Is it I?
Reflections from a Data Point

By Justice Martha Hill Jamison, President, American Judicature Society

I found myself bemused yet reflective at a recent conference as I listened to scholars and social scientists explain “what the data reveal” about the behavior of judges. You see, I am one of the data points.

I am an intermediate appeals court judge in a state that requires partisan primary and general elections for all its judges. Winning a partisan election requires a judge to either self-fund or accept legal campaign contributions. To those in states with other judicial selection systems, I may as well be from another planet (and though they rarely say it to my face, they believe I am unethical as a matter of law). I joke with my judicial friends from those states that they can afford to be “holier than thou” when it comes to accepting campaign contributions or interacting with the community only because these are not job requirements for them. They are for me.

I hold myself to the highest of ethical standards. I laugh along with all of you when reading judicial ethics decisions. What was that judge thinking? Who does this kind of stuff? But, sometimes I wonder, is it I? At the margins, on an unconscious level, is bias active in my work?

When I was a trial judge for all those years, did I listen more closely to the arguments of respected members of the Bar? Did I react, one way or the other, to inexperienced lawyers or self-represented litigants? I do have many friends who are lawyers. I do prefer certain styles of presentation. And, yes, some of the lawyers have contributed to one or more of my judicial campaigns.

I like to think that I have taken these factors in stride and, at the end of the day, set them all aside to consider the facts and the law. After all, I am ethical, and I take my oath seriously. At times I have ruled for and against my friends and campaign contributors. Did I overreact and punish my friends for the sake of the appearance of propriety? Did I fail to sanction odious lawyers or parties who deserved sanctions, lest I draw a motion to recuse for bias?

These are nagging concerns for most judges. In the exercise of my discretion or in the discharge of my judicial duties, do I succumb to implicit bias? I am reassured that some of “what the data reveal” in a judge’s doubts about her own objectivity is a significant first step in reducing bias. I can thank AJS for raising my self-awareness.

1. The American Judicature Society and Vanderbilt Law School recently co-sponsored with the American Constitution Society the subject interdisciplinary conference, “Justice at Risk: Research Opportunities and Policy Alternatives Regarding State Judicial Selection.” The research findings and conference discussion will be the focus of the next issue of Judicature.

2. See Jerry Kang et al., Implicit Bias in the Courtroom 59 UCLA L. REV. 1124 (2012).

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CJI Announces
2014 Judicial Excellence Awards
Nominees and Honorees

CJI received 31 nominations for this year’s Judicial Excellence Awards. These nominations represented 16 counties and 14 judicial districts across Colorado. CJI wishes to thank everyone who submitted a nomination for taking the time to help CJI recognize these exceptional representatives of Colorado’s already impressive judiciary.

The 2014 Judicial Excellence Awards Nominees are:

**District Court Judges**
- The Honorable Claude Appel; 3rd Judicial District
- The Honorable Angela Arkin; 18th Judicial District
- The Honorable Charles Barton; 11th Judicial District
- The Honorable Maria Berkenkotter; 20th Judicial District
- The Honorable James Boyd; 9th Judicial District
- The Honorable Michael Goodbee; 17th Judicial District
- The Honorable Robert McGahey; 2nd Judicial District
- The Honorable Chris Melonakis; 17th Judicial District
- The Honorable Stephen Munsinger; 1st Judicial District
- The Honorable David Prince; 4th Judicial District
- The Honorable James Schum; 7th Judicial District
- The Honorable Pattie Swift; 12th Judicial District

**County Court Judges**
- The Honorable Christine Chauche; Arapahoe County; 18th Judicial District
- The Honorable Paul Metzger; Garfield County; 9th Judicial District
- The Honorable Pete Michaelson; Custer County; 11th Judicial District
- The Honorable Sabino Romano; Adams County; 17th Judicial District
- The Honorable Michael Schingle; Morgan County; 13th Judicial District

**Magistrates**
- The Honorable Beth Elliott-Dumler; Douglas County; 18th Judicial District
- The Honorable Randall Lococo; Weld County; 19th Judicial District
- The Honorable Carolyn McLean; Boulder County; 20th Judicial District
- The Honorable Kent Spangler; Larimer County; 8th Judicial District
- The Honorable Peter Stapp; Adams County; 17th Judicial District
- The Honorable Marianne Tims; Jefferson County; 1st Judicial District
- The Honorable Jami Vigil; El Paso County; 4th Judicial District

Selecting only three honorees from among the outstanding nominees was difficult for the awards committee. Each nominee is an example of the best of Colorado’s judiciary. After careful deliberation, the committee selected the following 2014 Judicial Excellence Awards Honorees.

