

Judicial Perspectives on Emotion, Emotion Management, and Judicial Excellence in the USA

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Abstract

In the USA, state court judges receive little to no specialized judicial training prior to assuming the duties of office. To support quality judicial performance, states must make strategic use of limited resources. Formal state systems of judicial education have emerged over the past half-century as one solution to this challenge, providing sitting judges in most jurisdictions with some level of educational support. Despite these advancements, some scholars and practitioners have criticized judicial education to date, calling for a new wave of reforms. One recent study explored judicial perceptions of the types of knowledge, skills, abilities, and other characteristics important to judicial work in the state courts. Participating judges acknowledged emotion and interpersonal skills as critical components of judicial excellence (Elek *et al.* 2017). This paper will examine some of the guidance provided by state court judges in this area and consider opportunities for improvement to better meet judicial needs.

Key words

Judges; judicial education; emotion and judging

Resumen

En EEUU, los jueces de las cortes estatales suelen recibir poca o nula formación especializada antes de asumir sus deberes. Durante el pasado medio siglo, han emergido sistemas formales estatales de educación judicial como solución a aquel problema, y se ha proporcionado cierto nivel de formación a los jueces titulares de la mayoría de las jurisdicciones. A pesar de esos avances, algunos expertos han criticado la formación judicial hasta la fecha, y han reclamado una nueva ola de reformas. Un estudio reciente ha analizado las percepciones de los jueces sobre tipos

In this paper, the author draws on findings previously detailed in the Judicial Excellence project final report (Elek, Rottman, Spacek Miller, & Hamblin, 2017). The original Judicial Excellence project was made possible thanks to the generosity of the State Justice Institute and the National Center for State Courts, and the support of numerous dedicated state court judges, administrators, and educators who contributed their time and thoughtful input to this research endeavor.

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de conocimiento, aptitudes, habilidades y otras características importantes para el trabajo judicial en las cortes estatales. Los jueces reconocieron la emoción y las aptitudes interpersonales como componentes críticos de la excelencia judicial (Elek *et al.* 2017). Este artículo examinará algunas directrices dadas por los jueces estatales, y tomará en consideración oportunidades para satisfacer mejor las necesidades judiciales.

Palabras clave

Jueces; formación judicial; emociones y trabajo judicial

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1. Introduction

As stewards of justice in their local communities, state court judges play a fundamental role in American democracy. But there is a “lack of consensus about what constitutes ‘good’” judging, which has been the subject of much debate among scholars and court practitioners alike (Strong 2015, p. 8). Ultimately, judges and those who provide them with professional development support must understand what it is that judges want and the types of knowledge, skills, abilities, and other characteristics they need to facilitate excellence in the profession. Although foundational legal knowledge and knowledge about new developments in law and policy have been generally well-covered in state judicial education programs to date, consensus is growing among legal scholars and judicial educators that effective systems of judicial education must do more (e.g., Armytage 2015, Dawson 2015, Benton and Sheldon-Sherman 2015). What state court judges have to say about what “good judging” looks like could help shape a new vision for judicial professional development in the states and propel further advances in pedagogy.

The Judicial Excellence project (Elek *et al.* 2017) was initiated in 2015 as one effort to better understand what judges want and need from state systems of judicial professional development to thrive in their profession. This paper examines a subset of those project findings, exploring the role of emotion and emotion management skills in the pursuit of judicial excellence.

2. Overview of judicial selection and professional development in the USA

In the USA, each state or territory has its own unique system of judicial selection and professional development.¹ One commonality across jurisdictions is that there is no formalized educational track or career path for judicial office. Typically, state court judges will have attended law school and will have been employed as an attorney prior to their selection to the bench. Many note, however, that judicial skills differ in important ways from the skills that fuel success as members of the state bar.

In absence of a formal career path toward judicial office, states have adopted various selection methods. Judges may be selected by means of popular election (partisan or nonpartisan), gubernatorial appointment, legislative appointment, or a process of assisted appointment called “merit selection”. Merit selection plans typically involve a judicial nominating commission charged with recruiting, screening, and recommending a short list of qualified candidates to an appointing authority (usually the state governor). In some states, confirmation by the state legislative body is also required. It is common for states to employ a hybrid of methods. They may employ different methods, for example, for initial selection versus retention, for different types of judicial office, and/or for filling immediate, partial-term (versus full term) vacancies. Depending on the jurisdiction, terms may run from one to fifteen years before reappointment or reelection (for more information about term lengths, limits, and retention processes, see Institute for the Advancement of the American Legal System and University of Denver n.d.).

