

# **POST AMENDMENT 80 CASE MANAGEMENT SEMINAR**

**TRIAL COURT ADMINISTRATION AND MANAGEMENT  
IN STATE COURTS: VIEWING ARKANSAS IN A  
NATIONAL CONTEXT**



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# **TRIAL COURT ADMINISTRATION AND MANAGEMENT IN STATE COURTS: VIEWING ARKANSAS IN A NATIONAL CONTEXT**

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## **I. Introduction**

When Amendment 80 to the Arkansas Constitution was passed in November 2000, authorizing the consolidation of general-jurisdiction trial courts into a single set of circuit courts (effective in 2001), and the subsequent consolidation of all limited-jurisdiction trial courts into a single set of district courts (to take effect on January 1, 2005), the voters of Arkansas approved a fundamental change in the Arkansas court system. Faced with such a change, one might ask:

- How does Amendment 80 relate to what has happened in other states?
- In view of developments like those reflected in Amendment 80, how have general-jurisdiction trial courts in other states addressed issues of trial court administration?

In this paper, I give an overall sense of where the newly consolidated circuit courts in Arkansas stand in relation to other state and local trial courts across the country, so that Arkansas judges and court officials can view themselves after Amendment 80 in a national context. I will briefly tell the story of court improvement efforts in America in the past 50-100 years; I will talk about the creation of an administrative infrastructure in trial courts; and then I will outline what we know about the general responsibilities of administrative judges in trial courts.

## **II. Events Leading Up to Amendment 80**

As I understand it, the passage of Amendment 80 in Arkansas came after similar efforts had failed in 1970, 1980, 1991, and 1995. Yet despite the failure of these efforts, I

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understand further that there were a number of developments at the general jurisdiction trial court level. There were several structural changes relating to Circuit Courts and Chancery/Probate Courts, including the following (see Table 1 in Appendix A):

- In 1979, the number of circuits for Circuit Courts was made equal to that for Chancery/Probate Courts.
- In 1982, the court system introduced judgeships with mixed assignments, hearing both Circuit Court and Chancery/Probate Court matters.
- Effective January 20, 1987, Chancery/Probate Courts assumed exclusive jurisdiction of all juvenile matters.
- Beginning in 1988, a number of those in the “shared judges” total were specifically assigned to hear only juvenile matters in Chancery/Probate Courts. Beginning in 1995, the number of judges *shared* by Circuit Courts and Chancery/Probate Courts exceeded the number judges hearing only Circuit Court matters and the number of chancellors hearing only Chancery/Probate Court matters.

As a result of these developments, the structure of general jurisdiction trial courts Arkansas was markedly different in 2000 than it had been in 1975. With all of these smaller developments, the passage of Amendment 80 simply marked the most recent and most dramatic of a series of evolutionary changes in the structure of general jurisdiction trial courts that had been going on in Arkansas for at least two decades. (See Table 2 in Appendix A for the judges and chancellors in each circuit in 2000 before the passage of Amendment 80.)

### **III. Court Reform Efforts in the Twentieth Century**

Have there been similar developments in other states? For an answer to this question, we can go back to 1906, when Dean Roscoe Pound of the Harvard Law School addressed an annual meeting of the American Bar Association in St. Paul, Minnesota, about “The Causes of Popular Dissatisfaction with the Administration of Justice.” Pound said that the American system of courts was archaic in three respects: (1) having too many courts, (2) preserving concurrent jurisdiction among those courts, and (3) wasting

judge resources, especially by having some courts overwhelmed with work while others are relatively idle.<sup>1</sup>

Pound's speech is generally credited with being the source of subsequent efforts to create a unified judiciary in different states, and with the development of bodies concerned with more efficient administration of the courts. On the federal level, William Howard Taft advocated streamlining the rules of court procedure (including merger of law and equity), while Arthur T. Vanderbilt emphasized the need to reform the state judiciaries. World War II interrupted the court reform effort, however, and it was not until the 1950's that substantial activities resumed in the area of improved court management.<sup>2</sup>

After the war there was a burst of reform in state and local government. Reforms of state legislatures and in state executive branches were followed by state judicial branch efforts at reform. One broad direction for court reform efforts involved upgrading the quality of the state judiciary. This included attention to merit selection of judges,<sup>3</sup> the development of judicial discipline commissions, and the development of systematized methods for judicial education, such as the National College of State Trial Judges (later the National Judicial College) established in 1963. Associated with these steps were efforts to improve judicial compensation, as through judicial compensation commissions.<sup>4</sup>

#### **IV. Court Unification**

The second broad direction for court reform involved court unification efforts.<sup>5</sup> One dimension of this is *structural unification* – reducing multiplicity of courts,

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<sup>1</sup> Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," *American Bar Association Reports* (Vol. 29, 1906) 395; reprinted, *Journal of the American Judicature Society* (Vol. 20, February 1937) 178, and *Federal Rules Decisions* (Vol. 35, 1964) 273, at 284-287.

<sup>2</sup> See Larry C. Berkson, "A Brief History of Court Reform," in Berkson, Hays and Carbon (eds.), *Managing the State Courts: Text and Readings* (St. Paul, Minn.: West Publishing Co., 1977), pp. 7-11.

<sup>3</sup> See Table 3 in Appendix A for a general summary of judicial selection methods for state court judges in 1998.

<sup>4</sup> See Robert W. Tobin, *Creating the Judicial Branch: The Unfinished Reform* (Williamsburg, Va.: National Center for State Courts, 1999), pp. 121-132.

<sup>5</sup> After Roscoe Pound, Arthur Vanderbilt had much to do with the notion of court unification. He spearheaded the creation of the American Bar Association section on judicial administration in 1938, leading to the development of standards on judicial administration in the early 1940's. As early as 1955, the Conference of Chief Justices (CCJ) urged state court leaders to measure court administration against the

removing trial courts from local government, and making them part of a uniform statewide organizational structure. A second dimension is *budgetary unification* – state-level financing of the trial court system and centralized judicial budgeting. The third is *administrative unification* – centralized policymaking and planning (though not necessarily centralized management) and broader use of rulemaking power.

**A. Structural Unification.** In 1974, the American Bar Association (ABA) published *Standards Relating to Court Organization*, advocating structural unification in terms of a single appellate court and a single-tier trial court for an entire state, with appropriate divisions, and in 1990 the updated version of ABA’s court organization standards retained that principle.<sup>6</sup> Since 1974, many states have considered structural reorganization.

Some states have adopted the ABA model by introducing a single-tier trial court structure. But most states have not gone that far. When Amendment 80 goes into full effect, Arkansas will be one of ten states with a single set of general jurisdiction trial courts and a single set of limited-jurisdiction trial courts. As a result of Amendment 80, Arkansas has become one of 39 states with one set of general-jurisdiction trial courts, hearing both law and equity matters; one of 32 states in which probate matters are heard in the single general jurisdiction trial court; and one of 27 states in which juvenile matters are heard in that court.<sup>7</sup> (See Tables 4, 5 and 6 in Appendix A for a national comparison of state trial courts hearing equity, probate and juvenile matters in 1975 and in 2000 before enactment of Amendment 80 in Arkansas.)