**District Court**
Chief Judge Claude W. Appel—3rd Judicial District

**County Court**
Judge Sabino E. Romano—Adams County, 17th Judicial District

**Magistrate**
Magistrate Marianne M. Tims—1st Judicial District

All three will be honored at the 2014 Judicial Excellence for Colorado Dinner on Wednesday, November 12, at 6 p.m. at the Denver Marriott City Center, 1701 California St.
Thanks to CJI's talented staff, its volunteer Board of Directors, its members, and its many partners and supporters, CJI has enjoyed another great year of achievement and progress. Before highlighting the activities of the past year, a brief review of our mission provides helpful context.

In 1966, Colorado voters passed a constitutional amendment adopting a merit-based judicial selection system by which our state judges are appointed based on their merit rather than elected in partisan campaigns. As demonstrated by the experience of states where judges are elected, including Colorado's experience before 1966, public trust in fair and impartial courts is eroded when judicial candidates must raise money from special interests seeking to influence their decisions. For the last 35 years, CJI's primary mission has been to preserve and enhance the independence and excellence of Colorado courts, including our efforts to support and protect Colorado's merit-based judicial selection system. CJI is also committed to furthering public understanding of the Colorado judicial system, and to ensuring that the courts meet the needs of the people.

The accomplishments and challenges of this past year prove that CJI's mission continues to be vitally important to the health of our court system and the entire state. Here are a few examples of how CJI is fulfilling its mission:

**Promoting the Independence and Excellence of Colorado Courts**

- CJI continues to use its Judicial Education Fund to provide funding for the education of judges and court personnel. This past year, CJI contributed more than $52,000 to scholarship recipients who attended continuing judicial education courses. Since the Fund's inception, CJI has contributed more than $300,000 to judicial education.

- In 2013, CJI received 27 Judicial Excellence Award nominations representing 13 of the judicial districts.

**Educating and Ensuring that the Courts Meet the Needs of the Public**

- CJI and the Colorado Bar Association (CBA) are in their seventh year of jointly operating Our Courts, a program that educates the public about Colorado courts. This program has received regional and national recognition and was used as the model for Our Courts America.


- CJI's Annual Membership Breakfast will be replaced with an Education Summit designed to appeal to members of the legal community and the general public. This event will be held at the Ralph L. Carr Justice Center on September 12, 2014. It will include a national update from Bert Brandenberg, Executive Director of Justice at Stake, and a facilitated discussion with Colorado Supreme Court Chief Justice Rice, Colorado Court of Appeals Judge Gabriel, and District Court Judge Shakes from the Fourth Judicial District.

- CJI and its partners will ensure that the "Know Your Judge" website is a balanced, non-partisan source of information to educate the public about the 148 Colorado justices and judges standing for retention elections in November 2014.
CJI Thanks Outgoing Board Members, Welcomes New Faces at Annual Meeting

By Amy Ostheimer, CJI Executive Director

CJI held its Annual Membership Meeting May 8, 2014, at the Ralph L. Carr Colorado Justice Center. Colorado Supreme Court Chief Justice Nancy E. Rice, modest but confident, provided the keynote address to a standing-room-only audience in the Colorado Supreme Court Conference Room. She touched on the various programs/achievements of the Colorado judiciary to include:

- Sherlocks (those who assist pro se litigants in each of the 22 judicial districts)
- The Colorado Civil Access Pilot Project
- Chief Justice Commission on Professional Development
- Modest Means Task Force
- Pay Raises for Office/Staff Positions
- Two New Judges in the 18th J.D.
- New Website with Videos

When asked how her world has changed transitioning to Chief Justice, Chief Justice Rice responded, “it’s been more of a change than I anticipated. There have been a lot of firsts.” She often has 3–4 speaking engagements a week to include a few Saturdays a month. She likes her day job as Chief Justice, but says she’s growing into the role. Those who have worked with Chief Justice Rice in her many capacities say she’s already there.

K.C. Groves, CJI’s chair, touched on the many highlights of CJI’s 2013-14 fiscal year and thanked the members, the board of directors, partners and staff who support CJI. To read K.C.’s report in its entirety, please go to page 3.

