

## *Session 9.1*

### *Online Learning Among Countries*

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- 1 Gianni: The objectives of this workshop are to present various models of using, essentially, the world-wide web to deliver education. Those models are related to different institutes that have slightly different mandates so we are going to need to begin by introducing both the National and Judicial Institute to you, and the Justice Studies Center of the Americas. Then we will describe how each of those institutions or institutes uses online courses for the purposes of educating judges, how our online curricula fit into the larger curricula, how the courses themselves are structured, and then we will show you examples of courses so you know better what we are talking about.
- 2 We will in both cases describe the advantages and the challenges of online learning, and we will compare and contrast approaches, showing how there is not really one single model but the course structure needs to be tailored to suit the learners, the subject and the budget. Finally we will discuss best practices and lessons learned, so that those of you in the audience can learn from what we have learned.
- 3 Lightstone: I just want to situate us, in terms of the Canadian context. Interestingly, while I was looking at this slide again I realised that it is very much geared to the main event at the NJI, which is delivering in person what we call ‘face to face’ programs. I look down and I see that most courts encourage their judges to devote at least ten days per year to education, which translates into ten days sitting in a conference room or working in a workshop. In fact, our online programs run a total of about four to five weeks and judges can devote many, many more hours more than probably even ten days to one online program, to following and participating and discussing in the programs that we do. Many judges do. It is interesting, that in our online programs we have a lot of repeaters, who come back, and back, and back, to take virtually every online program that we offer.
- 4 A little bit about the National Judicial Institute: in terms of online programs, two-thousand judges across ten provinces and three territories are geographically spread out over a very large area and a bunch of time-zones. Online courses really make sense in Canada. They link geographically distant judges – Judge Crabtree is going to talk a little bit more about them – but the real challenge for us, the challenge that we have had in really perfecting the delivery of online programs, is all those time-zones. It is impossible to have everybody online at once because you would have somebody, like Ben, in the evening, you would have somebody else at lunchtime, and somebody in court and somebody before court, so we do our courses asynchronously.
- 5 We have a staff of fifty and hundreds of judicial volunteers. Our staff of fifty is mostly devoted to delivering between eighty and ninety face-to-face programs. There are basically only four of us at the NJI, who work on online programs. The design

and development of online programs is just one sliver of the rest of our job description. We almost do the online programs off the corner of our desks, I would say, at the NJI. We really rely on judges and academics to do the heavy lifting, in terms of the content and then running the programs and doing the commenting and the moderating of the programs as they progress over the four to five weeks that they run.

6 Finally, the last thing I wanted to mention is the national programming. Our programming is divided between offering national courses and then courses that are devoted to individual courts. Here is the beauty of online programs, for us. These are truly national programs. Given that they are very inexpensive to run, we can get judges from all four corners of the country, where it would be very expensive to fly in to a national in-person program, and at all levels of our court system. Our Provincial Court judges are often not funded as generously, shall we say, as our federally appointed judges and we end up with a significant number of Provincial Court judges at our online programs, because many jurisdictions would be very hard-pressed to get to our national in-person programs.

7 Online courses at the NJI. We started back in 1999. I have to mention – I cannot let this go even though it is not all that significant to you folks – there is one judge, Jean Lytwyn, from the Provincial Court of British Columbia, who is the mainstay of our programming. She has been involved since 1999. She is still involved. She is our idol. We worship Jean Lytwyn, and she is our mentor, I would say. She has really been helpful to us.

8 So, 1999. We started off. We botched it. We really, really did not do a good job right out of the gate. When we started with our courses we had mountains of content and no interaction between the learners. That was a big, big mistake. Nobody really used our first course, that we did, and it was just so darned much content. It was out of date as soon as we put it up. We should have stayed true to our principles. You have probably heard most of the speakers here who have been speaking on behalf of the NJI have been talking about our principles, which involve experiential, interactive skills-based learning. Since then, since our big botch at the beginning, we have used an interactive approach where we are, what we call, ‘content-light’ and ‘interaction/discussion-heavy’.

