasts, webinars, electronic bench books, and interactive tools that allow judges to access the material that matters most to them, at their own pace and on their own schedule.

At the same time, we are re-evaluating and refining the content of NJI's curriculum to ensure a balanced, integrated, and robust approach to the dimensions of judicial education—substantive law, skills, and social context.



The Honourable Justice Tom Crabtree
Chief Judicial Officer, NJI



Judging must be responsive to the realities and lived experiences of individuals appearing before the court and to the communities in which they live. Engaging with members and leaders of cultural and Indigenous communities, academics, and specialists, we continue to develop programs designed to foster judicial understanding of the context of Canada's diverse and multicultural society.

Integrating in-person, digital, and hybrid methods of learning, we continue to build a more accessible and user-focused system of judicial education to help judges thrive in a technology-driven world.

The NJI is also in the process of defining a new model to support judicial education and reform internationally. Building on our reputation as a global leader in judicial professional development, we will explore new partnerships and strategies to support our international mandate.

Throughout each of these workstreams, we are dedicated to greater transparency. We believe continued public confidence in judicial education depends on an informed public while at the same time respecting judicial independence. This annual review is an important step in that process.

I would like to express my appreciation to the NJI's dedicated staff, without whom it would be impossible to fulfil our mandate to build better justice through leadership in judicial education.

Sincerely,

The Honourable Justice Tom Crabtree
Chief Judicial Officer, NJI



Message from the Chief Executive Officer

The National Judicial Institute (NJI) 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 2,600 members of the Canadian judiciary.

In concert with judicial leaders, NJI's small, dedicated, and versatile team works to deliver on the organization's mandate to "build better justice through leadership in judicial education."

The COVID-19 pandemic fostered a renewed focus on developing accessible online and on-demand content, modernizing our financial and human resources processes and systems, and strengthening our IT infrastructure. As an organization, the NJI is emerging from the pandemic on strong, solid footing. We have been able to achieve this because of the commitment of our team members, from judicial education counsel to event planning professionals to staff in communications, translation, human resources, finance, information management, and IT.

Most notably, we took advantage of the opportunities provided over the last two years to develop and adopt an ambitious three-year strategic plan to promote innovation in judicial education through training that encompasses substantive law, judicial skills,

The NJI is proud to provide judicial education that continually evolves and adapts to meet the professional development needs and priorities of Canada's judiciary.



Danielle May-Cuconato
Chief Executive Officer, NJI



and social context. Recognizing the changes in how the judiciary worked and learned during COVID-19, the NJI, in moving forward, is taking a more integrated approach to developing and delivering judicial education.

Our plan is built upon three main pillars. The first of these overarching strategic priorities, “An Integrated Approach to Judicial Education,” underscores NJI’s commitment to ensuring ongoing excellence in developing, designing, and delivering judicial education that includes both in-person programs and innovative digital resources and tools. The second priority, “Communications and Relationships,” highlights the commitment to these competencies that are critical to remaining a trusted and relevant leader in judicial education. The third priority, “Enabling Infrastructure,” reflects our commitment to aligning financial, technical, and human resources to efficiently achieve the Institute’s mission, vision, and mandate.

The National Judicial Institute is proud to provide judicial education that continually evolves and adapts to meet the professional development needs and priorities of Canada’s judiciary.

Danielle May-Cuconato
Chief Executive Officer, NJI



Board of Governors

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 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.



Board Members (cont'd)

The Honourable Deborah E. Fry, Chief Justice Court of Appeal of Newfoundland and Labrador

Deborah Fry was appointed Chief Justice of Newfoundland and Labrador in 2018. Since becoming a judge in 2007, she has participated in national and international projects, and is passionate about assisting with innovative dispute resolution processes. Prior to her appointment to the bench, Chief Justice Fry had a long career in the public service, serving as Deputy Minister of several departments.

Ms. Linda Lizotte-MacPherson

Ms. Lizotte-MacPherson, a 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.

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.



Board Members (cont'd)

Dean Marie-Eve Sylvestre, S.J.D.

