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The Significance of Judicial Structure:

The Effect of Unification on
Trial Court Operations

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EXECUTIVE SUMMARY

The most significant finding of this three year study of court organization is that there are three different types of adjudication processes used in the trial courts of the country. In large part the degree of success and the degree of impact of court unification reform on the state courts is and will be related to the degree to which the court unification corresponds to and takes note of the three different processes.

Although the minimum aspects of due process of law must be taken for granted in the description of the three adjudication processes, they may be distinguished by the principles of their operations. The court of general jurisdiction is typically oriented toward following procedures in which the attorneys involved (either criminal or civil) work toward a solution to the conflict. The judge's role is to mediate under law the attorney process. The traditional court of limited jurisdiction is typified by the judge actively directing the case toward a quick decision by appropriate application of the law. The juvenile court is marked by a process of diagnosing the juvenile's problems and bringing resources to bear on the juvenile for his/her well-being. Again, these processes are laid out with the stress on the general orientation of the court operation -- all require due process in spite of their orientations.

This finding, traditional as it may appear on its face, turned out to affect all aspects of court unification. This summary begins with an introduction to the research effort as it was initially envisioned theoretically through the data collection effort. The findings are then broken into four major headings. First the three adjudication processes are highlighted.

Secondly the impact of court consolidation is examined. Thirdly centralization of the courts is discussed. Finally, there is an examination of productivity differences among centralized and consolidated court systems.

INTRODUCTION TO THE RESEARCH

The analysis of previous research initially led to the conclusion that from a structural point of view there are two basic dimensions to unification. One is the degree of centralization in the state judiciary. This dimension includes the degree to which central offices direct the administration and operation of the various courts of the state. The second dimension is that of court consolidation at the local level. In the initial design of the study, consolidation was viewed as the degree to which all types of law were considered by a single court. This definition concentrated upon the consolidation of the legal process rather than the degree of a geographically-designed consolidation.

Theory

Using organizational theory based primarily upon the work of James Thompson, court processes were examined in the context of organizational structure in order to anticipate the problems and benefits of unification. Thompson describes organizations in terms of three basic functional areas: core technology; administrative (or managerial) support structure; and institutional relations. The manner in which organizations may and do resolve their problems depends upon the character and arrangement of these functional areas. In general terms these functional areas are described and applied to the courts as follows.

- Core technology refers to the basic production process which generates the goods and services of the organization. The core technology of the judiciary is the adjudicatory process. Any reorganization must begin with the underlying character of this process if it is to be effective.
- Administrative support is those activities which channel needed resources to the core technology and distribute the product or service to consumers. This functional area is represented in the courts by the many administrative services which surround the adjudicatory process.
- Institutional functions are the activities necessary to maintain the organization in the larger environment. For the judiciary this refers to the external relations of the courts as they deal with such issues as judicial independence, obtaining operating funds, managing contacts with external support agencies and communicating with the public.

The Research

The research effort began with the selection of states which maximize the difference between high and low centralization and the difference between high and low consolidation. These criteria were met as specified in law and the literature concerning the court systems of the states. The selection process resulted in five states. Connecticut and Colorado were selected as representatives of both centralization and consolidation. New Jersey represented high centralization with little apparent consolidation of local courts. Iowa had consolidated courts with virtually no centralization. Finally, Georgia was selected to represent the traditional court system with little consolidation and little centralization. In-depth analyses of the trial courts of the five states were then undertaken within the context of the theoretical dimensions of the three functional areas. The process included:

- Two units of analysis which had to be taken into account in the research design -- individual trial courts and state judicial systems.

- The primary data collection technique was face-to-face interviews with state judicial leaders, and trial court judges and administrators. This was supplemented by secondary sources such as aggregate statistics from annual reports in each state.
- The analytical approach included descriptions of on-site observations, summaries of interview responses and statistical analysis of aggregate data.