Most states and territories in the USA also have their own systems of judicial education. To assist new judges with the transition into judicial office, many (but not all) jurisdictions provide an initial training program. The training program may be designed for newly selected judges to complete prior to assuming their judicial responsibilities (often referred to as “pre-bench education”), or it may be designed for new judges to complete within their first 1-2 years in office (often referred to as “new judge orientation”). The pre-bench education or new judge orientation program may be mandatory (requirements range from 8 hours to 80 hours of training,

¹ State systems are distinct from the federal system in the United States, the latter of which is beyond the scope of this article.

depending on the state or territory), or it may not be formally required but is offered and voluntarily completed as a matter of practice (Strickland *et al.* 2017).

Similarly, sitting judges may be required or complete as a matter of practice a minimum specified number of hours of continuing judicial education (CJE). Most states have CJE requirements or guidelines, but the details are specific to the jurisdiction. For example, Indiana calls for general jurisdiction (trial court) judges to complete at least 15 hours of CJE per year and 54 hours of CJE every three-year reporting period, with specific requirements for the subject matter addressed (e.g., at least 5 of the 54 hours must be in “professional responsibility” courses; no more than 12 of the 54 hours may be completed as part of “approved interactive distance education” courses; Indiana Judicial Branch 2018). The next state over, Illinois, requires judges to complete a minimum of 30 hours of CJE every two years by attending the biannual judicial education conference (Illinois Courts 2018). Although virtually all judges participate in continuing judicial education, in rare and extreme cases, a judge in a jurisdiction with mandated CJE hours may be removed from office for failing to complete the requisite training (see Gray 2002, p. 8). These policy decisions are often viewed as having important implications for the balance between judicial independence and the accountability; historically, some have argued that compulsory education is at odds with judicial independence (cf. Armytage 1996).

In addition to their own systems of judicial education, some states have implemented other programs to support judicial excellence. For example, some jurisdictions have developed judicial mentoring programs, although the purposes and design of these programs differ. Some judicial mentoring programs are designed to serve a recruitment function, with judges mentoring potential judicial candidates from the bar (e.g., Judicial Council of California, Administrative Office of the Courts of California 2010). In other states, new judges are assigned mentors soon after their selection to the bench. Mentoring is typically provided to new judges during their first year or two in office to supplement pre-bench and/or new judge orientation training and facilitate the onboarding process (e.g., see Florida Courts 2018). Mentoring program services may be available to judges on an opt-in basis beyond the initial onboarding period, but their use can be stigmatized. For example, in some states, the judicial disciplinary body may prescribe formal mentoring as a remedial intervention in response to ethics complaints against individual judges. Other states have adopted a coaching model to provide new and experienced judges with mentoring opportunities over the course of their careers (e.g., see Rouse and Bouch 2016). Several states also provide all judges with performance feedback for the purpose of self-improvement; this process may also involve conversations with a facilitator or mentor judge to understand feedback provided and consider opportunities for professional growth (e.g., see Institute for the Advancement of the American Legal System 2018).

In 1992, Utah Supreme Court Justice Christine Durham authored the foreword to a monograph that underscored the importance of continuing judicial education and professional growth. She explained that “courts cannot be responsive to [the various administrative, legal, and social demands] if the people who run them do not have the capacity for growth in their own skills and vision” (Claxton and Murrell 1999, p. vii). However, the education, mentoring, and performance feedback programs that collectively comprise a state’s judicial professional development offerings can and frequently do operate largely independently of one another. To the author’s knowledge, there is no unifying framework for state systems of judicial professional development that guides the use of educational, mentoring, performance feedback, and other developmental resources.² A goal of the Judicial Excellence project (Elek

² The Federal Judicial Center has identified competencies specifically to guide their competency-based educational curriculum for federal judges; see <https://www.fjc.gov/education/competency-based-curriculum>.

et al. 2017) was to construct a framework that might inform such efforts, based on input from state trial court judges themselves.

