

California State University, Sacramento
Department of Public Policy and Administration

**PPA 298A&B:
California Judicial Administration Fellowship Seminar
Fall & Spring 2005-06**

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The purpose of this course is to complement the Fellow's placement in the California Judicial Branch with a "toolkit" of theories that are useful for making sense of the management challenges facing court leaders.

The lack of a general theory of judicial administration means that we are forced to put together our own. There are three levels of concepts that we will use to do so:

1. General organization theory (drawn from references used by the Friesen, Gallas and Gallas text and others);
2. Individual bits and pieces of judicial administration theory (from the other readings);
3. Fellows' reflections upon their placement experiences.

The challenge for the Instructor and the Fellows is to knit together these three levels into a coherent and theoretically informed understanding of what judicial administration means and how it should be practiced.

Toward this end, here are three tips on preparation for the seminars:

1. Do the reading,
2. Do the reading,
3. Do the reading.

The instructor will *not* review or recap the reading. It is up to the Fellow to learn the material prior to the seminar. (In fact, you should think about getting ahead on the reading in the first couple months: the November seminar follows quickly after the October one, and there's lots of reading for November.)

We will use the seminar time to move *beyond* the readings: applying and critiquing them – especially in the context of the Fellows' experiences in their placements. A large part of your grade for seminar participation is based on demonstrating your ability to bring the readings to bear on your Fellowship experiences. This means that you are strongly encouraged to take as

broad as view as possible of your Fellowship – within, of course, the boundaries set by your Mentor. Early in the course, we will begin discussing together how to get the most out of your placement.

POLICY PAPER

The major project for year is a policy paper. This paper is to be done on a specific policy issue of your choosing. It should be an issue that interests you, which is current, and which has upcoming choices that can or should be made. There will be class discussions about the format and procedures on this paper. You are to write the paper with a specific REAL client identified for whom the issue is relevant (this will likely be your mentor, although it need not be). It is with this specific client in mind that you will draft your analysis, recommendations, and action plan. It is likely, but again not required, that your policy paper will capture the work of the major project you are doing for your mentor.

The paper is to be action oriented and is to provide a specific recommendation that you come to see as important and worth doing on the issue you have identified. The paper will provide a brief summary of the problem on which the issue is focused and the context within which that problem is set, a review of the pros and cons of the major alternative choices that are feasible, and some of the necessary implementing steps that would be needed to achieve the recommendation's accomplishment. The first draft should be a FULL, if rough, draft of the complete paper that touches, however briefly, on each of the major issues the paper will need to address. Here I am looking for breadth, and not depth.

You are free to suggest your own policy topic. To get you started thinking, here are some issues that are percolating in most courts:

1. Response to the budget crisis
2. Community outreach
3. Strategic planning
4. Self-help programs for self-represented litigants
5. Collaborative and/or problem-solving courts
6. Customer service
7. Management succession planning
8. Judicial branch governance

A suitable topic for a policy paper would be something like the following: “Recommendation to establish a Homeless Court in the XYZ Superior Court.”

SHORT PAPERS

A number of short papers are required to give you a jump-start in thinking through questions at issue in the upcoming class. These are deliberately too short: the questions typically call for more

than the page limit allows. This forces you to sharpen your argument and get to the point. Please do so.

DISCUSSION QUESTIONS

For each seminar, Discussion Questions are provided. We will discuss these during the seminar. It is a good idea to read the Discussion Questions before you do the reading; they will help you focus on the important parts of the readings.

GRADING

40%: Short papers (5 papers, 8% each)

40%: Policy Paper:

5%: 1-2 page outline

5%: Complete proposal

10%: First draft

20%: Final draft

20%: Seminar participation

CLASS SCHEDULE

October: Introduction to Judicial Administration

Note: When you read this historical progression of views from Pound (1906), to Friesen (1971) and then Tobin (1999), notice not only the differences – but also the similarities, even though nearly 100 years have passed!

Read:

- Pound, *The Causes of Popular Dissatisfaction*
- Friesen, Gallas and Gallas: Chapter I
- Lawson and Howard, “Development of the Profession of Court Management”
- Gallas and Gallas, “Court Management Past, Present, and Future”
- Tobin, *Creating the Judicial Branch*, Introduction and Chapter 1

Discussion Questions:

1. Why/how does management matter in the courts?
2. Why the concern with judicial independence?
3. What is a court manager?
4. What are the major governance challenges within the courts?
5. What are the major challenges of managing the courts’ environment?

November: Courts as organizations

Note: The major dimensions of organizational structure are the following; you should have them in mind as you read:

1. Centralization: Are important decisions made by one person/unit? Or do lots of people have autonomy to make decisions?
2. Specialization: Division of labor. Who does what? Do people do a complete task, or pieces of it?
3. Formalization: Are most decisions and actions governed by written rules and policies? Or does the org fly “by the seat of its pants”?