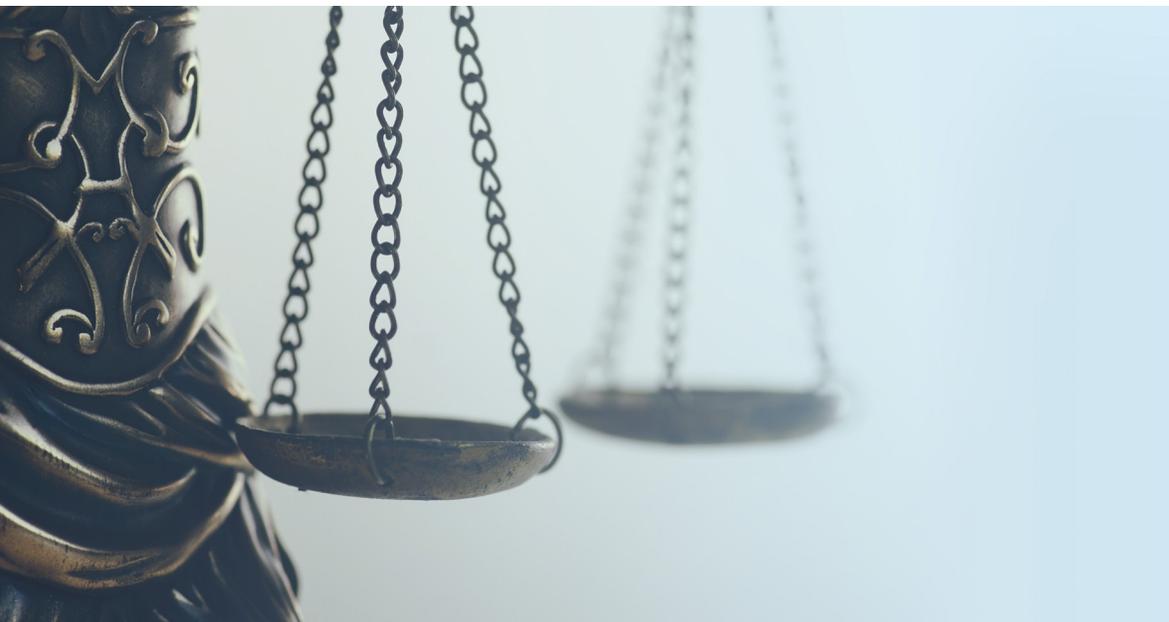
Faculty of Law, Civil Law Section, University of Ottawa

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.

The Honourable Judge Theodore Tax

Provincial Court of Nova Scotia

Judge Tax brought more than 30 years of legal experience to the bench when he was appointed in 2008. Before that, he served as the senior director of the Atlantic region for the federal Department of Justice since 2000. He conducted cases before the Supreme Court of Canada, two courts of Appeal, the superior trial courts of all Atlantic provinces, and the Canadian Human Rights Tribunal.



Chief Judicial Officer, NJI

The Honourable Justice Tom Crabtree *

An accomplished jurist and strong advocate of judicial professional development, Justice Crabtree joined the NJI as Chief Judicial Officer after having served on its Board of Governors as a representative of the Canadian Council of Chief Judges. He has had a distinguished career on the bench. First appointed to the Provincial Court of British Columbia in 1999, he became Chief Judge in 2010. He was appointed to the Supreme Court of British Columbia in 2018. Justice Crabtree has a deep interest in Indigenous issues. While Chief Judge in B.C., he worked with Indigenous communities to develop five new Indigenous Sentencing Courts.

** On secondment from the Supreme Court of British Columbia*

Chief Executive Officer, NJI

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.

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.



Honorary Member

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.



**IN THE 2022-23 CALENDAR YEAR, THE
NJI EXPECTS TO PROVIDE**

205

**DAYS OF JUDICIAL EDUCATION
PROGRAMMING**



Innovating the Way Forward

For more than 30 years, the National Judicial Institute has served Canadian judges as the nation's leader in judicial education. Building upon its long-standing expertise and experience, in 2021 the NJI seized the opportunity to experiment and innovate in every aspect of its curriculum, including program design, pedagogical approaches, and delivery methods.

Despite public health guidelines limiting in-person gatherings, the Institute successfully delivered the majority of scheduled education programs online, with a renewed focus on innovation. In line with best practices for online adult education, the NJI redesigned national and court-requested agendas to reinforce learning objectives, reach larger audiences, and be more responsive to judicial schedules.

Rather than simply transpose existing seminars online, programs such as our *Evidence Snapshots Series Workshop* were tailored to the virtual learning environment. Integrating live and pre-recorded components, including a selection of concise webinars, the workshop allowed judges to focus on the topics that mattered most to them and to learn in facilitated small groups.

Emphasizing curated, up-to-date, and relevant materials, we are expanding our wide range of on-demand learning options and digital resources, including podcasts, videos, e-Letters, and bench books. Our new *Family Law Fundamentals* self-study course offers judges the ability to access the content they need when they need it. Building on this success, work has already started on additional self-study courses in criminal law, civil law, and judicial ethics.

At the same time, we are excited to welcome judges back to our in-person programs. We recognize that the opportunities for live interaction and socialization afforded by in-person seminars and conferences are essential for judicial professional development. These programs are specifically designed to allow judges to engage in a more detailed discussion of concepts introduced by the educator, and to share knowledge with one another as part of peer-to-peer learning.



The prolonged absence of in-person education during the pandemic reduced the opportunity for critical dialogue between judges, compounding the burden of social isolation inherent in the judicial role. As our in-person programs resume, we are committed to fostering continued engagement and collegiality among judges from all courts.

Effectively integrating these two streams—in-person and digital learning—is fundamental to the NJI's evolving approach to judicial education as we draw on the benefits of all methods of delivering such education: in-person, online, and hybrid.

Innovation in education involves constant collaboration. The NJI's *Access to Justice for Children* in-person seminar was designed with this principle in mind. The program considers not only why child rights matter in all areas of law, and how to incorporate those rights effectively in judicial decision-making, but also what it means for children to have the right to participate in decisions that affect them. For the first time, judges will hear directly from youth about their individual experiences in the justice system.