Amy Ostheimer, CJI’s Executive Director, presented Laurence W. DeMuth, Jr. with the 2014 inaugural “DeMuth Volunteer of the Year Award.” The DeMuth award will become an annual tradition, with CJI staff selecting a deserving volunteer as its recipient. Larry has been involved with CJI for 22 years, serving as board chair, board officer, committee chair and committee member. Many refer to him as CJI’s “historian.” Larry also serves on the boards of the Griffith Center for Children, the Telecommunications History Group, and has completed over 50 years as a Colorado Bar Association member. Larry was the Executive Vice President, General Counsel and Secretary of US West. To say Larry was deserving and surprised by the award is an understatement.

The membership elected eight individuals to the CJI Board of Directors. They are eligible to serve three three-year terms. CJI welcomes new board members:

- Hon. Michael L. Bender, Perkins Coie LLP
- Loren M. Brown, Ciancio Ciancio Brown, P.C.
- Melissa Hart, University of Colorado Law School
- Hon. Robert D. Hawthorne, Colorado Court of Appeals
- Lino S. Lipinsky de Orlov, McKenna Long & Aldridge LLP
- Diana L. Powell, Gutterman Griffiths PC
- Robert P. Thompson, Institute for the Advancement of the American Legal System
- Kyle C. Velte, University of Denver, Sturm College of Law

In addition, the membership voted to grant ex-officio status to the following board members who completed their three-year terms:

- J. Daniel Brinker, J. Daniel Brinker & Co.
- James E. Scarboro, Arnold & Porter LLP

CJI expressed its appreciation to the following individuals leaving the board who dedicated their time and support:

- Carolyn Jefferson-Jenkins, James B. Hunt Institute for Educational Leadership and Policy at the University of North Carolina
- Emily A. Pastorius, TeleTech Holdings, Inc.

The following officers were elected at the Board of Directors meeting immediately following the Annual Membership Meeting:

- K.C. Groves, Chair
- Randell Bartlett, Vice Chair
- Peter D. Willis, Vice Chair
- David A. Hall, Treasurer
- Thomas R. O’Donnell, Secretary

Members of CJI are invited to attend this informative event, typically held in May. If you’d like to participate, watch for announcements in the CJI newsletter and via email in the spring.
Improving CJI’s Financial Health and Sustainability

To strengthen and expand its programs, CJI's Board has focused on improving the financial health and sustainability of the organization. Our fiscal year ends June 30. As of April 30, 2014, CJI was on track to meet its budget and end its fiscal year in the black. CJI is also proud to report the following:

- CJI's 2013 Judicial Excellence for Colorado Dinner set records for the number of attendees (over 700), the number of sponsors (64), net revenue ($114,310), and amounts contributed to Our Courts ($10,000) and CJI's Judicial Education Fund ($32,240).

- CJI’s Development Committee created a new brochure and just launched a development campaign.

- CJI is creating an endowment trust to give donors an opportunity to leave a lasting legacy. Income generated by the principle of this endowment will be used to further judicial education and to educate the public regarding Colorado's court system. To date, CJI has received contributions of $22,500 earmarked for this endowment.

A letter like this, summarizing the "highlights," can never adequately describe all the contributions that produced CJI's success over the past year. On behalf of CJI, I would like to thank our dedicated staff—Amy Ostheimer, Cynthia Ophaug-Johansen, and Laura Rothenberg. I also thank CJI's volunteer Board of Directors, our members, and the organizations and individuals who have generously given their valuable time and resources to our important mission.

If you have any questions or need more information about CJI and its programs, please visit our website at www.coloradojudicialinstitute.org, or email our Executive Director, Amy Ostheimer, at amy@coloradojudicialinstitute.org.
The National Judicial College welcomed the Honorable Chad Schmucker as its new president earlier this year. Schmucker replaced the Honorable William F. Dressel, a 13-year veteran of the position and a close friend of CJI. However, the change in leadership will not affect CJI’s ongoing association with NJC. Schmucker is eager to continue the 5-year working relationship between the NJC and CJI.

“CJI is very excited that Judge Schmucker is so supportive of continuing the CJI/NJC matching funds program,” said CJI Executive Director Amy Ostheimer. “He’s a very hands-on president and we look forward to working closely with him.”

