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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 and perspectives 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;
2. Individual bits and pieces of judicial administration theory (from the other readings);
3. Fellows’ reflections upon their placement experiences (stimulated by Bogira’s account of life inside a large, urban criminal trial court).

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 written material prior to the seminar. 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 a 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**

Identify a current issue that you have some interest in and provide a decision maker (this will probably, but not necessarily, be your mentor) with a briefing memo about the issue. As appropriate, consider the political, organizational and policy dimensions of the issue. Help the reader understand the complexities of the issue as well as how the issue may be understood differently by different groups of interested people. Be careful to distinguish between fact and opinion in your analysis.

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,” or “Problems in Implementing the Omnibus Probate Reform Bill.”

**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. I’ll be looking for one main thing: Did you do the reading and can you use it in a paper? You can show this by using – not just mentioning – concepts from the reading (this means more than just dropping in a quote or an author’s name). Be concrete: if you can apply abstract concepts to real-world situations, it shows your grasp of the concepts.

Each paper is due the Monday BEFORE the seminar meeting (no matter what day of the week seminar is on; even if that Monday is a court holiday). Each calendar day the paper is late, its grade drops one letter grade (e.g., an “A” paper received on Tuesday gets a B). By the end of the week (our usual seminar day), it’s worthless, so you should make yourself whatever reminders or other arrangements you need to get the papers in on time.

**LEARNING AND SURPRISES PAPER**

Making the most of the Fellowship experience requires some degree of reflection upon what you are learning and experiencing in your placement. To facilitate that reflection, on the final seminar day, you
are to turn in a 3-5 page paper summarizing a few of the central lessons you learned throughout your Fellowship. You are explicitly encouraged not to recap lessons from the readings; instead, you should focus on your experiential learning, rooted in your placement. Toward this end, it is a good idea to keep a journal of your thoughts and reflections upon your experiences, as a document of the changes in your thinking that occur throughout your Fellowship.

**SHOW-AND-TELL**

Each seminar one or two Fellows will be charged with bringing some news or other interesting topic, to the group. The Fellow should be prepared to make introductory remarks on the issue that stimulate a lively and informative discussion among the Fellows. The Fellow’s grade will be based upon his or her ability to spark the other Fellows’ interest and to make the discussion a learning opportunity for all.

**PAPER CONSULTATION**

One learns to be a good consumer of other people’s work by critically reviewing it. And one learns to be a good colleague by practicing giving helpful criticism. Toward these ends, by the time the final policy papers are due, each Fellow will have provided written comments on another Fellow’s policy paper draft (i.e., one copy of the comments to the other Fellow, with a cc to Prof. Borys). The comments will be graded on the consultant’s demonstrated understanding of the other Fellow’s paper, its strengths and weaknesses; as well as on the consultant’s skill in providing do-able, helpful advice.

**GRADING**

40%: Short papers (8 papers, 5% each)  
30%: Policy Paper:  
  10%: First draft  
  20%: Final draft  
15%: Learning and Surprises Paper  
5%: Show and Tell  
10%: Paper Consultation
CLASS SCHEDULE

October: Introduction to Judicial Administration

Read:
- Bogira, entire book
- Saari, Chs. 1-4
- Teaching note: Managing to Achieve Justice
- Pound, The Causes of Popular Dissatisfaction
- Tobin, Creating the Judicial Branch, Introduction; Chapter 1, “The Judicial Branch”; and Chapter 9, “Creation of an Administrative Infrastructure”

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?
Assignment due:

Short paper #1 (two pages maximum): Given Bogira’s account of the Cook County Court, how would you rate its management? Use Saari’s concepts to explain your answer.

**November: Courts as organizations**

Read:
- Musso, Biller and Myrtle, “The Tradecraft of Writing for Policy Analysis and Management” (this will help you think about your Policy Paper)
- Saari, Chs. 5-7
- Wice, “Court Reform and Judicial Leadership”
- Tobin, Chapter 3, “Extracting the State Judiciary from Local Government”
- California Judicial Council, *Court Governance*
- Los Angeles Superior Court, Planning and Research Unit, *Judicial Leadership Structure*
- California Rules of Court, Title 10, Judicial Administration

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?

Assignments due:


**December: Managing the work of the courts**

Read:
- Lipscher and Conti, “A Post-Unification Approach to Court Organizational Design and Leadership”
- Tobin, Chapter 4, “Judges and Lawyers: Who’s in Charge?”
- Tobin, Chapter 5, “Developing a Management Perspective in the Judiciary”
- Kerwin, Henderson and Baar, “Adjudicatory Processes and the Organization of Trial Courts”
- Tobin, Chapter 14, “The Assault on Unification”
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?

Assignments due:

Short paper #3 (two pages maximum): Are bureaucracy and justice at odds?
Policy Paper proposal. Must include: Problem Statement, Policy Alternatives, list of possible sources of information about pros and cons.

January: Assessing the work of the courts

Read:
- Bureau of Justice Assistance, Trial Court Performance Standards with Commentary.
- Greacen, “An Administrator’s Perspective: Developing Performance Measures for Trial and Appellate Courts”
- National Center for State Courts, “CourTools” (to be distributed at a later date)

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?

Assignment due:

Short paper assignment #4 (2 pages maximum): What does “quality” mean in the courts? How would we know it when we see it?

February: Managing judges

Read:
- Elmore, Building a New Structure for School Leadership. (Note: read “teachers” as “judges,” “school administrators” as “court managers”. There are some significant differences, but also many parallels.)
- Tobin, Chapter 13, “The Open Service-oriented Court”
- Borys, Why and How Customer Service Is Important to Us
- Ryan, “Evaluating Judicial Performance”
- Reading on judicial performance evaluation (to be assigned)
Discussion Questions:
1. What features of the courts make them vulnerable to external control? How do court leaders fight that?
2. Why and how do judges resist evaluation?

Assignment due:

Short paper #5 (two pages maximum): Is it in the interests of justice to implement performance evaluations for judges?

March: Leadership in courts

Read:
- Jacob, “The Governance of Trial Judges”
- McConnell, “Court Management: The Judge’s Role and Responsibility”
- Wice, “Court Reform and Judicial Leadership”

Assignments due:

Short paper assignment #6 (2 pages maximum): You are the chief administrator and the PJ has asked you for a two-page memo providing advice on how the PJ should pursue some important innovation that is pending at your placement.

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

Read:
- Tobin, Chapter 12, “Broadening the Role of Judges and the Concept of Justice”
- Wexler, “Justice, Mental Health, and Therapeutic Jurisprudence”
- Nolan, “The Drug Court Movement”
- Center for Court Innovation, The Future of Drug Courts

Assignment due:

Short paper assignment #7 (2 pages maximum): Should the courts take on functions pertaining to the welfare of convicted criminals? Why/not?

May: Court-community relations and community courts

Read:
- Rottman and Tomkins, “Public Trust and Confidence in the Courts”
- Borys, External Relations: A Portfolio Management Approach
- Borys, Community Outreach and Public Trust and Confidence: The Limits of Our Knowledge
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?

Assignments due:

Short paper assignment #8 (2 pages maximum): What is the most important single stakeholder for the courts to focus on?

First draft of Policy Paper.

June: What’s next?

Read:
   • California Judicial Council, Strategic Plan: Leading Justice into the Future (www.courtfom.ca.gov/reference/documents/stplan2k.pdf) (Note: May be replaced by a newer plan; I’ll let you know.)

Assignment due:

Learning and Surprises Paper

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