With more than 25 years of expertise in dedicated social context education to draw upon, the NJI continues to lead the way in helping judges respond to the diversity in society and the demographic changes they are seeing in the courtroom. Moving forward, we will seek out new voices to complement our existing faculty, judicial partners, and collaborators to inform our curriculum.

Emphasizing curated, up-to-date, and relevant materials, we are expanding our wide range of on-demand learning options and digital resources.

Among several multi-year social context projects, the Institute is developing an online course for judges on the recent case law considering anti-Black racism in the context of sentencing. We are also producing innovative programs and digital resources to support judges hearing cases involving Indigenous individuals and communities.



The NJI's *Indigenous Law Self-Study Course*, for example, will focus on the systemic causes of Indigenous overrepresentation in the courts; restorative justice; and Indigenous-led community-based options for addressing crime. The development of the program will be guided by an advisory committee comprised primarily of Indigenous judges.

The demand for judicial professional development has been steadily increasing over the past several years. As the National Judicial Institute continues to innovate the way forward, we are committed to meeting the evolving needs of Canada's judges through ongoing excellence in judicial education.

“The NJI's ability to produce an additional complement of digital resources during the pandemic was critical to fill the need for ongoing judicial professional development. Those digital resources provide excellent self-study options for a judge, but the NJI also understands the enhanced value of presenting its excellent catalogue of programs during in-person sessions.

NJI seminars incorporate the best practices in the delivery of high-quality judicial education. In-person programming gives judges the opportunity to participate in a wide range of critical seminars covering core substantive law issues, skills, and social context. These programs are facilitated by an outstanding faculty.”

The Honourable Judge Theodore Tax
Provincial Court of Nova Scotia



Registrations on the Rise

By the end of 2021 – 2022,
individual registrations by judges at
NJI programs have leapt to an
all-time annual high of more than

4,100



NJI Curriculum: April 2020 to March 2022

Supreme Courts of Nova Scotia and Prince Edward Island Family Court Meeting (ONLINE)

Court of Queen's Bench for Saskatchewan Education Seminar (ONLINE)

Ontario Court of Justice Annual Family Law Seminar (ONLINE)

Federal Court Annual Education Seminar (ONLINE)

Federal Court Annual Education Seminar: Administrative Law (ONLINE)

Court of Appeal of Alberta Education Seminar (ONLINE)

Court of Queen's Bench of Alberta Education Seminar: 101 (ONLINE)

Court of Appeal for Saskatchewan Education Seminar (ONLINE)

Court of Queen's Bench of Alberta Education Seminar (ONLINE)

Federal Court Annual Education Seminar: Immigration Update (ONLINE)

Federal Court of Appeal Education Seminar (ONLINE)

Ontario Court of Justice East Regional Seminar (ONLINE)

Atlantic Appellate Seminar (ONLINE)

Criminal Jury Trials Seminar (ONLINE)

Federal Court Annual Education Seminar: Indigenous Peoples (ONLINE)

Ontario Court of Justice Toronto Regional Seminar (ONLINE)

Court of Queen's Bench of Manitoba Education Seminar (ONLINE)

Computer Training Program

Superior Court of Justice (Ontario): Conducting a Virtual Child Protection/Family Law Trial (ONLINE)

Federal Court Annual Education Seminar: Intellectual Property Update (ONLINE)

Seminar for New Federally Appointed Judges: Joint CIAJ and NJI Spring Program (Civil Law)

Seminar for New Federally Appointed Judges: Joint CIAJ and NJI Fall Program (Common Law) (ONLINE)

Ontario Court of Justice North Regional Seminar (ONLINE)

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

Superior Court of Justice (Ontario) Fall Education Seminar (ONLINE)

Supreme Court of British Columbia Education Seminar (ONLINE)

Superior Court of Justice (Ontario): Credibility and Domestic Violence (ONLINE)

NJI's Note-Taking Template

Superior Court of Québec: Family Law – Video presentation of "The Voice of the Child" (ONLINE)

Court of Appeal of Alberta: Fundamentals of Canadian Insolvency Law (ONLINE)

Ontario Court of Justice West Regional Seminar (ONLINE)

Superior Court of Québec: Division of Family Property: Family Patrimony and Partnership of Acquests (ONLINE)

Court of Queen's Bench for Saskatchewan Education Seminar (ONLINE)





Superior Court of Justice (Ontario): The Judicial Role in Making Parenting Plans: Bills C-78 & 207, and The AFCC-O Guide (ONLINE)

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

Dealing Effectively with Judicial Review: Joint CIAJ and NJI Program (ONLINE)

Business, Corporate and Commercial Law Seminar (ONLINE)

Ontario Court of Justice Judicial Development Institute (ONLINE)

Resilience During COVID (ONLINE)

Insolvency Seminar (ONLINE)

Communicating Effectively in the Time of COVID (ONLINE)

Indigenous Law Seminar (ONLINE)