9 The next thing that I want to talk about is complementarity, not substitution. This is really Ben’s comment: our main events are in-person programming. As I mentioned, we do eighty to ninety of them a year. The online programs make for more programming. They do not replace in-person programming. I have got to tell you, one of the other things with the online programs when we started in 1999, we had significant questions back from some of the judges who were concerned that we were going to be replacing in-person programming with the online programming. We have not done that. These days we do about four or five programs a year. If they fill up we repeat them immediately so in essence sometimes we will do six, seven programs. The really popular programs are, anything to do with evidence, anything to do with the charter, anything to do with family law, interestingly, and those are the ones that we end up repeating.

10 I would have to say that we work very diligently at fitting our online programs into the suite of electronic resources that we have. We have been pretty careful about how we develop those resources. We have been fairly strategic in trying to make them

make sense, and our online programs, for instance, are accessed through our judicial library. It is all of a piece, which makes it very easy for the judges to use the programs, to access them, and it also makes it very easy for us to maintain the system because there is basically one system that we are maintaining, although there is specific software that we use for the online programs.

- 11 Finally, carrots but not sticks. We have said this before. We have to make this interesting for the judges. It is not mandatory. They do not need to come, so as a result we have to make it an attractive place for them to be.
- 12 How do we structure our online courses? They are often adapted from the materials that we have already developed. We, the NJI, are a very frugal organisation. We reuse everything at least once, sometimes dozens of times. We hate to reinvent the wheel. If we have got something good we use it over. If something in a face to face program works we will adapt it for the online program. Often we will recruit the same faculty member, who would have delivered it online, to then deliver it on the [in-person] program. We spend a lot of time with our faculty. I see the judge faculty here too and I think they will probably agree that we spend an awful lot of time working with faculty to integrate them into and help them use the systems that we have in place. We have a stable of about ten academics that we use and reuse for online programming and we spend a lot of time giving them the skills to use the software and conduct the online programming.
- 13 It took us some time but we think that the structure of the online program reflects the needs of the judges who take the courses. Fundamentally, there are places where judges learn from other judges and they are a great place for the judges to exchange hard information. For instance, we did a program on self-represented litigants and there were dozens of checklist going back and forth about how to conduct matters when you have a self-represented litigant. Each judge turned out to have his or her checklist, and this proved to be a forum for the exchange of all these checklists. That is just one example. There are dozens of examples where there is an awful lot of material that goes back and forth. Unlike an in-person course where you meet somebody at a program and you say, 'sure, sure, I'm going to email you something', this is a real great way to exchange materials and best practices, and that is one of the best things that, I think, has come out of these programs. I think that is one of the things that really appeals to these repeater judges, who take courses over and over again,.
- 14 Gianni: We use an asynchronous model. 'Asynchronous' basically means that the learners are not required to be logged in at the same time. In other words, they can log in to the course website at any time and at their own convenience, and read, and post, and participate in the discussion that way. We arrived at this model having tried a variety of other models. Susan has already mentioned that given the array of time-zones in Canada, and given that our judges tend to take our online courses in addition to, not in place of, their other duties, we need to have courses that are as flexible as possible with respect to allowing them to participate. We sometimes incorporate webcast sessions within our larger online courses. In other words, we will do a PowerPoint presentation where everyone logs in and sees the same presentation then connects with a conference call, but we have found that even those are hard to organise. People do their best to get there but commitments encroach and in the end

participation is less than optimal. Little by little, various bells and whistles have dropped away and we have settled on a discussion-room-based asynchronous model.

