

Theory-to-Practice

---

***Transforming Communities  
Through Continuing Education:  
Court and Clergy Partnerships***

**Carrie Allison Brooks**  
**Barbara Mullins Nelson**  
**Thomas D. Cox**

**Abstract**

This “perspectives” essay describes a unique partnership between the clergy and the courts, and suggests that communities can be transformed by a demand on courts to continually educate those who find themselves entangled in the legal system. Relevant literature was reviewed in regard to the details of the relationship of the two institutions--clergy and courts-- and several perspectives on the nature of adult educational opportunities were explored. The position of the essay is that social institutions such as courts and the clergy must strive to surpass the challenges of educating their constituencies. When this happens it becomes apparent that continuing education not only can and should exist in formal and informal educational settings, but that it can and should exist in all institutions of society.

**Introduction**

Today, adult education programs exist for an unlimited number of reasons and initiatives. Major factors affecting the motivation of adults to seek educational opportunities include: longer life spans, therefore more years to learn, work, and achieve personal or professional goals; a more global economy and easier access to other countries, creating a need as well as satisfying a desire for travel and exposure to other cul-

---

**Carrie Allison Brooks** is a doctoral student in Higher and Adult Education at The University of Memphis. **Barbara Mullins Nelson** is a Professor and Program Coordinator in Higher and Adult Education at The University of Memphis. **Thomas D. Cox** is an Assistant Professor at the University of Houston-Victoria.

tures; in general, a better educated population and more ethnic and racial diversity (Merriam & Caffarella, 1999); and last, tremendous technological advances that create an ongoing need for education in the workplace and at home, not just to learn how to use the technology, but to process all the knowledge and information created by and transferred through the technology, i.e., the “information superhighway.” In the 21st century, particularly for adults who are working, learning is not an option but a critical necessity.

In addition to the broader scope of motivations for adults seeking educational opportunities, there are underlying causes and more subtle reasons that adults seek out and organizations provide education to the public. These reasons are not always easily identified by society and are sometimes born out of hardship, concealed behind the doors of low socio-economic class and poverty. These reasons are further complicated by government agencies such as court systems that are laden with bureaucratic obstacles including legal language, paperwork, politics, and logistical considerations that daunt even the most educated client or defendant.

One of the problems in the court system today creating a need for adult education is the increase in pro se litigants. They are there without counsel, not by choice, but because of their inability to pay for an attorney. This problem, as well as current solutions developed by the New York court system to educate pro se litigants, will be presented and discussed. The solutions involve the collaboration of judges, clergy, persons in the community, and the use of technology. All individuals involved in the process play the role of both educator and learner to some degree. It can be said that this is possibly a different or new perspective on continuing education.

### Pro Se Litigants

Pro se litigants are defined in the *National Agenda for the Future of Judicial Branch Education* as, “... individual[s] who choose to represent themselves in court, either by their own choice or due to financial conditions that require them to do so” (Conner, Thorson & Bruinson, 2000, p. 10). In recent years this type of litigant in courtrooms across the country has increased. “Pro se litigants have created a logjam in the 9th U.S. Circuit Court of Appeals, which has seen a 39% increase in the last few years in cases filed by those who represent themselves” (National Law Journal, 2004, ¶ 1). These findings are repeated throughout the legal and

courtroom literature. Most states have established task forces to explain the increase in pro se litigants and to find ways to effectively understand and deal with the problem.

Why is this a problem? All Americans have the constitutional right to represent themselves in a court of law. And, in fact, many people believe that they could and would represent themselves in court if the need arose. According to a national survey, "...the majority of the public indicated that they believed that it would be possible to represent themselves in court if they wanted to" (National Center for State Courts, 1999, p. 7). However, judges, attorneys, and court personnel believe pro se litigation is a tremendous issue for the courts and legal system, and for the individuals who come to court without an attorney for several reasons.

The first issue is the way court proceedings commonly operate. The system allows for self-representation, but those working in the courts recognize that it is not always in the best interest of the litigant to take advantage of this right.

One of our judicial system's seven cornerstones is the thought that when the claims of the parties are challenged and tested in the crucible of the adversary system, the truth emerges. However, it is the very nature of the adversarial system along with the practical necessity for a system of rules of procedure and evidence to produce a fair and efficient truth seeking device that gives rise to a fundamental paradox. That paradox is that although a citizen has a right of self-representation, the very nature of the system through its complexities creates an environment which virtually demands that an individual be represented by a lawyer. (Sievers & Luther, 2002, p. 7)

The second issue is that commonly pro se litigants are poor, young, female, and have less than three years of post-secondary education (American Judicature Society, 2005). The lack of representation in a courtroom for someone who is less educated and without counsel because of financial constraints portends a deprived outcome for the litigant from the start. In this instance, there is cause for great concern in a judge's mind about the litigant's access to the court being equal and about maintaining the ethical requirements of the courts (Conference of State Court Administrators, 2000), particularly if the opposing side is represented by an attorney.

