

MF-1

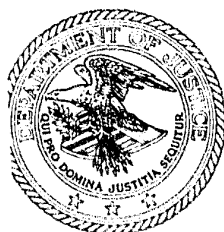
THE **EMT** GROUP, INC.

PLANNING IN THE COURT ENVIRONMENT

Perceptions and Prospects

Harry O. Lawson and Barbara J. Gletne

108894



**Bureau of
Justice
Assistance**

ADJUDICATION TECHNICAL ASSISTANCE PROJECT

THE E M T GROUP, INC.

Evaluation, Management and Training
2100 Northrop Ave., Suite 800
Water Tower Plaza
Sacramento, CA 95825
Joel L. Phillips, President

ADJUDICATION TECHNICAL ASSISTANCE PROJECT

JOSEPH A. TROTTER, JR., PROJECT DIRECTOR
3615 Wisconsin Ave., N.W.
Washington, D.C. 20016
(202) 362-4183

PROJECT STAFF

Evelyn Boehm	Michael DiMichele
Lynne Cannady	Philip Kline
Caroline Cooper	Joel Phillips
James Dimm	Dorothy Riggs

SPECIAL CONSULTANTS

Andrew Sonner, Prosecution
Walter Busher, Jail Population Management

GOVERNMENT PROGRAM MANAGER

Linda McKay
U.S. Department of Justice
Bureau of Justice Assistance
633 Indiana Avenue, N.W.
Washington, D.C. 20531
(202) 272-4601

108894

ADJUDICATION TECHNICAL ASSISTANCE PROJECT
The EMT Group, Inc.

Resource Monograph No. 002

PLANNING IN THE COURT ENVIRONMENT
PERCEPTIONS AND PROSPECTS

Authors:

Harry O. Lawson and Barbara J. Gletne

June 1987

NCJRS

FEB 2 1988

ACQUISITIONS

Adjudication Technical Assistance Project

BJA COOPERATIVE AGREEMENT NO. 86-SA=CX-K010

U.S. Department of Justice
National Institute of Justice

108894

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Public Domain/BJA

U.S. Department of Justice

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

This report was prepared in conjunction with the EMT Adjudication Technical Assistance Project, under a Cooperative Agreement with the Bureau of Justice Assistance of the U.S. Department of Justice.

Organizations undertaking such projects under Federal Government sponsorship are encouraged to express their own judgment freely. Therefore, points of view or opinions stated in this report do not necessarily represent the official position of the Department of Justice. EMT is solely responsible for the factual accuracy of all material presented in this publication.

PREFACE

This monograph is the culmination of several years' observation and analysis of the planning process in state judicial systems. The monograph traces the development or demise/decline (in some jurisdictions) of judicial planning during the past decade, and it presents some recommendations concerning the role of planning in judicial system governance.

As was true of personnel and fiscal management, development of workload measures, project evaluation, and other public management concepts and tools, planning arrived much later on the judicial scene than it did for other public entities. In most jurisdictions, planning as a recognized formal activity was virtually unheard of until 1976. In that year, Congress passed the Crime Control Act of 1976 (P.L. 94-503), which extended the life of the Law Enforcement Assistance Administration (LEAA). This law provided a mechanism for state court systems to develop planning capabilities. It made funding available for planning and for the creation of judicial planning committees or councils (JPCs).

In a previous monograph, the authors examined how state judicial systems made use of that opportunity to develop a planning capability, the scope of that capability, and the composition and functions of JPCs.¹ It primarily covered the period from 1977 through 1981. Some of the material from that monograph is incorporated here in Chapter 2, which presents an overview of planning in state court systems, including its current status in 1986.

That monograph piqued the authors' interest in looking at judicial planning in more depth in selected jurisdictions through on-site visits. Those field visits were made possible by a grant from the Hughes Research and Development Fund, University of Denver College of Law. Six states were selected for field study: Colorado, Kansas, Louisiana, Minnesota, South Dakota, and Washington. The reasons for selecting these states are set forth in Chapter 3, Study Purposes and Methodology.

The last two chapters present the study findings. Chapter 4 discusses the similarities and differences in the findings in the six states, and Chapter 5 relates these findings to judicial administration and planning. It concludes with some recommendations by the authors.

As with their other writing efforts, the authors have a long list of acknowledgements and people they wish to thank. Several students in the Master of Science in Judicial Administration program made significant contributions in making the six-state study and compiling the results. These included:

Janet Bieringer, Kim Curtis, Jan Fielder, Judy Foland, Chris Ledbetter, and Tami Silvis. Another MSJA student Irene Cohen, analyzed and compiled data on planning in state court systems in 1986.

The final product went through several revisions and considerable condensation from its original three hundred plus pages. The authors were ably aided and abetted in this process by the thorough, patient, and precise editing of Marion Weaver Lawson. The list of state court administrators and planners in the six states who were very helpful and giving of their time included: James D. Thomas, SCA, and Dan Hall, Colorado; Howard Schwartz, SCA, Kansas; Gene Murrett, SCA, Hugh Collins, and Lance Mitchell, Jr., Louisiana; Sue Dosal, SCA, and Janet Marshall, Minnesota; Mark G. Geddes, SCA, South Dakota; and James Larsen, SCA, Washington.

The authors also wish to thank several chairpersons and former chairpersons of JPCs or their equivalent for their time and assistance: Judge Donald P. Smith, Colorado; Chief Justice Alfred C. Schroeder, and Justice David Prager, Kansas; Judge Albert Tate Jr. (deceased), U.S. 5th Circuit Court of Appeals, and former justice, Louisiana Supreme Court; Justice Lawrence R. Yetka, Minnesota; Former Chief Justice Roger L. Wollman, South Dakota; and Former Chief Justices Robert F. Utter and Robert F. Brachtenbach, Washington state.

This effort could not have been made without the help of all the other state court administrators and planners who took the time to respond to our seemingly insatiable demands for information.

This publication was made possible by the Bureau of Justice Assistance, United States Department of Justice.

Finally, the authors once again take full responsibility for any sins of commission or omission as to substance and interpretation.

Harry O. Lawson	Barbara J. Gletne
University of Denver	Administrative Officer
College of Law	Colorado Public Defender System

December 15, 1986

¹ *Judicial Planning in Transition 1977-1981* (Washington, DC: Criminal Courts Technical Assistance Project, The American University Law Institute, January 1982).

TABLE OF CONTENTS

PREFACE	iii	5. PLANNING AND JUDICIAL ADMINISTRATION	27
1. PLANNING A CONCEPTUAL FRAMEWORK	1	Introduction	27
Introduction/Definition of Planning	1	Assessing Success and Accomplishments	27
Planning in the Private Sector	2	State-by-State Analysis	28
Planning in the Public Sector	2	Colorado	28
The Ideal Planning System	3	Kansas	28
Conclusion	5	Louisiana	29
2. PLANNING IN STATE COURT SYSTEMS: AN OVERVIEW AND HISTORY	6	Minnesota	30
Introduction	6	South Dakota	30
Federal Support for State Planning	6	Washington	31
Six-State Pilot Project	6	Summary	32
Effect of Pilot Projects	8	Planning and Judicial Administration	32
1976 Federal Legislation	8	1) Planning Redefined	33
Judicial Planning: 1977 Summary	9	2) JPC Role	33
Judicial Planning: 1981 Summary	9	3) Long-Range Plan Adoption and Implementation	33
Judicial Planning: 1984 Summary	9	Conclusion	33
Judicial Planning: 1986 Summary	9		
3. STUDY PURPOSES AND METHODOLOGY	12	CHARTS AND TABLES	
Introduction	12	Chart 1.1 The Nature of Management Process	2
Study Methodology	12	Chart 1.2 Planning Organizations of Varying Degrees of Complexity	4
On-Site Studies	12	Table 2.1 States With JPCs or Similar Bodies	10
Site Selection	12	Table 2.2 Size of Judicial Planning Staff	11
States Selected	13	Table 3.1 Locations Covered by On-Site Interviews, Six Selected States, 1982-83	14
Questionnaire Design and Use	13	Table 3.2 Composition by Category of Those Interviewed or Who Returned Questionnaires	14
Background Material and Reports	13	Table 4.1 Judicial Planning Council Membership	17
4. COMPARISONS AND CONTRASTS	15	Table 4.2 Attitudes About Planning and JPCs	18
Introduction	15	Table 4.3 Quality of JPC Staff Work and Its Effect on JPC Acceptance and Support	19
1976 Judicial System Status in the Six States	15	Table 4.4 Views About JPC Policy Making In Setting Goals and Objectives	19
Colorado	15	Table 4.5 JPC Success in Doing What It was Established to Do and Effect on Judicial Administration	20
Kansas	15	Table 4.6 Extent to Which JPC Projects were Accepted or Carried Out	20
South Dakota	16	Table 4.7 JPC Acceptance and Support by Selected Officials and Groups	21
Minnesota	16	Table 4.8 Reasons for JPC Success	22
Louisiana	16	Table 4.9 Reasons Why JPC Was Not Successful	22
Washington	16	Table 4.10 JPC Greatest Accomplishments	24
JPCs: Demography and Purposes	16	Table 4.11 JPC Least Accomplishments	25
JPC Membership	16	Table 4.12 Major Reasons for Terminating JPC	26
Initial JPC Activity	17		
Similarity of Views and Purposes	17	APPENDIX	
Attitudes About Planning	18	A Brief Profiles of the Six States Included in the JPC Study	34
Quality of JPC Staff Work	18		
JPC Policy Making	19		
Conclusion	19		
Dissimilar Views and Perceptions	20		
JPC Success and Effect on Judicial Administration	20		
Extent to Which JPC Projects Were Carried Out	20		
JPC Acceptance and Support	21		
Reasons for JPC Success or Lack Thereof	21		
JPC Greatest Accomplishments	23		
JPC Least Accomplishments or Greatest Failure	23		
Major Reasons for Terminating JPC	26		
Summary	26		

1. Planning - A Conceptual Framework

Introduction

Some understanding of the definition of planning, its processes, components, and use as a management tool is helpful in providing an introductory background to a study of planning in the courts. Thus, this chapter describes the definition of planning, its status as a management tool, and the history of the planning process in the public and private sectors. Later chapters discuss the history of planning in the courts and the specific findings of this study.

Definition of Planning

Planning can be described as an activity "centrally concerned with the linkage between knowledge and organized action."¹ It is a "process by which management decisions are made in light of organizational goals."² According to one author:

Planning usually requires a considerable level of effort in policy analysis, evaluation and programming. Plans are specifications of future events that are set ahead of time for less than one, five, or even ten to twenty years.³

While planning includes decision making, it is much more. It is "deciding in advance what to do, how to do it, when to do it, and who is to do it. It makes it possible for things to occur which would not otherwise happen."⁴ Further, "planning presupposes the existence of alternatives, and there are decisions for which some kind of alternative does not exist - even when it comes to meeting legal and other requirements imposed by forces beyond the manager's control."⁵

Integration of Planning with Other Management Functions

Planning is only one of several management functions necessary to accomplish the goals of an organization according to proponents of the functional approach to management. While other functions of management may differ, such traditional management scientists as Henri Fayol,⁶ Lyndall Urwick,⁷

R. C. Davis,⁸ and Mary Parker Follett⁹ all emphasized the roll of planning in the early part of this century. More recently, Earnest Dale,¹⁰ William T. Greenwood,¹¹ and Bertram Gross,¹² among others, include planning in their lists of management functions.

Henri Fayol developed the first "list" of managerial functions in 1916. They included planning, organizing, command, coordination, and control.¹³ As time went on other functions such as Staffing, Direction, Innovation, Representation, Decision Making, Direction and Leadership, Communication, Activating, Evaluating, and Administering were listed.¹⁴ Many believe that these "newer" functions were nothing more than elements of Fayol's original list. Whichever theorist one may align himself with, it is clear that all consider planning as a major component of management, and without all components working together, the organization will suffer.

While planning is emphasized in this study, it is important to discuss the interrelationship between planning and some of the other management functions outlined above.

According to John B. Miner, there are four functions that the research consistently identifies as important for managers. They are planning, directing, coordinating, and controlling.¹⁵

Chart 1.1 illustrates Miner's model of the nature of the management process. Clearly its emphasis is on the use of resources (in this case human resources) in achieving organizational goals.

In general, inputs, as shown in the model, can include any of several resources (monetary, material, and human) and outputs include profit or loss, product sales, and role behaviors.¹⁶

In his model, Miner identifies planning as important in establishing role perceptions. According to several research studies, planning can be defined to include organization planning, formulating purpose, innovating, and decision making. As such, planning facilitates the emergence of formal and informal role perceptions or the value structure of the organizations. The value structure should be the product of conscious planning.¹⁷

1. John Friedman and Barclay Hudson, "Knowledge and Action: A Guide to Planning Theory," *Readings on Human Services Planning*, Gerald Horton, ed. (Atlanta, GA: The Research Group, Inc., 1975), p. 147.

2. Russell R. Wheeler, "Planning in the State Courts," *Managing the State Courts*, Larry C. Berkson, Steven W. Hays and Susan J. Carbon, eds. (St. Paul, MN: West Publishing Co., 1977), p. 357.

3. Guy Benveniste, *The Politics of Expertise*, 2nd ed., (San Francisco, CA: Boyd and Fraser Publishing Company, 1977), p. 9.

4. Harold Koontz and Cyril O'Donnell, *Management A Systems and Contingency Analysis of Managerial Functions*, (New York: McGraw-Hill Book Company, 1976), p. 129.

5. Ibid.

6. Henri Fayol, *General & Industrial Management*, (London: Pitman, 1949).

7. Lyndall Urwick, *The Elements of Administration*, (New York: Harper, 1943).

8. R.C. Davis, *The Fundamentals of Top Management*, (New York: Harper, 1951).

9. Mary Parker Follett, *Freedom & Co-ordination: Lectures in Business Organization* by Mary Parker Follett, Lyndall Urwick, ed. (London: Pitman, 1949).

10. Earnest Dale, *Management: Theory & Practice*, (New York: McGraw-Hill, 1969).

11. William T. Greenwood, *Management & Organizational Behavior Theories: An Interdisciplinary Approach*, (Cincinnati, OH: South-Western, 1965).

12. Bertram Gross, *Organizations and Their Managing* (New York: Free Press, 1968).

13. Henri Fayol, *General and Industrial Management*.

14. John B. Miner, *The Management Process Theory, Research & Practice*, (New York: The MacMillian Company, 1973), p. 48.

15. Ibid., p. 64.

16. Ibid., p. 19.

17. Ibid., p. 64.

Directing is an Input-Improving Mediator according to Miner, because directing or supervising emphasizes the method of getting the best performance out of organization members. It is a means for motivating their role behavior. Supervision attempts to align role prescriptions and role behavior by inducing a maximal contribution from its employees and thus, improves the human resources or input portion of his model.¹⁸

As a management function, coordinating prevents conflict and misunderstanding and as such contributes to role behavior as an input-sustaining mediator. It contributes to the integration of effort.¹⁹

Finally, controlling can be considered the ultimate mediator. It moves roles behavior toward role prescriptions.²⁰

Chart 1.1 includes several "secondary" management functions as well. They include staffing and representing.

Chart 1.1 The Nature of Management Process^a

Input Processes	Mediating Processes	Output Processes
Staffing (Recruiting)	Establishing Role	Staffing (Appraising)
Staffing (Selecting)	Prescriptions	
	Planning	
	Organizing	
	Dealing with Inputs	
	Input-Improving	
	Directing	
	Staffing (Developing)	
	Staffing (Compensating)	
	Input-Sustaining	
	Coordinating	
	Input-Controlling	
	Controlling	
	Dealing with External Constraints and Facilitators	
	Representing	

a. John B. Miner, *The Management Process Theory, Research and Practice*, (New York, NY: The MacMillan Company, 1973), p. 68.

What should be clear from this review is that planning is only one of several management functions and should be viewed as one role of management that is necessary if an organization is to accomplish its goals.

Planning in the Private Sector

Planning was nearly non-existent prior to World War II. Since the late 1950s and early 1960s corporate planning has grown from a few management consultants to a point where most corporations have major planning divisions. This is not to say that planning is conducted on an equal basis in all companies. In fact, planning is often limited to finance and marketing.²¹

18. Ibid., p. 65.

19. Ibid., p. 66.

20. Ibid.

Planning in the Public Sector

Governmental planning in the Soviet Union and the more socialistic France and Scandinavian countries was highly centralized at the national level and thus the term "planning" was considered an anathema in less centralized western countries. In this country, planning remains highly decentralized, is difficult to describe, and has no overall national influence.

