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.

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. Early in the course, we will begin discussing together how to get the most out of your placement.
ASSIGNMENTS

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.” We will discuss the content and format of the papers in a few seminars. A first draft will be due in April, with the final draft due on the final day of the fellowship.

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. There is no short paper due for the first seminar.

Each paper is due by the end of the day, the day before seminar. Each paper is a maximum of four pages, double-spaced. 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. The best way to write a paper like this may be to write a longer one, read it, and reflect on what you’ve learned through writing it, so you can then focus your final draft on the major points. See the document Grading Rubric for Short Papers for more detail.
ISSUE ANALYSIS

Due the day of the January seminar, this 10-page paper assignment asks you to use the ideas of rational, natural and open systems to understand a real-world issue in the California courts. This is an analytical paper; not a memo or an action-oriented analysis. Use the paper to see an issue through three lenses, and then draw conclusions on the basis of those three perspectives. Your paper should include:

1. A one-paragraph summary of your basic argument;
2. A clear statement of how you frame the question or issue;
3. Three sections that look at that issue in terms of the three perspectives;
4. An assessment of which perspective, or combination, sheds the best light on this issue; which is most helpful. Talk about why that is; why this issue lends itself to that perspective.

Here are some topics that would work well. If you would like to write about a different topic, let me know and we’ll work that out:

- Jail overcrowding
- How to decide where to make budget reductions
- Whether courts should support self-help programs
- Why and how courts should engage in community outreach
- Why a court should focus on case management

LEARNING AND SUPRises PAPER

Making the most of the placement experience requires some degree of reflection upon what you are learning and experiencing. To facilitate that reflection, you are required to turn in a 3-5 page paper summarizing a few of the central lessons you are learning in the Fellowship. Do not talk about the readings or the seminar. Instead, focus on your placement experiences and the broader lessons you have learned over the course of the year. 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.

GRADING

40%: Short papers (8 papers, 5% each)
25%: Issue analysis
25%: Policy Paper:
    5%: First draft
    20%: Final draft
10%: Learning and Suprises Paper
SESSION 1: SEPTEMBER: INTRO
Readings:
- Meador, ch 1-2
- PRU on the leadership structure of the Los Angeles Superior Court
- Article VI of the California Constitution
- Fuller
- Pound
- Nafisi on Pound
- PRU: The California Superior Court
- Aikman, chapters 1-3

SESSION 2: OCTOBER: THE BASIC TOOLS OF MANAGEMENT: BUREAUCRACY
Readings:
- California Rules of Court sections 10.603 and 10.610
- Weber
- Beneviste
- Mintzberg
- Heydebrand: pp. 759-771

Short paper #1: Consider the emergence of the field of “court administration” as a response to a crisis of confidence in how American courts delivered justice. You read Pound’s indictment of the courts last month. Pick one feature of bureaucratic administration and discuss how it is a possible solution to one or more of the problems Pound identified.

SESSION 3: NOVEMBER: BUREAUCRACY AND ITS DISCONTENTS
Readings:
- Aikman, chapters 4-5
- Eisenstein and Jacob: what this looks like in courts
- Merton
- Gallas
- Feeley: two models: rationalist and functionalist

Short paper #2: Pick a department or issue in your placement that lends itself to a natural/open systems perspective (small departments or issues work better than large ones for the purposes of this assignment; do not pick “the criminal courts”). Describe how that department or issue is managed: what keeps it from becoming unacceptably irrational, unreliable, inefficient, etc.?
SESSION 4: DECEMBER: WHO RUNS THE COURT: MANAGERS OR JUDGES?
Readings:
- Aikman, chapter 6
- Hall
- Straub
- Wheeler: judicial admin and indep

Short paper #3: Critique California Rules of Court 10.603 and 10.610 on the basis of their suitability to the current challenges of preserving judicial independence in California today. Begin with considering whether a rule of court a good tool for this purpose.

SESSION 5: JAN/FEB: BUDGET
Readings:
- Governor’s proposed budget (to be released Jan. 10) and related commentary by the AOC
- State budget process roadmap
- Hartley’s notes on judicial budget politics
- NCSC: Funding justice

Assignment due: Issue Analysis

SESSION 6: FEBRUARY: THE JOB OF A JUDGE: PROBLEM-SOLVING COURTS
Readings:
- Casey and Rottman
- Fuller
- Thompson
- Nolan, Berman and Hoffman exchange

Short paper #4: Think strategically: All of state government is under-funded and thus all areas of government are competing for scarce resources. Policy-makers are searching for more efficient solutions. Some have suggested creating more drug courts as a way to reduce the prison population. Would you recommend that the Judicial Council support such an approach? What are the risks and opportunities it would present for the California trial courts?

Assignment due: Policy Paper proposal (brief). Must include: Problem Statement, Policy Alternatives, list of possible sources of information about pros and cons
SESSION 7: MARCH: CASEFLOW MANAGEMENT: CAN AND SHOULD JUDGES “MANAGE” CASES?

Readings:
- Kerwin, Henderson and Baar
- Solomon and Somerlot
- Ostrom
- Review: Eisenstein and Jacob, Felony Justice, chapters 1-3

Short paper #5: Outline a rational-systems approach to CFM; outline a natural/open systems approach. How would you combine them?

SESSION 8: APRIL: LEADERSHIP IN A NON-BUREAUCRATIC ENVIRONMENT

Readings:
- Birnbaum
- Jacob: “The governance of trial court judges”
- Lipscher and Conti

Short paper #6: Message with commentary.
Draft a two-page memo designed for the leader at your placement to deliver to all judicial officers and staff. The purpose of the memo is to rally the troops in the face of the impacts of budget cuts, using the ideas in Birnbaum, and recognizing the reality that Jacob and others have pointed out. Then provide a commentary on that memo highlighting how you turned those ideas into specific words and phrases.

Assignment due: First draft of policy paper

SESSION 9: MAY: TECHNOCRATIC GOVERNANCE

Readings:
- Bureau of Justice Assistance, Trial Court Performance Standards with Commentary
- Heydebrand: Technocratic theory of justice

Short paper #7: Despite the critical language used by Heydebrand in discussing technocratic control in the courts, he doesn’t come right out and condemn it. Should he? Discuss whether this form of judicial administration would be a good or a bad thing for the American state trial courts.
SESSION 10: JUNE: WHAT DOES IT MEAN FOR COURTS TO SURVIVE? (HOW) WILL THEY?

Readings:
- Friesen, Successful or Merely Surviving?
- Baar, “Will urban trial courts survive the war on crime?”
- Other readings TBD

Short paper #8: Drawing upon recent commentary across the state, and upon what you are observing at your placement, are the California courts successful? Surviving? Not surviving?

Assignment due: Learning and Surprises Paper