The first step in the field research involved interviews with a variety of actors in the administrative offices of the courts at the state level in each state. These interviews were combined with statute review and formal reports from each state to describe the judicial structures of the states in terms of the state-local and local-local relations. These relations were structured in terms of the centralization and consolidation dimensions. Four general models are described:

- A constellation is a system which emphasizes independent judges and courts primarily bound together by the appellate process. This is the model with the longest tradition in the states; its characteristics have provided reformers with an agenda for change. It was represented in our study by Georgia in which court jurisdiction was fragmented among many units; judges and key administrative personnel were popularly elected; and central, coherent direction of the courts was largely nonexistent.
- A confederation is a system in which local courts have been consolidated into a few, coherent units which operate largely independent of central direction. Iowa represented such a system as it had a single trial court, three types of judges under the direction of a local chief judge, and local control over administrative services. The powers of the state offices were severely limited.
- A federated system has a strong central authority but multiple local units which are independent of each other. Both Colorado and New Jersey typified such a system. Colorado's judicial system had a very strong central office which exercised considerable supervisory authority over local activities, particularly of administrative activities. Trial court jurisdictions, however, were only moderately consolidated. New Jersey also had a strong central office; however, the focus was on directing the bench rather than local administrative services. At the local level there were several trial court jurisdictions and multiple, independent administrative offices.

- A union is a system characterized by a highly consolidated trial court structure and strong central authority. Connecticut represents such a model in our study as it had a single class of judge and an integrated administrative structure under the direction of a state-level office.

The details of the formal definitions of the systems in these five states confirm their selection based on the secondary evidence available prior to the study. As such, they serve as excellent laboratories for testing the importance of variations in unification as reflected in systems design for trial court operations and procedures.

FINDINGS

Adjudication Process

The field study of the local trial court adjudicatory processes led to some unanticipated structural patterns. In the initial theoretical design, a great deal of effort went in to the description of the type of technical process used by the court. Essentially two processes were considered by the team as appropriate. One which Thompson called the "intensive technology" was seen as the primary process used by the juvenile and family courts. This process involves the careful examination of the person before the court to ascertain the problems and needs of the person. The objective of the process is to determine the best action for the benefit of the person. In this it is similar to the process of a hospital or other organization which concentrates on diagnosis and treatment.

The second major process which the team concentrated on is one called "mediation" by Thompson; here the primary objective is to facilitate the conflict resolution or cooperation between two parties. This process was seen as the general procedural process of courts other than the juvenile and family courts. The underlying notion is that the two parties to a suit or

criminal trial seek a resolution to the conflict. The judicial process itself involves the impartial management of a process by which the two parties can be brought together (i.e., the conflict is resolved).

Field research confirmed the description of the juvenile and family courts in the manner expected. However, the general expectations of the adjudication process in other courts was not quite as expected. The traditionally-defined limited jurisdiction courts do not generally operate in the same deliberative and mediating process as do the courts of general jurisdiction. Although we are reluctant to call this process long-linked (the third type of process discussed by Thompson), the fact is that the production process of limited jurisdiction courts is more akin to the long-linked process than it is to the deliberative and mediative process of the court of general jurisdiction. As a general matter, the courts of general jurisdiction did generally operate as expected. These findings led to an identification of three types of adjudication as follows:

- Procedural adjudication emphasizes adherence to established rules and procedures to ensure just resolution of a case and is most closely associated with courts of general jurisdiction. The judge assures the use of proper procedure and determines the proper penalty or award when the dispute is resolved. Essential administrative support for adjudication is minimal and the court as an organization is a loose coalition of independent offices. The primary clientele, and effective managers of procedural adjudication, are lawyers.
- Decisional adjudication seeks to establish facts and apply law as quickly as possible and commonly is found in courts of limited jurisdiction. Stakes in such cases are usually less than those disposed of by procedural adjudication. Judges are quite active in phases of decisional adjudication; administrative needs are considerable but involve a limited number of services. Primary clients are litigants and public agencies.

- Diagnostic adjudication seeks to determine the proper treatment for a problem rather than to establish guilt or innocence or winners and losers through adjudication. Juvenile and other special jurisdiction courts are likely to be dominated by this type of adjudication. The judge's role ranges from ratifier of decisions formulated by social workers or probation officers to proactive agent in search of proper remedies to individual and family problems. Administrative service demands are especially heavy since reports are often dispositive. Integrity of organizational components is complete, resembling more a social service bureau than any other type of court. The clients are those receiving treatment and the general welfare.

