

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

**Day One (June 4, 2015)**

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

**8:30 a.m. Opening Session**

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

**9:00 a.m. Topic 1: The "rule of law" and the genius of the American Constitution**

- a. Relationships among law, legal procedure, and justice
- b. "Vertical" and "horizontal" dispersions of power: preventing tyranny of the few over the many
- c. Enumeration of individual rights: preventing tyranny of the many over the few
- d. An independent, impartial judiciary: the "great American experiment"

**[9:45 – 10:00 a.m. Break]**

- e. Workshop discussions:
  - 1) What does the "rule of law" mean to you? (Can you envision law without justice, or justice without law? How can, and should, they reinforce each other?)
  - 2) What do the "independence" and "impartiality" of the judiciary mean to you? (Can you envision one without the other? How can, and should, they reinforce each other?)
- f. Workshop exercise – core questions for every workshop exercise during this

Institute: In light of the workshop discussion(s) on each topic in this Institute, what are the main points you plan to develop in your classrooms back home?

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

**Principal instructor for this topic: College of Law Professor Don Burnett**

**Facilitators for all topics: John Bieter, David Skinner, Jeff Simmons**

**Master teachers for all topics: Brendan Earle, Jeff Hoseley, Holly Kartchner**

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

### **Noon - 1:00 p.m. Lunch Break**

### **1:00 – 2:00 p.m. Topic 2: Federalism and distinct characteristics of America’s multiple court systems – 1 hour**

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

**Principal instructors for this topic: Hon. Jim Pappas, U.S. Bankruptcy Judge, District of Idaho**

**Hon. Linda Trout, past Justice and Chief Justice, Idaho Supreme Court**

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

### **2:00 – 5:00 p.m. Judicial decision-making**

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

**[3:15 – 3:30 p.m. Break]**

- b. Judges as guardians of the state and national constitutions (“... against any winds that blow”)
  - 1) Methods of interpreting constitutional text
  - 2) Judicial review of constitutionality of statutes and regulations
  - 3) Illustrative, landmark constitutional decisions (e.g., due process and equal protection cases)
  - 4) Understanding (and misunderstanding) “judicial activism”

- 5) Workshop discussion: What constitutional standard(s) would you apply in the following case? What result(s)?
- c. Workshop exercise: In light of the foregoing two workshop discussions, see the core questions posed at item (f) under Topic 1.

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

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

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

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

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

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

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

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

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

**[9:30 – 9:45 Break]**

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

- a) Mass media reporting of judicial decisions
- b) The “story model” and the rule of law
- c) Challenges facing news reporters, editors, and the courts
- c) Coping with social media

d) Workshop discussion: As a news reporter under deadline, how would you assemble the key elements of the first 3-5 paragraphs of a story in the given illustrative judicial decision – providing a factual narrative while also identifying the rule of law?

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

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

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

**12:15 p.m. – 1:15 p.m. Lunch Break**

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

- a) Adjudicating cases and managing the caseload – e.g.,
  - 1) Resolution of civil disputes
  - 2) Criminal prosecutions
  - 3) Judicial reviews of administrative action
- b) Trial by jury
  - 1) Scope of the right to a jury trial
  - 2) Process and issues concerning selection of an impartial jury
- c) Maintaining judicial impartiality and decorum
  - 1) Federal statutes and the Idaho Code of Judicial Conduct
  - 2) Idaho federal/state “Standards for Civility in Professional Conduct”

**[2:15 p.m. – 2:30 p.m. Break]**

Workshop discussion:

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

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

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

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

**3:45 p.m. Topic 7: Concluding session -- Summing up: Best practices in teaching civic education with focus on the rule of law and the role of an independent, impartial judiciary**

An interactive panel-and-audience discussion between the facilitators/master teachers and the teacher-participants

**Convener: Russ Heller**

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

**Adjournment**