Superior Court of Justice (Ontario): How in the World do Interjurisdictional Support Proceedings Work? (ONLINE)

Criminal Law Seminar (ONLINE)

Building Cultural Competence (ONLINE)

Court of Appeal for British Columbia: Resilience (ONLINE)

Oral Judgments (ONLINE)

Court of Queen's Bench of Manitoba Education Seminar (ONLINE)

Technology Education for Judges of the Ontario Superior Court of Justice

Criminal Jury Charge Workshop (ONLINE)

Supreme Courts of Nova Scotia and Prince Edward Island Education Seminar (ONLINE)

Court of Appeal of Québec – Spring Education Meeting (ONLINE)

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

Superior Court of Québec: Divisional Meeting (Montréal) (ONLINE)

Superior Court of Québec: Divisional Meeting (Québec) (ONLINE)

Your Supernumerary Years and Beyond (English) (ONLINE)

Superior Court of Justice (Ontario): Shared Parenting, the New Normal? (ONLINE)

Supreme Court of British Columbia Self-Study Course for Sexual Assault Trials

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

Evidence Snapshots Series Workshop (ONLINE)

New Brunswick Court of Queen's Bench Robert Tuck Educational Conference (ONLINE)

Superior Court of Québec: Annual General Meeting (ONLINE)

Federal Court of Appeal and Federal Court 50th Anniversary Events: Book Launch (ONLINE)



Court of Appeal of Québec:
Annual General Meeting
(ONLINE)

Federal Court of Appeal
and Federal Court 50th
Anniversary Events: Webinar
– Immigration (ONLINE)

Superior Court of Justice
(Ontario): Making Every
Family Conference Count
and Binding Judicial Dispute
Resolution (ONLINE)

Atlantic Courts Education
Seminar for Federally
Appointed Judges (ONLINE)

Appellate Courts Seminar
(ONLINE)

Criminal Jury Trials Seminar
(ONLINE)

Federal Court of Appeal and
Federal Court 50th Anniversary
Events: Webinar – National
Security (ONLINE)

Tax Court of Canada Education
Seminar

Superior Court of Québec:
Division of Family Property –
Family Patrimony

Federal Court of Appeal
and Federal Court 50th
Anniversary Events: Webinar –
Intellectual Property (ONLINE)

Court Martial Appeal Court
of Canada Education Seminar
(ONLINE)

Provincial and Territorial
Education Chairs' Seminar
(ONLINE)

N.B. Many of the programs listed occurred more than once during the two-year period.

JUDICIAL EDUCATION PARTNERS

The NJI works closely with the judiciary, the courts, the Canadian Judicial Council (CJC), and other judicial education organizations to ensure that high-quality education is available to every judge in Canada. Along with the courts, our partners include the following:

- Canadian Association of Provincial Court Judges (CAPCJ)
- Canadian Institute for Advanced Legal Studies (CIALS)
- Canadian Institute for the Administration of Justice (CIAJ)
- Federation of Law Societies of Canada (FLSC)
- International Association of Women Judges (IAWJ)
- Office of the Commissioner for Federal Judicial Affairs (FJA)



NJI Webinars

Consent and Inadmissibility of Evidence of the Complainant's Sexual Activity with the Accused or Any Other Person

Opinion and Expert Evidence – The Trial Judges' Gatekeeper Role

Prior Consistent Statements

Surreptitiously Obtained Electronic Evidence

After-the-Fact Conduct Evidence

The *Vukelich* Hearing

Gardiner Hearings

Vetrovec Warnings – Why? What? When?