The third major issue is the effect that pro se litigants have on the court system overall and in individual courtrooms across the country.

One family law judge reported, “Cases take twice as long to try because you are forever bringing the pro se party back to focus on the issues of why they are trying the case” (Bench & Bar of Minnesota, 2001, ¶ 10). A trial court judge in Minnesota stated, “Pro se litigants contribute to court congestion ... they tie up the court staff with questions, cause judges to cancel hearings because of inadequate representation ... they don’t successfully complete forms” (Bench & Bar of Minnesota, 2001, ¶ 9). A court administrator in the same state system expands with her comment, “...by the time pro se litigants reach the courthouse, they have spent three times as much time with us [as] they are ever going to spend with the judges” (Bench & Bar of Minnesota, 2001, ¶ 11). These issues echo the worries addressed earlier and, in addition, cause concern about judicial neutrality, objectivity, and fair hearings and trials (Conference of State Court Administrators, 2000). A frustrated judge is likely not as fair as one who is not irritated by unprepared litigants who cause delays and prolonged proceedings.

Additionally, litigants representing themselves in trials can mean that court personnel will spend more time and thus more money, on a court proceeding or trial because staff members are typically forced to expend more effort and energy assisting them with paperwork and helping them understand the proceedings, and even the law in some cases. And for court personnel, this is not just an issue of resource expenditure, but again, of fair trials and hearings. Ethically, court personnel are not supposed to give legal counsel or advice and many times find themselves crossing boundaries beyond what is ethical with pro se litigants.

### **Clergy Partnership**

In 2001, the New York State Unified Court System sought to address this problem by meeting with clergy to educate them about the court system (J. Bing Newton, personal interview, February, 2005). The judges involved in this initiative had learned that clergy were being called upon by the people in their congregations, temples and mosques when they, friends, or family became involved in a legal dispute. Knowing that clergy were well trusted members of their communities (confidence not always afforded judges and other personnel in the legal community), the judges believed a partnership with clergy was an excellent approach for informing the public about the workings of the court, especially in underserved communities. By utilizing the clergy as conduits for the information needed in the local communities, the judges saw a way to help

citizens regain trust and confidence in the legal system, improve conditions in the court, such as backed up dockets, and assure, to some degree, equal access to the courts, especially in cases where legal counsel was not affordable. The judges planned a program where they would collaborate with and educate clergy about the court system so that the clergy could then go out into their districts and convey accurate information to those in their communities who did not have access to legal counsel.

The program was named, *Clergy Day: Continuing the Partnership Between the Community and the Courts* and has flourished into a widely-used educational partnership. Currently, the collaboration between courts and clergy includes a partnership with the Interfaith Center of New York and the public library, regularly held clergy-court roundtables in five counties, and two clergy court councils in two of those counties. Since Clergy Day began four years ago, a self-help web site called *New York Court Help* (New York State Unified Court System, 2005) has been established that is especially user friendly. It offers information about court logistics, New York state law (which is presented in lay terms), frequently asked questions, frequently used forms, and a link to legal services and lawyers willing to provide pro bono work. The web site presents information in English and Spanish and soon will offer it in other foreign languages.

### **Adult Education Perspectives**

According to Merriam and Caffarella (1999), there are three categories in which education takes place for adults: “formal institutional settings, nonformal settings, and informal or self-directed contexts” (p. 26). Within each of these categories, educational institutions, organizations, or life experiences are identified as sources of adult education. In the formal education setting, two of the organizations identified are quasi-educational and noneducational. Quasi-educational institutions are those that although their mission is not educational, “...view education as an allied or corollary function of their mission,” and include, but are not limited to “libraries, museums, and mass media” (Merriam & Caffarella, 1999, p. 28). Noneducational organizations are those that are comparable to quasi-educational institutions in that their most important mission is not solely educational. Nevertheless, the difference is that they see education not as an “allied function,” but as “a means to some other end” (Merriam & Caffarella, 1999, p. 28). These organizations can include, but are not limited to government agencies such as prisons, cor-

porate training initiatives, and the armed forces (Merriam & Caffarella, 1999).

The second setting named by Merriam & Caffarella, is non-formal. Within this category, there are community-based learning opportunities which are described as meeting “the needs of underserved adults,” particularly in third world countries (Merriam & Caffarella, 1999, pp. 28-29). These opportunities are oftentimes offered in churches or community centers. “A common thread to all these programs is their focus on social action and change for the betterment of some part of the community” (Merriam & Caffarella, 1999, p. 30). These opportunities usually are developed to address specific problems in a community to assist the people in that community in resolving a problem or allowing them to take more control in some aspect of their life.