**B. Budgetary Unification.** Until recent decades, the major state responsibility for funding courts had to do with appellate courts, and local units of government had primary responsibility for funding trial courts. Yet by the late 1970’s and early 1980’s, trial court operating costs increased significantly as a result of constitutional requirements

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standards developed by Vanderbilt, and in 1978, CCJ endorsed the American Bar Association *Standards of Judicial Administration*, which included the notion of court unification. See Tobin, *Creating the Judicial Branch*, pp. 121 and 133.

<sup>6</sup> See ABA, *Standards Relating to Court Organization (1990 Edition)*, Standard 1.10.

<sup>7</sup> These states include Idaho, Illinois, Iowa, Kansas, Minnesota, North Dakota, South Dakota, Wisconsin, and (as of 2000) California. Connecticut has a unified superior court, but local probate courts remain outside that structure. The District of Columbia has a single superior court. See the court structure charts in National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics, 2001* (Williamsburg, Va.: National Center for State Courts, 2001).

regarding indigent defense, treatment of juveniles, and protection of the mentally incompetent, in addition to increases in the number of judges, the level of judicial compensation, and the number of court support staff. This created great budgetary tension with local governments, especially when a general recession reduced government revenues. By the 1980's, the financial problems of local governments had created pressures in favor of state financing of trial courts in many states. By 1990, almost all expenses for trial courts in at least 15 states were funded by state government.<sup>8</sup>

At present, 24 state governments provide 75% or more of the funding for their trial courts. Before the passage of Amendment 80 in Arkansas, the state provided funding for such major trial court expenses as the following:<sup>9</sup>

- 100% of judges' and chancellors' salaries in Circuit Court and Chancery/Probate Court;
- 100% of salaries for trial court case coordinators;
- 50% of salaries for juvenile intake and probation;
- 50% of costs for automation equipment;
- 100% of judges' and chancellors' Circuit Court and Chancery/Probate Court travel expenses;
- 90% of indigent defense costs; and
- 100% of costs of child support enforcement.

In the wake of the adoption of Amendment 80 in Arkansas, it is probable that state-level funding for trial court expenses will expand incrementally in the years to come.<sup>10</sup> This is likely to be experienced most notably for the new district courts, since the circuit courts already have substantial state-level funding. This will change the dynamics of trial court budget negotiations from involvement with local court funding authorities to involvement with state court leaders in the state legislative appropriation process.

**C. Administrative Unification.** Until well into the twentieth century, the general consensus was that judges should be relieved of administrative responsibility so

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<sup>8</sup> See Tobin, *Creating the Judicial Branch*, pp. 139-146.

<sup>9</sup> See Bureau of Justice Assistance, *State Court Organization 1998* (joint effort of Conference of State Court Administrators and National Center for State Courts)(June 2000, NCJ 178932), Table 18.

<sup>10</sup> As Section 1 of Amendment 80 indicates, "The judicial power is vested in the Judicial Department of *state government*, consisting of a Supreme Court and other courts established by this Constitution." Since circuit courts and district courts are created by the Constitution under Amendment 80, they can be seen as organs of state (and *not* local) government.

that they could concentrate on adjudication. It was perceived that executive branch officials could handle financial and personnel administration, as well as court facilities and space needs, and that clerks of court could handle recordkeeping and calendaring. One effect of administrative unification of courts, however, has been an emphasis on the preeminence of the Supreme Court, and particularly the Chief Justice. In general terms, this has been expressed in state court systems in the following six areas:<sup>11</sup>

- goal setting and leadership for the judicial branch;
- formulation and implementation of management policy for the judicial branch;
- dealing with judges of lower courts;
- relationships with the bar;
- relations with other branches, non-court agencies, and the public; and
- delegation and oversight of the detailed aspects of court system administration.

Under Amendment 80, the Supreme Court has substantial authority over the Arkansas court system. Section 3 of the amendment provides that the Supreme Court is to prescribe the rules of pleading, practice and procedure for all courts. Section 4 provides that the Supreme Court is to “exercise general superintending control over all courts of the state and may temporarily assign judges, with their consent, to courts or divisions other than that for which they were elected or appointed.

Another dimension of administrative unification in the state courts has been the advent of court administration. For years, Arkansas has had a state court administrator’s office, as has every state in the country since 1980. Amendment 80 has not directly affected the role of the Administrative Office of the Courts. With the structural changes in the trial courts, however, it will be important for the court leaders and administrators to determine the appropriate role for the Administrative Office in the years to come in terms of support for trial court operations.

## **V. Creation of an Administrative Infrastructure in Trial Courts**

From the beginning of the twentieth century until the 1970s, efforts to improve courts focused on court structure, court resources and rules of procedure – approaches that arose from the cognitive framework of judges, law professors, lawyers and legislators. Since at least the 1970’s, however, court leaders have recognized that

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<sup>11</sup> See Tobin, *Creating the Judicial Branch*, p. 149.

attention must be given to a *fourth* consideration, beyond structure, resources and rules of procedure – active day-to-day efforts to manage the operation of the courts. As a result, state court judges around the country have begun to see more clearly that they have to assume increased administrative responsibility in order to protect the independence of the judiciary.

Court management has traditionally been a topic of only peripheral interest to judges and lawyers. Judges probably have more interest in court management than lawyers, because being on the bench alerts them to the complexities of organizational life and allocation of resources in a government organization. Yet there are many judges who have little or no interest in the management of courts beyond managing their own individual courtrooms.<sup>12</sup> Some judges may also be inclined to divorce leadership from management, based on reasoning that justice is the court system's first concern (with judges leading), while management is a secondary consideration (with court administrators managing).<sup>13</sup>

Many judges and lawyers who have not attended education programs or developed special skills are not particularly suited to deal with management problems unless they happen to possess unusual attributes. Their approach to issues is guided by their professional training, so that they may see legal problems where management problems exist or apply legal-authoritarian solutions where management solutions are needed.<sup>14</sup>

Administration of the trial courts has been slower to catch on than state-level court administration, but it is now a distinct and firmly entrenched feature of the court systems in almost all of the states. Indeed, it is much more pervasive in its effects than state court administration, since the management of the trial courts bears directly on the perception that most citizens have about whether the courts are just, effective, and efficient.<sup>15</sup>

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<sup>12</sup> This hardly differs from the interest that many physicians may have in hospital administration, among all of the topics of potential interest to health-care administrators. See David Saari, *American Court Management: Theories and Practices* (Westport, Conn.: Quorum Books, 1982), pp. 3-4.

<sup>13</sup> See Ronald Stupak, "Court Leadership in Transition: Fast Forward Toward the Year 2000," *The Justice System Journal* (Vol. 15, No. 1, 1991) 617, at 619.

<sup>14</sup> See Friesen, Gallas, and Gallas, *Managing the Courts* (Indianapolis, Ind.: Bobbs-Merrill, 1971) p. 13.

<sup>15</sup> See Tobin, *Creating the Judicial Branch*, pp. 173-191.

## VI. The Chief or Presiding Judge of a Trial Court

In almost every state, the central figure in trial court administration is the judge with administrative responsibility for court operations. There is such a judge – most often called the chief judge, presiding judge, or administrative judge – in the general jurisdiction trial courts of 48 states. Other than Arkansas, only Wyoming – which has only 17 district court judges in nine locations throughout the state – does not have such a judge position for its general jurisdiction trial courts. (See Tables 7 and 8 in Appendix A.)