Public sector planning in the United States can be traced to the early days of governmental intervention with the "creation of the Interstate Commerce Commission in 1887, the passage of the Sherman Antitrust Act of 1890, the establishment of the Federal Trade Commission, and the development of the conservation commission under President Theodore Roosevelt."²²

War and depression brought more planning entities into government: the War Industries Board, the War Trade Board, the Shipping Board, and the War Labor Board during World War I. Reaction to the depression brought such programs as the Tennessee Valley Authority and other planning activities by agencies such as the National Forest Service, the Bureau of Reclamation, the Corps of Engineers, and the U.S. Geological Survey.²³

In 1936, this country came close to having a national planning body. The National Resources Planning Board was created by President Franklin Roosevelt to be an advisory board under the executive branch. The board made recommendations in resource use, population trends, and other socio-economic issues. As the board grew, it began to acquire a great deal of influence. Presumably, this influence began to challenge the functions of Congress or was perceived to do so. Eventually, congressional opponents were successful in abolishing the board in 1943, when Congress determined that its functions could not be transferred to any other agency.²⁴

Governmental planning at the local, state, and national levels reached its peak during the 1960s and 1970s. The concept of revenue sharing through direct, categorical, or block grants required the establishment of local or state planning bodies or boards and the development of plans to address problems through the use of federal funds.

The epitome of this type of governmental planning occurred in 1965 with President Johnson's introduction of Program Budgeting or PPBS. This was a budgeting system which ideally required each agency to provide:

1. a set of program options, presented in a format that emphasized the goals these programs were designed to achieve,
2. an analytic process to discover and design alternative programs, estimate their cost and effectiveness, rank them on various criteria, and supply arguments pro and con, and

21. Ibid., p. 116.

22. Guy Benveniste, *The Politics of Expertise*, p. 96.

23. Ibid.

24. Ibid., pp. 96-97.

3. a data information system to tell the policy-makers how their programs are getting along and to provide material for analysis.²⁵

Through this process, PPBS was to "specify (and where possible to quantify) objectives of 'output' of federal spending programs and then to minimize the cost of achieving these objectives to ascertain whether the program benefits exceeded the costs."²⁶

For several reasons, PPBS had been abandoned by mid-1971 as a federal budgeting tool. Most of the reasons which have been cited for its failure imply that planning and budgeting do not mix in governmental settings. E.S. Quade cites the following as some of the reasons for its demise:

1. it did not penetrate the vital routines of putting together a budget because of the practices and traditions of budgeting firmly established. Not enough leadership, support and resources were invested in the system;
2. good analysis and data were in short supply and those available did not always give consideration to budgetary traditions and institutional loyalties;
3. the system did not always fulfill the agency's goal of serving the public interest;
4. the system was designed for a world of separable goals rather than one of interdependent goals; and
5. the system was seen as a tool of the executives and was administered that way. As a result, legislators who controlled the funds took little interest in it.²⁷

From the demise of PPBS to the current era of reduced federal funding, many federal, state, and local agencies developed federal funding planning capabilities merely to comply with federal grants-in-aid programs. Any systematic or long-range planning that occurred in most of these organizations was secondary to grant writing or federal compliance reporting. As a result, in many agencies, the concept of organizational decision-making in light of goals or objectives was forgotten.

Based on this analysis, one could assume that planning, at least on a national level, has been a failure. It has certainly not controlled the consequences of actions. Perhaps, this assessment of failure is due to an image of how an ideal planning system would function.

The Ideal Planning System

Is there such a thing? Probably not, but academicians like to believe that certain conditions must exist and courses of actions taken in order for successful planning to be accomplished.

Many believe that "planning is the most basic of all management functions since it involves selecting from among alternative future courses of actions."²⁸

To accomplish the optimum planning process the proper environment must be established. Because planning should occur at every level of an organization, it is important for each manager to "remove obstacles to planning and try to establish a climate in which subordinates must plan. This involves, at each level of management, setting goals, establishing and publicizing applicable significant planning premises, involving all managers in the planning process, reviewing subordinate plans and their performance and assuring appropriate staff assistance and information. All this adds up to recognizing that planning will not occur unless it is forced and the facilities to undertake it are made available."²⁹

All planning must start at the top. In fact, chief executives may spend over fifty percent of their time in planning. But it should not stop there. Superiors should be pressed to review and accept plans if they are presented to them by subordinates.

Chart 1.2 illustrates where planning can occur within an organization. It should be noted that planning committees are shown at several levels. Usually these groups operate in an advisory capacity with decision making residing with top management. As will be seen in later sections, planning committees have been used in many court systems.

25. E. S. Quade, *Analysis for Public Decisions*, (New York, NY: North Holland, 1982), p. 288.

26. David J. Ott, Atiat F. Ott, "The Budget Process," *Planning Programming Budgeting: A Systems Approach to Management*, 2nd ed., Fremont J. Lyden & Ernest G. Miller, eds. (Chicago, IL: Rand McNally Publishing Co., 1972), p. 44.

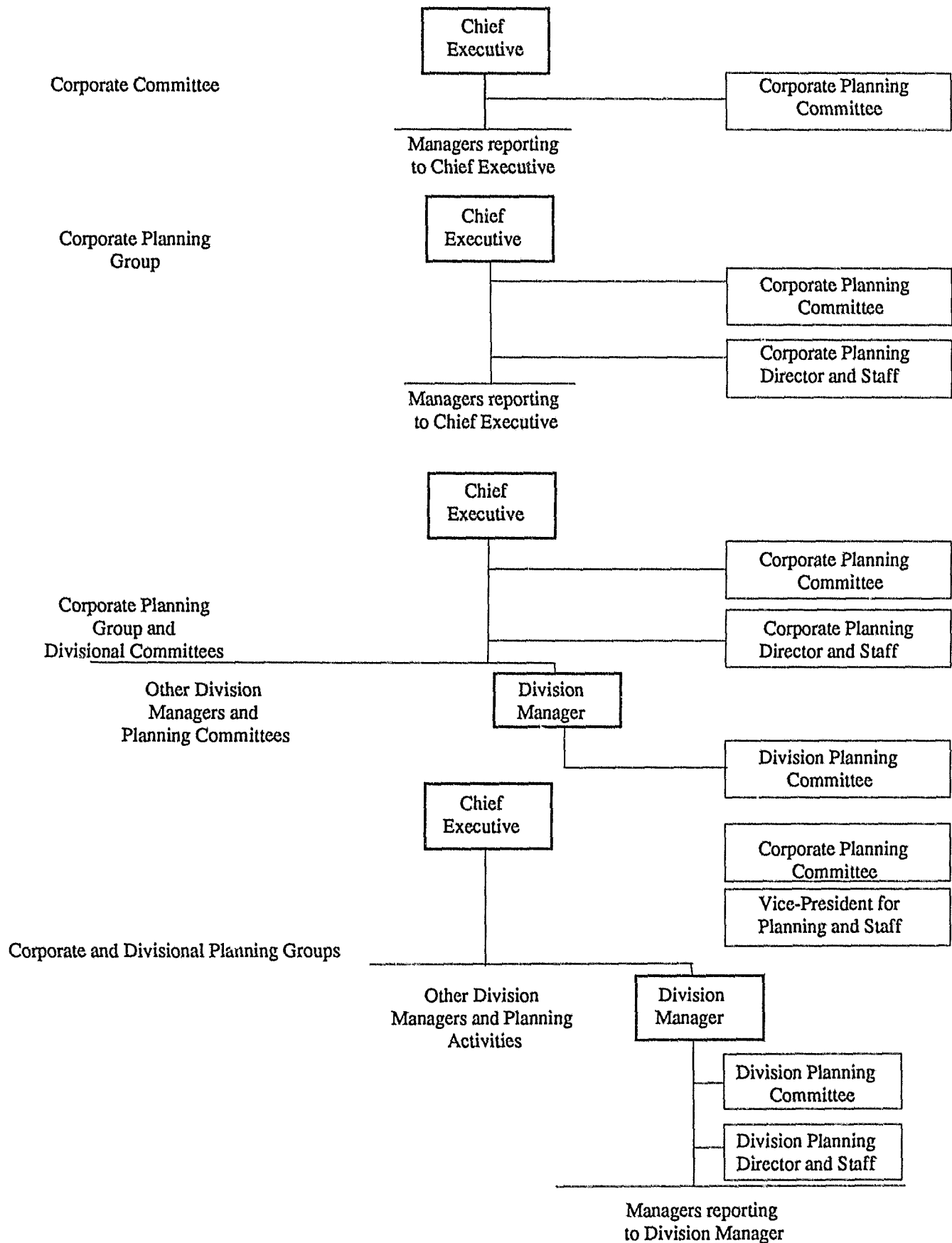
27. Quade, *Analysis for Public Decisions*, pp. 290-291.

28. Koontz and O'Donnell, *Management or Systems & Contingency Analysis of Managerial Functions*, p. 125.

29. Ibid, p. 261.

Chart 1.2 Planning Organizations of Varying Degrees of Complexity^a

Nature of Planning Process **Representative Organization Structure**



a. John B. Miner, *The Management Process Theory, Research and Practice*, (New York, NY: The MacMillian Company, 1973), p. 118-119.

Conclusion

Planning has been seen by many as an ongoing, cybernetic process of governance, which incorporates systematic procedures. Yet, as will be discussed, experience has shown that such a system may not be attained. Clearly the jury is still out on the long-range effect of planning in court systems or, perhaps, in any system.

Primarily, this monograph reviews the planning efforts of selected state judicial systems as viewed by key actors in these states. These planning efforts were carried out by judicial planning committees or councils. The results of these efforts and the effectiveness of the processes used are assessed by JPC members and others who were closely involved.

It is not the intent of the authors to determine authoritatively or arbitrarily if planning can succeed in a court environment. This review and analysis of judicial system planning cover as many as fifteen years in some instances. Study findings and conclusions provide insight on the actual and potential value of planning in a court environment.

2. PLANNING IN STATE COURT SYSTEMS: AN OVERVIEW AND HISTORY

Introduction

Prior to 1975, concentrated, long-range planning in state court systems was nearly non-existent. In a 1976 report, the National Center for State Courts wrote: "Many courts have planned for specific purposes, such as management of federal grants or implementation of statutory or constitutional changes in court structure and procedures. Few courts or court systems have planned in a disciplined fashion to identify and attain long-term goals."¹

Reviewing the history of court planning is reviewing the history of state court administrative agencies.² According to Russell Wheeler, the failure of most judicial councils, established in the 1920's, caused state supreme courts to ally themselves with state court administrative offices to assume what central court management authority there was, "including the real or potential authority to exercise management's major substantive function, planning."³ With the advent of federal funding through the Law Enforcement Assistance Administration (LEAA), planning became a function of many of these administrative offices.⁴

Court planning emphasis, at least initially, was primarily project oriented rather than on management planning as outlined in chapter 1.

Wheeler goes on to review surveys of state court planning units in 1976:

According to the Council of State Governments, 22 of the 24 planning units reported in its 1976 survey were created after 1970. This recent surge of planning units reflects the impact of the federal anti-crime program that was initiated in 1968. All but seven of the existing planning units reported by the COSG survey rely in part on federal funds, most on a 10:90 state:federal ratio. Furthermore (although the COSG report does not so hold), this heavy increase in court planning units may not represent a judicial commitment to comprehensive planning as much as it does a desire to take advantage of funds available for that purpose.⁵

This chapter provides an overview of the extent of state court planning since the time when federal funds were provided for that purpose, as well as what has happened to

planning after the termination of those funds. This history of federal funding for court planning units provides a framework for assessing the status of comprehensive planning since 1976.

Federal Support for State Court Planning

In 1975, a special study team on Law Enforcement Assistance Administration (LEAA) support of state courts (The "Irving Report") found that state courts "had not received the interest, technical assistance, or financial support from LEAA that are absolutely essential for sound growth and progress."⁶ The report came as a result of several years of disagreement among state court systems, state criminal justice planning agencies that administered LEAA funds, and LEAA over adequate federal funding for courts (primarily for projects) in contrast with federal funding for law enforcement, corrections, and other so-called criminal justice agencies.

Six-State Pilot Project

As a result of this report, "LEAA began a multifaceted two million dollar set of interrelated projects."⁷ One of those projects was the availability of funds for the development of state court planning capabilities. In addition, the National Center for State Courts (NCSC) conducted three phases of a project to assist state court systems in developing planning capabilities. This project was called the State Court Planning Capabilities Project.⁸

The combination of LEAA funds and the NCSC project, provided six pilot states for judicial planning. The pilot states were Georgia, Louisiana, Maine, Maryland, North Dakota, and Oregon. What follows is a summary of the activities of those pilot states.

Georgia

An LEAA grant was awarded in June, 1976.⁹ With that grant, the state provided staff work for a Long-Range Planning Committee (LRPC), which was a committee of the judicial council. The LRPC was:

- (1) to become involved in long-range planning in order to anticipate future needs of the Georgia court systems;
- (2) to identify methods to simplify and expedite the administration of justice in the State of Georgia;

1. *Planning in State Courts: A Survey of the State of the Art* (Washington, DC: National Center for State Courts, 1977), p. 13.

2. Russell R. Wheeler, "Planning in the State Courts," Larry C. Berkson, Steven W. Hays, and Susan J. Carbon, eds., *Managing the State Courts* (St. Paul: West Publishing Co., 1977), p. 340.

3. Ibid.

4. LEAA and the specific legislation relating to judicial system planning is discussed on pp.22-23.

5. Ibid., p. 341.

6. as cited in Daniel J. Elazar and Ellis Katz, "Final Report on the Court Planning Capabilities Project of the National Center for State Courts — Phase 1, October 1, 1975 — October 31, 1976" (Philadelphia: Center for the Study of Federalism, Temple University), p. 1. Also see John F. Irving, Peter Haynes, and Henry V. Pennington, *Report of the Special Study Team on LEAA Support of State Courts*, (Washington, DC: The American University Criminal Court Technical Assistance Project, 1975).

7. Ibid.

8. Ibid.

9. Ibid., p. 13.

- (3) to recommend policies and procedures to create a continuing court planning capacity in the Administrative Office of the Courts and for the State of Georgia; and
- (4) to provide guidance to the planning staff of the Administrative Office of the Courts in the development of planning documents which will obtain maximum utilization of all available resources to meet recognized objectives of the Georgia court system.¹⁰

In December, 1977, the Judicial Council created a Judicial Planning Committee (JPC). The JPC did not have the same membership as the LRPC, but its membership included "all members of the Judicial Council, thus creating overlap, not only between the Council and the JPC, but the LRPC as well."¹¹

Because many of the functions of the LRPC and the JPC were the same, the LRPC was disbanded in September, 1977, leaving planning to the JPC.¹² The JPC no longer exists, but the chief justice has proposed that the Georgia Judicial Council again assume responsibility for this task.¹³

Louisiana

The JPC is now a committee of the Louisiana Judicial Council. Louisiana began its federally-funded activities in June, 1976. According to the Court Planning Capabilities Project's evaluation, the Louisiana effort was a success in several respects:

- (1) A grant application was developed to fund a Judicial Planning Council that was easily and quickly converted to the state's JPC with the passage of P.L. 94-503. (see pp.22-23.)
- (2) A plan was developed that was recognized by the LEAA Regional Office as a model.
- (3) Several short-term changes in areas such as small claims, court reporting and public information were developed and implemented.
- (4) A long-range planning process began - most significant was its attention to court finance.¹⁴

Maine

Maine hired a planning staff at the end of 1977. Due to an "antiplanning" atmosphere in that state, the process in those early years had to function within that philosophy.¹⁵

An Advisory Committee on Court Management and Policy was developed to serve as a screening committee for the supreme court on administrative matters. In its first report to the supreme court, the committee stated that, "The process will involve some thought of the future, but will primarily be an attempt to deal with issues that need resolution in the present."¹⁶

Thus, in its early phase in Maine, planning covered such issues as jury sequestering, trial *de novo*, judicial orientation, small claims, and security, bail commissioners, salaries for active justices retirement, and uniform court protocol.¹⁷

The planning committee was disbanded in 1980, with the disappearance of LEAA funds. In mid 1983, the chief justice of Maine established the Judicial Policy Committee to address the long-range planning needs of the judicial branch. Long-range planning is now a responsibility of the administrative office, particularly the director of Policy and Analysis.¹⁸

Maryland

The Maryland court system was the most centralized of the pilot states. It also had a highly professional administrative staff before federal planning funds were made available through LEAA in 1976. As a result, the planning effort was to be a decentralized one, modeled after the "strategic business unit" planning system of General Electric.¹⁹

Unfortunately, there seemed to be little support for the local planning process among the trial judges. Thus, planning efforts were limited to the identification of a number of locally specific court problems.²⁰ Finally, an information administrative docket process was developed to solve some administrative problems.²¹

North Dakota

North Dakota's early efforts at a formal planning process were, perhaps, the most successful of all the pilot states.