The third category identified by Merriam & Caffarella (1999) is that of an informal or self-directed learning opportunity. This way of learning usually “occurs most often in learners’ natural settings and is initiated and carried through primarily by the learners themselves” (Merriam & Caffarella, 1999, p. 32).

The judges’ approach to educating pro se litigants through the clergy in their communities falls within all of Merriam & Caffarella’s categories, and within all of the educational institutions, organizations, and experiences within the citations listed in this paper. First, although it is not the court’s primary mission to educate, they have been in the past and are evolving into a learning environment—whether intentionally or not. Society continues to become more complex, meaning that issues being discussed, disputed, and determined in the courts are more complex. As societies continue to become more complex, courts must become continuing educators. One recommendation from a consultant discussing the future of courts having even more pro se litigants was to, “Build the courthouse as a learning environment, in which the layout of the building reflects the flow of cases, and information on walls and computer monitors educate litigants” (Zorza as cited in Sampson, 2009, ¶ 11). In this statement, Zorza is urging courts to recognize this as a new reality for the court system and to be proactive in their planning and in their philosophy. He is asking that they depart from seeing their role as only involving legal resolutions and to include education as part of their mission and philosophy. In essence the court is the ultimate continuing educator.

The second, non-formal educational opportunity is community-based organizations (Merriam & Caffarella, 1999). The judge-clergy

program in New York is an excellent example of this type of learning opportunity because it takes education from the court system to the community through judges and religious leaders. Furthermore, it is in place to “meet the needs of underserved adults” as well as to “focus on social action and change for the betterment of some part of the community” (Merriam & Caffarella, 1999, pp. 28-30).

The third category of educational opportunities for adults are informal or self-directed learning opportunities (Merriam & Caffarella, 1999). The web site developed by the courts in New York to assist pro se litigants is a perfect model for this kind of learning opportunity. There are innumerable sites for learning on the Internet, from encyclopedias to medical information sites and professional organization home pages. Literally, the self-directed educational opportunities on the Internet are infinite. Because of dwindling government budgets and the increased need from the public for education about the legal system, the judicial system would do well to continue to invest in the Internet as a viable classroom from which the public can gather information and knowledge about the courts.

### **Adult Education Philosophies**

One of the educational philosophies guiding the Clergy Day project is that of Progressive Adult Education. The Progressive philosophers extended the view of education from simply an intellectual or academic pursuit to that of a “socialization” pursuit to include the “family, workplace, school, churches, and the entire community” (Elias & Merriam, 2005, p. 61). In other words, learning transcends the school or “academic environment” and includes virtually everything in a person’s world.

The first example of how the Clergy Day program exhibits a progressive philosophy is the manner in which the judges have worked collaboratively with the clergy to educate them and their communities about the court system in order for them to, “live responsibly and resolve problems cooperatively within a democratic society” (Zinn, 1999, p. 29). From the judges’ initial program to the web site that has been developed, they are “learner-centered” and are using “real life experience” (Zinn, 1999, p. 29)—that of the clergy and community, as well as their own—to teach the clergy and public. In fact, the learner pool has increased in a way that fits well with the progressive philosophy. The judges now also consider themselves learners, as indicated by the partnerships with the interfaith group and the clergy court councils that have been born out of

the original program.

The second way that the program exhibits the philosophy is in its “experiential, problem-solving approach” that “emphasizes experience of the learner in determining problem areas and solutions to be considered” (Zinn, 1998, p. 44). Together, the judges and clergy are discovering ways to address the issues and understand not only the problems, but also the cultures and communities in which the issues reside. Because of this program, the problems and solutions no longer rest outside the range of the bailiffs’ guard but are within each of the participants of this program, inside and outside the courthouse.

In addition, the judges and clergy working together on this program embody John Dewey’s tenet that democracy is situated within education and vice versa. Dewey was one of the founders of the progressive philosophy and one of the most influential educators in America. That “democracy ‘is more than a form of government; it is primarily a mode of associated living, a conjoint, communicated experience’” (Dewey, as cited by Elias & Merriam, 2005, p. 55) is well-illustrated in the lived experiences of the judges, clergy and those in the communities they serve. In their courts, the judges work to create a democratic process; through educational programs like Clergy Day, democracy has a real chance to prevail.

A second guiding philosophy for this program is that of the humanistic point of view. This philosophy is one that “emphasizes freedom and autonomy, mutual trust, interpersonal relationships, self-directedness, and self-esteem” (Zinn, 1999, p. 30). All aspects of this philosophy are demonstrated through this program. The clergy and their community are more independent and self-reliant because of the knowledge they have gained through this partnership and educational program. They have developed mutual trust and confidence with their new partners and it is likely that the community’s trust in the courts is higher because of the information the program is providing for the community, and more importantly, how the information is being imparted. It also is evident from new discussions among judges and clergy, such as round table discussions about the death penalty and drug use, that clergy are not just listeners and learners anymore, but instigators of new and important dialogue among community leaders. The humanistic view that “the self, the individual, and the free autonomous person carries with it a strong sense of responsibility both to self and to other people,” (Elias & Merriam, 2005, p. 122) is clearly an aspect of this program because of the judges’ and the clergys’ undertaking and what they expect to happen when the informa-

tion is sifted out into the community.

