IDAHO TEACHERS’ INSTITUTE ON THE RULE OF LAW
AND THE ROLE OF AN INDEPENDENT, IMPARTIAL JUDICIARY
June 4-5, 2015, Clearwater Room, 4th Floor, United States Courthouse, Boise, Idaho
Program Schedule, Time Allocations, and Instructor Assignments
(Document Dated 2 June May 2015)

Day One (June 4, 2015)

8:00 a.m. Registration sign-in and administration

8:30 a.m. Opening Session
  • Welcoming remarks:
    o On behalf of Idaho’s federal judiciary:
      Hon. B. Lynn Winmill, Chief Judge, U.S. District Court/Idaho
    o On behalf of Idaho’s state judiciary:
      Hon. Linda Trout, past Justice and Chief Justice, Idaho Supreme Court
    o On behalf of the practicing bar and lawyer representatives of the U.S. Court of
      Appeals, Ninth Circuit: J. Walter Sinclair (Holland & Hart, Attorneys at Law)
    o On behalf of the College of Law, with overview of the Institute’s curriculum
      design, professional development/continuing education credit, etc.:
      Don Burnett, Professor of Law, University of Idaho
  • Overview of the Institute’s workshop pedagogy and objectives, with introduction of the
    facilitators and master teachers:
    o Russ Heller, past supervisor, Boise Independent School District programs in
      history and social studies
  • Brief self-introductions of the participating teachers

9:00 a.m. Topic 1: The “rule of law” and the genius of the American Constitution
  a. Relationships among law, legal procedure, and justice
  b. “Vertical” and “horizontal” dispersions of power: preventing tyranny of the few
     over the many
  c. Enumeration of individual rights: preventing tyranny of the many over the few
  d. An independent, impartial judiciary: the “great American experiment”
  [9:45 – 10:00 a.m. Break]
  e. Workshop discussions:
     1) What does the “rule of law” mean to you? (Can you envision law
        without justice, or justice without law? How can, and should,
        they reinforce each other?)
     2) What do the “independence” and “impartiality” of the judiciary
        mean to you? (Can you envision one without the other? How can,
        and should, they reinforce each other?)
  f. Workshop exercise – core questions for every workshop exercise during this
Institute: In light of the workshop discussion(s) on each topic in this Institute, what are the main points you plan to develop in your classrooms back home?

1) What learning outcomes will you seek for your students?
2) How will you assess the achievement of those outcomes?
3) What challenges will you face in achieving those outcomes?

Principal instructor for this topic: College of Law Professor Don Burnett
Facilitators for all topics: John Bieter, David Skinner, Jeff Simmons
Master teachers for all topics: Brendan Earle, Jeff Hoseley, Holly Kartchner

Note: The concluding time for Topic 1 may be adjusted in order to allow participants to view a “live” federal court session.

Noon - 1:00 p.m. Lunch Break

1:00 – 2:00 p.m. Topic 2: Federalism and distinct characteristics of America’s multiple court systems – 1 hour
   a. Why does America have both federal and state judicial systems?
   b. How do federal and state judicial systems relate to tribal judicial systems?
   c. Selection and tenure of federal and state judges
   d. Structural and jurisdictional distinctions among the court systems
   e. Workshop discussion: Which court system has primary responsibility for the following illustrative cases of general public interest?
   f. Workshop exercise: See the core questions posed at item (f) under Topic 1.

Principal instructors for this topic: Hon. Jim Pappas, U.S. Bankruptcy Judge, District of Idaho
                   Hon. Linda Trout, past Justice and Chief Justice, Idaho Supreme Court

Facilitators and master teachers for all topics: See listing under Topic 1.

2:00 – 5:00 p.m. Judicial decision-making
   a. The judge’s dual responsibility: interpreting and following the law
      1) Methods of interpreting statutes and administrative regulations
      2) Development and application of case law (“common law”)
      3) The role of precedent: static or stable?
      4) Workshop discussion: How would you interpret and apply the statute involved in this illustrative case?