3. The Judicial Excellence Project

With funding from the State Justice Institute and the National Center for State Courts (NCSC) and in partnership with a midwestern state, my colleagues and I embarked on an intensive qualitative research study in 2015. The objective of the project was to construct a framework that could be used to support the professional development of state trial court judges. The resulting *Elements of Judicial Excellence* framework is based on the views of over 100 high-performing circuit court and associate judges from the partnering state, as shared with project staff in 2016 and 2017. Discussions focused on how judges defined judicial excellence and on identifying peer-recommended strategies to support professional growth. To our knowledge, no similar state-level effort had previously been undertaken in the United States.

3.1. Methodology Overview

The *Elements of Judicial Excellence* framework was developed via an intensive qualitative research process.³ The research project was conducted by the NCSC project team in close collaboration with a partner state through a state judicial advisory committee.⁴ Also advising the project were (a) a practitioner group of judges, administrators, and judicial educator representatives from across the country and (b) a group of experienced organizational science and management scholars with expertise developing similar models in other professional settings. Advisors provided content reviews and guidance via telephonic and electronic discussions about the project.

The *Elements of Judicial Excellence* framework was developed based on the input of a large sample of state trial court judges recognized within their local jurisdictions as exemplars of judicial excellence in their judicial assignments. The state judicial advisory committee first identified nine general types of judicial assignments in the state for inclusion in the framework: General Criminal, General Civil, Jury Trial, Bond, High Volume/Pro Se, Family, Juvenile Delinquency, Juvenile Child Protection, and Problem-Solving Court. They then asked the Chief Judge presiding in each circuit to nominate for participation in the project judges in their jurisdiction who they felt exemplified judicial excellence on any of these assignments. Over 80% of Chief Judges responded to the request with a list of nominees from their jurisdiction. From those submissions, a list of 140 total judicial nominees (out of over 900 circuit court and associate judges statewide) was compiled.

Of the 140 judges nominated for the Judicial Excellence project, 103 volunteered to participate in confidential interviews, focus groups, and/or surveys conducted by the project team in 2016 and 2017. The project team first conducted 81 one-hour judicial interviews during the state Judicial Education Conference in February and April 2016. Judicial interviewees were selected from the source list of nominees to maximize geographic and demographic diversity in each of the nine judicial assignment types defined by state leadership. Semi-structured interviews were conducted to learn about the characteristics these judges believe are associated with judicial excellence. If granted permission by the interviewee, the interview team recorded and took notes during the interview, with careful debriefing between the interviewer and notetaker following each session. Judges consented to these confidential interviews with the

³ The process is summarized here; for a more detailed description, see Elek *et al.* 2017.

⁴ Court leadership in the state expressed interest in the project partnership and supported the project application. The state was selected in part because of the judicial professional development infrastructure already in place. At project initiation, the state operated a judicial education division, which provides new judge orientation and biannual state judicial education conferences. The state also operated a peer mentoring program for new judges and a judicial performance evaluation program which provides confidential feedback to evaluated judges specifically to inform self-improvement. Today, the state has a newly established judicial college and is developing a competency-based curriculum for judicial education.

understanding that individual comments and identities would not be disclosed and interview data destroyed following the conclusion of the project.

Using concept analysis and mapping techniques, the project team identified and organized interview themes indicative of judicial qualities potentially amenable to development. Interview data were coded based on thematic units (i.e., chunks of information that reflect a single theme) using an iterative coding and recoding process with multiple coders (e.g., Krippendorff 2004). These interview themes formed the basis of a preliminary framework. The advisory groups provided input on the construction of the preliminary framework, which was then prepared for field testing.

The preliminary framework was then tested in four focus groups on site in the partnering state over a period of two days in late November of 2016. The original source list of nominees was used to identify judges to participate in these focus groups who had not previously participated in an individual interview. Invitees were selected to maximize diversity of the sample. A total of twenty-four judges participated in the four focus groups. Each focus group convened for a full day to allow for in-depth discussion of the framework structure, organization, clarity, comprehensiveness, and other issues of content and face validity. Focus groups also discussed developmental activities and resources that corresponded with each framework element. The framework was revised based on this input, and with feedback from the state's project committee and the project's national and science advisory groups. Respondents to a follow-up survey of focus group participants issued in February of 2017 unanimously approved of the revised framework.