- 15 Our online courses are instructor-led, so they generally involve both an instructor – this would be an academic or a law professor and a judge-moderator. We have found that we need both of those roles. The law professor is the one who actually prepares and delivers the content, generally in the form of a summary and a series of questions to provoke discussion. The judge-moderator is essentially one who coordinates discussion amongst peers. They are the ones who prompt, and prompt people who are not participating to participate a little bit more, who interject controversial things into the discussion in order to get the discussion rolling, things that only a judge or a peer could do. The academic stays at arms length to some extent, whereas the judge-moderator can interact more intensively with his or her peers.
- 16 Our courses are delivered through a secure website. The security is important. All participants are required to log in with a user name and password. This is to protect the confidentiality of the discussion. We generally involve about thirty judges in each of our online courses, and each course normally lasts for four to five weeks. The first week is really just to get comfortable with the technology. The participants familiarise themselves by navigating through the course, and get familiar with the discussion-room format by introducing themselves in what we call a ‘judges’ lounge’. Once they are familiar with the technology they go into the heart and soul of the course, generally scenarios to which we append discussion questions. We dedicate one week per topic, and there are generally three or four questions associated with that topic. Then, the final or fifth week is taken up by a summary which the instructor prepares, which essentially digests all the discussion.
- 17 Normally, as I mentioned, each course is divided between three sub-topics, each with a discussion-room comprised of three or four questions. The judge-moderator’s role, as I mentioned, is to prompt participation. We have two kinds of participants, what we call ‘posters’, or those who directly participate in the discussion by posting their comments and thoughts, and ‘lurkers’, people who go in and read what other people have posted but do not post themselves.
- 18 Slide Nine shows you what an online course looks like. This is a course called ‘Managing the Sexual Assault Trial’. If you look at the menu on the left-hand side of the page you will see ‘A Law, Simply Stated’, which is an introduction to the issue at hand. In this particular case it revolves around a case. Then, the course is broken up into a number of sub-sections: substantive law of sexual assault, prior sexual conduct of the complainant, third-party records, credibility, and reasons for judgment. Each of those, then, is broken down into an introduction, some content associated with it, and then various problems associated with each section. We work through one of these per week. In terms of content, we can incorporate text-based content but we can also incorporate into the online courses content like videos, where we present scenarios.
- 19 Lightstone: The ‘Law Simply Stated’ is a really good short synthesis of the law. It is typically authored by the academic that is running the program, and they are very useful little booklets. We have transported a lot of our material from face to face programming into our online programs, and now we are starting to take material out of our online programs and put it onto our judicial library for everyone to see. Typically, once an online program gets going the only people who can get into it are

the participants. The only people who could see this 'Law Simply Stated' were the participants. We are just on the verge of collecting all these little pamphlets of material that pertain to the courses and mounting them separately on our judicial library so everybody can have access to them.

- 20 Gianni: We reuse content from face to face courses in our online courses, but our online courses themselves generate content that feeds back into the system, so it is quite a symbiotic situation. The point of the slide you are seeing now is just to show that we can accommodate various kinds of media in the online courses. The user is allowed three options. One is to view the video, in other words stream it through the web or download the video, or actually oftentimes we will give them the option of reading a script of the video just in case there are any connectivity issues. We try to gear the technology we use to the lowest common denominator, and not to presume that anyone has robust high-speed access. In fact, a lot of the judges who take our courses focus on them on the weekends. They often go away on the weekends or are in places where connectivity is a little less robust than it might be in the courthouse, so we design the courses so that they can be transportable.
- 21 Now we will move to the next slide. This is the list of the various discussions associated with this course. You see, the first discussion is the 'judges' lounge' and then there is a discussion room on the substantive law of sexual assault. There is one on prior sexual conduct, one on third-party records, and so forth. You will notice that next to each of those discussion-rooms is a number, which corresponds to the number of topics in each of those rooms. One can view very quickly how many messages have been posted in each of the rooms. In fact, course participants when they log in are given a prompt showing which rooms have new messages in them so they can go directly to those rooms and see who has posted what.
- 22 Lightstone: What we are looking at here, slide twelve, is really the heart and soul of our online course. This is essentially a threaded discussion, which means that there is a record, or path, of the discussion between various judges. Normally, the way these are organised is that the discussion question is posted as the first question and then you will see below it a series of responses. One can respond to the question itself or one can respond to a response to that question. The indented messages are responses to a response and the ones that go to the left margin are responses to the global question. Essentially what this is is a written record of a discussion between peers, around a discussion question that has been authored specifically to tap into a key issue related to the topic.
- 23 Crabtree: I will just speak briefly about the advantages of the online courses. The first point is that it levels the playing field for those who have difficulty in attending face-to-face courses. You have heard about Canada in terms of its geography, the great distances, about the different levels of funding, and about the time-zones, all of which contribute to making attending face to face courses quite difficult. In my province, in British Columbia, we are approximately five hours by plane from where many of the courses are held. Others in Canada will say we are five hours from the centre of the universe. We have a limited budget for those judges attending programs, and what we have found is that this opens up an opportunity for judges of our court to attend nationally-based programming and to collaborate and participate with judges from across the country while still remaining in their home province.