At the time the planning unit was established, the state was facing a constitutional amendment to unify the courts. Upon its passage, the planning unit was instrumental in drafting rules and legislation for implementation of the amendment.²² While the legislation was not enacted in its entirety the first time it was submitted to the legislature, the planning effort produced one of the most comprehensive judicial plans in the country. It also developed a "rule on rules" which could be used as a model in other states.²³

Today, North Dakota's JPC is still functioning well. There appears to have been little interruption since it was established.²⁴

Oregon

While Oregon was considered a pilot state, planning activities did not begin there until after the passage of P.L. 94-503.²⁵

Much of the early activity in Oregon centered on the state criminal justice process. Toward the end of the project, trial judges identified several types of cases that they believed should be handled in a different way and made suggestions for

10. Daniel J. Elazar and Ellis Katz, "Three Years of Court Planning Final Evaluation of the Court Planning Capabilities Project," (Philadelphia, PA: Center for the Study of Federalism, Temple University), June 26, 1979, p. 15.

11. *Ibid.*, p. 17.

12. *Ibid.*

13. Georgia judicial planning questionnaire response October, 1986.

14. Elazar and Katz, *supra.*, note 9, pp. 29-30.

15. *Ibid.*, p. 35.

16. *Ibid.*, p. 36-37.

17. *Ibid.*, p. 36.

18. Maine response to 1986 judicial planning questionnaire.

19. Elazar and Katz, *supra.*, note 9, pp. 39-41.

20. *Ibid.*, pp. 45-46.

21. *Ibid.*, p. 46.

22. *Ibid.*, pp. 47-54.

23. *Ibid.*

24. North Dakota response to 1986 planning questionnaire.

25. Elazar and Katz, *supra.*, note 9, p. 56.

arbitration, mediation, and conciliation procedures.²⁶ By the end of the project, the planning effort had begun to address some long-range issues.

Today, there is no judicial planning body in Oregon, and the state court administrator is responsible for that function.²⁷

Effect of Pilot Projects

The work of the six pilot states became the basis for much of the court planning which occurred after the 1976 amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Those amendments provided funds for the establishment of Judicial Planning Committees. While the underlying theme of those committees was planning for LEAA funds, court systems that developed planning with an eye toward more long-range integrated functions appeared to have survived the initial round of fiscal cut-backs better than those whose focus was more narrow. Those jurisdictions with long-range integrated planning may well be the innovators, pointing the way to national survival in an era of limited resources. A caveat is that some jurisdictions in this category became project oriented even when their stated purpose was long-range systemwide planning.

1976 Federal Legislation

Introduction

As was indicated earlier, state judicial systems and many appellate and trial courts were concerned over the amount and proportion of LEAA grant funds allocated for judicial purposes by state criminal justice planning agencies. This concern was prompted in part by the small proportion of judicial branch representation on state criminal justice planning councils (executive branch agencies) in many jurisdictions. In part, it was a result of what judicial spokesmen saw as a lack of significant involvement in the planning, development, and presentation of judicial projects and programs for federal funding. Finally, courts perceived a lack of understanding by state criminal justice councils of the judicial process and a failure to recognize that the judicial system constituted a separate branch of government.²⁸

With judicial concern focused on the amount of grants and the funding process, it is not surprising that many jurisdictions viewed planning narrowly when judicial planning councils or committees were first created. In fact, in some jurisdictions, the acquisition of federal funds was the major, if not the only purpose of the JPCs and the planning function during the time they were federally supported.

Pertinent Provisions of P.L. 94-503 (1976)

Congress addressed state judicial concerns through several provisions of P.L. 94-503 (1976), also known as the Crime Control Act of 1976. This act amended and extended the Crime Control Act of 1968. The provisions affecting courts were designed to make it possible for state judicial systems to pay a greater role in the criminal justice planning process, particularly in the allocation of LEAA funds for judicial projects and programs, by addressing most of the concerns mentioned above.

The court of last resort in each state or a judicial agency authorized by law could establish or designate a judicial planning committee for the preparation, development, and revision of an annual state judicial plan.²⁹ These JPCs are similar to the advisory committees mentioned in Chapter 1.

Judicial planning committees were given the following functions:

- 1) to establish priorities for improvements of the courts in the state;
- 2) to define, develop, and coordinate programs and projects for the improvement of courts in the state;
- 3) to develop an annual state judicial plan for the improvement of courts in the state to be included in the state comprehensive criminal justice plan.³⁰

The JPC was required to submit the plan to the state criminal justice planning agency. The state criminal justice planning agency was required to incorporate the JPC plan in the state plan. If a JPC was not appointed, or failed to submit a plan, the responsibility for preparing and developing the plan remained with the state criminal justice planning agency.³¹

Planning Status

The authors circulated a questionnaire to state court administrators during the first quarter of 1981 to ascertain the status of JPCs in 1977 and 1981. Follow-up questionnaires were distributed in 1984 and 1986 to review the status of planning in state court systems.

Responses to the first questionnaire were received from forty-six states, the District of Columbia and Puerto Rico, the second (1984) questionnaire yielded responses from thirty-six states and the District of Columbia; and the 1986 questionnaire was responded to by thirty-three states and the District of Columbia. What follows are the results of those surveys.

26. Ibid., p. 59.

27. Oregon response to 1986 planning questionnaire.

28. In fact, the 1975 Report of the Special Study Team on LEAA Support of State Courts (known popularly as the "Irving Report" for its principal author) was followed by another task force which analyzed LEAA block grant financial assistance to state courts. This task force was formed in response to both Congressional and state judicial concern over the level of federal funding for judicial projects and programs. See: Peter Haynes, et al, *Analysis of LEAA Block Grant Financial Assistance to State Courts, 1972-1975* (Washington, DC: Criminal Courts Technical Assistance Project, The American University Law Institute, 1976).

29. P.L. 94-503 (1976).

30. Ibid.

31. Ibid.

Judicial Planning: 1977 Summary

It is difficult to draw conclusions or identify and categorize operational models from the data on JPCs and judicial planning functions in 1977, primarily because reporting jurisdictions were in varying stages of development. There were some similarities among the majority of states responding to the questionnaire, and they may be generalized as follows:

- 1) Those states with JPCs were most likely to limit JPC membership to judges and others within the judicial system, with the exceptions being prosecutors, public defenders, and bar association representatives.
- 2) Virtually all JPCs were created or designated by supreme court or chief justice order.
- 3) Most JPC activities were limited to grant review and development of the annual state plan for court improvement, and the JPCs were most likely to serve in an advisory capacity to the supreme court, chief justice, or state court administrator, or to some combination of the three.
- 4) Planning staffs were almost exclusively placed within the AOC, with separate planning units or research and development units the most likely locations.
- 5) Most jurisdictions depended on the special LEAA allocation to fund JPCs and planning staffs.

Judicial Planning: 1981 Summary

By 1981, the patterns of state planning activity were more clear than they were in 1977. Three basic models could be discerned, as follows:

- 1) Planning as a separate activity was defunct, although the absorption of at least some planning functions by other units of the AOC was reported. These planning efforts were usually project oriented. The JPCs, if in existence in prior years, were terminated, so planning in 1981 was strictly a staff activity. Both state-funded and nonstate-funded jurisdictions are included in this category.
- 2) Planning was continued more or less at the same level of funding, but planning activities were expanded to include judicial systems' concerns other than federal grants. These jurisdictions usually had partial or total state funding, but a small number were still operating totally with federal funding. To continue beyond 1981, total state funding would be required. This model contained both state-funded and nonstate-funded jurisdictions, some with JPCs still in existence and others without JPCs.
- 3) Planning was continued at a higher level of activity encompassing a broad array of judicial system concerns, rather than being limited to federally-funded projects. Some jurisdictions in this category still had JPCs, but others did not. All of them were partially or totally state funded for

planning, and included both state-funded and nonstate-funded jurisdictions. To maintain or increase the level of planning activity achieved in 1981 would require total state funding in subsequent years. The planning emphasis was project oriented, with some JPCs striving to complete projects developed from previous long-range planning decisions. A few states judicial systems were involved with long-range comprehensive planning, either as a continuation of previous activities or as an entirely new effort.

Judicial Planning: 1984 Summary

The trends identified in 1981 were present in 1984. The number of JPCs was reduced, and two of the ten reported in 1984 were inactive. Seven jurisdictions that reported that their JPCs were defunct stated that JPC functions were assumed by another agency or group within the judicial system.

AOC staff planning activities were reported by several jurisdictions, but these were likely to be combined with research, statistics, or policy analysis. Long-range planning appeared to be the exception rather than the rule. A number of states reported short-range, project oriented planning activities. In jurisdictions where planning and research were performed by the same AOC staff members, the two were likely to be combined in such a way that long-range planning was displaced by result-oriented research projects.

Judicial Planning: 1986 Summary

The 1986 survey results show that judicial planning councils are virtually nonexistent. In fact, North Dakota may have the only active judicial planning council or committee that has carried over in representative membership composition, purposes, and functions from the 1970s, when funding was provided by LEAA. The Louisiana JPC is still in existence, but is now a committee of the Louisiana Judicial Council.

Judicial planning was reported as an activity of judicial councils in a number of states: Kansas, Tennessee, Texas, Utah, and Virginia. With the exception of Kansas, staff is provided by the AOC. In Kansas, the Judicial Council has its own staff. The Utah Judicial Council, chaired by the chief justice, is also responsible for judicial system governance.

Two states reported judicial planning involvement by other groups. In Alabama, the Judicial Study Commission is concerned with planning, as is the North Carolina Court Commission. The former is staffed by the AOC. In North Carolina, staff services are provided both by the AOC and the Institute of Government, University of North Carolina. Two jurisdictions (District of Columbia and Minnesota), responded that their JPCs were inactive. In both, planning is carried out by the administrative office. Minnesota also uses special study committees. Colorado, which terminated its judicial planning council in 1982, created a new judicial advisory committee in July 1985.

In most of the states without a planning body, this activity is a responsibility of the AOC, with emphasis placed primarily on short-range planning and related projects. At least two

states (Hawaii and Vermont) do strategic planning, and New Jersey is expecting to undertake strategic planning in 1987.

Some jurisdictions, such as Idaho and Vermont, adopt annual plans, and at least three are involved in long-range planning. Massachusetts has adopted a trial court three-year plan, 1986-1988. The Virginia Judicial Council has adopted a system-wide 1986-1988 comprehensive plan. This plan contains four system-wide goals, twenty-two program objectives, and eighty-eight specific tasks to be undertaken in the next two years. North Carolina has concentrated on long-range demographics to determine judicial system personnel and facility needs through 2050.

The forgoing discussion illustrates that planning continues to be an important component of judicial system management in many jurisdictions despite the demise of JPCs.

Table 2.1 traces the changes in and demise of JPCs from 1977 through 1986. Table 2.2 shows changes in judicial system planning staff during the same period.

TABLE 2.1
States* with JPCs or Similar Bodies,
(such as judicial councils or advisory committees
concerned with planning)
1977 through 1986

State	1977	1981	1984	1986
Alabama	X	X	b	c
Arizona	X		b	
California	X	X		
Colorado	X	X		X ^d
Delaware	X			
District of Columbia	X	X	e	e
Florida	X	X		b
Georgia	X	X		f
Hawaii				
Idaho				
Illinois				
Iowa		X		
Kansas	g	g	g	g
Kentucky	X	X	b	b
Louisiana	X	X	X ^h	X ^h
Maine			X	
Maryland				
Massachusetts	X	X	X	
Michigan	X	X	X	i
Minnesota	X	X	X	X ^j
Missouri	X	X		b
Montana	X			b
Nevada	X	X	X	b
New Hampshire	X	X		b
New Jersey	X	X		
New Mexico	X			
North Carolina	X	X		k
North Dakota	X	X	X	X

TABLE 2.1 (continued)

States* with JPCs or Similar Body
1977 through 1986

State	1977	1981	1984	1986
Oklahoma				
Oregon	X			
Pennsylvania	X	X	b	b
Rhode Island	X			b
South Carolina	X			b
South Dakota		l		
Tennessee	X	X		m
Texas	X			n
Utah	X	X	X	o
Vermont	X			
Virginia				p
Washington	X	X		b
West Virginia				
Wisconsin	X	X		
Wyoming		X	b	b

- a. States from which questionnaires were received.
- b. No response in year indicated.
- c. Alabama Judicial Study Commission involved in planning along with supreme court and AOC.
- d. Original judicial planning council was abolished in September 1983; new Judicial Advisory Committee appointed in July 1985.
- e. JPC never officially abolished, but has been inactive in years indicated.
- f. Chief justice has proposed that Georgia Judicial Council assume planning responsibility.
- g. Did not create a JPC as such, planning involved in many of the Kansas Judicial Council projects. The Kansas Judicial Study Advisory Committee (JSAC) did the planning for the unified judicial system, 1972-1974.
- h. Now a committee of the Louisiana Judicial Council.
- i. Judicial Coordinating Committee created in 1981, but not active.
- j. JPC never officially abolished, but inactive, a different and smaller committee appointed for each topic area examined; committee disbands upon task completion.
- k. JPC no longer exists; North Carolina Court Commission established in 1979.
- l. JPC created in 1979 and terminated in 1981.
- m. Now a function of the Tennessee Judicial Council.
- n. Now a function of the Texas Judicial Council.
- o. Now a function of the Utah Judicial Council, which is the governing body of the Utah Court system.
- p. Planning is one of the many functions of the Virginia Judicial Council.

TABLE 2.2

Size of Judicial Planning Staff^a
1977, 1984, and 1986

State	1977	1984	1986
Alabama	2	b	2
Arizona	b	c	c
California	4	0	e
Colorado	3	4	d
Connecticut	9	b	b
District of Columbia	e	1 ^f	1
Georgia	2	0	0
Florida	10	8.5	b
Hawaii	b	14	10 ^g
Idaho	h	h	h
Illinois	c	c	c
Indiana	4	6	b
Iowa	0	0	.25
Kansas	2	b	d
Louisiana	b	2	2 ⁱ
Maine	b	b	j
Maryland	2	5	2 ^k
Massachusetts	2	2	1 ^l
Michigan	2	1	d
Minnesota	3	3	1 ^m
Missouri	3	1.5	b
Montana	2	0	b
Nevada	1	0	b
New Hampshire	2	b	b
New Jersey	3	b	4 ⁿ
New Mexico	1.5	5.34	5
North Carolina	4	4	o
North Dakota	4	b	d
Oregon	1	.5	c
Pennsylvania	2	b	b
Rhode Island	3	b	b
South Dakota	0	2	0
Tennessee	2	d	c
Texas	0	b	c
Utah	2	.5	c
Vermont	b	5	5 ^p
Virginia	b	3	3
West Virginia	b	b	5 ^q
Wisconsin	b	4	7 ^q

- a. States that responded to the questionnaire.
b. No response.
c. Absorbed by AOC, no specific staff planning assignments.
d. Not indicated.
e. None full time.
f. Combined with other activities.
g. Responsibilities include planning, statistics, and research.

TABLE 2.2 (continued)

- h. One of the duties of the administrative director.
i. In addition to other duties.
j. Planning is the responsibility of the SCA and the director of policy and analysis.
k. Research and Planning Unit in AOC.
l. Ten percent of the time of the manager of planning and development.
m. Also legislative liaison, legal research, and related assignments.
n. Part time of deputy director and three other senior staff.
o. Responsibility of AOC Research and Planning Division; professional staff to North Carolina Courts Commission also provided by Institute of Government, University of North Carolina.
p. Part-time of SCA and management team.
q. Several AOC staff involved part time, including director.

3.

STUDY PURPOSES AND METHODOLOGY

Study Purposes

Introduction

Judicial planning councils or committees are past history in most states. The loss of federal funds is usually cited as the major reason for the demise of judicial planning councils, and, in a number of jurisdictions, apparently that is what happened; state governments either weren't asked to assume funding responsibility, or were unwilling to do so.

Although judicial planning may have reached its apogee in many jurisdictions in the late 1970s and early 1980s, it is still viable in others, as indicated in the previous chapter. For this reason, this study was designed to provide in-depth information on the creation, development, and status of judicial planning and judicial planning councils by examining six states through on-site visits to elicit the perceptions of those who were active participants, or who were involved, or who were informed bystanders.