Finally, an electronic survey was disseminated to collect additional information about each element in the framework. The survey included questions about perceived importance of each element and solicited suggestions or recommendations for those seeking to enhance or improve their abilities in each area. In close cooperation with the partner state, the survey was issued to all 81 of the original judicial interviewees in March 2017. The survey closed in April with 72 judges responding. Survey results were incorporated into the design and content of the final *Elements of Judicial Excellence* framework.

3.2. *The Elements of Judicial Excellence Framework*

The *Elements of Judicial Excellence* framework (see Figure 1) comprises nine elements that capture the general categories of knowledge, skills, abilities, and other characteristics that judges described as important to judicial excellence in their roles as:

- a citizen of the court community,
- an informed and impartial decision-maker, and
- a leader of the court process.

In the *Elements of Judicial Excellence* framework, each of the nine elements is organized into one of these three clusters. The first cluster, *citizen of the court community*, captures the ethical responsibilities of judicial work and the judge's role in promoting personal and professional excellence in themselves and others. The second cluster, *informed and impartial decision-maker*, refers to knowledge, skills, abilities, and other characteristics important to judicial reasoning and fair decision-making. The third and final cluster, *leader of the court process*, refers to elements related to management and leadership.

The nine elements, and a brief description of each, are as follows.

1. **Ethics & Integrity:** Understands the ethical challenges faced by judges and how to properly address them to uphold the actual and perceived integrity of the judiciary.

2. **Engagement:** Engages in the work of the assignment and supports colleagues in executing the mission of the court. Embraces performance feedback and seeks out opportunities for professional development.
3. **Well-Being:** Engages in self-care practices to manage stress and maintain physical and psychological health.
4. **Knowledge of the Law & Justice System:** Understands the legal and operational matters relevant to the assignment. Builds knowledge from relevant disciplines and understands their implications in daily work.
5. **Critical Thinking:** Uses analytical and problem-solving skills to evaluate the available information and take the best action possible in a timely manner.
6. **Self-Knowledge & Self-Control:** Understands how one's personal perspective, values, preferences, mental state, and way of thinking can impact decision-making and others' perceptions of fairness. Develops and applies strategies to manage emotions and address biases in judgment and behavior.
7. **Managing the Case & Court Process:** Directs docket and courtroom operations by planning and coordinating schedules, managing case processing timelines, and facilitating information exchange between parties in a case, court staff, and other stakeholders.
8. **Building Respect & Understanding:** Interacts effectively with all those who work in or appear before the court in a manner conducive to a fair process and just outcomes. Listens attentively to others and provides clear and effective communication to ensure a shared understanding of the issues in the case, court processes, and decisions.
9. **Facilitating Resolution:** Engages with parties and stakeholders to build consensus on matters that will allow for forward case progress and a focus on reaching a resolution.