In a small rural trial court, the chief or presiding judge may be the only judge regularly sitting in the county. At the other end of the spectrum, the chief or presiding judge of a large metropolitan trial court with 50 or more judges (of which there are about two dozen in the country) is typically aided by a cadre of subordinate administrative judges responsible for the different divisions of the court, as well as by a non-judge trial court administrator, with assistant court administrators and managers for such areas as budgeting, human resources, and information technology.

**A. Means of Selecting Chief or Presiding Judge.** In the federal district courts, the judge in this position is chosen by seniority, although this is much less common in state trial courts. More common in the state courts are either state-level appointment by the chief justice or supreme court, or local selection by peers on the trial court bench. (See Table 8 in Appendix A.) How the chief or presiding judge of a trial court is selected is critical for the effectiveness of trial court administration.<sup>16</sup>

- *Seniority* usually militates against vigorous trial court administration, since it does not take management expertise or the support of judicial colleagues into effect.
- *State-level appointment* may often involve consideration of leadership and management skills, but it may not take local support of colleagues on the trial court bench into effect.
- *Local selection by peers* is likely to assure colleagues' support, but it may result in the selection of a chief or presiding judge who does not upset the status quo unless the judges of the court are sensitive to the need for effective leadership.

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<sup>16</sup> See Stephen Hays, "The Traditional Managers: Judges," in Berkson, Hays, and Carbon (eds.), *Managing the State Courts*, p. 168. The American Bar Association urges that a chief judge not be selected solely on the basis of seniority or rotation, but that he or she be appointed or chosen by peers. See ABA, *Standards Relating to Court Organization (1990 Edition)*, Section 1.33 and commentary.

**B. Compensation and Duration of Service for a Chief or Presiding Judge.** In addition to the means by which the chief or presiding judge of a trial court is selected, other important structural features of the position include compensation and duration of service. In about one-third of the states, the chief or presiding judge receives extra compensation for service in that role. In the majority of states, however, the job does not carry any extra compensation. (See Table 11 in Appendix A.)

Length of service as the chief or presiding judge is another critical consideration. So that there will be continuity of leadership in a trial court, the American Bar Association advocates that a chief judge should hold office for a term of at least three years and be eligible to serve one or more additional terms.<sup>17</sup> While some trial court chief or presiding judges serve a term as short as one year or less, most trial courts provide for a term of service of two or more years, permitting chief or presiding judges to succeed themselves in office. (See Tables 9 and 10 in Appendix A.)

**C. Defining the Scope of a Chief or Presiding Judge's Responsibilities.** Depending on court size and other factors, the judges responsible for the administrative leadership of trial courts may have varying responsibilities in different trial courts. Yet the following ten areas of responsibility are common (see Table 13 in Appendix A):

- Supervision of non-judicial employees;
- Assignment of cases to judges;
- Assignment of judges to hear different kinds of cases;
- Selection of quasi-judicial officers;
- Making requests when needed for visiting judges;
- Supervision of fiscal affairs;
- Involvement in public relations matters;
- Overseeing maintenance of statistics and management information; and
- Evaluation of court effectiveness.

At least some of these may be beyond what a judge can personally accomplish. It is therefore important for the chief or presiding judge to involve other judges and to consider the kinds of non-judicial support staff skills and experience that might be necessary to support and assist the chief or administrative judge in carrying out his or her responsibilities.

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<sup>17</sup> See ABA, *Standards Relating to Court Organization (1990 Edition)*, Section 1.33(b).

#### **D. Caseflow Management: The Key Task of Trial Court Administration.**

There are two aspects of court administration that are unique to trial courts: jury management and caseflow management. The day-to-day responsibilities of jury management are typically the responsibility of a clerk or jury commission, and a chief or presiding judge should take steps to assure that innovative techniques and tested methods are used to provide a broad pool of citizens available for jury duty and reduce the cost of operating the jury system.<sup>18</sup>

Caseflow management, on the other hand, has been called “the quintessential trial court administrative function”<sup>19</sup> and “the heart of court management.”<sup>20</sup> Caseflow management is a key responsibility for the chief or presiding judge of a trial court. Over the past 25-30 years, judges attending sessions at the National Judicial College have been asked to identify what they think are the purposes of courts in American society. While individual judges may phrase these purposes differently, they usually boil down to eight central purposes:

- To do individual justice in individual cases;
- To *appear* to do justice in individual cases;
- To provide a forum for the resolution of legal disputes;
- To protect against the arbitrary use of government power;
- To make a formal record of legal status;
- To deter criminal behavior;
- To help rehabilitate persons convicted of crime; and
- To separate persons convicted of serious offenses from society.

Delay in the courts undermines every one of these purposes of courts, and the control of delay is what makes caseflow management critical in trial courts. As one leading authority on court management has observed,<sup>21</sup>

The study of delay is not the study of inefficiency, but is the study of the very purposes for which courts exist. . . . Justice is lost with the

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<sup>18</sup> To this end, it is helpful for a trial court leader to see G. Thomas Munsterman, *Jury System Management* (Williamsburg, Va.: National Center for State Courts, 1996), as well as Munsterman, Hannaford, and Whitehead (eds.), *Jury Trial Innovations* (Williamsburg, Va.: National Center for State Courts, 1997).

<sup>19</sup> See Tobin, *Creating the Judicial Branch*, p. 187.

<sup>20</sup> See David Steelman, John Goerdt, and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, Va.: National Center for State Courts, 2000), xviii-xx.

<sup>21</sup> Ernest C. Friesen, “The Delay Problem and the Purposes of Courts,” in National Center for State Courts, Institute for Court Management, *Caseflow Management Principles and Practices: How to Succeed in Justice* (Videotape, 1991).

passage of time. . . . No matter how you look at it, whether it's a civil or a criminal matter, time destroys the purposes of courts. We study case management because case management is the way we get rid of the waiting time, [by] which we control delay, [and by] which we enhance the purposes of courts. Case management is what we're about in controlling delay.

Because prompt adjudication requires the application of such caseload management methods as early and continuous court control of case processing and provision of firm trial dates,<sup>22</sup> it requires substantial judicial leadership in combination with an effective court support apparatus. In fact, the most important feature of successful caseload management programs is often the strong and effective leadership of a trial court chief or presiding judge.<sup>23</sup>

**E. Leadership of a Trial Court as a Professional Bureaucracy.** Strong leadership is required for the effective implementation of administrative policy in a trial court. To lead a trial court effectively, a chief or presiding judge has to deal with a feature of courts that makes them unique – the fact that judges are the only major professionals in the United States who are elected and also have a professional status.<sup>24</sup> One of the organizational consequences of Amendment 80 is that the newly created multi-judge circuit courts will inevitably take on the characteristics of what the management theorist Henry Mintzberg calls a “professional bureaucracy.”<sup>25</sup> In a professional bureaucracy like a court, the professionals operate in keeping with the standards of their professional members (in courts, the standards of judicial conduct), while “bureaucrats” (such as clerks of court) operate in part in compliance with standards and guidelines that originate in self-governing associations outside the organization (such

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<sup>22</sup> See Steelman, Goerd, and McMillan, *Caseload Management*, pp. 3-33.