Study Objectives

Specific study objectives included:

- 1) determination of whether what was done was really management planning or primarily focused on a series of projects, some unrelated;
- 2) determination of differences, if any, between state-funded and locally-funded jurisdictions as to the success and continuity of judicial planning and judicial planning councils;
- 3) determination of the extent to which some judicial planning councils and staff evolved into planning, research, and development arms of state court systems and the possible institutional and environmental reasons therefor;
- 4) examination of the internal relationships between judicial planning councils (and staff) and the supreme court, chief justice, trial courts, and other judicial system entities;
- 5) examination of the external relationship between judicial planning councils, prosecutors, public defenders, bar associations, and other agencies and groups;
- 6) examination of how planning is (or was) perceived to function by key actors or consumers, as contrasted with official rhetoric;
- 7) examination of the effect of elimination of federal funding on judicial planning councils and the planning function;
- 8) identification and explanation of the reasons for failure or elimination of the judicial planning council or the planning function other than the loss of federal funding;
- 9) examination of actual or possible alternatives to the use of a judicial planning council;
- 10) identification of similarities or differences in operational and organizational patterns among judicial planning councils and judicial planning processes included in the study;
- 11) identification and extrapolation of common elements in the six case studies having general application to judicial planning processes and judicial administration;
- 12) examination of the relationship between planning and effective court management and system governance; and
- 13) evaluation of the effect of broad-based judicial planning council participation (both within and outside of the judicial system) on court system management.

Study Methodology

On-Site Studies

On-site visitation was necessary to gather the degree and depth of information required to meet study objectives. The number of states selected for on-site study was dictated by time and resources. The authors' regular responsibilities made it unlikely that more than six states could be covered over a reasonable period of eighteen months. Research funds sufficient to make these on-site visits were made available by a foundation grant.¹ The field visits were made at times that were least disruptive of the authors' regular responsibilities. For this reason, the first field study was made in July, 1982 and the last in December, 1983.

While the field studies were completed over three years ago, the findings and conclusions still have significance for planning in state judicial systems. The 1986 questionnaire results discussed in the previous chapter indicate that judicial planning is still considered an important management tool in some jurisdictions in this era of limited resources, even if the use of planning committees or councils has diminished. In others, planning is still project oriented.

Site Selection

Several criteria were used in site selection:

- 1) reasonable proximity to Colorado (required by logistics and funding limitations);
- 2) reasonable possibility of covering at least the state capital and a major metropolitan or urban area in one working week;

1. Hughes Research and Development Fund, University of Denver, College of Law.

- 3) inclusion of both state-funded and nonstate-funded jurisdictions;²
- 4) inclusion of jurisdictions with still active judicial planning councils or their equivalent;
- 5) inclusion of jurisdictions where the judicial planning councils have been terminated to determine why;
- 6) inclusion of at least one jurisdiction where planning activity decisions and oversight are provided by an entity other than a judicial planning council; and
- 7) inclusion of jurisdictions where the authors had at least some familiarity with judicial system organization, management, and operations, such familiarity facilitating understanding of judicial planning activities and results in the limited time available.

States Selected

The six states selected were Colorado, Kansas, Louisiana, Minnesota, South Dakota, and Washington. Colorado, Kansas, and South Dakota are state-funded jurisdictions; Louisiana, Minnesota, and Washington are not. Louisiana and Minnesota had judicial planning councils that were still active at the time of the field visits.

Judicial planning councils were terminated in Colorado, South Dakota, and Washington, the latter two after elimination of federal funding. The Colorado judicial planning council was terminated in September, 1982, two years after elimination of federal funding. In Kansas, judicial planning is primarily conducted by the Kansas Judicial Council, and that state never had a judicial planning council as such.³

All six states are within two to two and one-half hours' flying time from Denver. The locations in each state covered by on-site interviews are shown in Table 3.1.

Questionnaire Design and Use

Even though a majority of those on or involved with judicial planning councils or their equivalents resided in the areas covered by the on-site visits, questionnaires were mailed to persons in other locations.⁴ The questionnaire, with appropriate instructions, was the same instrument used in the field interviews. The questionnaire covered factual information, as well as opinions and perceptions of respondents. The questions relating to opinions and perceptions usually involved a Likert-type scale.

Respondents were asked the nature and length of their involvement with the JPC (Judicial Council in Kansas) and their official position or positions during this involvement.

They were asked to evaluate the success or failure of the JPC and the reasons therefor and to cite specific examples. They were also asked to evaluate internal and external relationships, staff performance, JPC acceptance and support, and the effect of planning on judicial system governance.

South Dakota was used as the pre-test state. Some modifications were made in the questionnaire as a result of on-site experience in that state. Nevertheless, the data gathered from the other five states were generally comparable with those from South Dakota.

State court administrators (SCA) or judicial planning staffs provided the authors with lists of judicial planning council members, JPC subcommittee members, and other officials, groups, and members of the public involved with the judicial planning councils. All of these people were either scheduled for interviews or mailed questionnaires.

Included were: supreme court justices, appellate judges, general jurisdiction judges, limited and special jurisdiction judges, SCA and planning staff members, legislators and legislative staff, prosecutors, public defenders, bar association members, law enforcement officials, trial court administrators and clerks, media representatives, and general public members, although the mix varied from state to state. A composite by category of those interviewed or who returned questionnaires is presented in Table 3.2.

With the exception of one jurisdiction, the on-site interviews were conducted by the authors. In Colorado, Master of Science in Judicial Administration (MSJA) student research assistants from the University of Denver College of Law conducted the interviews, because the authors could have biased the results due to their involvement in the creation and operation of the Judicial Planning Council and their close relationship with many of the respondents. For Colorado, the authors analyzed the results, but did not know who the respondents were, except by categories.

Background Material and Reports

The authors collected all written material on judicial planning in the six states, including annual and interim reports, meeting minutes, special reports, and state judicial system plans. These documents were used both as background in this study and to supplement data collected by the interviews and by questionnaire responses. A separate, lengthy background chapter was prepared for each state, which was used as the basis for the consolidated and summary information, findings, and conclusions presented in following chapters.

2. As defined in Lawson, Winberry, Cady, Sterling, et al, *State Funding of Court Systems: An Initial Examination*, (Washington, D.C.: Institute for Advanced Studies in Justice, American University Law School, 1979), p.1.

3. More complete profiles of the six states selected will be found in Appendix A.

4. The overall mail questionnaire response rate from the six states was 55.8 percent, with a low of 37.2 percent and a high of 70.1 percent.

Table 3.1

**Locations Covered by On-Site Interviews
Six Selected States, 1982-1983**

State	Time of Visit		Locations Covered
	Months	Year	
Colo.	5-8	1983	Denver metro area, (incl. Boulder), Colorado Springs, Ft. Collins, Greeley
Kans.	9	1983	Kansas City, Lansing, Wichita, Wellington, Hutchinson, Topeka
La.	1	1983	New Orleans metro area, Baton Rouge
Minn.	8-10	1982	Minneapolis-St. Paul metro area
S. Dak.	6	1982	Rapid City, Pierre, Vermillion, Sioux Falls
Wash.	12	1983	Olympia, Tacoma, Seattle metro area, Everett

Table 3.2

**Composite by Category of Those Interviewed
or Who Returned Questionnaires
Six-State JPC Study**

	Number	Percent
Supreme Court Justices	13	5.7%
Appellate Court Judges	9	3.9
General Jurisdiction Judges	31	13.5
Limited & Special Jurisdiction Judges	18	7.9
State Court Administrator & Staff	13	5.7
JPC Staff	14	6.1
Trial Court Administrators	13	5.7
Other Court System ^a	10	4.4
Attorneys & Bar Association	27	11.8
Legislators	19	8.3
Legislative Staff	4	1.7
Academicians	12	5.2
Public	16	7.0
Media	6	2.6
Other Justice System ^b	14	6.1
Other ^c	10	4.4
	229	100.0%

a. Other nonjudicial personnel.

b. Prosecution, defense, law enforcement, and probation.

c. State and local government officials; executive branch personnel not otherwise categorized.

4. COMPARISONS AND CONTRASTS

Introduction

The six states in this study of judicial planning were selected, in large part, because of diversity in demography; judicial system governance, structure, and organization; funding sources; and method of judicial selection. None of these were found to be significant in affecting perceived or actual success of Judicial Planning Councils or Council retention or demise. In this connection, JPC survival is not necessarily equated with success, nor is JPC termination necessarily equated with failure.

Likewise, the similarities among the six jurisdictions relating to judicial planning did not often produce similar results in the conduct and success of the judicial planning function. These similarities included: attitudes about the importance of planning; need for judicial planning councils; quality of staff work; diversity of JPC membership; free and open discussion by the JPCs and their subcommittees of goals, objectives, and project selection; and the impetus given judicial planning by the Crime Control Act of 1976, and the federal funding it made available.

There is a tendency in studies like this one to develop models to explain events or outcomes, or to use models already constructed to categorize court systems in various ways.¹ The authors have resisted the construction of models, because it would require at least five for the six states in this study. It would be speculative to assume that these five models represent the totality of the various approaches to judicial planning taken by all fifty states and the District of Columbia. Such determination was outside the scope of this study, which was limited by time and resource availability.

A number of differences were found among the six states. Among the more significant were: how judicial planning councils functioned or were perceived to function; JPC successes and failures and the reasons therefor; the effect of planning on judicial administration; and JPC acceptance and support by key officials, government entities, and groups such as the state bar association.

This diversity documents the disutility of using models. Instead, each of the six states may be considered as a separate case study; the findings of each are summarized in this chapter, with similarities and differences among the six explained and placed in perspective. Many of the findings have important implications for judicial planning in particular and for judicial administration in general.

1976 Judicial System Status in the Six States

Judicial systems throughout the country were in various stages of change at the time the Crime Control Act of 1976 was passed. The six states in this study were no different in this respect. One state (Colorado) had gone through several major changes in the 1960s and was consolidating these changes in the mid 1970s. Two states (Kansas and South Dakota) had recently passed new judicial articles and were either in the process of implementation or had just completed implementation. Minnesota had just completed an extensive study of trial court structure and administration. The other two states (Louisiana and Washington) had not gone through the degree of change experienced by the other four.

A brief description of judicial system status in the six states in this survey places the development of judicial planning in each in better perspective and may shed some light on the success or demise of judicial planning.

Colorado

At the time each state judicial system was considering whether to take advantage of the Crime Control Act of 1976, Colorado had several years' experience with state funding and had reorganized its trial courts, but not to the extent of some other jurisdictions. It had created an intermediate appellate court and a state-wide public defender system. A modified Missouri plan for judicial merit selection had been adopted, covering all of the state appellate and trial judiciary, and the staff of the state court administrator had grown to fifty. Included in the state court administrator's office was a division of planning, research, and statistics.

Kansas

The new Kansas judicial article and its implementation had produced a one-level (three-tier) trial court system, and state funding of nonjudicial personnel was being phased in.² An intermediate appellate court had been created, and local option judicial merit selection was adopted in twenty-three of the twenty-nine judicial districts, in addition to the two appellate courts. Implementation of the new judicial article was the result of a 1973 in-depth study authorized by the legislature to be performed by a judicial study advisory committee (JSAC) appointed by the supreme court. JSAC functioned as a committee of the Kansas Judicial Council.³

The Kansas Judicial Council had been involved in judicial system planning since its inception in 1927 — gathering information, conducting studies, and making recommendations for court improvement and law reform. The judicial administrator's small staff had no planner as such.

1. For example see: Thomas A. Henderson et al, *The Significance of Judicial Structure: The Effect of Unification on Trial Court Operations*, (Washington, DC: National Institute of Justice, U.S. Department of Justice, 1984) pp. 35-48; and Harry O. Lawson, "State Courts Systems Unification," *American University Law Review*, Vol. 31, Winter 1982, Number 2, pp. 274-280.

2. At the rate of twenty-five percent per year.

3. Report of the Kansas Judicial Study Advisory Committee, "Recommendation for Improving the Kansas Judicial System," *Washburn Law Journal*, Vol. 13, No. 2, Spring 1974, pp 271-391.

South Dakota

The South Dakota unified judicial system had been established in 1975, after implementation of the new judicial article adopted in 1972. The changes included a one-level trial court system (with both law-trained and lay magistrates), a substantial degree of state funding,⁴ and centralized administration. The latter was not all that well accepted by all trial court judges and personnel, who were used to considerable independence prior to the new judicial article and state funding.⁵ The small professional staff of the state court administrator had no planner as such, but the establishment of the South Dakota Unified Judicial System was described as the product of the extensive labor of commissions, legislators, and court personnel.⁶

Minnesota

Prior to creation of the judicial planning committee, Minnesota had a Select Committee on the State Judicial System "to provide the supreme court and the legislature with an analysis of structural [trial court] alternatives and to make recommendations for appropriate legislative and administrative action."⁷ The work of the select committee took two years to complete and included all aspects of court administration. Its work culminated in the Court Reorganization Act of 1977.⁸ Minnesota had a small state court administrator's office, with no planner as such on the staff. As in South Dakota, judges were elected on a nonpartisan ballot. While there had been some discussion about creating an intermediate appellate court, nothing had been done.

Louisiana

There had been a number of court studies in this state, but no drastic changes had taken place in court system structure or governance. There was a small state court administrator's office, and judges were elected. Louisiana was one of the six pilot states in the Court Planning Capability Project of the National Center for State Courts (NCSC), which was funded by the Law Enforcement Assistance Administration (LEAA). In 1975, NCSC staff worked with the Louisiana judiciary on the development of an LEAA planning capability discretionary grant. While awaiting grant approval, the chief justice appointed a judicial planning committee, which, ultimately, was designated as the JPC.⁹

Washington

A proposed judicial article to improve the Washington state court system failed to be adopted in 1975.¹⁰ Other than this effort and modification of the minor court system, there had been several studies, but little change in the Washington state court system, except for the creation of an intermediate appellate court in 1969. The administrative office had increased in the number of professionals, but had no planners as such prior to the Crime Control Act of 1976. As in Minnesota and South Dakota, judges were elected on a nonpartisan ballot.

JPCs: Demography and Purposes

Five of the six states in the study created JPCs. Kansas was the lone exception, continuing to rely on the Kansas Judicial Council for planning and related activities. Four were created in late 1976 or early 1977. South Dakota did not establish its JPC until August 1979, when it was done by Supreme Court order. It was among the last few created in the country, and its existence spanned eighteen months, less than the JPCs in any of the other states studied.

Two JPCs were still in existence at the time of the study: Louisiana and Minnesota. They were among nine remaining in the country (ten, if the Kansas Judicial Council is included). The Washington Court Planning Committee was disbanded in 1982. In September of that year, the Colorado supreme court terminated the JPC in that state, but has created a judicial advisory committee with many of the same functions in July 1985.

JPC Membership

All five of the JPCs and the Kansas Judicial Council had broad-based membership. A major difference was that Washington had only one nonjudicial system member (a public defender) among its fourteen members. Colorado's JPC initially had eighteen members, and Louisiana, Minnesota, and South Dakota had seventeen each. By 1981, Colorado's JPC had increased in size to twenty-five and Minnesota's to twenty-seven. The Kansas Judicial Council membership is determined by statute and set at ten. Table 4.1 shows JPC and Kansas Judicial Council composition.

4. Seventy-five percent of total costs, except for jury and witness fees, indigent defense, and facilities.

5. Harry O. Lawson et al, *State-Funding of Judicial Systems: A Preliminary Examination*, (Washington, DC: American University, Institute for Advanced Studies in Justice, 1979, pp 82-88.

6. *Judicial Plan for the South Dakota Unified Judicial System*, (Pierre, SD: State Court Administrator's Office, May 1980) p. 3.

7. *Minnesota Citizen's Conference on the Courts Conference Report* (St. Paul, MN: March 1981), p. 2.

8. *Ibid.*; also see *Final Report of the Select Committee on the State Judicial System* (St. Paul, MN: 1976).

9. Daniel J. Elazer and Ellis Katz, *Three Years of Court Planning: Final Evaluation of Phase III of the Court Planning Capabilities Project*, (Philadelphia, PA: Center for the Study of Federalism, Temple University, 1979), p. 22.