FIGURE 1

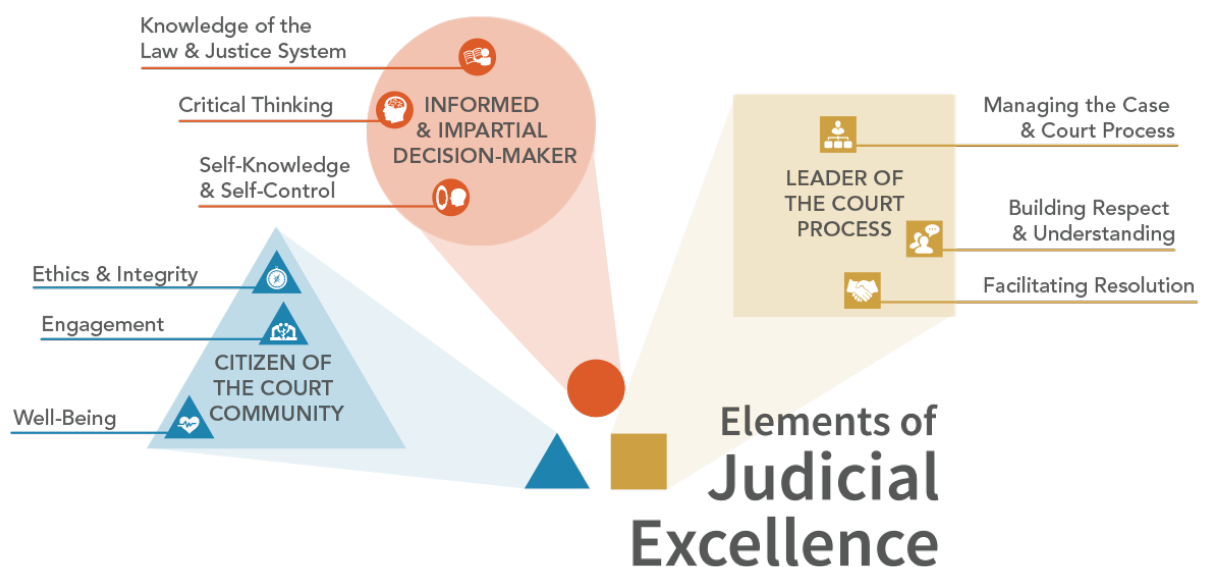


Figure 1. The Elements of Judicial Excellence framework.

4. Emotion and judicial excellence

Based on this study, what “judicial excellence” means to judges appears to be much broader than what might be traditionally assumed. For example, judges in this study described the importance not only of knowledge of the law and court rules, policies, and procedures, but also of a wider body of practical and operational knowledge. They described this broader universe of knowledge about the court community, stakeholder agencies, and other resources as essential for effective problem-solving

and decision-making. Notably, judicial interviewees highlighted the importance of so-called “soft skills”, such as interpersonal and emotion management skills, when discussing judicial excellence and the ability to perform judicial work most effectively. These were also areas in which some judicial interviewees noted significant variation in skill among their peers.

Judges interviewed for this project addressed emotion in several ways.

First, emotion was at times framed as an impediment to judicial work, implying a goal to neutralize emotion. Judges referred to failures to manage or the mismanagement of emotion in ways that risk biased decision-making, the appearance of bias, and/or a lack of proper demeanor or professionalism in conduct. As described in the Judicial Excellence report on page 19 (Elek *et al.* 2017), judges underscored the importance of self-awareness and self-control:

Judges attuned to their personal values, preferences, expectations, mental and emotional states, and way of thinking – and how their personal experiences and background may play a role in shaping them – may be better able to avert misunderstandings (...). Respected judges valued a heightened awareness of and knowledge about the factors that can limit their understanding in a case, influence how they perceive and interpret information, and impact their decision-making (...). A judge equipped with self-knowledge may take corrective actions to produce a fairer decision and better court outcomes. Good judges, for example, should be aware of the emotions they are experiencing and how those emotions may be expressed in ways that affect public perceptions of the judge (e.g., judicial demeanor or temperament) and court. Good judges should be able to anticipate how they may feel or react in certain situations. Doing so allows them to establish a plan to effectively manage anticipated emotions. Judges commented extensively on the importance of emotion management skills in maintaining impartiality and the perception of impartiality in the courtroom. Some expressed the belief that judges who lack self-control in this regard would also be more likely to lose control of the courtroom.

In addition to emotion self-management, judges valued an ability to manage the emotional behavior of other courtroom actors. They described various situations in which behavior management and conflict management skills were an asset. For example, the report describes emotion management activities in the courtroom on page 26 (Elek *et al.* 2017):

[J]udges often manage the behavior of others (including emotional reactions in court). They defined judicial excellence as being able to anticipate, prevent or defuse others’ emotional outbursts, and enforce the behavioral expectations of the court (i.e., maintain decorum, promote honesty, and discourage deception or manipulation).