The last educational philosophy that seems to underpin the Clergy Day program is that of a radical nature, not in an extreme sense, but in a more instinctive way. Judges are in a profession that promotes justice for all and clergy are in the business of helping people. The original idea for the program was mostly practical. However, the program was geared toward those in lower socio-economic groups. The pairing of these professionals in this educational program is a social movement and indeed, radical, in itself. In the past, these judges had collaborated with other professionals outside the judiciary on a limited basis. They had been isolated until now, when the needs of their community had become so great that something radical was bound to occur. This movement follows Michael Welton's observation that "the new social movements are precursors to a new historic movement and a 'concept of social justice attuned to the particular predicament of the marginalized and underprivileged'" (Welton, as cited in Elias & Merriam, 2005, p. 176). The old system was not working any longer, and with the number of pro se litigants on the rise, a solution emerged because of a few professionals who were committed to improving their work and the lives of their constituents.

### Conclusion

In addition to the New York Clergy Day and web site, there are many initiatives for adult education offered by the courts around the country, particularly for pro se litigants and for those seeking basic information about the court system. The biggest issue for courts is getting appropriate information to those who need it, whether they are pro se or not, and particularly to those who are less educated, from lower socio-economic groups, who do not speak English as their first language, and who are unable to hire an attorney or other legal assistance. Because society and the issues brought to bear in court are so complex, so are the issues that must be addressed in order to accomplish this goal. Therefore the court not only exists to deliver justice, but to educate the citizenry who find themselves in the presence of the court. When this happens, the court begins to transform the community through a continuing educational perspective.

## References

- American Judicature Society (2005). *National survey of pro se assistance programs: A preliminary report*. Retrieved November 16, 2005, from [http://www.ajs.org/prose/pro\\_murphy.asp](http://www.ajs.org/prose/pro_murphy.asp)
- Bench & Bar of Minnesota (2001). *Pro se litigants and the legal profession*. Retrieved November 10, 2005, from <http://www2.mnbar.org/benchandbar/2001/aug01/prezpage.htm>
- Conference of State Court Administrators (2000). *Position paper on self-represented litigation*. Retrieved June 23, 2009, from <http://cosca.ncsc.dni.us/WhitePapers/selfreplitigation.pdf>
- Conner, M., Thorson, K., & Brunson, W. (2000). *A national agenda for the future of judicial branch education: A synthesis of outcomes from the national symposium on the future of judicial branch education*. Judicial Education Reference, Information and Technical Transfer (JERITT) publications: Michigan State University.
- Elias, J., & Merriam, S. (2005). *Philosophical foundations of adult education* (3rd ed). Malabar, FL: Krieger Publishing Company.
- Merriam, S. & Caffarella, R. (1999). *Learning in adulthood: A comprehensive guide* (2nd ed). San Francisco: Jossey-Bass.
- National Center for State Courts (1999). *How the public views the state courts: A 1999 national survey*. Retrieved June 23, 2009, from [http://www.ncsconline.org/WC/Publications/Res\\_AmtPTC\\_PublicViewCrtsPub.pdf](http://www.ncsconline.org/WC/Publications/Res_AmtPTC_PublicViewCrtsPub.pdf)
- National Law Journal (2005). *Ninth circuit feels pro se pressure*. Retrieved November 18, 2004, from <http://www.law.com/jsp/article.jsp?id=11005353535357>
- New York State Unified Court System (2005). *New York court help*. Retrieved November 16, 2005, from <http://www.nycourts.gov/courtshelp/>
- Sampson, K. (2009). *Meeting the pro se challenge*. Retrieved June 23, 2009, from the American Judicature Society web site: [http://www.ajs.org/prose/pro\\_sampson.asp](http://www.ajs.org/prose/pro_sampson.asp)
- Sievers, R.D., & Luther, T. K. (2002). *Report of Nebraska supreme court committee on pro se litigation*. Retrieved June 23, 2009, from [http://www.supremecourt.ne.gov/community/adminreports/pro\\_sereport.pdf](http://www.supremecourt.ne.gov/community/adminreports/pro_sereport.pdf)
- Zinn, L. M. (1998). Identifying your philosophical orientation. In M. Galbraith (Ed.), *Adult learning methods: A guide for effective instruction* (2nd ed.), (pp.37-56). Malabar, FL: Krieger Publishing

Company.

Zinn, L.M. (1999). *Philosophy of adult education inventory*. Boulder, CO: Lifelong Learning Options.