Judge Schmucker spent 20 years as a Michigan County Circuit Court Judge and two years as the Michigan State Court Administrator. During his judicial tenure, he assisted in starting four problem-solving courts in Jackson, including felony drugs/alcohol, domestic violence, family dependency and mental health. As State Court Administrator, he oversaw management of the state’s 246 trial courts, implemented a Michigan version of trial court performance measures, and developed a plan for court governance to promote cooperation and efficiency among courts. However, Schmucker says his time on the bench was the best possible training for his latest position.

“The job of judging is so much more complex than it was 50 years ago,” said Schmucker. “Look at it now. What we expect judges to know is much more extensive and specialized. Family law courts. Drug treatment courts. Alternative dispute resolution. Self-represented litigants. It’s so much more complex. And most of the skills judges need aren’t taught in law school; at least not from the perspective that judges need them. When I was a judge, I always left an NJC course a better judge. In fact, I wish I could have come out more often.”

One hundred and four Colorado judges have had the opportunity to attended NJC courses through funding from CJI. Largely because, since 2009, NJC has matched dollar for dollar the funds CJI has spent to send Colorado judges to NJC courses. To date, CJI has contributed $95,000, which is a total benefit to the Colorado judiciary of $190,000. In addition, in November 2012, CJI, NJC and the Colorado State Judicial Branch partnered to bring the popular course Advanced Evidence to Denver.

“CJI and NJC have a strong ongoing relationship,” said CJI Judicial Education Co-Chair Peter Willis. “That relationship is a huge plus for our judiciary in that it allows CJI to stretch our funds further. We can fund more courses to more judges. And our Colorado Judicial Department likes the relationship a lot. CJI and NJC provide educational opportunities that the judicial department can’t afford to offer.”

The Annual John Paul Stevens Lecture brings a distinguished jurist to Colorado Law to discuss judging and the state of the judiciary. The 4th Annual Stevens Lecture will be given by Associate Justice Antonin Scalia on October 1, 2014, at 5:30 p.m. at Macky Auditorium on the CU-Boulder campus. Details and registration are available at https://jfe.qualtrics.com/form/SV_73alPRk8cJoR9CB.
Mark Your Calendar!

CJI Hosts Inaugural Education Summit
On September 12, the Colorado Judicial Institute will host an educational summit for all of Colorado’s citizens. Titled The Colorado State Court System: The Judges’ Perspective, the event will be held at the Ralph L. Carr Justice Center.

12th Annual Judicial Excellence for Colorado Dinner
The Judicial Excellence for Colorado Dinner will be November 12, 2014, 6 p.m., at the Denver Marriott City Center. Contact Cynthia at 303-766-7501 or Cynthia@ColoradoJudicialInstitute.org for sponsorship opportunities or individual tickets.

In the News…

CJI Board Member Laurie McKager, 18th Judicial District Administrator, was named the Colorado Judicial Department’s Manager of the Year for 2014.

CJI Board Member Judge Russ Carparelli, Colorado Court of Appeals (retired), recently started as the American Judicature Society’s Executive Director.

Spotlight on
Family Law
By Amy Ostheimer,
CJI Executive Director

One would think this committee, whose mission is to ensure Colorado’s courts meet the needs of families, would be comprised primarily of family law attorneys. Yet it takes additional expertise to monitor Colorado’s children and families in the courts. The Family Law Committee, chaired by Barbara Thompson, consists of about 30 percent family law attorneys, a behaviorist, an IT specialist, and a court administrator; the other committee members simply care deeply about Colorado families and their children. Some of the projects the committee spends its time on are listed below:
• The Navigator Project, a program whose goal is to develop a searchable computer database of resources available to help at-risk teens and their parents, teachers, and counselors;
• Reviewing the efficiency of the courts when parties represent themselves in family/domestic cases;
• Other initiatives to ensure the courts are meeting the needs of families.

The committee meets informally over lunch the fourth Tuesday of each month. If you’d like to sit in on the committee to observe, please contact Amy Ostheimer at amy@coloradojudicialinstitute.org.
Hosted by the Colorado Judicial Institute

The role of politics in selecting state judges has been a hot topic for legislatures, governors, and courts across the nation. Since 1966, Colorado's State Constitution has provided for a merit-based selection system of appointing state judges rather than electing them based on partisan politics. This program will discuss Colorado's merit selection system, provide a national overview of judicial fairness and impartiality, and give a judicial perspective on selection and retention of state judges.