      [3:15 – 3:30 p.m. Break]
   b. Judges as guardians of the state and national constitutions (“... against any winds that blow”)
      1) Methods of interpreting constitutional text
      2) Judicial review of constitutionality of statutes and regulations
      3) Illustrative, landmark constitutional decisions (e.g., due process and equal protection cases)
      4) Understanding (and misunderstanding) “judicial activism”
5) **Workshop discussion**: What constitutional standard(s) would you apply in the following case? What result(s)?

   c. **Workshop exercise**: In light of the foregoing two workshop discussions, see the core questions posed at item (f) under Topic 1.

**Principal instructors for this topic**:  Hon. B. Lynn Winmill, Chief Judge, U.S. District Court, District of Idaho  
 Hon. Daniel Eismann, Justice and Past Chief Justice, Idaho Supreme Court

**Facilitators and master teachers for all topics**: See listing under Topic 1.

*************

**Evening of Day One**

Banquet at Cottonwood Grille Restaurant  
913 West River Street, Boise  
Social at 6:30 p.m., Dinner at 7:00 p.m.

**Keynote Speaker**: Marc Johnson  
Journalist (“The Johnson Post: Many Things Considered”)  
Judicial Independence Past and Present: Lessons from the New Deal “Court-Packing” Controversy

*************

**Day Two (June 5, 2015)**

8:00 a.m. **Topic 4: Appellate justice**

   a) Appeals of right and standards of appellate review  
   b) Discretionary review and certiorari  
   c) The function and discipline of a written opinion  
   d) **Workshop discussion**: Can you summarize the legal rule(s) discussed and applied in the following excerpts from an appellate opinion?  
   e) **Workshop exercise**: See the core questions posed at item (f) under Topic 1.

**Principal instructor for this topic**: Hon. Karen Lansing, Judge and Past Chief Judge, Idaho Court of Appeals

**Facilitators and master teachers for all topics**: See listing under Topic 1.

[9:30 – 9:45 Break]

9:45 a.m. **Topic 5: Public understanding of the judiciary and the rule of law**

   a) Mass media reporting of judicial decisions  
   b) The “story model” and the rule of law  
   c) Challenges facing news reporters, editors, and the courts  
   c) Coping with social media
d) Workshop discussion: As a news reporter under deadline, how would you assemble the key elements of the first 3-5 paragraphs of a story in the given illustrative judicial decision – providing a factual narrative while also identifying the rule of law?

e) Workshop exercise: See the core questions posed at item (f) under Topic 1.

Principal instructors for this topic: Professor Don Burnett (panel convener)
Hon. John Stegner, State District Judge
Hon. Jon Shindurling, State District Judge
Professor Kenton Bird, Chair, University of Idaho School of Journalism & Mass Media
Betsy Russell, Reporter, The Spokesman-Review (Boise)

Facilitators and master teachers for all topics: See listing under Topic 1.

12:15 p.m. – 1:15 p.m. Lunch Break

1:15 p.m. Topic 6: Challenges and responsibilities in the administration of justice

a) Adjudicating cases and managing the caseload – e.g.,
   1) Resolution of civil disputes
   2) Criminal prosecutions
   3) Judicial reviews of administrative action

b) Trial by jury
   1) Scope of the right to a jury trial
   2) Process and issues concerning selection of an impartial jury

c) Maintaining judicial impartiality and decorum
   1) Federal statutes and the Idaho Code of Judicial Conduct
   2) Idaho federal/state “Standards for Civility in Professional Conduct”

[2:15 p.m. – 2:30 p.m. Break]

Workshop discussion:
   1) Can an impartial jury be seated in the given illustrative case?
   2) Should the judge recuse him/herself (step aside) in the given illustrative situation?

Workshop exercise: See the core questions posed at item (f) under Topic 1.

Principal instructors for this topic: Hon. Candy W. Dale, Chief U.S. Magistrate Judge, District of Idaho
Wendy Olson, U.S. Attorney, District of Idaho
Richard Rubin, Executive Director, Idaho Federal Defender Services

Facilitators and master teachers for all topics: See listing under Topic 1.

3:45 p.m. Topic 7: Concluding session -- Summing up: Best practices in teaching civic education with focus on the rule of law and the role of an independent, impartial judiciary
An interactive panel-and-audience discussion between the facilitators/master teachers and the teacher-participants

Convener: Russ Heller

5:00 p.m.  
Administration: Process for submission of materials satisfying requirement for credit hour of professional development/continuing education (Professor Burnett)

Adjournment