Read:

- Friesen, Gallas and Gallas, Chapters II, III, VI and VII
- Wice, “Court Reform and Judicial Leadership”
- Flanders, “Court Administration and Diverse Judiciaries”
- California Judicial Council, *Court Governance*
- Los Angeles Superior Court, Planning and Research Unit, *Judicial Leadership Structure*

Discussion Questions:

1. Who governs the courts? How?
2. Who *should* govern the courts?
3. What management tools does the court manager have at his/her command?
4. What management tools does the Presiding/Chief Judge have at his/her command?
5. Should a trial court be run like a corporation? Why/not? If not, what models of governance should we use?
6. Are courts very centralized? Specialized? Formalized?

Short paper assignment #1 (2 pages maximum): Should a court be run like a corporation? Why/not?

Also due: One-page brief description of likely Policy Paper topic.

December: Managing the work of the courts

Read:

- Friesen, Gallas and Gallas, Chapters VIII and IX
- Kerwin, Henderson and Baar, “Adjudicatory Processes and the Organization of Trial Courts”
- Tobin, “The Assault on Unification”
- American Bar Association Central and East European Law Initiative, *Concept Paper on Specialized Courts*

Discussion Questions:

1. What are the special management challenges in the Criminal, Civil and Family law courts?
2. What are the pros and cons of having judges specialize in certain areas of law?
3. In what kinds of legal issues might formal, bureaucratic rules for judicial administration be useful? Where might they be counter-productive?

Due: Policy Paper proposal. Must include: Problem Statement, Policy Alternatives, list of possible sources of information about pros and cons.

January: Accountability and the external control of the courts

Note: Over the next two sessions, our discussion will revolve around one basic question: To whom should the courts be accountable and for what?

Read:

- Friesen, Gallas and Gallas, Chapters IV and V
- Elmore, *Building a New Structure for School Leadership*. (Note: read “teachers” as “judges,” “school administrators” as “court managers”. You’ll get the idea.)

- Tobin, “The Open Service-oriented Court”
- Borys, *Why and How Customer Service Is Important to Us*

Discussion Questions:

1. What features of the courts make them vulnerable to external control? How do court leaders fight that?

February: Assessing the work of the courts

Read:

- Bureau of Justice Assistance, *Trial Court Performance Standards with Commentary*.
- Ryan, “Evaluating Judicial Performance”
- National Center for State Courts, “Draft Summary of 11 Core Court Performance Measures”
- Administrative Office of the Courts, State of New Mexico, *Developing Quality Measures in the Courts*.
- Tyler, “What Is Procedural Justice?”

Discussion Questions:

1. Do the Trial Court Performance Standards capture the essential, most significant aspects of what courts do?
2. What mechanisms exist in your court for assessing performance?
3. Why might judges and administrators view performance management as a threat to justice?

Due: Short paper assignment #2 (2 pages maximum): What does “quality” mean in the courts? How would we know it when we see it?

March: Therapeutic jurisprudence, collaborative justice and problem-solving courts

Note: Friesen, Gallas and Gallas give us an overview of the sorts of social welfare functions courts have long grappled with. The other readings update and extend this to new functions.

Read:

- Friesen, Gallas and Gallas, Chapter XI
- Wexler, “Justice, Mental Health, and Therapeutic Jurisprudence”
- Nolan, “The Drug Court Movement”
- Center for Court Innovation, *The Future of Drug Courts*

Short paper assignment #3 (2 pages maximum): Should the courts take on functions pertaining to the welfare of convicted criminals? Why/not?

April: Court-community relations and community courts

Read:

- Rottman and Tomkins, “Public Trust and Confidence in the Courts”
- Center for Court Innovation, *Problem-Solving Prosecutors*
- Borys, *External Relations: A Portfolio Management Approach*

Discussion Questions:

1. In what ways is public trust and confidence important to the courts?
2. What are the most significant threats to public trust and confidence?

Due: First draft of Policy Paper.

May: The budget crisis

Read:

- Bresnick, “User Fees for the Courts”
- Other readings to be distributed

Short paper assignment #4 (2 pages maximum): Should the courts use a “pay as you go” system? Why/not?

June: What’s next?

Read:

- California Judicial Council, *Justice in the Balance*
- California Judicial Council, *Strategic Plan: Leading Justice into the Future*

Short paper assignment #5 (2 pages maximum): What is the most important way in which judicial and management leaders in the court must start thinking differently about judicial administration?

July (no seminar meeting): Final draft of Policy Paper due