September 12, 2014

LOCATION:
Ralph L. Carr Justice Center
2 East 14th Avenue, Denver, CO 80202

TIME:
Registration and Breakfast: 7:00 a.m. - 8:15 a.m.
Program: 8:15 a.m. - 11:00 a.m.

CLE CREDITS:
Submitted for 2 General Credits + 1 Ethics Credit

Program Agenda
7:00 a.m. Registration and Informal Breakfast
Optional Tours of the Learning Center
and the Supreme Court Library
Rotunda, Ralph L. Carr Justice Center

8:15 a.m. Welcome
Colorado Supreme Court Courtroom
Chief Justice Nancy E. Rice
Colorado Supreme Court

8:30 a.m. A National Overview of Judicial Independence
Bert Brandenburg
Executive Director, Justice at Stake

9:00 a.m. Historical Overview of Judicial Independence in Colorado
Chief Judge Janice Davidson (ret.)
Senior Advisor,
Institute for the Advancement of the American Legal System

9:30 a.m. The Judges' Perspective: A Panel Discussion
Moderated by
Judge Russell Carparelli (ret.)
Executive Director,
American Judicature Society
The Panel
Chief Justice Nancy E. Rice
Colorado Supreme Court
Judge Richard L. Gabriel
Colorado Court of Appeals
Judge David Shakes
4th Judicial District

To register online or for more information visit www.coloradojudicialinstitute.org
Questions? Call CJI at 303-766-7501
The Colorado State Court System: The Judges’ Perspective

September 12, 2014
Ralph L. Carr Justice Center

REGISTER ONLINE at CJI'S WEBSITE

MAIL FORM TO
CJI
PO BOX 118
Broomfield, CO 80038

Use additional forms for more than one person

Name:________________________________________

Attorney Reg. #:______________________________

Firm/organization:____________________________

Email Address:________________________________

Street Address:_______________________________

City/State/Zip:_______________________________

Telephone:___________________________________

Payment Method:

☐ Enclosed is my check made payable to CJI

☐ Visa ☐ MasterCard ☐ AmEx

Credit Card #:________________________________

Expiration Date ____________________________

Signature:__________________________________

Amount Enclosed:___________________________

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Quantity Total
_______ CJI Members: $100 _______
_______ Non-CJI Members: $125* _______

Non CLE Credit
_______ Students: $25 _______
_______ Adults: $40 _______
_______ Adults: $65* _______
TOTAL _______

*The registration fee for non-CJI members includes an annual membership to CJI at a discounted rate ($25)—75% off CJI’s regular membership of $100. Becoming a CJI member directly supports CJI’s work protecting an independent judiciary and enhancing judicial excellence. In addition, all members receive:

- Quarterly newsletters
- Invitations to CJI events
- The opportunity to participate on CJI committees and projects
- Eligibility to serve on CJI’s Board of Directors
Please plan to join us in honoring and thanking three of Colorado's outstanding judges.

**2014 Judicial Excellence Awards**

District Court Chief Judge Claude W. Appel—3rd Judicial District  
County Court Judge Sabino E. Romano—Adams County, 17th Judicial District  
Magistrate Marianne M. Tims—1st Judicial District

**2014 Keynote Speaker**

CJI is honored to welcome Hugh Caperton, plaintiff in *Caperton v. A. T. Massey Coal Co., Inc.* He’ll discuss the case, including the landmark 2009 Supreme Court ruling, and then join Melissa Hart, Professor of Law at the University of Colorado Law School and Director of the Byron R. White Center, and Eli Wald, the Charles W. Delaney Jr. Professor of Law at the University of Denver Sturm College of Law, for a panel discussion on the case's impact on judicial selection.

**Reserve Your Seats**

Seats are $150 per person or $110 per person for judges, judicial department employees and young professionals (practicing less than 5 years). Reservations can be made on the CJI website. Contact Cynthia at 303-766-7501 or Cynthia@ColoradoJudicialInstitute.org with questions.

**Sponsorship Opportunities Available**

For more information, contact Cynthia Ophaug-Johansen at 303-766-7501 or Cynthia@ColoradoJudicialInstitute.org. Or visit our dinner sponsor web page.

Proceeds from this event will again benefit the CJI Judicial Education Fund and the programs of the Colorado Judicial Institute.