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Court Review

THE JOURNAL OF THE AMERICAN JUDGES ASSOCIATION
Volume 49, Issue 3

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EDITOR'S NOTE

This is the second of two *Court Review* issues devoted to judicial decision making. The prior issue began with the American Judges Association's 2012 white paper on judicial decision making, which reviewed the science of decision making, some common problems that judges may have in processing information, and some suggestions about how judges might become more "mindful." The issue also contained an article considering the emotions judges deal with in doing their jobs, along with strategies judges might use to better regulate their emotions. And the issue included an article about how judges use heuristics (cognitive shortcuts or rules of thumb), often without conscious thought, and how that may led to errors.

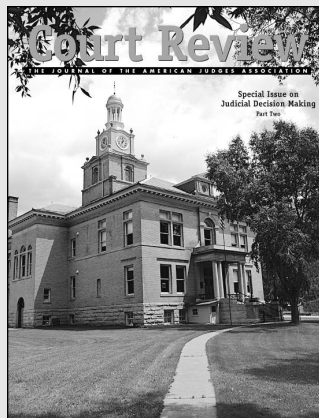
This issue begins with a question that judges face in courtrooms daily: Can we tell the difference between the truth and a lie? Richard Schauffler, Director of Research Services at the National Center for State Courts, and Minneapolis Judge Kevin Burke explore this question from the judge's perspective. They review the literature on whether we can be trained to tell who's lying (the short answer is no) and then discuss what judges might do to perform better. Schauffler and Burke conclude with three specific suggestions for judges.

Our second article looks at how judges use—and control—the testimony of expert witnesses. Professor Andrew Jurs surveyed 118 state-court judges in Iowa, Nebraska, and North Dakota. He looked at items such as whether judges asked their own questions of experts and, if so, on what topics; whether judges appointed independent experts and, if so, for what reasons; and what reasons judges might have for not appointing independent experts. We think you may find it interesting to compare your experiences in handling experts with those reflected in the survey.

Our final two articles consider problems that arise when evaluating judicial decision making. Many states have formal judicial-performance evaluation programs, and concerns have been expressed that these programs may foster racial or gender bias in their use of opinion surveys on judicial performance. In our third article, researchers Jennifer Elek and David Rottman discuss ways in which the chance for bias can be reduced when using surveys about judicial performance. Elek and Rottman discuss work that has been done to revise surveys used to evaluate Illinois judges—and the finding that the initial use of the revised surveys has shown no systematic differences based on a judge's gender.

In our final article, professors Theodore Eisenberg, Talia Fisher, and Issi Rosen-Zvi consider differences between the actual performance of judges and what the public—or the bar—may perceive. In a study of the Israeli Supreme Court, the authors found that media reports in a small number of cases tend to drive the opinions about each justice's performance, while a review of their record in all cases provides a different picture. The authors suggest that evaluations of judicial performance should cover as much of the judge's work as possible.

We hope you'll enjoy the issue. Our next issue will include our annual review of the past year's United States Supreme Court cases.—Steve Leben & Alan Tomkins



Court Review, the quarterly journal of the American Judges Association, invites the submission of unsolicited, original articles, essays, and book reviews. *Court Review* seeks to provide practical, useful information to the working judges of the United States and Canada. In each issue, we hope to provide information that will be of use to judges in their everyday work, whether in highlighting new procedures or methods of trial, court, or case management, providing substantive information regarding an area of law likely to be encountered by many judges, or by providing background information (such as psychology or other social science research) that can be used by judges in their work. Guidelines for the submission of manuscripts for *Court Review* are set forth on page 158 of this issue. *Court Review* reserves the right to edit, condense, or reject material submitted for publication.

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Cover photo, Mary S. Watkins (maryswatkins@mac.com). The cover photo is of the San Juan County Courthouse in Silverton, Colorado. San Juan County is the least populous county in Colorado, with only 699 residents as of the 2010 U.S. Census. Silverton is the last town standing among what were once 16 thriving mining communities. The county's website says it has the highest mean elevation of any county in the United States, at 11,240 feet; Silverton sits at 9,318 feet.

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