<sup>23</sup> See William Hewitt, Geoff Gallas, and Barry Mahoney, *Courts that Succeed: Six Profiles of Successful Courts* (Williamsburg, Va.: National Center for State Courts, 1990).

<sup>24</sup> See David Saari, “New Ideas for Court Administration: Applying Social Science to Law,” *Judicature* (Vol. 51, 1967) 82. Like other “professional” persons, a judge has (1) mastery of an organized body of specialized knowledge; (2) a specialized competence, based on aptitude, training and experience; (3) extensive autonomy, influence and responsibility in the exercise of that competency; and (4) a strong career commitment. See Friesen, Gallas, and Gallas, *Managing the Courts*, p. 150.

<sup>25</sup> In a study of organizational structures, Mintzberg theorized that there are five basic models for organizations: (1) ad-hoc organizations, as in a young, adaptable research organization; (2) simple structures, such as those of a small business; (3) ‘machine’ bureaucracies, such as those of large, centrally-controlled organizations; (4) divisionalized forms, as in organizations with semi-autonomous divisions; and (5) professional bureaucracies or collegial organizations, as in universities. See Mintzberg, *The Structure of Organizations* (Englewood Cliffs, N.J.: Prentice-Hall, 1979).

as those of the National Association for Court Management – an organization of trial court clerks and trial court administrators).

In a professional bureaucracy, writes Mintzberg, support staff are often more numerous than professional staff and constitute a more rigid and controlled organization. Professionals control their own work, but they also seek the collective control of the administrative decisions that affect them. What frequently emerge are parallel bureaucracies, one democratic and bottom up for the professionals, and a second bureaucratic structure (more like a large, centrally-controlled business organization) with “top down” leadership for the support staff.”<sup>26</sup>

For trial court chief or presiding judges, such a dual structure can create a conflict between “collegial” and “authoritarian” decision-making. In the collegial decision-making process among judges, decisions are made among equals; but the administrative decision-making process often requires a more authoritarian approach. More authoritarian judges cannot simply dictate policy to other judges, but must typically take a more cooperative and team-oriented approach to leadership.<sup>27</sup> More collegial chief judges may have difficulty being authoritarian in the administrative arena, and any non-judge court manager must deal effectively with the collegial nature of decision-making among judges.<sup>28</sup>

To be effective, trial court chief or presiding judges must understand and accept courts as professional bureaucracies, building on or compensating for the strengths and weaknesses of courts as professional organizations.<sup>29</sup> A collegial organization, for example, tends to exhibit participatory democracy among its professional members, and a court extending this freedom to its administrative staff will be able to deal more effectively with concepts of democracy in the work place. The court administrator must also try to compensate for the blind spots of judges as professionals, such as their

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<sup>26</sup> *The Structure of Organizations*, pp. 358-360, as discussed by Keith Stott, in “The Judicial Executive: Toward Greater Congruence in an Emerging Profession,” *The Justice System Journal* (Vol. 7, No. 2, Summer 1982) 152, at 157-158.

<sup>27</sup> Steven Hays, “The Traditional Managers: Judges,” in Berkson, Hays and Carbon (eds.), *Managing the State Courts*, p. 171.

<sup>28</sup> James Duke Cameron, Isaiah Zimmerman, and Mary Susan Dowling, “The Chief Justice and the Court Administrator: The Evolving Relationship,” *Federal Rules Decisions* (Vol. 113, 1987) 439, at 453.

<sup>29</sup> Stott, “The Judicial Executive: Toward Greater Congruence in an Emerging Profession,” at 158.

potential unresponsiveness to problems requiring interdisciplinary perspectives, or their possible difficulty in working collaboratively with other groups.

**F. The Use of Status, Prestige, and Power.** The fact that courts and the legal process are dominated by judges as high-status professionals means that the way that judges use their status and prestige has significant bearing on how courts are led and managed. One commentator sees “the heavy hand of status-laden descriptions of responsibilities” as a significant problem of leadership failure in some courts. This is most problematic in courts where judges see non-judge court employees as “second-class citizens” for whom a top-down leadership style is most desirable. This usually leads, says this commentator, to failure by court staff to take any risks, and to “authoritarianism of the worst sort, under which personal style overwhelms institutional infrastructures, and rational management principles are drowned in the ego needs of judges.”<sup>30</sup>

Authority and power are inevitably part of the court environment, since judges are vested with the authority and power to order individual citizens and even government officials to perform or desist from performing certain actions, and to use the power of the state to enforce compliance through the imposition of sanctions.<sup>31</sup> The use of power is important to the success of a chief or presiding judge. Power is exercised in different ways at different levels of a court or any other organization, and it is important for a judge leader to understand the effective uses of power.<sup>32</sup>

- *Upper level leaders* and executives focus their use of power primarily outside the organization, negotiation and working as advocates for the organization in external settings.
- *Middle-level management* power flows tend to be horizontally oriented, typically to advance an organizational cause by competing for or pooling resources with others who are on the same organizational level.
- *First-line supervisors* tend almost exclusively to use power “down” in the organization to complete specific tasks within a particular department or unit.

## VII. Trial Court Structure and Performance

As Arkansas proceeds to implement Amend 80, we may ask ourselves how we will know whether the consolidation of trial courts into one set of circuit courts and one

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<sup>30</sup> Ronald Stupak, “Court Leadership in Transition: Fast Forward Toward the Year 2000,” at 620.

<sup>31</sup> See Friesen, Gallas and Gallas, *Managing the Courts*, p. 113.

<sup>32</sup> Ronald Stupak, “Court Managers as Leaders: An Active Strategy for Understanding and Using Power,” *The Court Manager* (Vol. 16, No. 2, 2001) 19, at 20.

set of district courts has yielded benefits for the people of the state. In order to answer this question, it is important to have appropriate expectations about what courts should be doing. It is also important to have suitable ways to measure how well they are meeting those expectations.

One valuable starting point in this respect is the set of trial court performance standards that were first developed in 1990 by a national commission headed by Chief Judge Robert Murphy, then the leader of the Maryland Supreme Court, and whose members also included trial court judges, court managers, and academics interested in the courts. The commission developed 22 standards reflecting the results that might properly be expected of a well-functioning trial court. (See Appendix B for the standards.) These standards involved the following five broad areas of trial court performance:

- Access to justice
- Expedition and timeliness
- Equality, fairness, and integrity
- Independence and accountability
- Public trust and confidence

Working with the national commission, the National Center for State Courts and the Bureau of Justice Assistance have developed performance measures for each of the 22 standards and tested them in conjunction with court systems in several different states.<sup>33</sup>

To test the value of trial court unification efforts similar to what is coming about in Arkansas under Amendment 80, the National Center undertook a multiple-court study of trial courts in four different states, differing in terms of whether (a) a state had a single-tier or a two-tier trial court system, and (b) whether the clerk of court was elected or appointed by the bench.<sup>34</sup> From this study, the National Center researchers concluded that trial court unification is indeed an important tool for achieving improved court performance. But they gave equal emphasis to other aspects of how trial courts organize their work. In particular, they placed particular importance on three considerations, all of

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<sup>33</sup> See Bureau of Justice Assistance, *Trial Court Performance Standards and Measurement System* (Program Brief NCJ 161569); *Planning Guide for Using the Trial Court Performance Standards and Measurement System* (Monograph NCJ 161568); and *Trial Court Performance Standards and Measurement System Implementation Manual* (Monograph NCJ 161567) (Washington, DC: US Department of Justice, 1997).