The report also describes the value of conflict management skills for judges presiding over teams of court community stakeholders with different roles and objectives (Elek *et al.* 2017, p. 31):

Respected judges valued the ability to manage sometimes combative interpersonal dynamics between the attorneys, court staff, and other professionals within the court or on a court team. They described the ways in which interpersonal conflicts arise, such as when team members have strong but competing opinions about the best next steps in a case, making consensus elusive. Attorneys in a case may have interpersonal conflicts and allow those conflicts to influence their professional behavior. In situations such as these, effective conflict management will refocus attention away from personal issues irrelevant to the case and toward substantive legal matters before the court. Doing so may require emotional intelligence and interpersonal skills (...) to facilitate collaboration and cooperation between multiple stakeholder agencies and representatives, with individuals who may or may not naturally work well together.

To manage emotional experiences viewed as an impediment to judicial and court work, judges proffered an array of strategies. These included, for example, self-management practices such as diaphragmatic breathing, meditation, or “counting to

ten". Also suggested were an assortment of docket management practices, such as issuing decorum orders to set expectations for behavior in court, scheduling certain types of cases to be heard first or last to minimize opportunity for disruption from anticipated emotional outbursts, and taking recesses when needed to regain self-composure or as part of a behavior management strategy with other courtroom actors.

Second, emotion was sometimes described as a "tool" for facilitating desired or improved case outcomes. Here, an understanding of emotion and its role in effective interpersonal and communication skills was implicated as foundational for building rapport with courtroom actors, establishing an atmosphere of mutual respect in the courtroom, and motivating compliance with the court and court-ordered treatment interventions.

For example, judges "especially emphasized the importance of social awareness, behavioral management skills, and two-way communication skills. Each skill may be applied in ways that help to facilitate perceptions of procedural fairness" (Elek *et al.* 2017, p. 26), which "refers to how fairly parties believe they have been treated in the process used to arrive at substantive outcomes" (Elek *et al.* 2017, p. 29, on procedural fairness, see also, e.g., Leben and Tomkins 2008). Regarding social awareness, the report explains (Elek *et al.* 2017, p. 26):

A good judge was described as displaying a heightened social awareness or sensitivity to others' emotions and needs in the moment (...). Judges with heightened social awareness are aware of the interpersonal dynamics of a given social situation or setting, understand the influence of social and cultural norms on behavior, and can anticipate others' emotional responses to events. Respected judges valued the curiosity and interpersonal skills necessary to seek out and develop a more complete understanding of the case. Judges indicated that social awareness helped them make use of available information (including verbal and nonverbal cues) to inform analysis and decision-making (...). They observed that this facilitated a more nuanced grasp of the issues in a case and the possible long-term effects of a given situation.

Regarding the importance of procedural fairness and two-way communication skills, the report continues (Elek *et al.* 2017, p. 26):

Judges also valued the ability to motivate attitude and behavior change. This happens, in part, by encouraging active participation from litigants in the court process (i.e., *giving voice*, one of the key principles of procedural fairness). In interviews, respected judges frequently touched on the importance of treating others with respect and compassion: They recognized, for example, that acknowledging litigants' emotional experiences and viewpoints when communicating the case decision facilitated acceptance of the outcome[.]

Participating judges also explained that the appropriateness and utility of emotional expression on the part of the judge can differ by assignment type. The report explains on page 20 (Elek *et al.* 2017):

Problem-solving court judges, often described as the ringleader of status hearings, may need to express more emotion to build rapport with and motivate clients (...) than judges on traditional assignments. With respect to jury trials, several judges commented on the importance of a judge who 'isn't seen' – that is, a judge who presides over the court process, but is not the focus of the jury's attention. Jury trial judges felt they should always strive to portray objectivity and refrain from expressing or otherwise communicating opinions or beliefs that may be detected by the jury.

To achieve key attitudinal and behavioral outcomes with the public and other court users, judges suggested, for example, using motivational interviewing and active listening techniques to engage courtroom actors in the process and to show respect for others' stories. They described model judicial behaviors such as making eye contact with the speaker, using appropriate facial expressions and gestures as others speak to demonstrate attentiveness and engagement, and asking follow-up questions or summarizing what was heard to confirm understanding. One suggested strategy

included the recommendation to specifically "... acknowledge [litigants'] emotions in explanations of decisions" (Elek *et al.* 2017, p. 28).