The Rule in *Browne v Dunn*

The Admissibility of Illegally Obtained Evidence in Civil Cases in Québec Law

R v Villaroman

Judicial Notice: Parts I & II

“New Directions”? *R v Friesen* and Sentencing Guidance in Canada

Criminal Case Law Update, June 2021

Tips for Dealing with Mentally Ill Defendants

Update on s. 24(2) of the *Charter*

Update on Bail and Bail Reviews, 2020

The Offence of Internet Luring after *Morrison*

The Impact of COVID-19 on Jails and Prisons in Canada

Family Violence: Overcoming the Judicial Silos

Interpersonal Violence During Societal Crisis

Myths and Stereotypes about Intimate Partner Violence

The Role of the Courts in Ensuring Safe and Fair Trials in IPV Cases

The Intersection of Family Law and Personal Insolvency

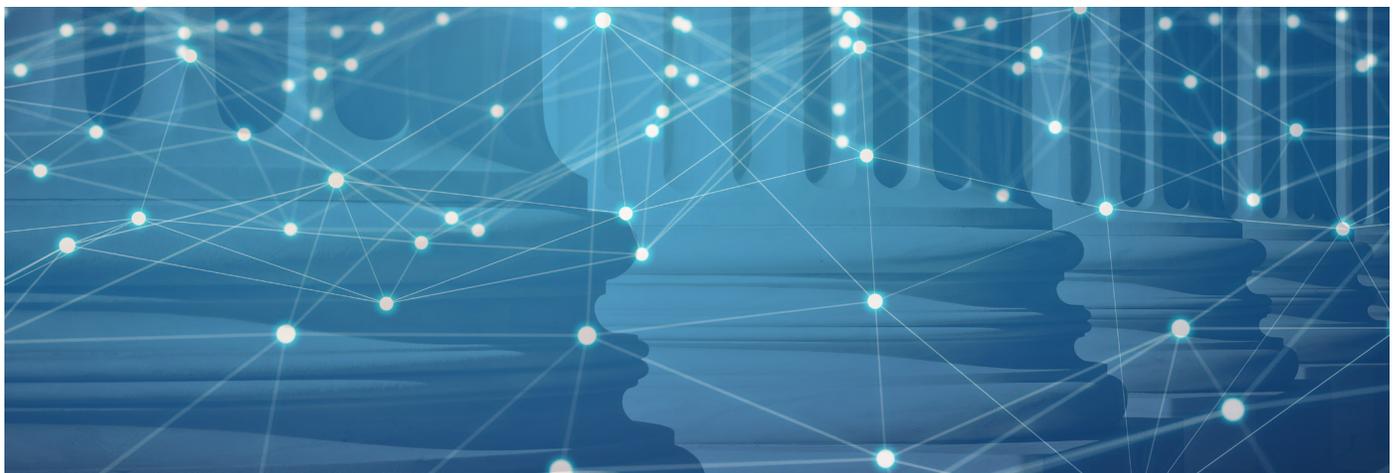
Advanced Child Support Issues: Exploring Four (Really Challenging!) Topics

High Conflict Parenting

Bill C-92: The Important Changes Coming to Indigenous Child Protection Matters

Judicial Responses to COVID-19 in Family Law

The COVID-19 Crisis and Family Justice



Pandemic Parenting and Its Impact on Children

Civil Law Issues During COVID: Conducting a Virtual Trial – Practical Advice

Civil Law Issues During COVID: Contracts

Keeping the Court Doors Open During the Pandemic

Virtual Hearings: Issues and Challenges

Social Context Theory

Sexual Assault Trials Involving Members of Vulnerable Communities

Implicit Bias and the Process of Judging

Indigenous Peoples, Sexual Violence and the Criminal Justice System

Consent and Non-Consent in Sexual Assault

Sexual Assault Trials and the Intoxicated Complainant

Understanding the Elements of Sexual Assault from a Historical Perspective

Myths and Stereotypes

Conceptual Framework for Sexual Assault Offences: *Actus Reus* and *Mens Rea*

Disclosure and Production in Sexual Violence Cases

Cross-Canada Check-Up: Recent Constitutional Challenges to Section 278.92 (Records in the Possession of the Accused)

Assessing the Competence and Credibility of Children

Credibility and *W(D)* in Sexual Assault Trials



Digital Education

SELF-STUDY COURSES

Family Law
Fundamentals

PODCASTS

In Principle:
Judicial Ethics

En principe:
déontologie judiciaire

WEBINARS

Intimate Partner
Violence Series

Trans-Competency in
the Courtroom Series

35 Stand-Alone
Webinars

BENCH BOOKS

Evidence Bench
Book: Update

L'action collective :
cahier d'audience

Class Actions
Bench Book: Update

Science Primer

RESOURCE HUBS

Sexual Assault Law
Judicial Toolkit

CJC Publications
Page

GUIDES

Designing Hybrid
Programs

Blended Learning

Asynchronous
Learning

E-LETTERS

Criminal Law

Family Law

TOOLS

PDP Tool

NJI Podcast App

CJC Jury
Instructions Tool



“The transition from lawyer to judge is more difficult than many lawyers realize or expect. Fortunately, judges in Canada have the National Judicial Institute. From the new judges’ orientation program to the in-person national programs, bench books, court programs, webinars, e-binders, and podcasts, the NJI provides us with wraparound judicial education in a sequential curriculum that helps us become so much better at what we do. Other judicial institutes across the world have come to Canada for advice in developing education programs, and we have shared our knowledge with judges from Ukraine to the Caribbean. We are very lucky!”

The Honourable Justice Freda M. Steel
Court of Appeal of Manitoba



Featured Seminars and Resources

Indigenous Law Seminar

Judges gained an overview of the landscape of Indigenous law initiatives across Canada and learned about how to integrate Indigenous laws in the judicial process. The first part of the seminar was devoted to community initiatives aimed at revitalizing and developing Indigenous laws. It focused on customary adoption and child welfare; governance; natural resource management; and restorative approaches to criminal justice. The second part of the seminar examined the issues from the perspective of Canadian judges, who are being asked to account for, recognize, and apply Indigenous laws. The seminar featured noted experts on Indigenous law, such as Aaron Mills and John Borrows.



NATIONAL CENTRE FOR TRUTH AND RECONCILIATION ARCHIVES, BENTWOOD BOX, IMG_0985

“The NJI provides excellent programs that provide me with useful material. The speakers have in-depth knowledge and often provide the participants with practical examples and tips that help us relate to the subject matter. I am always satisfied and feel more knowledgeable after I complete a program with the NJI!”