10. Phillip B. Winberry, "Washington State Court Reform," *State Court Journal*, Vol. 4, Number 2, Spring 1980, p. 29.

Table 4.1
Judicial Planning Council Membership
Six-State JPC Study

	CO		KS ^a		LA		MN		SD		WA	
	b	c					b	c				
Chief Justice	1						1					
Supreme Court				1	1	1	1				1	
Inter.Appel.Court	1	1	1	1							1	
Gen'l Jur. Court	4	4	2	10	3	4			3	3		
Spec. Jur. Court	2	1										
Limited Jur. Ct.	2	3		1	4	3			1	3		
Attorney Gen.							1		1			
Sec. of State							1					
Legislators		2	2				4		1			
Prosecutors	1	1		1	1	1			1			
Public Def.	1	1		1	1	1			1	1		
Bar Assoc.	1	1					1		1			
Attorneys			4				4	4				
State Ct. Admin.	1	1					1	1	1	1		
Trial Ct. Admin.	1	1						2		2		
Clerk of Court		1		11								
Probation Off.	1	1										
Juv. Dir. Assoc.										1		
County Govt.							1		1			
Academicians		1		1			1		1			
Organized Labor							1					
Public	2	6	—	—	1	1			3	—		
Total	18	25	10	17	17	27			17	14		

a. Kansas Judicial Council.

b. Initial membership.

c. 1981 membership.

In all five states with JPCs, the membership was appointed either by the chief justice or the supreme court. In appointing the Court Planning Committee in Washington state, the supreme court gave official recognition to judges' organizations and similar groups of court officials. Members were nominated from specific constituencies and appointed by the supreme court for two-year terms.

Four of the five states (except Washington) either initially or eventually appointed special study subcommittees or task forces. These committees or task forces were usually chaired by a JPC member and had a number of nonJPC members, thus broadening involvement in judicial planning and study activities. The use of subject matter subcommittees was a long-time practice of the Kansas Judicial Council

Initial JPC Activity

Initial JPC activity in each of the five states generally reflected judicial system status in that state. Colorado, which had made changes other states were either considering or were in the process of carrying out, limited its JPC to reviewing

grant proposals for LEAA funds. In 1979, the JPC's role was expanded to study the needs and problems of the judicial system and to define problems and recommend improvements in the judicial system and its administration.¹¹

As previously indicated, the judicial planning committee in Minnesota was established as the extension of Minnesota's Select Committee on the State Judicial System. Many of the JPC's initial activities and subjects sequentially followed the work of the select committee, such topics as referees and judicial officers, delivery of legal defense services, judicial redistricting, court reporting services, and an intermediate appellate court.¹²

In Louisiana, the JPC initially created three subcommittees: 1) a steering committee, which reviewed grant applications; 2) a long-range planning subcommittee, which identified and assigned priorities to long-term goals; and 3) a priorities subcommittee which identified short-range problems and goals.¹³

In addition to the subcommittees, special task forces were appointed to examine public relations, juvenile justice, court reporting, judicial manpower sentencing, and small claims.¹⁴ The efforts of some of the task forces resulted in recommendations being quickly adopted, such as small claims legislation and legislation relating to court reporter selection and qualifications.¹⁵

The major initial thrust of the South Dakota JPC was to determine and carry out the next steps in the development of the unified judicial system, as indicated by the following:

The research, study, and development of a three-year judicial plan with annual supplements recommending improvements in the Unified Judicial System, as assessment and identification of court problems and needs and the development of projects for implementation that will meet these problems and needs.¹⁶

The Washington State JPC initially assisted in the preparation and review of grant proposals for LEAA funds to meet perceived judicial system problems. These problems were identified through regional planning meetings and questionnaires. In 1979, the Courts Planning Council designed the two-year plan for the improvement of the administration of justice.¹⁷

Similarity of Views and Perceptions

Despite differences in political tradition and environment; judicial-legal culture; judicial system status; and JPC scope, direction, and success, perceptions and views of those interviewed in the six states were similar on some subjects. These

11. *CJD 79-5*, May 1, 1979.

12. *Outcome of JPC Activities 1977 through Present*. (St. Paul, MN: Minnesota Judicial Planning Office, December, 1982).

13. Elazar and Katz, p. 24.

14. *Ibid.*, p. 26.

15. Lansing L. Mitchell Jr., Staff Report Re: *Judicial Planning Committee*, (New Orleans, LA: Supreme Court of Louisiana, 1979), pp. 4,8.

16. *Judicial Plan for the South Dakota Unified Judicial System FY 1981-1983*, (Pierce, SD: State Court Administrator's Office, May, 1980) p. 1.

17. *FY 1980 Washington Judicial Plan*, (Olympia, WA: Court Planning Council, 1979), p. 11.

subjects included: 1) attitudes about planning and JPCs; 2) quality of JPC staff work; and 3) JPC and subcommittee discussion of goals, objectives, and projects.

Attitudes About Planning

Interviewees were asked to rate their agreement or disagreement with a series of statements relating to planning. A seven point Likert-type scale was used, with strongly agree (7) and strongly disagree (1) at the opposite ends of the scale.

The first statement, "Planning is important to judicial system governance," produced a high degree of agreement; an average of 6.3 among the six states, with a high of 6.7 in Colorado and a low of 5.8 in Washington state. The response to this statement might lead one to conclude that long-range comprehensive planning was strongly favored. This is not necessarily true, because a significant proportion of the respondents served primarily or only on subcommittees which were project oriented. For some of these planning may be a more narrowly defined, although very desirable, activity.

The second statement, "Planning requires a JPC or similar body" also received a high degree of agreement, an average of 6.0, with a high of 6.4 in Louisiana and a low of 5.8 in three states. Interviewees were also asked the extent to which they agreed with this statement, "Planning can be done effectively by the state court administrator without a JPC." There was high disagreement with this statement, with a Likert-type scale average of 2.5. Colorado (2.9) and Minnesota (2.8) had the greatest agreement with this statement, but neither was significantly greater than the average. These results and others in this series of statements are shown in Table 4.2.

Table 4.2
Attitudes About Planning and JPCs*
Six-State JPC Study

Statement	CO	KS ^a	LA	MN	SD	WA	AVR
Planning is Important to Judicial System Governance	6.7	6.3	6.4	6.0	6.6	5.8	6.3
Planning Requires JPC or Similar Body	5.8	6.1	6.4	5.8	d	5.8	6.0
Planning Can Be Done Effectively by SCA Without JPC	2.9	2.0	2.3	2.8	d	2.4	2.5
The JPC Should (Have Been) Terminated	2.7	c	1.2	2.1	5.5	3.3	3.0
The JPC Should be (Reactivated)	5.5	b	6.7	5.9	5.5	4.5	5.6

a. Average responses using a seven point Likert-type scale: Strongly Agree (7), Highly Agree (6), Agree (5), Neutral (4), Disagree (3), Highly Disagree (2), and Strongly Disagree (1).

b. Kansas Judicial Council.

c. Not applicable in Kansas.

d. Not asked in South Dakota.

Except in Kansas, which did not have a JPC, those interviewed were given two statements concerning JPC retention or termination. In Louisiana and Minnesota, which still had JPCs, the statements were "The JPC should be terminated," and "the JPC should be continued." In the three states (Colorado, South Dakota, and Washington) where the JPC had been terminated, the statements were: "The JPC should have been terminated," and "The JPC should be reactivated."

In three of the five states, there was substantial disagreement with the proposition that the JPC either be terminated or should have been terminated. As might be expected, disagreement was strongest in the two states that retained its JPCs (Louisiana and Minnesota). Those interviewed in Colorado also disagreed with this statement, even though the JPC had been terminated. Those interviewed in Washington State disagreed with the statement, but not so strongly. Those interviewed in South Dakota agreed with the statement, an indicator that, while they thought a JPC is important for planning, it should not necessarily be the one that state had.

There was agreement that the JPC should be continued, but the average (5.6) was less than found on other statements about planning importance and the need for a JPC or equivalent body to make it successful. Even South Dakota responded close to the overall average. Only those interviewed in Washington state were less than enthusiastic (4.5) about reinstating the JPC.

What does all this mean? To the authors, it means that planning and its importance in judicial system governance in the abstract, at least, is very important. Those who served on the JPCs or its subcommittees could not envision judicial planning being successful without the same or a similar body. Certainly, they felt it could not be done very effectively by relying solely on the state court administrator and his staff. Reality always seems to temper abstract concepts. Consequently, while a JPC may be abstractly desirable, it is not necessarily the one that was terminated.

Quality of JPC Staff Work

Interviewees were asked to rate the quality of JPC staff work, again using a seven-point Likert-type scale for responses, with (7) being excellent and (1) being unsatisfactory. As shown in Table 4.3, those interviewed felt staff work to be superior, with a six-state average of 5.8. The only state below the average was South Dakota, where the rating of 5.5 placed it squarely between good and superior.

Even though staff work was perceived generally to be of superior quality, it was not perceived in any of the six states to have a strong influence on gaining acceptance and support for the JPC from officials whose support and acceptance were very much needed by the JPCs. Neither was the quality of staff work perceived to have a negative effect on acceptance and support. Responses to other questions indicate strongly that JPC acceptance and support depended on a number of factors of which staff work quality was only a small part.

Table 4.3

**Quality of JPC Staff Work and Its Effect
on JPC Acceptance and Support
by Selected Officials and Groups
Six-State JPC Study**

Quality*	CO	KS ^b	LA	MN	SD	WA	AVR
Effect on Acceptance and Support ^c							
Chief Justice	4.9	4.4	4.7	5.7	5.1	5.0	5.0
Supreme Court	4.2	4.3	4.4	5.8	4.2	4.4	4.6
State Court Admin.	5.5	4.3	4.4	6.0	4.7	5.7	5.3
Legislature	3.6	4.7	4.1	5.4	d	4.7	4.5
Bar Associations	4.4	4.1	4.0	4.8	3.2	4.1	4.1
Other Judicial System	4.4	4.6	5.1	4.6	d	4.6	4.7
Overall Effect	4.5	4.5	4.5	5.4	4.3	4.5	4.6

a. Seven point Likert-type scale: excellent (7), superior (6), good (5), satisfactory (4), fair (3), poor (2), and unsatisfactory (1).

b. Kansas Judicial Council.

c. Seven point Likert-type scale: strong effect (7), considerable effect (6), some effect (5), neutral (4), minor effect (3), little effect (2), and no effect (1).

d. Not asked in South Dakota.

These data are also shown in Table 4.3. While the effect of staff work quality on JPC acceptance and support was never rated less than neutral on the average, its strongest effect was on acceptance by and support of the chief justice and state court administrator, two officials one would expect to be supportive of the JPC, the former because the chief justice usually appointed the JPC, and the latter, because it was his office that usually provided the staff.

JPC Policy Making

Regardless of perceived JPC successes or failures in any of the states in the study, there was general agreement that open discussion took place about goals and objectives and project selection. These perceptions are shown in Table 4.4. The greatest influence exerted on selection of goals and objectives was by the chairperson. This was also true of project selection.

Influence on decisions by nonJPC members and factions within the JPC were also perceived generally as minimal, both as to establishment of goals and objectives and as to project selection. The staff and state court administrator's effect on decisions was slightly stronger than neutral, although the influence of both in Minnesota was seen as considerable.

Table 4.4

**Views About JPC Policy Making
in Setting Goals and Objectives
and Selecting Projects
Six-State JPC Study**

	CO	KS	LA	MN	SD	WA	AVR
Goals and Objectives							
Issues Discussed ^a	5.7	c	5.5	5.2	5.9	5.7	5.6
Chairperson's Influence ^b	4.9		5.7	5.9	5.0	5.6	5.4
Staff's Influence ^b	4.4		4.5	5.3	4.0	4.9	4.6
SCA's Influence ^b	3.7		4.2	5.2	4.3	4.7	4.4
NonJPC Members' Influence ^b	3.8		3.3	4.2	2.5	2.0	3.2
JPC Factions' Influence ^b	4.8		3.4	4.6	3.2	2.1	3.6
Project Selection							
Issues Discussed ^a	5.8	6.5	5.7	5.3	5.6	5.7	5.8
Chairperson's Influence ^b	4.7	5.0	5.5	5.9	4.3	4.6	5.0
Staff's Influence ^b	4.3	2.5	4.6	5.3	3.5	4.7	4.2
SCA's Influence ^b	3.5	3.5	3.9	5.4	4.4	3.1	4.0
NonJPC Members' Influence ^b	1.9	4.4	3.1	3.0	2.8	2.3	2.9
JPC Factions' Influence ^b	3.8	1.9	3.2	3.2	2.5	2.1	2.8

a. Discussed at length. Mutually arrived at decisions. Issues Discussed: Seven-point Likert-type scale: Strongly Agree (7), Highly Agree (6), Agree (5), Neutral (4), Disagree (3), Highly Disagree (2), and Strongly Disagree (1).

b. Influence on decisions. Influence: Seven-point Likert-type scale: Extensive (7), Significant (6), Considerable (5), Neutral (4), Limited (3), Insignificant (2), and Minimal or None (1).

c. Kansas Judicial Council's goals and objectives set by statute.

Conclusion

The perceptions of these aspects of JPC activities and relationships were generally similar across the six states.¹⁸

18. The Kansas Judicial Council was considered as a JPC for these comparisons.

Yet, as important as these factors may be, they provide little, if any insight, on the difference between success and failure or continuation or demise of judicial planning councils in the six states studied.

Dissimilar Views and Perceptions

JPC and subcommittee or task force members perceptions of and attitudes about a number of subjects (other than those already discussed) do shed light on reasons for JPC success or failure and survival or demise in the six jurisdictions in the study.

Among these subjects are:

- 1) JPC success in doing what it was supposed to do;
- 2) JPC projects' effect on judicial administration;
- 3) extent to which JPC projects were carried out;
- 4) reasons for JPC success or failure;
- 5) JPC greatest accomplishments and failures; and
- 6) reasons for JPC termination.

JPC Success and Effect on Judicial Administration

The study states where JPC success was perceived to be the highest and where JPC projects were considered to have the greatest effect on judicial administration are the ones where planning councils or similar bodies survived at the time of the study (Kansas, Louisiana, and Minnesota). JPC's no longer existed in Colorado and Washington, the two states significantly below the composite average in each category.¹⁹

These perceptions are shown in Table 4.5.

Table 4.5
JPC Success in Doing What it was
Established to do and the Effect of
JPC Projects on Judicial Administration
Six-State JPC Study

State	JPC Success Ranking Average ^a	Effect on Judicial Admin. Ranking Average ^a
Colorado	4.3	4.7
Kansas ^b	6.1	5.9
Louisiana	4.9	5.1
Minnesota	5.1	5.0
South Dakota	c	c
Washington	4.1	4.0
Composite Average	4.9	4.9

a. Seven point Likert - type scale used, seven being the greatest success or greatest effect and one being the least.

19. Unfortunately, there questions were not asked in South Dakota, which was the pretest state. Responses in South Dakota to other questions lead one to surmise that, if these questions had been asked, the results would have been similar to those in Colorado and Washington. In all five states, reality was perceived as less than expectation, but the difference is significantly greater in Colorado and Washington and minimal in Kansas.

- b. Kansas Judicial Council.
- c. Question not asked in South Dakota.

It is interesting and, perhaps, useful to compare the attitudes expressed in Table 4.2 on planning importance to judicial system governance with the perceptions in Table 4.5 on the effect of JPC projects on judicial administration, the former being abstract and the latter being actual - this comparison for the five states where both were used shows the following:

State	Planning Importance for Judicial System Governance (Table 4.2)	JPC Project Effect On Judicial Administration (Table 4.5)	Difference
Colorado	6.7	4.7	(2.0)
Kansas	6.3	5.9	(.4)
Louisiana	6.4	5.1	(1.3)
Minnesota	6.0	5.0	(1.0)
Washington	5.8	4.0	(1.8)

Extent to Which JPC Projects Were Carried Out

Closely related to the previous two topics are perceptions as to the extent to which JPC projects were carried out. Interviewees were asked to rate acceptance and implementation of JPC projects by the supreme court, state court administrator, and the legislature, as appropriate. The results are shown in Table 4.6. Again, Colorado and Washington ranked the lowest and Kansas, Minnesota, and Louisiana ranked the highest. Louisiana did not rank much higher than Washington, largely because of a lower level of acceptance by the supreme court. It is interesting to note that Colorado ranked the lowest in all categories.

Table 4.6
Perceptions as to the
Extent to Which JPC Projects
Were Accepted or Carried Out^a
Six-State JPC Study

State	Supreme Court	SCA	Legislature	Overall Perception
Colorado	3.7	4.2	2.6	3.5
Kansas ^b	6.2	c	5.8	5.9
Louisiana	4.5	5.8	4.7	4.9
Minnesota	5.8	5.0	5.3	5.7
South Dakota ^d				
Washington	5.3	4.8	4.0	4.7
Composite Ave.	5.1	5.0	4.5	4.7

a. Seven-point Likert-type scale, seven being "all adopted," and one being "none."

b. Kansas Judicial Council.

c. Not applicable in Kansas; no projects referred to SCA.

d. Not asked in South Dakota.