- 24 The second advantage, of course, flows from that, and that is that of convenience. You can participate in a program from home or from work, and in fact while I am here at this conference I am participating in the Youth Justice Program that the NJI started last week, involving comparative perspectives and practices across three countries. To my mind, the most significant advantage with the online course is the mode of participation. What I mean by that is, Ben has talked about the layout of the program, how it occurs over approximately five weeks. You start with the introduction, then the setting out in succinct fashion the summary of the applicable law in the particular subject area that you are going to be working in. For the next three weeks or so, your participation is an interaction and discussion with other judges, centred around a problem or set of problems.
- 25 The advantage, to my mind, is twofold. First, because it is an asynchronous type of learning you participate when you are ready to do so. It gives you the opportunity to reflect on not only the problems but the discussion that has taken place prior to your becoming involved in the particular discussion for that week. In fact, when you look at some of the surveys we have got from previous courses, some judges have indicated that that is now the only type of course that they will take, because it is a learning style that fits in with their particular personal style.
- 26 The second advantage, which comes about in this type of programming, is that there is always time for your participation. I think back to many of the wonderful sessions that have preceded this during this conference, and I think, Susan, of yours in the ethical discussion that was held in the afternoon. And simply, because there is a limited amount of time there is often a lack of opportunity for everyone to participate in the discussion. As organising education programming in our province is always one of the things that concerns me, it seems to me that something this type of course addresses or will address is, there is always time for everyone to participate, so no one leaves that particular program feeling like they have not had an opportunity to be heard.
- 27 Those, in my view, are the major advantages, but I would also add that there is one additional one, which I think came about perhaps unintendedly, one which course participants have found to be fairly unique to this type of programming, that is, you have a record of the discussion which takes place. You have the ability to go back to that discussion and to reflect on it, not only during the program but after the program. So, you have generated, if you will, a new set of material from which you can take with you to refer back to, weeks or months down the road. To me, those are the significant advantages that I see in taking the online course.
- 28 Lightstone: Richard, if you might comment on some of our international initiatives.
- 29 Moss: Yes. The vision to bring together judges from different courts and across countries who would not normally be able to attend courses together was really the vision of the man who is in cyberspace at the moment, Ben Gianni. He is a very unusual man, in that he can see opportunities that certainly I was not able to see. He was in New Zealand a couple of years ago doing some work with us, and he popped across to Australia, to the Victorian Judicial College, and then he popped back and did a bit more work [with us]. On the way out he said, 'we should do something together'. I said, 'Well, what? Are we going to plan a course together?' And he said, 'I'll get back to you'. His getting back to us started a collaboration between the

National Judicial Institute in Canada and the New Zealand Institute of Judicial Studies and the Victorian Judicial College. Was this the first international course that [the National Judicial Institute of Canada] had done?