<sup>34</sup> See David Rottman and William Hewitt, *Trial Court Structure and Performance: A Contemporary Reappraisal* (Williamsburg, Va.: National Center for State Courts, 1996),

which merit consideration as Arkansas courts undertake the implementation of Amendment 80:<sup>35</sup>

- How judges are assigned cases;
- Distinctions between central court support staff and chambers support staff; and
- The position of the chief or presiding judge

**A. Assignment of Judges.** In every court that the National Center researchers studied, regardless of how the court was structured, a significant problem was how to secure appropriate coverage for case types that judges may not typically like to hear – usually either matters that are routine and high volume (such as the less serious civil or criminal matters), or those that are emotionally taxing (such as divorces and juvenile matters). Where courts are large enough to have specialized judges or divisions, this problem is considered a minor one, but such specialization results in low overall coordination among judges and higher costs of court operation. The researchers concluded that it might be most appropriate

- to recruit and assign quasi-judicial officers to hear high-volume and more routine cases, and
- to recognize the need to find judges with the necessary specialized knowledge and temperament for the cases that may be emotionally taxing, but also
- to recognized the importance of not marginalizing such cases.

**B. Chambers Staff versus Central Staff.** In the abstract, one of the potential benefits of trial court unification is the possibility of having greater consolidation of administrative functions under the control of the bench. In their multi-court study of trial court structure and performance, the National Center researchers found that the fundamental problem in terms of flexibility, operational coordination, and efficiency that might arise from administrative consolidation involved the divide between court support staff members who work in the chambers of individual judges and those who work in a central office (such as the clerk’s office). Even in a two-tier trial court system, the National Center researchers found that it is often easier to accomplish coordination of court support staff across levels of trial court than to accomplish more flexible use of the judges’ confidential employees and the development of standard procedures for file

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<sup>35</sup> Ibid., pp. 81-86.

maintenance, work hours, and other basic aspects of trial court operations. The researchers recommended the following:<sup>36</sup>

Court unification in the 21<sup>st</sup> century should incorporate staffing arrangements that maintain the direct support that individual judges require *and* that allow chief judges and court managers to divert staff resources in line with the demands that the court faces as an organization. The independence of judges to decide cases is not, in our view, compromised by court policies that govern the working conditions of support staff or that make provision for staff to be shifted on an as-needed basis from one chambers or subject matter to another. There is a marked tendency to confuse judicial independence in terms of individual cases with procedural independence on administrative matters as basic as how files are to be maintained.

**C. Overcoming Structural Limits on the Capacity of the Chief or Presiding Judge to be a Real Leader.** The third major issue addressed by National Center researchers in their multi-state study of trial court structure and performance involved the nature of the chief or presiding judge's position. All of the trial courts in the National Center study had a chief or presiding judge, and most of them had strong leadership. The sources of a chief or presiding judge's authority may vary (see Table 12 in Appendix A), and the actual content of the position varies with each incumbent, even when the authority and duties of the position are clearly embedded legislative or constitutional provisions.

One critical factor that may compromise the effectiveness of a chief or presiding judge is whether he or she must carry a full judicial caseload in addition to fulfilling court leadership responsibilities (such as the areas of authority shown in Table 13 in Appendix A). In larger trial courts, it is not unusual for the chief or presiding judge to carry a smaller caseload. Unless a judge has unusual energy and skill, however, it will be difficult in a small or mid-size court to carry a full caseload effectively and also be a capable leader. The National Center researchers recommend a decision-making structure that would include a framework of committees and working groups that would permit the chief or presiding judge to develop, nurture and implement an appropriate leadership and court management agenda for the trial court.

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<sup>36</sup> Ibid., p. 85.

A key dimension in the role of the chief or presiding judge is the working relationship and division of labor he or she maintains with the trial court manager (whether that be the clerk of court or a trial court administrator). It is particularly important that the chief or presiding judge and the court manager develop a team approach to court management, working together to implement court policies and regularly bringing together other judges as well as key court support staff members to work on management problems and issues.

A final area of importance is the extent to which the chief or presiding judge serves as the spokesperson for the bench. It is important that there be a person who can speak for the court on basic procedural and organizational issues (quite apart from matters pertaining to individual cases or court decisions) with funding officials, sheriffs, prosecutors, social service agency heads, and the local bar.

### **VIII. Evaluation of Trial Court Consolidation Experiments in Michigan**

At the trial court level, Michigan has circuit, probate, and district courts, each with jurisdiction of different kinds of cases. Beginning in 1996, the Michigan Supreme Court sponsored demonstration projects experimenting in structural, administrative, and financial consolidation in six Michigan judicial circuits, approving a seventh demonstration project in 1999.<sup>37</sup> In each of the demonstration project locations, the three separate trial courts were joined into a separate “trial court,” with a single chief judge, a single court administrator, and a single court budget to the extent that was possible. Under agreement with the Michigan State Court Administrative Office, I served as the National Center for State Courts evaluator of the six initial demonstration courts from 1996 to 1999,<sup>38</sup> and then I did a follow-up assessment in 2001.<sup>39</sup>

The 2001 assessment concluded that unified trial courts provide many benefits to

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<sup>37</sup> The initial demonstration projects are in Barry County, Berrien County, Isabella County, Lake County, Washtenaw County, and a multi-county circuit including Otsego, Kalkaska, and Crawford Counties. The seventh demonstration project is in Iron County.

<sup>38</sup> The first evaluation report was completed in February 1999. See David Steelman, Karen Gottlieb, and Dawn Marie Rubio, *Michigan Trial Court Consolidation: Final Evaluation Report* (Denver, Colo.: National Center for State Courts, Court Services Division, 1999).

<sup>39</sup> See David Steelman, *Michigan Trial Court Consolidation Demonstration Projects: 2001 Follow-Up Assessment Report, Executive Summary* (Denver, Colo.: National Center for State Courts, Court Consulting Services, November 2001). For a copy of the complete assessment report, send an e-mail message to CourtInfo@jud.state.mi.us, or call the Michigan State Court Administrative Office at 517-373-7496.

citizens, in terms of the fundamental values of the Michigan judicial system – independence, responsiveness, accountability, fairness, effectiveness and accessibility – which echo the trial court performance standards and were adopted by the Michigan Supreme Court in 1995.<sup>40</sup> In the wake of the successful outcomes in the unified trial courts, the Supreme Court in 2002 has urged the passage of legislation to permit other trial courts in the state to elect similar consolidation.

In general terms, the National Center found that the demonstration projects clearly did well, both in terms of expectations established before their commencement and in the eyes of key stakeholders, such as local bar leaders, county funding authorities, law enforcement officials, and prosecuting attorneys. Among the specific findings made in the 2001 follow-up evaluation, there were two of particular note in light of issues presented by the passage of Amendment 80 in Arkansas.