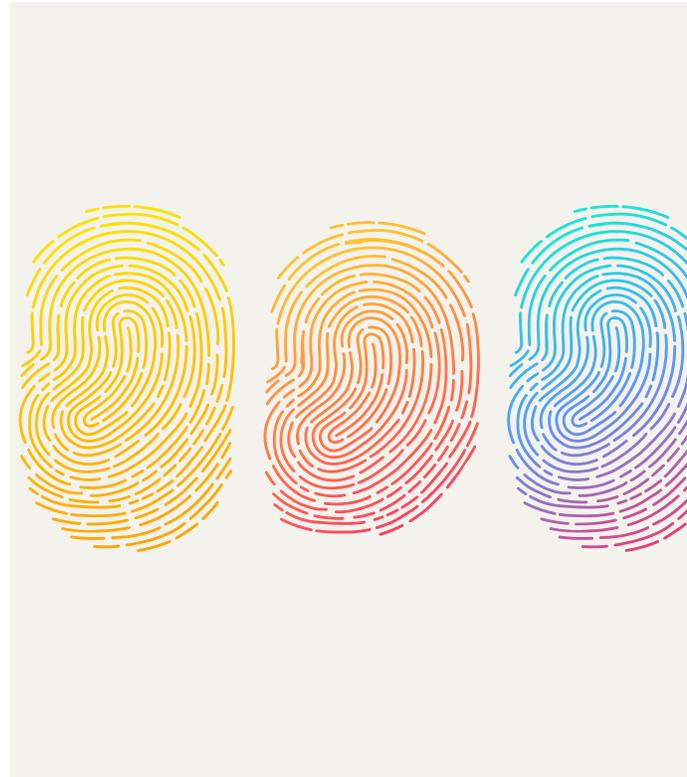
The Honourable Justice Michelle O’Bonsawin
Superior Court of Justice (Ontario)



Evidence Snapshot Series Workshop

Tailored to the online environment, this workshop provided participants with the opportunity to discuss the evidentiary topics presented in the new NJI webinars, *Evidence Snapshots Series*, in facilitated small groups. Judges took part in live events over Zoom in their preferred topics from the series and could also submit their own evidentiary challenges for small-group discussion with peers from across Canada. Among the topics addressed by the snapshots:

- Surreptitiously Obtained Electronic Evidence in a Nutshell
- Opinion and Expert Evidence – The Trial Judge’s Gatekeeper Role
- Prior Consistent Statements
- After-the-Fact Conduct Evidence
- The Admissibility of Illegally Obtained Evidence in Civil Cases in Québec Law



“The *Evidence Snapshot Series Workshop* was an example of the “adapt and overcome” spirit of the pandemic. Participants were able to gather in a safe virtual setting to discuss and collaborate on the problems addressed in the evidence snapshots. The new and remote learning opportunities provided by the NJI helped ensure that the Canadian public continues to enjoy one of the best-educated judiciaries in the world, dedicated to upholding the rule of law.”

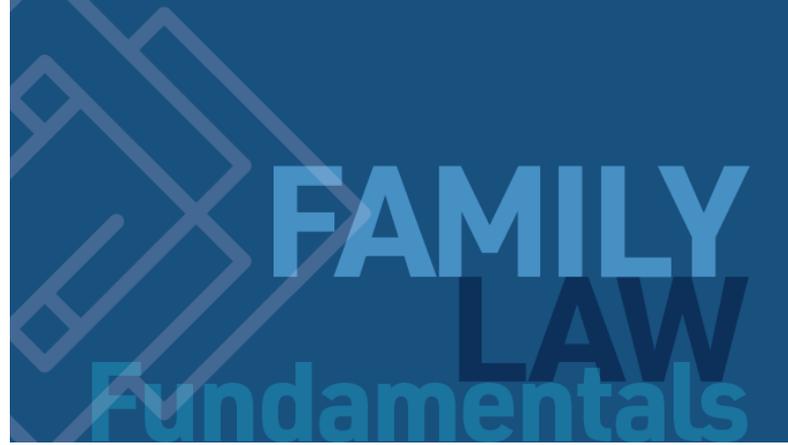


The Honourable Justice Christopher J. Mainella
Court of Appeal of Manitoba



Family Law Fundamentals

This interactive, bilingual self-study course covers foundational family law topics that are national in scope, including divorce and corollary relief, parenting rights, child support, and spousal support. Judges can select topics that are of interest to them and study at their own pace.



“ I remember how it felt when I started my judicial career: my energy, my enthusiasm, and my commitment to doing my very best. Fourteen years (and COVID-19) later, I restore those “new judge” feelings through the NJI. Online and in-person courses and self-study materials improve my judicial skills and renew my motivation as a public servant. I’m re-energized every time I work with the tremendous staff at the NJI.”