- 30 Lightstone: We had done some face to face things before but nothing like this.
- 31 Moss: So, the first topic we hit on was 'litigants in person'. We were casting around for topics that would be of interest to judges in different jurisdictions and the first topic we hit on was 'litigants in person'. The second topic was 'indigenous courts' which is, of course, of interest to people in New Zealand, Australia and Canada. Then, the one that Tom just referred to then, Youth Justice, is up and running as we speak. I think it is into the second week at the moment, and there are judges in New Zealand and through the Australian Judicial College, I think, judges from throughout Australia as well as Canada participating in that at the moment.
- 32 Whilst Susan said that they recast a lot of their material for these courses, and I am sure they do, but in the case of these three international programs the definition of topics and the definition of the questions to be asked has been truly a collaboration between the three countries. I have been a part of those telephone conversations with a judge and an academic from New Zealand, that is mirrored in the other places. We sit down together in those telephone conversations and nut out which would be the topics for each of the four or five weeks of the program. We then together nut out what the questions will be, that will illuminate those topics. So, it is truly a collaborative process, one that we certainly could not do on our own. We really are a consumer of what the National Judicial Institute provides. It seems a very easy thing for them to do, whereas it would be a very difficult thing, I think, for us to initiate on our own.
- 33 In a very simple way, through this collaboration, judges have been able to share different experiences and different perspectives and recognise similar problems across jurisdictions. I think that is a really interesting area, that the same sorts of problems have arisen consistently through the three jurisdictions, through these courses. The exciting bit is not that they recognise the problems. There are always different responses to those problems, and the different responses are, in some cases, institutional responses, governmental and legislative responses in the different countries. That illuminates a lot but it is really the individual judge's responses to those problems that are the grist of the exchange that goes on. So, there is a lot of rich sharing about what individual judges have done, how they have done it, what has worked, what has not worked, what were the successes and failures. It is a very candid sort of conversation. I am not sure whether being on the internet helps that candid conversation, but it is a very candid conversation that people are able to have.
- 34 In this way, there is an international community built up and an international exchange of resources and experiences and insights. Susan mentioned before the exchange of materials. In all of our institutes now there is the development of resources, through bench-books and other electronic resources. Also, many, many judges have developed individual resources. The exchange of our own institutional resources between jurisdictions has been happening for a long time fairly freely, but it is these subterranean exercises that judges do, and things they have got on their own computers to share, which has been the very rich part of this program.

35 There is a development of best practice. I think the exchanges lead to a better practice by these judges in these jurisdictions. Some of the resources that are exchanged find their way eventually into our bench-books, so they become part of the best practice in our own jurisdiction.

36 The other area where I think there is a benefit, apart from those sort of direct in-court bedrock things that judges do, is that it is a bit like going on a holiday. Whenever I go on a holiday and I come back to NZ and they open the door it is like the windows have all been cleaned and everything is sparkling and gleaming in Auckland, and it is a bit like that. By going on this journey and having that experience of what other judges do in other jurisdictions, people can come back to their own jurisdictions with some fresh perspectives and some fresh ways of looking at it, and refreshed to do some things differently.

37 Lightstone: thank you very much, Richard. Ben, did you have anything you wanted to add?

38 Gianni: Simply that in our current course we have added a fourth jurisdiction. We have New York State involved as well.

39 Lightstone: Right. The Center for Court Innovation. I turn now to the advantages of online courses. Judge Crabtree spoke about the fact that these online courses suit certain learners better than other learners. I would say they also suit certain subject matters better than other subject matters. We are working on a program, for example, on accounting principles and practices. Such a subject would be fairly difficult to teach face to face, in a day or day-and-a-half program. We are working with the Chief Justice of Newfoundland, David Orsborn, who is also trained as an accountant. So many of the judges who sit on our bench probably last took an accounting course maybe twenty or thirty years ago. A lot of the methodology around accounting has changed quite significantly, gotten much more complicated, so we have retained an accounting professor who, together with the Chief Justice of Newfoundland, is working up this program. That will be a four-to-five-week program. They will be doing problems online. We have never done it before. I think that we are going to be very interested to see who takes it up and how it goes, but it would be the sort of subject that we would probably never offer in a face-to-face program.

40 Certain learners and subjects, I think, are suited to online programs better. And, of course, it is money. They are way cheaper to run and particularly now that we have the software up and running. We do not pay the judge-moderator, of course, and the academic, well, we do not pay them very much either. They are very, very inexpensive to run for us. Ben, how much would you say, in terms of just output, not accounting for our time? Couple of thousand dollars?

41 Gianni: Well, we usually offer the academic an honorarium of about \$1,500.

42 Lightstone: So, that is it? That is our cost? And, of course, they are much easier to stage than the in-person courses, and the international programs are a perfect example of that. We could never organise a tripartite face-to-face course involving Australia, New Zealand and Canada [otherwise]. Tom, I am just going to go back to you for a minute, in terms of the challenges of online programming.