**A. Use of Judge Resources.** The first evaluation finding of note has to do with the use of judicial and quasi-judicial resources. As the National Center evaluator of the demonstration projects, I found that all of the consolidated courts are generally making more efficient use of judicial and quasi-judicial resources under the demonstration projects than the pre-consolidation courts.

All demonstration court judges have full authority to hear all cases within each court's jurisdiction, and under the demonstration projects they provide backup assistance to one another. While non-attorney referees and magistrates are somewhat limited in the allowable scope of their work, all such judicial officers in the demonstration courts have authority to handle all matters permitted by law, and the demonstration projects have resulted in more flexibility and crossover in their assignments. Jury management is now done centrally in all seven of the demonstration courts. All seven courts coordinate the schedules of judges and judicial officers, and almost all key stakeholders responding to a survey for this assessment indicate that court scheduling has improved under the demonstration projects. While results are far from uniform, and while two demonstration courts could not provide time guidelines data for this assessment, the demonstration courts are generally doing better than the pre-consolidation courts in terms of meeting

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<sup>40</sup> See Michigan Justice Planning Commission, *Charting the Course for Michigan Justice: A Report to the Michigan Supreme Court* (Lansing, Mich.: State Court Administrative Office, May 1995).

statewide time guidelines.

**B. Judge Leadership.** The second evaluation finding of note has to do with leadership in the consolidated courts. My evaluation conclusion was that a strong chief judge leads each of the demonstration courts, generally operating through consensus decision-making. In the survey of key stakeholders conducted for the evaluation, all of those expressing an opinion indicated that the chief judge is a strong leader in the demonstration court with which they are associated. Though a number did not express an opinion, a large majority of the stakeholders that did so indicated that the chief judge usually operates by consensus. Each demonstration court has a judicial council that is representative of its various divisions. In four of the seven courts, the judicial council is responsible for labor relations and personnel management. Each demonstration court's governing body represents the court as a single entity, and almost all external agencies and court users view the court as a single entity.

## **IX. Conclusion**

I want in conclusion to reiterate my earlier recognition that the passage of Amendment 80 to the Arkansas Constitution reflects the successful conclusion of efforts for more than three decades to reform the structure of the Arkansas trial courts. As this paper suggests, it also includes the Arkansas courts in court reform efforts across the country that have their roots in a century-long effort around the country led by such people as Roscoe Pound, William Howard Taft, and Arthur T. Vanderbilt. Implementation of Amendment 80 will present a number of difficult issues for judges and other court leaders in Arkansas. But it also presents enormous opportunities. Given the distinguished history of court leaders in ongoing service to citizens, I am certain that the implementation effort will result in demonstrable further progress in the effective and efficient delivery of prompt and affordable justice to the people of Arkansas.

**APPENDIX A.**

**TABLES PRESENTING COMPARATIVE INFORMATION  
ON TRIAL COURT ADMINISTRATION AND  
MANAGEMENT IN STATE COURTS**

**TABLE 1. ARKANSAS GENERAL JURISDICTION TRIAL COURTS AND JUDGESHIPS, 1975-2000 (BEFORE ENACTMENT OF AMENDMENT 80)\***

Year	Circuit Courts		Shared Judges	Chancery/Probate Courts	
	Locations	Judges		Locations	Chancellors
1975	19	29	--	18	26
1976	19	29	--	18	26
1977	19	29	--	18	27
1978 (a)(b)	19	29	--	18	27
1979	20	33	--	20	30
1980	20	33	--	20	30
1981	20	36	--	20	36
1982 (c)	22	37	6	22	30
1983	22	38	7	22	29
1984	23	38	7	23	29
1985	24	41	9	24	29
1986	24	40	8	24	30
1987 (d)	24	40	8	24	30
1988 (e)	24	34	27	24	33
1989	24	33	30	24	32
1990	24	33	33	24	32
1991	24	34	32	24	33
1992	24	34	32	24	33
1993	24	34	33	24	33
1994	24	34	33	24	33
1995	24	31	40	24	33
1996	24	31	40	24	33
1997	25	30	43	25	33
1998	25	30	43	25	33
1999	25	27	54	25	29
2000	28	27	55	28	29

\* SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics, Annual Reports, 1975-2001* (Williamsburg, Va.: National Center for State Courts, 1978-2001).

## NOTES ON TABLE 1

- a. In 1979, Arkansas introduced an intermediate appellate court.
- b. In 1979, Arkansas also achieved parity between Circuit Courts and Chancery/Probate Courts.
- c. In 1982, Arkansas introduced judgeships with mixed assignments, hearing both Circuit Court and Chancery/Probate Court matters.
- d. Effective January 20, 1987, Chancery/Probate Courts in Arkansas assumed exclusive jurisdiction of all juvenile matters.
- e. Beginning in 1988, a number of those in the “shared judges” total were specifically assigned to hear only juvenile matters in Chancery/Probate Courts.

**TABLE 2. TOTAL NUMBER OF JUDGES OR CHANCELLORS IN EACH ARKANSAS CIRCUIT IN 2000 (BEFORE ENACTMENT OF AMENDMENT 80)\***

<b>Circuit</b>	<b>Total No. Judges or Chancellors (with assignments**)</b>	<b>Circuit</b>	<b>Total No. Judges or Chancellors (with assignments**)</b>
1	5 (2a)(2b)(1c,d)	11W	6 (2a)(2b)(1c)(1c,d)
2	9 (1a)(1b)(5c)(2c,d)	12	6 (2a)(3b)(1c,d)
3	2 (1a)(1c)	13	6 (2a)(2b)(1c)(1c,d)
4	6 (2a)(2b)(1c)(1c,d)	14	3 (1a)(1b)(1c,d)
5	3(1a)(1b)(1c,d)	15	3 (1a)(1b)(1c,d)
6	17 (7a)(6b)(1c)(3c,d)	16	3 (2c)(1c,d)
7N	3 (1b)(1c)(1c,d)	17E	3 (1a)(1b)(1c,d)
7S	2(1c)(1c,d)	17W	2 (2c,d)
8N	2(1c)(1c,d)	18E	4 (1a)(1b)(1c)(1c,d)
8S	3 (3c,d)	18W	1 (1c,d)
9E	1 (1c,d)	19E	1 (1c,d)
9W	2 (2c,d)	19W	4 (2a)(1b)(1c,d)
10	5(2a)(2b)(1c,d)	20	4 (3c)(1c,d)
11E	1 (1c,d)	21	2(1c)(1c,d)

**Summary**

1. In **eight** circuits, one or more judges heard *only* circuit matters, one or more chancellors heard *only* chancery or probate cases (and not juvenile cases), and at least one judge heard a mix of circuit, chancery/probate, and juvenile matters.
2. In **seven** circuits, all judicial officers heard a mix of circuit, chancery/probate, and juvenile matters.
3. In **six** circuits, one or more judges heard *only* circuit matters, one or more chancellors heard *only* chancery or probate cases (and not juvenile cases), one or more judges had a mixed circuit/chancery assignment, and one or more judges had a mixed assignment and also heard juvenile cases.
4. In **five** circuits, one or more judges had a mixed circuit/chancery assignment and one or more judges had a mixed assignment and also heard juvenile cases.
5. In **one** circuit, one judge heard only circuit cases, while the other judge had a mixed circuit/chancery assignment.
6. In **one** circuit, a chancellor heard *only* chancery/probate matters, while one judge had had a mixed circuit/chancery assignment and the other judge had a mixed assignment and also heard juvenile cases.