The Honourable Justice Elizabeth Jollimore
Supreme Court of Nova Scotia (Family Division)



Sexual Assault Law Judicial Toolkit

This resource hub on the law and social context of sexual assault is updated and supplemented on a rolling basis. Judges across Canada can access curated materials on a range of topics, including procedure, motions, decision making and sentencing. Academics, judges, and community experts address social context issues around sexual assault. Substantive law topics include assessing credibility and reliability, and preventing common reasoning errors.

“ The National Judicial Institute’s programs have a well-established reputation for excellence. NJI staff are talented, intelligent, and hard-working. When I was asked to participate in the drafting of the *Sexual Assault Law Judicial Toolkit*, I accepted without hesitation. This is a complex area of law, and it was essential that such a product be available to members of the judiciary. I’m very proud of the work achieved.

The Honourable Judge Thierry Nadon
Court of Québec



Intimate Partner Violence: Webinar and e-Letter

Intimate Partner Violence (IPV) became an especially urgent issue during the pandemic—referred to by the UN as a “shadow pandemic.” The NJI developed a webinar and a special edition of its *Family Law e-Letter* to assist judges in better understanding this issue and addressing its implications in the courtroom. In the webinar, experts addressed the warning signs of intimate partner violence in adults and children, common myths and stereotypes associated with IPV, and the role of judges in ensuring safe and fair trials in such cases. The e-Letter included an examination of intimate partner violence by two Canadian scholars, as well as a compendium of relevant case law from across the country.



“ These timely educational materials are a valuable resource for judges who strive to better appreciate their role in providing safe, just, and lasting legal solutions to families who experience IPV. ”

The Honourable Justice Theresa Forgeron
Supreme Court of Nova Scotia (Family Division)



In Principle: Podcast on Judicial Ethics

NJI's popular podcast series takes an in-depth look at the Canadian Judicial Council's updated *Ethical Principles for Judges*. Judges and academics discuss how members of the judiciary can maintain the highest ethical standards while engaging with the world they live in. Topics include dealing with social media and how judges can be involved with the community and community organizations without casting doubt on their impartiality.

“The NJI recognizes that education can take many forms. It now offers podcasts to help keep you informed. These podcasts are a great addition to your education toolbox. They are interesting, topical, and allow you to learn at a time that is convenient for you. I encourage the NJI to continue to develop new ones. What a great way to learn in light of the busy lives that we lead.”

**The Honourable Deborah K. Smith,
Chief Justice**
Supreme Court of Nova Scotia



Judicial
Ethics



Judicial Education Delivered

89%

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





The NJI's International Work

The NJI is dedicated to enhancing the rule of law through judicial education and reform. International development and the attainment of the UN's Sustainable Development Goals are impaired by fragile governance and weak rule of law.

Focused on capacity building of judicial education institutions and the design and delivery of judicial education, our international projects have left a positive and permanent legacy in many countries around the world.

The involvement of the Canadian judiciary in international work is grounded in its reputation for being socially aware, ethical, and progressive. Canada's bilingual and bijural legal system reflects its diverse society and provides Canadian judges with the ideal background for collaborating with their counterparts around the world.



Highlights

In December 2021, the NJI completed the multi-year Support to Judicial Reform Project (SJRP) in Ukraine. Canadian judges, experts, and staff partnered with Ukrainian judicial institutions, courts, and their officials in several projects designed to build an independent, effective, and fair judicial system.

Amid major political change in Ukraine, ongoing judicial reform, and a pandemic that required completing projects virtually, SJRP successfully adjusted its approach to support its partners in Ukraine to achieve, and in many cases, surpass its objectives.

Key outcomes included improved accountability of the courts and judges to the public; increased awareness of and reduced opportunity for corruption; improvements in judicial ethics and public confidence; reduction in appeals and backlogs; and improved judgment writing.

In early 2022, we watched in disbelief as the invasion of Ukraine unfolded. Our staff remained in close contact with judges and former colleagues in Ukraine, some of whom witnessed their court buildings destroyed and took up arms to defend their country. The NJI will continue to support our colleagues in Ukraine as they rebuild from the destruction of war.

Looking Forward

The NJI is committed to sharing our expertise and that of the Canadian judiciary to promote effective and sustainable judicial reform. To this end, we are hosting the 10th biennial conference of the International Organization for Judicial Training (IOJT) in Ottawa in the fall of 2022 (see next page).

Building on our reputation as a global leader in judicial professional development, we will explore new partnerships and strategies to support our international mandate. This includes establishing a forum to bring together judicial education leaders from other countries virtually or in person to exchange ideas on common issues and challenges such as mediation, ethics, judgment writing, gender, intimate partner violence, and judging in diverse



populations. We recognize that participating in international judicial education enriches both the Canadian judiciary as a whole and individual judges by providing an opportunity to learn from others and to view judging through an international lens.

IOJT 2022 | International Organization for Judicial Training Conference in Ottawa

Effective Judicial Education: Understanding Vulnerable Populations

The National Judicial Institute is hosting the 10th biennial conference of the International Organization for Judicial Training in Ottawa from October 30 to November 3, 2022.