Finally, judges addressed emotion as a reaction to and influence on one's relationship with judicial work. Here, optimal on-the-job functioning – and the ability to remain on the job – were the implied goals. Matters related to, for example, job satisfaction, stress, engagement, and burnout were raised. As one example, several judges discussed the importance of self-confidence and how self-doubt as a judicial officer can cripple performance. Judges also described the career transition from bar to bench as one accompanied by abrupt and unexpected social isolation (Elek *et al.* 2017, pp. 7-8):

Judges often pointed to the isolating nature of the position which, as prescribed by the state Code of Judicial Conduct, requires that relationship boundaries be set between a judge and other justice system stakeholders to preserve judicial impartiality and protect against the appearance of impropriety. Judges explained that new social connections must be forged to build a healthy and appropriate social support network, as previous relationships (e.g., with members of the bar) often dissolve or change substantially following appointment or election.

Social isolation may be experienced more acutely by some judges than others, such as those who are placed on traveling assignments or who work in rural jurisdictions with few local judicial colleagues.

Judges recommended several strategies to help their peers cope with or combat social isolation. Suggestions included increasing involvement in project-oriented court improvement activities, participating regularly in professional events and social activities with judicial colleagues, and focusing efforts on building a healthy support network of family and friends outside of the profession.

Judges also addressed the emotionally-charged and highly stressful content of the work, highlighting "the importance of being able to 'compartmentalize' and 'let go' of work at the end of the day, and after resolution of a difficult case" (Elek *et al.* 2017, p. 7). The report continues (p. 7):

Judges with substantial workloads or on assignments with emotionally charged cases (e.g., criminal, family, juvenile/child protection) described the risk of vicarious trauma as a significant issue and thus a greater need for effective stress management strategies. In addition, problem-solving court judges described themselves as closer to clients than in a traditional adversarial case. They frequently discussed how emotionally challenging it can be for the judge and the rest of the team when clients fail.

To address job stressors and build resilience, several judicial education offerings were identified as helpful (Elek *et al.* 2017, p. 8):

Judges found judicial education on topics related to stress and stress management to be directly beneficial to their lives on the bench. This included sessions on topics such as vicarious trauma, meditation and relaxation techniques, yoga, work-life balance, and personal health.

Judges acknowledged not only negative emotional experiences in judicial work, but also components of the job that afforded meaning, purpose, and satisfaction. They respected peers "who contribute to a positive and supportive court environment" through self-initiated personal and professional growth activities and organizational citizenship behaviors such as teaching, mentoring, community outreach, and participation in or leadership of court improvement or reform initiatives (Elek *et al.* 2017, p. 4). Organizational citizenship behaviors are those discretionary behaviors that generally contribute to improved working environments and more effective organizations (Podsakoff *et al.* 2009). To fuel and sustain careers and avoid complacency or burnout over the years, judges emphasized the importance of actively cultivating engagement through discretionary activities such as these.

5. Enhancing emotion and emotion management skills: Judicial perspectives on useful professional development resources

Judges participating in the Judicial Excellence project expressed a receptivity to additional developmental resources on emotional and interpersonal skills, supporting a view that the addition of such resources would be beneficial to the judiciary. Opportunities for more advanced judicial education and skill-building are expanding: for example, there are seminars on procedural fairness to build interpersonal and communication skills that may be helpful for managing others' behavior, workshops on mindfulness that may be helpful in building emotion self-management skills, and implicit social cognition seminars that may help improve understanding of bias in social contexts. Unfortunately, these sessions may not be provided frequently enough, either to achieve skill-building objectives or to meet judicial demand, and more rigorous research is needed to evaluate their efficacy and identify best practices in design. When asked to recommend helpful guidance for judges seeking to grow or enhance these skills, many participating judges were at a loss, pointing to a general lack of such resources (Elek *et al.* 2017, p. 5):

Although judges expressed interest in more advanced training across the board, they wished to see more social and emotional skill building (...) even at introductory levels. Many expressed a desire to see these topics addressed in more detail as early as new judge orientation.