43 Crabtree: It goes without saying that judges need to be familiar with the technology in order to participate in this type of programming, and over the course of the past several years our court has engaged in a limited form of computer training, to assist those that are unfamiliar with the technology, uncomfortable with the technology, to feel more comfortable in using that technology to open up this opportunity. Susan has just commented on that care needs to be taken to select those programs or topics that lend themselves to the judicial or judge-based discussion model, through which this material is presented. That is not to say that substantive material cannot be provided by way of online training.

44 Many of us were in the room and saw the terrific presentation by Milt Nuzum and Judge Tom Zachman. There is a reluctance on the part of judges to participate in writing in front of their peers. That affects them in two ways. One is, it reduces or curtails participation in these types of programming and opportunities, and the second is that there is a reluctance, once in the program, to participate. You heard Ben refer earlier to attempting to entice the lurkers out from behind the screen, to have them commit to providing their thoughts through the written discussion boards. That is always an issue. The judge who is leading the discussion obviously has to be skilled at drawing out participation from all of those who have signed up for the course. Of course, as Susan mentioned earlier in her presentation, participation in judicial education in Canada is on a voluntary basis so that raises other issues in terms of finding cooperative ways to elicit that participation, which at the end of the day is the strength of the course, each judge contributing his or her comments.

45 I think those are the challenges. There is one other challenge, and that is the keeping up of participation over the course of five weeks. Everybody, including myself, signs up with the greatest of intentions, because the online program, I know, is just the thing that I need and want, and have been waiting for for months to get into. I find myself starting to think about how I am going to structure my week so I can set aside the time in order to participate. The time commitment is substantial. When you look at those who have responded to surveys, time involved goes anywhere from several hours to ten or more hours each week, during the course. Of course, we are all extremely busy in terms of our judicial responsibilities, and fitting this into each week is a challenge. As I say, it is easy and people sign up with the best of intentions but then find that because of workload and other judicial and non-judicial commitments and responsibilities it becomes increasingly difficult to continue that participation over the period of five weeks. What you find is a drop-off. That is an issue, I think, that has to be looked at continually and strategies devised in order to address it.

46 Gianni: Now we are half-way through the session and Mauricio Duce will show you a different model for a different set of learners. That reinforces my first point, which is that all online courses are not created equal. There are synchronous courses, and asynchronous courses. There are courses that are very heavy in content and those that are really focused around discussion. Online courses can be self-taught. You can interact with a computer only or you can be led by an instructor. There is a huge difference between courses that are mandatory, or courses for which you pay, versus those that are voluntary, and there is a huge difference between courses that are done in addition to other duties and those for which learners are given release time. These factors seem peripheral to course and to content, but in fact they are extremely important. The approach that you take for an online course will depend on the topic,

on the learners and these terms of reference. We will, as I say, compare and contrast the NJI's experiences with those of CEJA [Centro de Estudios de Justicia de las Américas].

- 47 The approach will also affect the cost, the development time and the difficulty of mounting the course. There was, and has been in the past, a lot of emphasis on what I would call 'bells and whistles', using [Macromedia] Flash to author very snazzy courses. We found that judges actually do not really understand it or like it. They simply head for the *print* button. Every time we have tried to do something special they have simply said, stick to the basics.
- 48 What we have shown you is a really straightforward format, easy to do, not very expensive, but in fact it is the one that works the best. We believe firmly that online courses should be in addition to, and not in place of, face to face courses, that they suit some learners extremely well but are certainly not the solution for all learning, and finally because these online courses produce materials we see them almost as much as resources as courses, that need to be looked at in terms of a suite of other electronic initiatives and resources that we make available to your courts.
- 49 This is all in support of what we call 'just in time' learning. In other words, it is one thing for a judge to go off to a course and then need content three or four months later, but where will that judge turn at the last minute to find that content? That is the beauty of electronic resources, that they are ever-present and readily accessed, just in time.
- 50 Lightstone: The philosophy we have towards the online programs fits the philosophy that we have towards technology generally at the NJI. We do not opt for the bells and whistles. We try and keep things pretty simple. As Justice Brian Lennox, our Executive Director says, 'we want things to be purposeful tools', and to do that we feel that they have to be very simple and very accessible to all judges. So, that is why our online programs are so very, very stripped down.