Dedicated to the promotion of the rule of law by supporting the work of judicial education institutions around the world, the IOJT is comprised of 125 members representing judicial training institutes from more than 75 countries. The conference is an invaluable opportunity for judges, judicial educators, and members of judicial institutes to exchange information and ideas relating to training initiatives, pedagogical practices, legal instruction, and the context of judging.

The theme of this year's conference is *Effective Judicial Education: Understanding Vulnerable Populations*. Vulnerable people face significant challenges when they access the legal system, because of systemic racism, poverty, or other disadvantages. To perform the core functions of judging—to be fair and impartial—judges must possess the legal knowledge, skills, and understanding of the context of individuals appearing in court. The pandemic and the impact of global warming—as well as the economic uncertainty caused by both—are compounding the burden on the most vulnerable.

Conference presentations and roundtables will also address issues such as human trafficking, gender-based violence, reconciliation with Indigenous populations, and cultural diversity, along with other substantive legal issues, including judicial ethics, the use of technology, and the impact of unconscious bias on decision-making.

For more information, visit <https://iojt2022.nji-inm.ca/>



Farewell to Two ICG Colleagues

Brenda Cupper, Director, ICG

It is my pleasure as a former Executive Director of the National Judicial Institute to take this opportunity to pay tribute to Brenda Cupper. Many readers will know Brenda from her work in Canada and abroad. For those of you who do not know Brenda, I share with you a brief history of her work and contributions as we mark her retirement.

Brenda Cupper came to the NJI in 2007 as the Managing Director of the International Cooperation Group (ICG), having worked for international humanitarian organizations in Latin America, Africa, the Middle East, Eastern Europe, and Asia. Moving from humanitarian aid to judicial education might appear to be an odd transition, but Brenda knew that the promotion of the rule of law is one of the best ways to ensure the protection of human decency and human rights. The rule of law is a principle that permeates everything the ICG does internationally.

For Brenda, the value of an international project was never measured in strictly financial terms. Nor was it measured by the opportunities it offered for Canadian judges, or by its benefit to the ICG. A project was valued only to the extent that it provided real benefit to the international partner.

A warm and engaging spirit, Brenda was at her very best when working in the field, and the ICG was fortunate to benefit from her talent and energy. While it is undoubtedly true that ICG projects have left a positive and permanent legacy in many of the countries in which the NJI has worked, it is also true that, for many partners, their fondest and longest-lasting memories will be of Brenda Cupper.

On behalf of Canadian judges, present and former staff of the National Judicial Institute, and its international partners, we wish Brenda a happy and successful retirement.

The Honourable Brian W. Lennox

Retired Chief Justice of the Ontario Court of Justice
Former Executive Director of the National Judicial Institute



Don Chiasson, International Advisor, ICG

Don Chiasson is a consummate problem solver who played a key role in the National Judicial Institute's International Cooperation Group, working on projects and programmes around the world. As Legal and Education Director, and later as the ICG's International Advisor, he brought his substantive knowledge and expertise, together with a fundamental understanding of judicial education principles and justice systems, to successful programmes in numerous countries. In particular, Don was largely responsible for the institutional strengthening of the judicial training institutes of Ukraine, Ghana, and Vietnam.

He has an intuitive empathy for and inherent sensitivity to social and cultural differences—an invaluable quality for anyone working internationally. The strong relationships that he built with judicial education institutes and judiciaries around the world, often at a personal level, were instrumental to the ICG's success.

After 17 Years of dedicated service, Don left the NJI in September 2021 and is greatly missed by colleagues both at home and abroad. His transformative work with the NJI and its partners in judicial education, fostering the rule of law and strengthening human rights, was central to the ICG's mission.

Danielle May-Cuconato
Chief Executive Officer, NJI



Tribute to Justice C. Adèle Kent

In June 2021, Justice C. Adèle Kent stepped down after seven years at the National Judicial Institute, serving first as its Executive Director and then as its first-ever Chief Judicial Officer (CJO).

As the new CJO and on behalf of all of us at the NJI, I want to thank Justice Kent for her outstanding dedication and service to the Institute, to the Canadian judiciary, and more generally to the Canadian public. As the CJO, she consistently demonstrated a commitment to justice and to ensuring that fairness, equality, and access remain at the heart of the judicial role.

She has served as a member on planning committees for programs on civil law, science and judicial ethics; led faculty development seminars; and sat on committees for social context seminars on race, religion, and unconscious bias. More recently, she developed the podcast series *In Principle*; launched a curriculum review; and supported countries around the world in their work on judicial education and judicial reform.

Justice Kent is an outstanding ambassador for the NJI. That is why we are delighted that she has agreed to serve as the NJI's CJO Emerita. In this new role, Justice Kent continues to champion judicial education in Canada and abroad, including as Chair of the Organizing Committee for the 10th biennial conference of the International Organization for Judicial Training to be held in Ottawa from October 30 to November 3, 2022.

Thank you, Justice Kent, for your enthusiasm, your innovation, and your support. We wish you all the best in your retirement and as CJO Emerita.

The Honourable Justice Tom Crabtree
Chief Judicial Officer, NJI



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