One promising approach for reducing stress and improving coping skills of new judges is to connect them with experienced and well-trained judicial mentors (e.g., Bremer 2004, Rouse and Bouch 2016). Generally, researchers have found positive, supportive interactions with colleagues to be one stress management strategy that can help combat emotional exhaustion (e.g., Halbesleben and Bowler 2007). Participating judges saw the promise of a judicial mentoring program, but it appears that promise has yet to be fully realized. They indicated that mentor judges would "benefit from additional guidance on how to mentor colleagues effectively, what topics or issues to address in mentoring relationships, and what developmental resources, strategies, or activities could be suggested to inform ongoing professional development and enhance judicial skills" (Elek *et al.* 2017, p. 9). Judges requested more training on mentoring skills for all judges, as all judges have a range of opportunities to regularly engage in informal mentoring work (with judicial colleagues, attorneys, court staff, and others in the court community as well as with the public in community outreach activities).

In addition, at least some participating judges appeared welcoming of opportunities to receive performance feedback in a safe, constructive learning environment. However, Elek and collaborators (2017) found that judges viewed a broader spectrum of topics and skills as important to judicial excellence than is currently addressed by most state judicial performance evaluation programs. It may be time to reconsider the content, design, and function of performance feedback programs that are implemented for the purpose of judicial self-improvement. This may involve adding questions to existing survey processes (e.g., to address procedural fairness principles), surveying additional types of respondents (e.g., feedback from the chief or presiding judge), and/or introducing alternative feedback methods (e.g., courtroom observation by a trained judicial mentor or coach). Participating judges generally described the survey feedback they received as helpful, but many expressed a desire for additional non-survey sources of feedback. One state judicial performance evaluation program includes a formal courtroom observation component to assess procedural fairness, but this is not a common practice nationally (Woolf and Yim 2011). To recruit, train, and manage the work of a cadre of judge observers across the state would require a substantial additional investment of resources. States must consider the availability of these resources and weigh the benefits of investing them in such a program over other pressing needs of the court.

Finally, some participating judges suggested the state judicial ethics code (typically referred to as the Code of Judicial Conduct) and disciplinary decisions (the official responses from a state judicial disciplinary body charged with reviewing formal complaints against a judge) as potentially helpful resources for professional development. Some also referenced guidance available to judges upon request from the Judicial Ethics Advisory Committee, as well as the formal opinions issued by this body, which are provided to aid judges by clarifying the “propriety of contemplated future action under the code of judicial conduct” (Gray 2019). However, many judges also admitted that few of their peers are likely to review these resources. Even if reviewed by judges for the purpose proposed, the code of judicial conduct and disciplinary decisions, for example, may be quite limited in their value as tools for independent learning – as a collaborative research enterprise currently underway between the Judicial Research Project of Flinders University and the National Center for State Courts has found. Although the Code of Judicial Conduct admonishes emotion as a biasing factor in judging, there is little concrete guidance provided on how to manage emotion effectively. Behavioral examples in the form of disciplinary decisions can be voluminous and unwieldy to review; even if reviewed, available content may paint an incomplete picture of events that transpired to enable effective learning. How individuals might generalize lessons from specific documented violations could be unclear. The responses articulated in such opinions may not offer specific guidance to the judge under review nor suggest useful remedies to others to promote vicarious learning.

6. Summary

As part of the Judicial Excellence project, state court judges in the USA described several ways in which emotion arose in their work, addressing emotion and emotion management skills as components of judicial excellence. In pursuit of judicial excellence, judges expressed interest in a more structured judicial mentoring program, more opportunities to observe respected peers in court, more advanced training courses on topics across the board, and, specifically, more interpersonal and emotional skill building even at introductory levels.

The judicial perspectives summarized in this paper focused largely on some of the specific ways that traditional professional development programs could be individually improved to better address judicial needs. However, the Judicial Excellence project also highlighted opportunities for improving the coordination between discrete programs for judicial professional development, pointing to a more efficient and targeted use of existing resources as one way forward. As noted by Elek and collaborators (2017), the development of a holistic, well-coordinated, and high-functioning system of judicial professional development is a worthwhile investment for the state courts, as poor performance and “turnover can be costlier to the judiciary than efforts to train and sustain engagement over the course of judicial careers” (Elek *et al.* 2017, p. 5). The *Elements of Judicial Excellence* offers an organizing framework that could help inform or stimulate discussions among judges and other court practitioners about how state systems of judicial professional development may be improved to better address judicial needs, enhance performance, and help sustain careers.

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