JPC Acceptance and Support

Interviewees were asked their perceptions about how well the JPC was accepted and supported by key constituencies in the judicial legal environment and by the state legislature. Acceptance was defined as the extent to which the JPC's existence was acknowledged as a viable entity. Support was defined as the extent to which JPC recommendations were endorsed.

The highest levels of perceived acceptance and support, as shown in Table 4.7, were in Kansas, Minnesota, and Louisiana, all of which were above the six-state average. The perceived level of acceptance and support in Washington was almost as high, but was significantly lower in Colorado and South Dakota.

Of particular note were the low levels of acceptance and support in Colorado and Washington by the supreme court and the state legislature. The South Dakota JPC was ranked low in acceptance and support by both the legislature and trial courts.

Despite its high overall ranking in acceptance and support, the Minnesota JPC was perceived not to be well accepted or supported by trial court personnel. Louisiana JPC acceptance and support by the bar association was ranked as low as South Dakota and Washington.

Reasons for JPC Success or Lack Thereof

Interviewees in all states, except South Dakota (pretest state) were asked to identify the reasons why the JPC was successful or not successful. Success or lack of success was generally perceived as being relative. For some interviewees, the JPC was not seen as all that successful, but, to the extent it was, reasons were given. To the extent that the JPC was seen as not being as successful as perhaps it should have been, reasons were also given. These responses in summary form are shown in Tables 4.8 and 4.9.

To the extent JPC's were considered successful, it was the result primarily of the following factors:

- 1) JPC and subcommittee membership: quality, participation, interest, and composition;
- 2) Work processes: project selection, goal identification, study process, work product, and planning capability;
- 3) personnel: staff quality and JPC leadership; and
- 4) institutional: chief justice, supreme court, and legislative acceptance and support.

To the extent JPC's were considered unsuccessful or not as successful as they might have been, it was the result primarily of the following factors:²⁰

- 1) JPC and subcommittee membership: lack of continuity;
- 2) work processes: inability to implement recommendations or have them implemented by those with the authority to do so, lack of new ideas, and unrealistic goals;
- 3) financial: lack of funds; and
- 4) institutional: lack of supreme court support, lack of general acceptance, and lack of legislative support.

20. No Kansas interviewee considered the Kansas Judicial Council to be unsuccessful. In another context, some KJC projects were listed as "least accomplishments" or "failures."

Table 4.7
JPC Acceptance and Support
by Selected Officials and Groups^a
Six-State JPC Study

Official/Group	CO		KS ^b		LA		MN		SD		WA		AVR	
	A	S	A	S	A	S	A	S	A	S	A	S	A	S
Chief Justice	5.0	4.9	6.5	6.5	5.5	5.4	6.4	6.4	5.3	5.3	5.8	5.9	5.8	5.7
Supreme Court	3.8	3.8	6.2	6.2	5.2	5.2	6.2	6.2	c	c	4.4	4.3	5.2	5.1
State Court Admin.	5.3	5.5	5.7	5.6	6.4	6.5	6.4	6.2	6.1	6.1	6.3	6.3	6.0	6.0
Other Judicial Sys ^d	4.7	4.6	6.0	6.0	4.7	4.6	4.3	4.1	3.5	3.5	5.1	5.1	4.7	4.7
Legislature	3.7	3.4	5.6	5.6	4.6	4.4	5.2	5.1	2.9	2.9	3.9	3.9	4.3	4.2
Bar Association	5.2	5.2	6.0	6.0	4.5	4.3	5.2	5.1	4.5	4.5	4.4	4.5	5.0	4.9
Overall Acceptance and support	4.6	4.6	6.0	6.0	5.3	5.0	5.6	5.6	4.2	4.2	5.2	5.0	5.1	5.1

a. Seven point Likert-type scale used: Excellent (7), High (6), Good (5), Neutral (4), Fair (3), Poor (2), None (1).

b. Kansas Judicial Council.

c. Question not asked in South Dakota.

d. Primarily trial court judges and nonjudicial personnel.

A = Acceptance.

S = Support.

Table 4.8
Reasons for JPC Success
Six-State JPC Study^a

Reason	CO	KS ^b	LA	MN	WA
Membership Quality, Interest & Participation	31.9% ^c	22.2% ^c	26.1% ^c	10.4% ^c	33.3% ^c
Broad Based Membership	20.3			16.4	
Prestige & Credibility		16.7			
Project Selection/Goal Identification	13.0		21.7	1.5	11.1
Planning Capability	8.7			4.5	
Study Process		13.9			
Work Product		16.7			
Leadership	7.2		8.7	7.5	11.1
Staff Quality	4.3	5.6	13.0	9.0	22.2
Chief Justice Support			4.3	7.5	
Supreme Court Support	2.9		4.3	10.4	
SCA Support	2.9			3.0	
Judicial System Involv.					11.1
Good Legislative Relationship		19.4		4.5	11.1
Good Bar Assn. Relationship		5.6			
Federal Funding			8.7	1.5	
Public Education & Support	2.9			1.5	
Other	5.8		13.0	10.4	
Don't Know/No Response				11.9	
Total	99.9% ^d	100.1% ^d	99.8% ^d	100.0%	99.9%

a. Question not asked in South Dakota.

b. Kansas Judicial Council.

c. Percent of total responses.

d. More or less than 100 percent, because of rounding.

Table 4.9
Reasons Why JPC Was Not Successful
Six-State JPC Study

Reasons	CO	KS ^a	LA	MN	SD	WA
Not Capable of Implementing Proposals or having Them Implemented	18.6% ^d	b	37.5% ^d		c	
Lack of Supreme Court Support	17.1		12.5			
Lack of Funds	7.1		12.5			20.0% ^d
Lack of New Ideas	7.1					
Unrealistic Goals	5.7					
Lack of Leadership	4.3			16.7% ^d		
Lack of Organization	4.3					
JPC Terminated	2.9					
Staff Quality	2.9					
Too Much Focus on Supreme Court Needs				33.3		
Lack of Acceptance				16.7		
Lack of Legislative Support				16.7		
Lack of Continuity						60.0
Improper Representation						20.0
Other	10.0		37.5			
Don't Know/No Response	20.0			16.7		
Total	100.0%		100.0%	100.1% ^e		100.0%

a. Kansas Judicial Council

b. No response indicated that the Kansas Judicial Council was not successful.

c. Not asked in South Dakota.

d. Percent of total responses.

e. More than 100 percent because of rounding.

JPC Greatest Accomplishments

Interviewees in the six states were asked to identify the greatest accomplishments of the JPC in each of their states. As might be expected, there was a large variety of answers, which reflected the particular interests of those responding, tempered by whether participation was as a member of the JPC, one of the subcommittees, or both. Those accomplishments cited the most, as shown in Table 4.10 fall in two major categories: institutional and work processes and products. Each of these major categories may be subdivided as follows:

- 1) Institutional
 - a) public and nonjudicial system involvement;
 - b) public education;
 - c) improved legislative relationships;
 - d) improved media relationships; and
 - e) improved internal judicial system communications.
- 2) Work Processes and Products
 - a) law reform;
 - b) planning and research capability development;
 - c) administrative unification;
 - d) structural unification;
 - e) appellate case management;
 - f) trial court case management;

It is interesting to note that public and nonjudicial system involvement were cited by all three of the states where the JPC was terminated (Colorado, South Dakota, and Washington), as well as being cited by two of the states with continuing JPCs at the time of the study (Louisiana and Minnesota). Colorado and South Dakota also cited public education, and South Dakota mentioned improved media relationships.

JPC Least Accomplishments or Greatest Failures

Conversely, interviewees were also asked to specify the least accomplishments or greatest failures of the JPC. Again, there was a large variety of responses. These responses were harder to classify, because some of them logically fall in more than one major category. The responses most often cited were arbitrarily classified in the most appropriate category as follows:

- 1) Institutional
 - a) lack of visibility and acceptance;
 - b) lack of leadership and internal direction; and
 - c) state court administrator involvement, which was cited by two states (Colorado and South Dakota) for different reasons: in the former, where the SCA was perceived both to be threatened by the existence of the JPC and also because of attempted manipulation of the JPC and, in the latter, because the JPC gave the SCA too much authority.
- 2) Work Processes and Products
 - a) recommendations generally not adopted by the supreme court or the legislature, cited most strongly in Colorado, where recommendations concerning judicial performance were specifically cited, but also cited in Minnesota, where the

specific concern was the failure to adopt court space guidelines;

- b) administrative unification, cited by two states: Louisiana and Minnesota, both for failure to adopt state funding;
- c) structural unification; and
- d) law reform, cited in Kansas, because of the failure to have the proposed administrative code adopted, and because of dissatisfaction over certain adopted family law and juvenile code provisions

Table 4.10
JPC Greatest Accomplishments
Six-State JPC Study

	CO	KS^a	LA	MN	SD	WA
Public & NonJudicial System Involvement	17.1% ^b		2.6% ^b	8.5% ^b	29.0%	4.8% ^b
Public Education	17.1				9.7	
Improved Media Relationships					6.4	
Improved Legislative	3.4		5.3	5.1		
Law Reform		59.4% ^b	13.2			
Bench-Bar Cooperation				1.7		
Planning & Research Capability	12.0		7.9	6.8	19.4	23.8
Problem Identification	3.4					
Change Agent				1.7		9.3
Workload Measurement	60.0					
Weighted Caseload				3.4		
Judicial Performance	5.1					
Judicial Selection					6.4	
Admin. Unification		9.4	2.6			
Structural Unification	5.1	9.4	2.6	25.4		
Judicial Redistricting		3.1				
Appellate Case Management			18.6	27.1	6.4	
Trial Court Case Management			5.3		3.2	14.3
Court Information System				1.7		4.8
Dispute Resolution Alternatives				1.7		
Small Claims Act			7.9			
Training	2.6					
Juvenile Justice			5.3			
Court Reporters' Project				1.7		
Jury Management					3.2	
Pattern Jury Instructions		6.3				
Indigency Issues	3.4					
Internal System Communications						28.6
None	1.7					
Other	8.5		5.3	5.1	6.4	9.5
Don't Know/No Response	14.5	12.5	23.7 ^c	10.2	9.7	
Total ^d	99.9%	100.1%	100.1%	100.0%	99.8%	100.1%

a. Kansas Judicial Council

b. Percent of total responses.

c. This response, or lack thereof, primarily from 1982-83 appointees to the JPC or its subcommittees who were not aware of the origins of the JPC.

d. More or less than 100 percent, because of rounding

Table 4.11
JPC Least Accomplishments
or Greatest Failures
Six-State JPC Study

Least Accomplishments	CO	KS ^a	LA	MN	SD	WA
Recommendations, Generally, Not Adopted by Supreme Court or Legislature	26.0% ^b			3.7% ^b		
Judicial Performance Recommendation Not Adopted	9.0					
Space Guidelines Not Adopted				7.4		
Lack of Visibility	7.0		12.9% ^b	7.4		20.5% ^b
Lack of Leadership	5.0					
Internal Direction			6.5			
Unwieldy, Too Many Projects	2.0					
Superficial Attention to Issues					11.1 ^b	
Failure to Look at All Sides of Issues				7.4		
Too Controversial				5.6		
Too Bureaucratic					3.7	
No Lasting Results						20.0
JPC Demise	4.0				7.4	
SCA Involvement	5.0 ^c				3.7 ^d	
Lack of Funding					3.7	
Proposal Cost Factors Overlooked					7.4	
Lack of Circuit Judge Acceptance					14.8	
Public and Nonjudicial System Involvement					7.4	
Court-Media Relations					3.7	
Planning & Research Capability						10.0
Administrative Unification			19.4	7.4 ^e		
Structural Unification			9.7	13.0		10.0
Law Reform		32.0% ^{bf}				
Judicial Selection			3.2	3.7		
Judicial Salaries				5.6		
Appellate Case Mgt.					11.1	
Trial Court Case Mgt.					3.7	
Dispute Resolution Alternatives				3.7		
Public Education	5.0					
Court Appt. Counsel	2.0					
Juvenile Problems			6.5			
Court Information System				3.7		
Court Reporters & Other Personnel Matters				3.7		
Library Committee	3.0					
Municipal Court Manual		4.0				
None	1.0	16.0	6.5			
Other	12.0	8.0		5.6		
Don't Know/No Response	19.0	40.0	35.5 ^g	22.3	18.5	20.0
Total ^h	100.0%	100.0%	100.2%	100.0%	99.9%	100.0%

a. Kansas Judicial Council.

b. Percent of total responses.

c. Cited were JPC threatened SCA, and SCA manipulated JPC.

d. Cited, was JPC gave SCA too much authority.

e. Primarily, failure to secure state funding.

f. Failure to have Administrative Procedures Act adopted (16.0 percent) and domestic relations and family law (16.0 percent).

g. This response primarily from 1982-83 appointments to JPC or its subcommittees who were not aware of JPC activity prior to their appointments.

h. More or less than 100 percent, because of rounding.

Major Reasons for Terminating JPC

Interviewees in the three states where the JPC was terminated were asked their perceptions of why this happened. Lack of supreme court support was cited in all three states, most strongly in Colorado and Washington, as shown in Table 4.12. Internal judicial system opposition was cited in Colorado and South Dakota. Lack of legislative support was mentioned in Colorado and Washington.

State budget problems were perceived as a reason for JPC demise in Colorado and South Dakota, while responses in Washington indicated loss of federal funds to be the major

Table 4.12
Major Reasons for Terminating JPC
Six-State JPC Study

Reason	CO	SD	WA
Lack of Supreme Court Support	20.7% ^a	9.4% ^a	22.2% ^{ab}
Internal Judicial System Opposition	14.0	20.8	
Lack of Leadership	4.1		
Lack of Legislative Support	4.1		5.6
Lack of Bar Association Support		1.9	
Goals Were Accomplished	6.6	3.8	5.6
No Major Accomplishments	6.6	7.5	
State Budget Problems	11.6	20.8	
Loss of Federal Funds	3.3		27.8
No Longer Needed	3.3		
Lack of enthusiasm for JPC Process		9.4	
Duplication of Effort			11.1
Internal Problems re Management Purposes			11.1
Decision Makers Not Involved in Process			5.6
Opposition to Noncourt Involvement		1.9	
Other	5.8	1.9	
Don't Know/No Response	19.8	22.6	11.1
Total ^c	99.9%	100.0%	100.1%

a. Percent of total responses.

b. Three responses indicated chief justice — SCA relationships at the time exacerbated the situation.

c. More or less than 100 percent, because of rounding.

problem. In the next chapter, the effect of federal funding loss and state budget problems will be considered in connection with what happened to the JPC in each of the states in the study.

Summary

The six states in this study have been examined primarily in the aggregate in this chapter, with similarities and differences highlighted with respect to judicial system structure and status, judicial planning council composition, and perceptions about planning, judicial planning council operations, internal and external relationships, and success or the lack thereof. Planning, at least as a concept, received strong endorsement in all six states, including the three where the JPC was terminated.

The study findings with respect to the success of judicial planning are not startling. Generally, the findings are that judicial planning success depends on the following:²¹

- 1) broadbased planning group and subcommittees with representation from outside the judicial system, as well as from all important segments within the system;
- 2) planning group and subcommittee membership quality, participation, and interest;
- 3) planning capability, goal identification, project selection, study process, and quality of work products and recommendations; and
- 4) acceptance and support of chief justice, supreme court, and legislature, as evidenced by adoption of work products and recommendations.

Study findings also show that judicial planning is much less likely to be successful if:

- 1) there is a lack of continuity in planning group and subcommittee membership;
- 2) the planning group is unable or has only limited success in getting its work products and recommendations accepted and implemented;
- 3) there is a lack of acceptance and support from the supreme court, legislature, and trial courts; and
- 4) there is a general lack of visibility both within and outside the judicial system.

These findings on what factors contribute to JPC success or the lack thereof are based on the perceptions of the 229 people who were interviewed or who responded to questionnaires. More precise identification of what constitutes JPC or judicial planning success is needed to place judicial planning in proper perspective in relation to judicial administration and in attempting to formulate the proper future role of judicial planning as an institution. These matters are addressed in the next chapter.

21. The presence of these factors do not automatically ensure success, as will be shown in the next chapter, but judicial planning is less likely to be successful if any or all of them are missing.

5. PLANNING AND JUDICIAL ADMINISTRATION

Introduction

With very few exceptions, judicial planning as a specific function of judicial administration arrived on the scene relatively late in comparison with other administrative tools. It might not have arrived at all on a large scale without the availability of federal funds and the need to plan for their acquisition and use. It is also unlikely that, without federal funding and the Crime Control Act of 1976, judicial planning councils or committees would have been created, at least to the extent that they were. Very few judicial planning councils or similar bodies remain in the country. Some of those remaining prepare two or three year comprehensive plans (as do some jurisdictions without planning councils or committees). Others that do not have concentrated on the completion of projects to implement previous plans or agendas and may be running out of tasks. These observations suggest that JPC roles and functions may have to be redefined, if the JPC is to continue or be revived as a viable institution.