\* SOURCE: Marie T. Finn, et al., eds., *The American Bench: Judges of the Nation* (Tenth Edition, 1999-2000)(Sacramento, Calif.: Forster-Long, Inc., 2001).

\*\* LEGEND: a = Number of judges who heard *only* Circuit Court matters;  
 b = Number of chancellors who heard *only* Chancery or Probate matters (not juvenile cases);  
 c = Judges with split assignments between Circuit Court and Chancery/Probate Court;  
 d = Number of judges or chancellors who had juvenile assignments.

**TABLE 3.**  
**THE NATIONAL PICTURE: GENERAL JURISDICTION TRIAL**  
**JUDGE SELECTION IN AMERICAN STATES IN 1998\***

INITIAL TERM	SUBSEQUENT TERMS
<i>Appointment:</i> 648 judges (52.1% of total)	<i>Appointment:</i> 199 judges (16.4% of total)
<i>Partisan Election:</i> 421 judges (33.9% of total)	<i>Partisan Election:</i> 326 judges (26.7% of total)
<i>Non-Partisan Election:</i> 174 judges (14.0% of total)	<i>Non-Partisan Election:</i> 174 judges (14.3% of total)
	<i>Retention Elections Only:</i> 518 judges (42.6% of total)

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\* SOURCE: American Bar Association, *Report and Recommendations of the Task Force on Lawyers' Political Contributions: Part Two* (Washington, D.C.: American Bar Association, 1998), as reproduced in Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), p. 19.

**TABLE 4.**  
**THE NATIONAL PICTURE: EQUITY MATTERS IN GENERAL**  
**JURISDICTION TRIAL COURTS IN THE STATES, 1975 AND 2000**  
**(BEFORE ENACTMENT OF AMENDMENT 80 IN ARKANSAS)**

Description	Number of States, 1975 <sup>a</sup>	Number of States, 2000 <sup>b</sup>
1. State has only one general-jurisdiction trial court, and it hears both law and equity	35	38
2. State has general-jurisdiction chancery court with exclusive equity jurisdiction	3 (AR, DE, MS)	2 (AR, DE)
3. State has a general-jurisdiction chancery court <i>without</i> exclusive equity jurisdiction	1 (TN)	1 (TN)
4. State has one general-jurisdiction trial court hearing both law and equity, though it also has one or more specialty courts (e.g., tax court) at the general-jurisdiction level	8	7
5. State has two or more general-jurisdiction trial courts hearing both law and equity	3	2

<sup>a</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics: Annual Report, 1975* (Williamsburg, Va.: National Center for State Courts, 1978).

<sup>b</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics, 2001* (Williamsburg, Va.: National Center for State Courts, 2001).

**TABLE 5.**  
**THE NATIONAL PICTURE: COURTS HEARING PROBATE**  
**MATTERS IN THE STATES, 1975 AND 2000 (BEFORE**  
**ENACTMENT OF AMENDMENT 80 IN ARKANSAS)**

Description	Number of States, 1975 <sup>a</sup>	Number of States, 2000 <sup>b</sup>
1. Probate cases heard exclusively in general-jurisdiction trial court with jurisdiction of both law and equity cases	23	31
2. Probate cases heard exclusively in separate probate/orphans/surrogate court	18	13
3. Separate probate courts in some locations only, with probate matters otherwise heard either in general-jurisdiction trial court or limited-jurisdiction trial court hearing other matters	5	3
4. Probate cases heard exclusively in chancery court	3 (AR, DE, MS)	2 (AR, DE)
5. Probate cases heard exclusively in limited-jurisdiction trial court hearing other matters	2	2
6. Probate cases heard either in general-jurisdiction trial court or limited-jurisdiction trial court hearing other matters	0	1

<sup>a</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics: Annual Report, 1975* (Williamsburg, Va.: National Center for State Courts, 1978).

<sup>b</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics, 2001* (Williamsburg, Va.: National Center for State Courts, 2001).

**TABLE 6. THE NATIONAL PICTURE: COURTS HEARING JUVENILE MATTERS IN THE STATES, 1975 AND 2000 (BEFORE ENACTMENT OF AMENDMENT 80 IN ARKANSAS)**

Description	Number of States, 1975 <sup>a</sup>	Number of States, 2000 <sup>b</sup>
1. Juvenile cases heard exclusively in general-jurisdiction trial court hearing both civil and criminal matters	23	26
2. Juvenile cases heard exclusively in limited jurisdiction trial court that also hears criminal and civil matters	7	7
3. Juvenile cases heard in separate juvenile court in some locations, but otherwise in limited- or special-jurisdiction trial court hearing other matters	6	1
4. Juvenile cases heard exclusively in separate family/juvenile & domestic relations court	5	5
5. Juvenile cases heard exclusively in separate juvenile court	4	4
6. Juvenile cases heard in separate juvenile court in some locations, but otherwise in general-jurisdiction trial court hearing both civil and criminal matters	3	2
7. Juvenile cases heard in limited-jurisdiction trial courts in some locations, but in general-jurisdiction trial courts in other locations	2	2
8. Juvenile cases heard exclusively in probate court	1	0
9. Juvenile cases heard exclusively in chancery court	0	1 (AR)
10. Juvenile cases heard in chancery court in some locations, but otherwise in limited-jurisdiction trial courts hearing other matters	0	1 (MS)
11. Juvenile cases heard in probate court in one location, but otherwise in general-jurisdiction trial court hearing other matters	0	1

<sup>a</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics: Annual Report, 1975* (Williamsburg, Va.: National Center for State Courts, 1978).

<sup>b</sup> SOURCE: National Center for State Courts, Court Statistics Project, *State Court Caseload Statistics, 2001* (Williamsburg, Va.: National Center for State Courts, 2001).

**TABLE 7.**  
**THE NATIONAL PICTURE: TITLES OF ADMINISTRATIVE**  
**JUDGES IN GENERAL JURISDICTION TRIAL COURTS IN THE**  
**STATES, 1998<sup>a</sup>**

Title	Number of States
Chief Judge <sup>b</sup>	17
Presiding Judge <sup>c</sup>	15
Administrative Judge <sup>d</sup>	10
President Judge	2
Other <sup>e</sup>	4
<b>Totals</b>	<b>48</b>

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 30.

<sup>b</sup> Also includes those with the titles “Chief Justice,” “Chief Judge for Administrative Purposes,” and “Chief District Judge.”

<sup>c</sup> Also includes those with the titles “Presiding Circuit Judge” and “Presiding Justice.”

<sup>d</sup> Also includes those with the titles “District Administrative Judge,” “Regional Administrative Judge,” and “Local Administrative District Judge.”

<sup>e</sup> Includes those with the titles “Chancellor,” “Supervisory Judge,” “Assignment Judge,” and “Senior Resident Judge.”