JPC and planning experience in each of the six states in this study is instructive in examining:

- 1) JPC success: how to assess;
- 2) JPC accomplishments: actual and perceived;
- 3) JPC role in judicial administration; and
- 4) JPC present and future viability, and in what form.

Assessing Success and Accomplishments

What constitutes success for judicial planning councils? In the previous chapter, the statement was made that JPC survival was not necessarily equated with success, nor was JPC termination necessarily equated with failure. The three that survived at the time of the study (Kansas, Louisiana, and Minnesota) had an impressive list of accomplishments, but what of the three that didn't survive (Colorado, South Dakota, and Washington)?

It cannot be said that these three JPC's were unsuccessful, as evidenced in part by Colorado's creation of an apparent similar body. Besides some substantive accomplishments as noted below, these JPCs shared some intangible accomplishments with the three survivors:

- 1) participation and involvement in the planning process by those within the judicial system, e.g., trial judges, trial court administrators; clerks of court, and court service personnel;
- 2) participation and involvement in the planning process by some outside of the judicial system,¹ e.g., prosecutors, public defenders, legislators, executive branch agency representatives, the organized bar and individual attorneys, academicians, and representatives of the media and the general public;
- 3) endorsement of the concept that planning is

- important to judicial system governance (although definitions of planning may vary); and
- 4) development of a planning and research capability.

The problem with intangible accomplishments is that they are not likely to last. As the time from JPC demise lengthens, new actors enter the stage, memories shorten, and other activities receive higher funding priorities.

None of the three states has created a new planning body as such, although Colorado has a new judicial advisory committee, which has broad representation. As a successor to the court planning committee, the Washington state judicial system created an entity known as the Board of Judicial Administration (BJA).² Its membership comprises the chief justice and one other member of the supreme court, the presiding judge of the court of appeals, the presiding judge of division I, court of appeals (Seattle), and the leadership of the two trial judges' associations.

It appears to have the potential to become active in judicial planning, but has not done so. A task force on court congestion and delay was also created in 1981 to address problems in those areas. Its membership included the chief justice; court of appeals, superior, and district court judges; attorneys; and legislators.³

In Colorado, the public education committee, which was a JPC subcommittee, was continued by the supreme court, and it reports directly to the court. The director of planning and analysis for the state court administrator's office reported several projects in progress, each of which has an ad hoc advisory committee of trial judges, trial court administrators, SCAO staff, and probation staff, as appropriate. These projects involved sentencing guidelines, micro computer applications, probation classification, and court reporting.

In South Dakota, the planning process has been assumed by the state court administrator's office in addition to its other responsibilities in the unified court system. It has been more than five years since the JPC was terminated, and, during that time, nobody from outside the judicial system has been involved in planning as such. A committee consisting of businessmen, representatives of women's organizations, and other public representatives was appointed by the supreme court to examine judicial circuit boundaries and the number and location of circuit judges and law magistrates.⁴

1. Judicial system is defined here in a narrow sense to include only those directly employed within it.

2. Letter from James R. Larsen, Administrator for the Courts, October 12, 1983.

3. *Court Congestion and Delay Task Force Report*, (Olympia, WA: 1983).

4. Phone conversation with Mark G. Geddas, State Court Administrator, March 26, 1985.

Two JPCs have remained active; the one in Minnesota is inactive. Prior to its present status, its most recent accomplishments were the creation of the intermediate appellate court and establishment of alternative dispute resolution programs. The Kansas Judicial Council continues to carry out the legislative mandate given it in 1927. Among recent projects were an analysis of court of appeals caseload problems and how to resolve them and an evaluation of the effectiveness of the unified court system. In Louisiana, where the JPC is now a committee of the Louisiana Judicial Council, recent projects have included juvenile law and court reporting services, among others.

State-by-State Analysis

A brief historical summary and analysis of the JPC in each of the six states provides insight on success and accomplishments and assessment thereof, as well as the JPC role in judicial administration, and JPC future viability.

Colorado

Lack of activity cannot be blamed for the demise of the Colorado JPC. In fact, the opposite may have more validity. The JPC was perceived by some observers to have become too large and involved in too many projects, some of which involved day-to-day administrative matters.

During its five years' existence, the JPC had forty-three different council members and many others serving on its ten committees, which included alimony and support, judicial performance, court jurisdiction, grant review, counsel for the indigent, training, administration, library standards, personnel reclassification, and public education. These committees reported and made recommendations to the JPC, which, after review and approval, forwarded work products to the chief justice and supreme court.

Except for the first year of its existence, when the chief justice served as chairman, no member of the supreme court sat on the JPC, unlike the other states in this study. The absence of supreme court direct involvement not only hampered communications between the JPC and the supreme court, but also meant that the court had no direct stake in JPC activities other than that of being an overseer. A member of the supreme court now chairs the judicial advisory committee.

Among its accomplishments, the JPC could list the Colorado cost model, used in determining resource needs and allocations and in developing and justifying budget requests; the work of the public education committee in increasing public awareness of courts and the judicial process; and the development of a training program for judges and court personnel. In addition, legislation was introduced, but not adopted, concerning counsel for the indigent.

There were a number of JPC recommendations that were not adopted by the supreme court. Most prominent among these concerned judicial performance measurements, alimony and support, library standards, and court jurisdiction. The perception of many of those interviewed or who responded to the questionnaire was that the JPC could not get its recommendations adopted by the supreme court. Perceived

lack of supreme court support for the Judicial Planning Council was mentioned most often as the major reason for the demise of the JPC.

Some interviewees commented that they would be reluctant to serve on another JPC subcommittee, because recommendations had not been adopted or supported by the supreme court. This reluctance was not directed against the JPC or planning, as such, which were felt to be worthwhile.

The JPC was terminated by the supreme court in 1982, and the chairman and other JPC participants were thanked for their efforts. Funding wasn't a problem, because a state appropriation (although smaller) replaced federal funding, and state funding now pays for the planning and development staff in the state court administrator's office, for the meetings and activities of the public education committee, and the new judicial advisory council.

Most of those interviewed felt there was a need for continued planning efforts, even though the JPC was terminated. Suggestions on how the planning function might be carried out included a structure similar to the JPC, but with more trial court input and its own professional staff.

Others felt that planning could be conducted by various existing organizations, such as the bar association, chief judges, or other judges' groups. A few suggested that the state court administrator, chief justice, and supreme court could carry out the planning function. Some felt that small working committees of judicial branch groups would be desirable, such as judges, trial court administrators, and probation officers. Such groups comprise the ad hoc committees on special projects under the director of planning and development for the SCAO.

Kansas

Kansas differs considerably from the other states included in this study. It is the only one of the six that did not establish a judicial planning committee in response to the provisions of P.L. 94-503 (1976), which authorized their creation and provided funding. The Kansas Judicial Council, (KJC) created by statute in 1927, is charged with the responsibility of studying and surveying all aspects of judicial administration and making recommendations therein to the supreme court and to the legislature where appropriate. It is this body on a long-term basis which comes closest to the planning committee or planning council concept, although planning is tangential to its major functions of oversight and law reform.

On a short-term, temporary basis, the Judicial Study Advisory Committee (JSAC) came the closest to overall judicial planning, in that its system-wide study to implement a new judicial article resulted in a blue-print for the Kansas judicial system; a blue-print that has been pretty much followed from 1975 until the present time. While JSAC was an advisory committee of the Judicial Council, it was given that status for administrative and funding reasons, and it functioned independently of the KJC.

The KJC is one of the few surviving judicial councils which were established at the height of the judicial council movement in the 1920s, and it is one of the most active and

successful. There are several reasons for this council's success. Its work products have been well received by the judiciary, the legislature, and the bar. Most of its recommendations are usually accepted and implemented.

To be asked to serve on the council or one of its committees is considered an honor by legislators, lawyers, judges, and members of the general public. All of the committees and the council are reported to be hardworking and conscientious, and staff work is considered to be high quality. The chairperson, at least in recent years, has been the supreme court justice second in seniority to the chief, which means that the chief justice probably served in that capacity prior to becoming chief. Both judiciary committee chairpersons are council members, and other legislators serve on council committees.

In 1983, at the time of the field visit, there were several active KJC advisory committees:

Administration Procedures - drafting a Kansas Administrative Procedures Act, (Request from Legislative Coordinating Council);

Appellate Process - studying the caseload of the court of appeals, (request from the governor);

Benchbook - standing committee to update and supplement the *Kansas Benchbook* (a quick trial reference for district court judges);

Civil Code - comparative negligence, mortgage redemption, rules of civil procedure, and other matters;

Criminal code - sentencing and plea bargaining;

Family Law - parentage act, divorce mediation; guardianship and conservatorship - drafting new forms;

PIK-Civil and PIK-Criminal - revising and updating civil and criminal pattern jury instructions;

Probate Law - informal administration of estates, time limits in probate, and other matters; and

Traffic Law - aiding legislature in study of H.B. 2163 proposed by the committee concerning traffic offense adjudication and procedure (Bill was before the interim transportation committee.)

Even though planning is not the major council function, eighty-two percent of the respondents either highly agreed or strongly agreed that planning is important to judicial system governance, and almost the same proportion thought there should be a representative council or advisory body of some sort.

It appears that future planning in the Kansas judicial system may take any one of four directions.

- 1) It can continue on an ad hoc or project-by-project basis with the judicial council.
- 2) The judicial council statute, as suggested by some, could be amended to specify the importance of planning as a judicial council responsibility. The council might then create an advisory committee for this purpose.
- 3) A separate planning advisory committee might be

created, which would be staffed by the judicial administrator's office. Liaison with the Judicial Council would be maintained, especially where statutory or rule revision might be required.

- 4) The judicial administrator's office could provide planning on matters of administration within the system, leaving the council to deal with matters of structure and law reform. This approach would also require close coordination between the judicial administrator's office and KJC, and it might not be as effective as the preceding alternative.

Louisiana

Judicial planning in Louisiana had its origin in that state's inclusion in the six-state pilot Court Planning Capability Project of the National Center for State Courts, which was funded by the Law Enforcement Assistance Administration. The Judicial Planning Committee appointed by the chief justice in connection with this project was designated as the state's JPC after passage of P.L. 94-503 (1976).

The Louisiana Judicial Planning Committee is one of the two actual JPCs still in existence among the six jurisdictions included in this study, although it now is a committee of the Louisiana Judicial Council. The JPC's initial impetus and success was aided and abetted by a dynamic chairperson, a receptive chief justice, and superior staff work. Another major factor in JPC success and longevity is that the committee and its numerous and varied subcommittees, both initially and presently, have broad-based representation, not only in the judicial-legal environment, but also from corrections, law enforcement, legislative branch, social services, and the general public.

The broad range of subjects tackled by the JPC and its subcommittees is indicative of the perceived problems of the Louisiana court system. Some of these subjects include: small claims, court reporting, courts of limited jurisdiction, juvenile law and programs, court delay, sentencing, court structure and funding, and jury management. Solutions to problems in some of these areas are still being sought, even though the JPC was and is perceived as being effective with the legislature, with recommended legislation being adopted. As shown by the above discussion, Louisiana judicial planning activities tend to be project oriented rather than being directed at the development and updating of an overall comprehensive plan. This decision may well be best suited to the Louisiana environment.

One reason why statewide solutions may be harder to achieve in Louisiana than in other jurisdictions is the emphasis on local government and local control in this state. The lack of structural and administrative unification in the Louisiana court system illustrates this emphasis on local control. This absence of structural and administrative unification may have contributed to the apparent use of the Judicial Planning Committee as a major means of judicial system change. There does not appear to be any internal judicial system governance mechanism, such as a conference of chief or presiding judges. Consequently, there are few, if any, turf problems from competing bodies or duplicative efforts.

The pace of JPC activity has slowed down somewhat in recent years. There has been a change of office both in chief justice and in the chairperson of the JPC. Federal funding has not been available for five years, which has caused, in part, a reduction in the number of subcommittees and meeting frequency. It is also difficult to sustain enthusiasm of people whose JPC and subcommittee service is in addition to other important full-time responsibilities and activities. Perhaps for that reason, there are a number of new faces on the JPC and its subcommittees, although some continuity has been maintained.

Almost everyone interviewed or who returned a questionnaire highly or strongly agreed that planning is important in judicial system governance and that the planning function requires a JPC or similar body to be successful; it can not be done by SCA staff alone. Almost the same number advocated the continuance of the JPC and vigorously opposed its elimination.

These findings, along with staff work quality, and a perceived high degree of participation by JPC and subcommittee members help explain the JPC's longevity. Also important is the acceptance and support of the chief justice, and, to a lesser extent, that of the supreme court. The fact that the Judicial Planning Committee was merged with the Louisiana Judicial Council and functions as a committee of that body does not seem to have any significant effect on JPC operations.

Minnesota

The Minnesota JPC, which replaced the Select Committee on the State Judicial System, was considered very successful by interviewees and those who returned questionnaires. Planning in this jurisdiction also was primarily project oriented, although some of the projects were very broad in scope. The JPC had a long list of accomplishments, which were attained through the use of various subcommittees. Among its most recent accomplishments (1981-1984) are:

- 1) reorganization of county court districts within each judicial district;
- 2) preparation and publication of trial judges' benchbook;
- 3) recommendation and adoption of intermediate appellate court;
- 4) development and monitoring of alternative dispute resolution projects; and
- 5) analysis and recommendations on trial court fees and fines structure.⁵

Major reasons for JPC success were identified as the quality and dedication of committee and subcommittee members; a respected, dedicated, and hard-working chairperson, who is a member of the supreme court; and strong support and acceptance from the supreme court and the legislature (members of which have served on the JPC and its sub-

committees). Project selection has also been a key to JPC success. They have been apropos and timely to the perceived needs of the judicial system.

Perhaps the greatest indication of JPC success is that interviewees not only felt that planning is important to judicial system governance, but few cited any alternative to the JPC as a planning mechanism. Most of the comments on alternative ways that planning might be performed dealt with structure rather than process. Some of those responding felt that the JPC might be restructured by adding more administrators, citizens, or judges. Others stated that planning might be performed by existing judges' and administrators' associations.

The loss of federal funding had some effect on the judicial planning committee, even though state funding had taken up much of the slack. In 1977 (the start-up year), the budget for planning was \$103,333. While the total increased to \$117,000 (13.2 percent) in 1984, the 1984 amount was \$55,000 (32 percent) less than the \$172,000 budget in 1981, when federal funds were still available.

The success of the JPC and its project-oriented emphasis may have been its largest problem. It ran out of meaningful projects, and some state judicial officials have wondered whether there is sufficient future need for the twenty-five member council. The situation is further complicated by the development of the council of chief judges and trial court administrators into a viable judicial system governance mechanism. This body, as in other states, has been primarily concerned with short-range and immediate management problems and has not been involved in planning. Nevertheless, these developments suggest that the role of the Minnesota JPC (and perhaps other JPCs) should be redefined, if it is to become active once again. Some suggestions in this regard are discussed in a subsequent section of this chapter.

South Dakota

Its relatively short existence (eighteen months) and the limited number of people directly involved make it difficult to evaluate the Judicial Planning Committee's effectiveness. The JPC had an ambitious agenda, one which seemed to contemplate an effort of much longer duration. The abrupt demise (as so described by some interviewees) reduced the number of tangible work products, but some projects were completed by the state court administrator's office either with or without a task force or similar group, e.g., South Dakota Judicial Information System.

What was perhaps the JPC's greatest success may have contributed to its demise. The involvement of people outside the judicial system in the planning process was hailed as salutary by many of those interviewed. At the same time, outside participation was viewed as usurpation of judicial administrative authority by a number of circuit judges and at least one member of the supreme court.

The Judicial Planning Committee had little visibility within the judicial system (trial courts), and some of that visibility was negative. The JPC's reception was mixed and, in some instances, hostile, especially from those circuit judges

5. *Outcome of JPC Activities 1977 Through Present*, (St. Paul, MN: Minnesota Judicial Planning Office, December, 1982, as supplemented by *Minnesota Judicial Planning Office Addendum*, (St. Paul, MN: Minnesota Judicial Planning Office, July, 1984).

who looked upon it as a reinforcement and extension of the centralized bureaucracy resulting from the creation of the unified judicial system in 1975.⁶ A few questionnaire responses stated that the continued negative reaction to the 1975 judicial reorganization, as mandated by a 1972 constitutional amendment, was probably transferred to the Judicial Planning Committee. Whether greater dialogue and broader dissemination of information about the JPC might have overcome opposition is questionable. It was probably worth trying.

The extent of bar involvement with the JPC could not be clearly ascertained. There was some indication that most of the bar had little knowledge of, or involvement with, the JPC. Those that did were those few bar association officials and other attorneys who were directly involved with the JPC, either as members, or working on a special project such as cameras in the court room. These bar members strongly supported the JPC. Whether greater or more wide-spread bar support might have tempered the attitudes of some circuit judges toward the JPC is speculative at best, especially without greater understanding of the bench-bar relationship in South Dakota. Nevertheless, while there was little evidence of broad-based bar support, there was no reported broad-based opposition either.

The lack of visibility with the legislature (as perceived by interviewees) would have been a major concern had the supreme court opted to request state funding to replace the vanishing LEAA money. The supreme court did not so choose, indicating split court opinion toward the JPC, even though it was strongly supported by the then chief justice, who served as JPC chairman.

The tight revenue situation in South Dakota at that time may have made state funding difficult to obtain, especially as many legislators were reported to know little, if anything, about the JPC. State funding of the JPC might have required a reduction of an equal amount in another part of the judicial system budget, a decision which the supreme court and state court administrator apparently did not want to make.

Even though the circuit judges reacted negatively to the JPC, they strongly supported the concept of planning and considered it important to judicial system governance. They wanted more circuit judge participation in the planning process, especially presiding judges' involvement.

JPC members and those actively involved in its operation also strongly endorsed planning as a concept, as well as its importance in judicial system governance. Most of this group disagreed with the termination of the JPC and would reinstate it, if possible, maybe with slightly different membership.

6. A supplemental questionnaire was sent to thirty-two circuit judges who were on the bench during the tenure of the Judicial Planning Committee, almost all of whom did not participate in JPC activities. There were fifteen responses (46.9 percent). This questionnaire was used to test the validity of the observations by several interviewees that circuit judges, generally, seemed opposed to the JPC, because they considered it an extension of the centralized bureaucracy resulting from creation of the unified judicial system. The responses (although slightly less than fifty percent) supported this observation.

Despite these seemingly strong endorsements of planning as a concept; the impressive JPC agenda; and satisfactory level of achievement, considering its limited life; there is currently no formal planning process, nor any perceptible attempt to initiate one. Any planning that is done is incidental to the periodic meetings of the chief justice, the presiding judges, and the state court administrator or may arise out of other SCA operations.

In conclusion, the Judicial Planning Committee was launched with considerable enthusiasm on the part of its chairman and most of its members. It developed a challenging agenda and opened up the judicial system to participation by outsiders. Misunderstanding and misapprehension of both its purpose and why it was needed lessened the JPC's chance for success, even if it had had a longer life span. Internal opposition appears to be a major factor in the JPC's demise, although the loss of federal funding and a tight state budget probably hastened its end. The degree of internal opposition leads to speculation as to whether the JPC would have continued had additional federal funding been available, and, if it had continued, its composition could well have been changed.

Washington

The Washington state Courts Planning Committee, like its counterparts in many other states, was created in 1976, subsequent to the passage of P.L. 94-503 (1976). Prior to creation of the CPC, the then state court administrator created a division within his office to explore programs for improving court operations.⁷ Initially, the CPC devoted its attention to the development and approval of LEAA grants, which was also the initial focus of judicial planning councils in many other jurisdictions. Subsequently, the CPC did comprehensive planning, with annual updates setting forth goals, objectives, and tasks to be performed.

The 1981 Washington judicial plan (the last one prepared) identified eight major judicial system problem areas and developed goals, tasks, and strategies to solve or alleviate these problems. The subjects to be covered included:

- 1) information and procedures management;
- 2) caseload management;
- 3) judicial system structural needs evaluation;
- 4) training for judges and nonjudicial personnel;
- 5) promotion of citizen and media awareness of judicial system;
- 6) evaluation and improvement of juvenile court procedures and programs;
- 7) promotion of coordination among the various court components; and
- 8) evaluation and modification of post-adjudication functions.⁸

Accomplishment of tasks and the achievement of goals and objectives in these areas were hampered by the termination of federal funding in FY 1982, although the state court adminis-

7. *FY 1980 Washington Judicial Plan*, (Olympia, WA: Courts Planning Council, 1979), p. i.

8. Excerpted from *FY 1981 Washington Judicial Plan*, (Olympia, WA: Courts Planning Council, 1980).

trator reported that office is continuing work on some projects. Elimination of federal funding was cited as the most significant cause of the CPC's demise, but other reasons were cited as well, such as the lack of support by the supreme court, even though a member of the court chaired the CPC. This was also a period when there were changes in the office of chief justice and state court administrator, but the effect of these changes on the CPC could not be ascertained.

The Courts Planning Committee was the only one of the six that did not have subcommittees. The lack of subcommittees reduced the CPC constituency, but it is not clear whether this had any affect on CPC status.

Also cited as reasons for CPC termination were internal (CPC) disagreements on principles and purposes, internal management problems, lack of legislation recognition, and the exclusion of judicial system decision makers.

The last may be a reason for the creation of the Board of Judicial Administration, which succeeded the CPC, and which (as previously indicated) brings together the leaders of the two judges' associations, the court of appeals, and the supreme court. Such staff work as is required is provided by the state court administrator's office. While the BJA appears to have the potential to become active in judicial planning, it has yet to do so, even though some BJA members thought this might be a logical function for the BJA, perhaps with a broader membership.

While a strong majority of those interviewed who were on either the BJA or CPC agreed that planning required a committee of some kind, there was no identifiable agreement as to composition or place in the judicial governance structure.

Summary

The JPCs in four of the six states had or have a track record of substantive accomplishments. The JPCs in the other two states (South Dakota and Washington) had shorter life spans, so the list of accomplishments is limited to identifying problems and laying the groundwork for later project development, such as automated management information systems.

Despite recognized accomplishments, there is reason to be concerned about the future of the planning function, generally, and JPCs, in particular. The Kansas Judicial Council (which was *sui generis* in this study) is well established and accepted and has statutory authority, but the JPCs were and are creatures of their respective judicial systems, which leaves their survival and roles up to judicial system leadership. Certainly, this is where the responsibility should lie, but it raises questions concerning where and if planning belongs in judicial system governance, an important matter addressed in the following section.

Planning and Judicial Administration

The six-state judicial planning study shows that there is strong endorsement of planning as a concept. There is also general agreement that planning should be guided or advised by a qualified and concerned board or council, with representation both from within and outside of the judicial system. The board or council should oversee a qualified, professional staff, make initial policy decisions, and present recommendations

to those responsible for judicial system governance. In most instances, this is the chief justice, the supreme court, or both. Often, governance is assisted, formally or informally, by a council of chief or presiding judges or key constituent groups within the judicial system, which meets periodically with the chief justice and the state court administrator.

What is so strongly supported conceptually may be difficult to achieve and sustain in actuality. Amid the success stories, the study suggests that it is possible to have problems or difficulties between those who plan and those who execute or govern. These include communication problems, role identification and conflict, recommendation/implementation dichotomy, and perceived or actual duplication of effort. The easiest way to deal with these is to terminate or phase out the planning effort or to subordinate it to other activities, as has happened in some jurisdictions. If planning is recognized as important by judicial system leadership, it becomes necessary to handle these problems and difficulties, should they occur. Doing so effectively may require a recasting and redefinition of the planning function and its relationship to judicial system governance.

The first decision is whether there should be a separate committee or board concerned with planning, whether another group, such as a council or chief judges or the supreme court *en banc* should perform this function in addition to administrative responsibilities, or whether there should be any group at all designated to be directly concerned with planning. There is no longer any financial incentive to create or continue a planning body; in fact, it might be a disincentive, requiring resources that otherwise could be used for something else. Consequently, the decision is strictly on the merits.

The study shows considerable support for a broad-based planning group with representation from outside the judicial system, based on the assumption that significant contributions can be made by those with different perspectives. On the other hand, there was opposition voiced to involvement from outside the judicial system with what is a judicial system responsibility. These observations might lead to the conclusion that the decision turns on whether one favors an open or closed system of management, with the latter view supporting either no planning body or one already involved with governance within the system.

Although this is important, the decision is not quite so simple. A lot depends on the contemplated role and functions of the planning body. If long-range planning, policy analysis, and program evaluation are to be the tasks, a strong case can be made for a broad-based representative planning body. On the other hand, if the assigned tasks and projects are similar to what might be accomplished by management analysts in the AOC, a strong argument can be made that a broad-based representative planning body is probably not needed. Further, a broad-based planning body in such circumstances is much more likely to be perceived as duplicating or supplanting efforts better done by others and as interfering with the day-to-day and short-range management of the judicial system.

Another consideration is whether those responsible for day-to-day management of the system can or should be in-

involved in long-range planning or program evaluation, except to review and adopt or reject the results. In those states in the study using chief or presiding judges' councils or conferences as an adjunct in system administration, the principle and perhaps the only focus is on management problems of much shorter duration.

Decisions on the issues raised above are pivotal to determining the proper role of planning in judicial administration, or whether it is to have any meaningful role at all. These decisions can go a long way to eliminate the problems and conflicts between planning and governance enumerated in the early part of this section. Now is an appropriate time for these issues to be addressed, because enough time has elapsed since the demise of LEAA for the role of planning to be reevaluated. It is pertinent both for those jurisdictions that have eliminated or curtailed planning, as well as for those where the JPC or a similar body is still in existence.

If the JPCs in the study were representative, the time may be fast approaching when those still in existence may be running out of projects to implement long-range agendas adopted years ago. Under those circumstances, should the JPC be continued, and, if so, should its role be redefined?

Thus far, the authors have presented data, perceptions, and views gathered during this study and the one that preceded it. The questions and issues posed in this section arose out of these studies, primarily the one covering six states in depth. The recommendations that follow concerning the viability of judicial planning and its future role in judicial system administration are those of the authors and are based on the belief that planning is an important facet of judicial administration and should not be discarded. Further, there is a specific role to be played by judicial planning councils or their equivalents.

1) Planning Redefined

The time has come for the role of judicial planning to be redefined. Projects involving professional planning staffs with or without JPCs have been and are being conducted, but it appears with the exception of some jurisdictions, that very little, if any, planning is being done. Long-range multi-year planning should be one of two major judicial planning focuses. The other should be program evaluation.

Under the first, multi-year needs should be assessed and goals and objectives developed, with annual plan revision. Under the second, operational programs resulting from implementing planning recommendations should be evaluated as to efficiency, cost effectiveness, and whether objectives are meaningful and have been or are being accomplished. A prime example are programs for alternative dispute resolution which have been adopted in many jurisdictions.

The latter half of the 1980s is an unsettled time, one of limited resource availability for public entities, including judicial systems. A long-range plan provides a roadmap through what may otherwise be uncharted territory. It also provides a guide for most effective resource allocation and use.

2) JPC Role

While the approach to planning advocated here can be

made without a JPC or its equivalent, it is recommended that there be a small committee or council representative of the major components of the judicial system, with some coming from outside the judicial system.

The major function of this new JPC would be to provide guidance and insight to professional staff in long-range plan development and program evaluation. Neither it nor the planning staff would be concerned with management analysis research or implementation projects. Those required to conduct those functions should be turned over to someone else in the AOC. The JPC would review the plan as it is being developed, as well as the final product, and the annual revisions. The plan and program evaluations, as reviewed and approved by this body should be forwarded to the chief justice, the supreme court, or whoever has the responsibility for judicial system management.

This is not a new or startling idea. It embodies the recommendations from those interviewed in the six-state study and closely resembles what judicial planning councils were or should have been doing in the late 1970s and early 1980s, but with significant differences. The planning body as contemplated here would have a clearly defined role that would not infringe or have any bearing on day-to-day management. Such role definition should help avoid conflict with system management, especially if communications are improved.

Communication problems with the supreme court and the chief justice could be alleviated by having a member of the court serve as chairperson. Communications with chief judges and other key actors in the system might be improved by circulating periodic reports on planning development and program evaluation to them with requests for observations and suggestions.

3) Long-Range Plan Adoption and Implementation

The success of this approach to planning depends on the support of the chief justice, supreme court, or whoever had the ultimate responsibility for managing the judicial system. Support includes review and adoption of the long-range plan and annual revisions with such modifications as are deemed necessary. It means, as well, review and adoption of program evaluations and initiating such changes as may be required or terminating a program when there is agreement that it should be.

Implementation should be the concern of those responsible for managing the system, which means it will probably be delegated to the professional staff of the AOC. In this category are implementation projects and studies.

Conclusion

These recommendations are not a radical departure from past activities and practices. They represent an attempt to define planning clearly and not to diffuse the planning effort with seemingly related activities which could be more logically performed elsewhere. They are aimed at more precise role definition, conflict avoidance, and improved communications. The planning body would have specific tasks, so that planning being all things to all people would at least be minimized. In these ways, the framework would be provided for planning to play its proper role in judicial administration.

APPENDIX A

Brief Profiles of the Six States Included in the JPC Study

A) *Colorado*

- 1) State-funded court system.
- 2) All state judges appointed under merit selection plan.
- 3) Intermediate appellate court and basic two-tier state trial court system, with three special jurisdiction courts in Denver.
- 4) JPC had broad-based representation.
- 5) JPC became planning, research, and development arm of judicial system.
- 6) JPC survived demise of federal funding and remained operational with state funds.
- 7) JPC terminated by Colorado Supreme Court in September 1982.
- 8) Planning, research, and development placed back in state court administrator's office.
- 9) A Judicial Advisory Committee was appointed in 1985.

B) *Kansas*

- 1) State-funded court system.¹
- 2) All appellate judges and most trial judges appointed under merit selection plan.
- 3) Intermediate appellate court and one-level state trial court with more than one level of judge.
- 4) Kansas Judicial Council (KJC) created in 1927, with planning and research among its statutory judicial system oversight functions.
- 5) Kansas did not create a judicial planning committee or council.
- 6) Planning for implementation of 1972 judicial article carried out by the Judicial Study Advisory Committee (JSAC) appointed by the Chief Justice prior to P.L. 94-503 (1976).
- 7) Other planning activities are still function of the state-funded KJC, except for internal system administration, which is a responsibility of the judicial administrator.

C) *Louisiana*

- 1) Nonstate-funded court system.
- 2) All state judges elected on nonpartisan ballots.
- 3) Intermediate appellate court and limited jurisdiction and special jurisdiction courts in addition to the trial court of general jurisdiction.
- 4) Louisiana was one of the National Center for State Courts six planning pilot project states.
- 5) JPC has broad-based representation.
- 6) JPC has, in effect, become planning, research, and development arm for court system.
- 7) JPC survived the demise of federal funding and is now a committee of the Louisiana Judicial Council.
- 8) JPC continues to be active, with a number of projects and subcommittees.

D) *Minnesota*

- 1) Nonstate-funded court system.
- 2) State judges elected in nonpartisan elections.
- 3) Intermediate appellate court created as result of JPC activity; two-level trial court system.
- 4) Two predecessors to JPC:
 - a) Minnesota Judicial Council
 - b) Select Committee on the State Judicial System.
- 5) JPC has broad-based representation.
- 6) JPC has become inactive.
- 7) JPC survived demise of federal funding and remained operational with state funds prior to becoming inactive.

E) *South Dakota*

- 1) State-funded court system.²
- 2) All state trial judges elected in nonpartisan elections during tenure of JPC.
- 3) Supreme court judges all under a merit selection system; no intermediate appellate court; one-level trial court with three levels of judges.
- 4) JPC representation was not as broad based as Colorado, Louisiana, and Minnesota, but subcommittees were.
- 5) JPC had short active life (eighteen months).
- 6) JPC did not survive federal funding demise, but there were other contributing factors.
- 7) Planning, research, and development assumed by state court administrator's office in addition to other duties.

F) *Washington*

- 1) Nonstate-funded judicial system.
- 2) All judges elected on nonpartisan ballot.
- 3) Intermediate appellate court; two-level state trial court system.
- 4) CPC (Court Planning Committee) had broad-based representation within justice system, but no citizen members.
- 5) State court administrator was initiating planning and research capability prior to CPC.
- 6) CPC did considerable planning, but did not exist long enough for significant implementation.
- 7) CPC did not survive demise of federal funding, but other factors involved.
- 8) Planning, research, and development now in the state court administrator's office.
- 9) Board of Judicial Administration (BJA) formed, composed of appellate and trial court leaders, but has not assumed planning function as yet.

1. In addition to appellate courts and judicial administrator's office, all trial court personnel are state funded.

2. State pays seventy-five percent of judicial system costs, except facilities, jury, and witness fees, and court appointed counsel.