**TABLE 8.**  
**THE NATIONAL PICTURE: METHODS OF SELECTION FOR**  
**ADMINISTRATIVE JUDGES IN GENERAL JURISDICTION TRIAL**  
**COURTS IN THE STATES, 1998<sup>a</sup>**

Method of Selection	Number of Courts <sup>b</sup>
1. State-Level Appointment by Chief Justice, Supreme Court, or State Court Administrator	22
2. State-Level Appointment by Governor	4
3. Local Selection by Court in which Administrative Judge Sits	22
4. Seniority	3
5. Varies by Locality	6
<b>Totals</b>	<b>57</b>
6. Courts with No Administrative Judge	5 <sup>c</sup>

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 7.

<sup>b</sup> Some states (including Arkansas) have more than one court in this table.

<sup>c</sup> These five courts include Arkansas Circuit Court, Chancery/Probate Court, Montana Workers' Compensation Court (1 judge), Oregon Tax Court (1 judge and 5 magistrates), and Wyoming District Court (17 judges statewide in 9 districts).

**TABLE 9.**  
**THE NATIONAL PICTURE: TERMS OF OFFICE FOR**  
**ADMINISTRATIVE JUDGES IN GENERAL JURISDICTION TRIAL**  
**COURTS IN THE STATES, 1998<sup>a</sup>**

Term of Office <sup>b</sup>	Number of Courts <sup>c</sup>
Six Months	1
One Year	8
Not Less than One Year	1
Two Years	11
Three Years	3
Four Years	1
Five Years	3
Eight Years	1
Twelve Years	2
At Pleasure of Appointing Authority	7
Life or Age 70	2
Duration of Term as Judge	1
Varies by Locality	9

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 7.

<sup>b</sup> See Table 10 for information on whether administrative judges can succeed themselves.

<sup>c</sup> Some states have more than one court in this table.

**TABLE 10.**  
**THE NATIONAL PICTURE: WHETHER ADMINISTRATIVE**  
**JUDGES CAN SUCCEED THEMSELVES IN OFFICE IN GENERAL**  
**JURISDICTION TRIAL COURTS IN THE STATES, 1998<sup>a</sup>**

Answer	Number of States
Yes	37
No	1
Varies by Locality	6

**TABLE 11.**  
**THE NATIONAL PICTURE: WHETHER ADMINISTRATIVE**  
**JUDGES RECEIVE EXTRA COMPENSATION IN GENERAL**  
**JURISDICTION TRIAL COURTS IN THE STATES, 1998<sup>b</sup>**

Answer	Number of States
Yes	17
No	28
Varies by Locality	2

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 7.

<sup>b</sup> SOURCE: Ibid., Table 30.

**TABLE 12.**  
**THE NATIONAL PICTURE: SOURCES OF AUTHORITY FOR**  
**ADMINISTRATIVE JUDGES IN GENERAL JURISDICTION TRIAL**  
**COURTS IN THE STATES, 1998<sup>a</sup>**

Source	Number of States
1. Statute	13
2. Chief Justice	6
3. Statute and Rules of Court	4
4. Constitution	4
5. Court Rule	4
6. Statutes and Administrative Rules	3
7. Local Court Rules	2
8. Other <sup>b</sup>	5
9. Varies	1

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 7.

<sup>b</sup> “Other” sources of authority include (i) constitution, court rules, and supreme court administrative order; (ii) state court administrator; (iii) statute, supreme court rules, and trial court rules; (iv) statute and supreme court administrative order; and (v) supreme court rule.

**TABLE 13.**  
**THE NATIONAL PICTURE: AREAS OF AUTHORITY FOR**  
**ADMINISTRATIVE JUDGES IN GENERAL JURISDICTION TRIAL**  
**COURTS IN THE STATES, 1998<sup>a</sup>**

Description	Number of Courts <sup>b</sup>			
	Yes	No	Varies	N/S <sup>c</sup>
1. Supervises non-judicial employees	34	13	--	1
2. Assigns cases to judges	40	8	--	--
3. Assigns judges	39	9	--	--
4. Selects Quasi-Judicial Officers	33	16	1	--
5. Requests Visiting Judges	44	6	--	--
6. Supervises Fiscal Affairs	36	12	--	--
7. Establishes Special Committees	43	7	--	--
8. Involved in Public Relations Matters	45	5	--	--
9. Maintains Statistics & Mgt. Information	36	14	--	--
10. Evaluates Court Effectiveness	39	10	--	1

<sup>a</sup> SOURCE: Bureau of Justice Statistics, *State Court Organization 1998* (a joint effort of Conference of State Court Administrators and National Center for State Courts)(NCJ 178932)(Washington, D.C.: U.S. Government Printing Office, June 2000), Table 30.

<sup>b</sup> Some states have more than one court reflected in this table.

<sup>c</sup> "N/S" indicates that court officials did not state whether the administrative judges have such authority.

**APPENDIX B.**

**TRIAL COURT PERFORMANCE STANDARDS\***

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\* SOURCE: Bureau of Justice Assistance, *Trial Court Performance Standards with Commentary* (Monograph NCJ 161570) (Washington, DC: U.S. Department of Justice, 1997).

## **APPENDIX B.**

### **TRIAL COURT PERFORMANCE STANDARDS**

#### **1. Access to Justice**

*Standard 1.1 – Public Proceedings:* The court conducts its proceedings and other public business openly.

*Standard 1.2 – Safety, Accessibility, and Convenience:* Court facilities are safe, accessible and convenient to use.

*Standard 1.3 – Effective Participation:* All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.

*Standard 1.4 – Courtesy, Responsiveness, and Respect:* Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

*Standard 1.5 – Affordable Costs of Access:* The costs of access to the trial court’s proceedings and records – whether measured in terms of money, time, or the procedures that must be followed – are reasonable, fair, and affordable.

#### **2. Expedition and Timeliness**

*Standard 2.1 – Case Processing:* The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

*Standard 2.2 – Compliance with Schedules:* The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

*Standard 2.3 – Prompt Implementation of Law and Procedure:* The trial court promptly implements changes in law and procedure.

#### **3. Equality, Fairness, and Integrity**

*Standard 3.1 – Fair and Reliable Judicial Process:* Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

*Standard 3.2 – Juries:* Jury lists are representative of the jurisdiction from which they are drawn.

*Standard 3.3 – Court Decisions and Actions:* Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

*Standard 3.4 – Clarity:* Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.

*Standard 3.5 – Responsibility for Enforcement:* The trial court takes appropriate responsibility for the enforcement of its orders.

*Standard 3.6 – Production and Preservation of Records:* Records of all relevant court decisions and actions are accurate and properly preserved.

#### **4. Independence and Accountability**

*Standard 4.1 – Independence and Comity:* A trial court maintains its institutional integrity and observes the principle of comity in its government relations.

*Standard 4.2 – Accountability for Public Resources:* The trial court responsibly seeks, uses, and accounts for its public resources.

*Standard 4.3 – Personnel Practices and Decisions:* The trial court uses fair employment practices.

*Standard 4.4 – Public Education:* The trial court informs the community of its programs.

*Standard 4.5 – Response to Change:* The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.

#### **5. Public Trust and Confidence**

*Standard 5.1 – Accessibility:* The trial court and the justice it delivers are perceived by the public as accessible.

*Standard 5.2 – Expeditious, Fair, and Reliable Court Functions:* The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.

*Standard 5.3 – Judicial Independence and Accountability:* The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.