The significance of these three types of process is found in the fact that they tend to maintain themselves under all types of centralization and consolidation. Perhaps the clearest example of maintenance is found in reported comments from Connecticut where judge rotation goes across all of the courts. Judges accustomed to one of the processes reported initial adjustment problems when rotated to a court involving a different process. A judge moving from a court of general jurisdiction to a court of limited jurisdiction is likely to begin by creating some backlog. The judge generally is expecting to mediate the legal moves of the attorneys involved. It may take several sessions before the judge adjusts to the rapid decisional motif of the limited jurisdiction process. Similarly, rotation from either of these courts to the juvenile court may create initial uncertainty for the judge as he/she attempts to adjust from the mediation of attorneys or decisions on points of law to the diagnosis of problems and selection of appropriate actions. The latter may also be problematic because the types of resources available must also be learned (e.g., what type of counseling is available and from where).

A second pattern noted in Iowa tended to confirm the distinction of the diagnostic court activities. In Iowa, there is no distinctive diagnostic court. The judges of the court of general jurisdiction do have the power to assign cases to the magistrate's court. Interestingly, almost all of the general jurisdiction courts followed the pattern of assigning what we called nonprocedural process cases to the magistrates' courts. In short, the general jurisdiction court reserved the process associated with it traditionally and sent other cases to the magistrates.

New Jersey maintained separated courts for each of the types of adjudication process. The Colorado court of general jurisdiction had the juvenile case load with no place to assign the cases (except in Denver), but they did maintain the distinction between the general jurisdiction and the limited jurisdiction and sometimes assigned one judge to handle juvenile cases. Perhaps the final affirmation of the apparently natural distinction of the three types of process was found in the uncentralized and unconsolidated state of Georgia. The Georgia system is such that the court of general jurisdiction has all legal jurisdiction where there does not exist another court. Hence in rural areas the juvenile jurisdiction often falls upon the courts of general jurisdiction. Again, one of the more common assertions of need from these judges was the creation of separate juvenile courts.

The recognition of these three types of adjudication process is very important for consideration of court unification. Where unification is attempted without recognition of the distinctions of the process, the trial court realities tend to informally reflect such divisions anyway. Where centralization involves movement of judges across the different processes, the central offices need to take note of the adjustments involved.

Consolidation of Courts

In the initial design, the research team had imagined the issue of consolidation as being largely an issue for the bench rather than of administration. This followed from the earlier assumption that there was little or no difference in adjudication processes from one type of trial court to another. However, there did turn out to be a difference between administrative consolidation and consolidation of the bench. Moreover, consolidation of legal jurisdiction does not necessarily result in all of the parts being considered a single organization from the point of view of the actors.

The style and form of court management varied by the adjudication process regardless of the degree of consolidation. The juvenile and family courts have high support needs because of their diagnostic interests. The administrative structure becomes highly involved with the judges through the service provision needs. The decisional courts (limited jurisdiction) also have administrative needs, but these center more around case scheduling. These latter courts require a substantial queue of cases for the rapid flow through court.

The procedural-based courts of general jurisdiction, on the other hand, require less in the way of overall court management. Support needs for the procedural courts tend to be focused around individual judges rather than the court as a whole. The adjudicatory process is largely managed (with the consent of the judge) by the attorneys involved. When a case is brought to trial, the in-court process is relatively long compared to that of the limited jurisdiction courts. Hence, the case queuing (for example) is less problematic.

There remains a distinct break between management of support services and management of judges. It is clear from our survey that only judges can manage judges. Moreover, there must be fairly clear lines of authority before the judges accept a management authority over them. These lines are reasonably clear in New Jersey and Colorado (perhaps because the judicial authority is also defined vertically through the system). In Iowa, the lines were also clear at least between the chief judge and the magistrates.

On the other hand, the administrative structures were seldom integrated with the judges (with the exception of the juvenile courts). This fact appears to loom large when the judicial district extends across county lines and the administrative units are by county lines. Since the case records and attorneys tend to be maintained by counties, each county session of the court appears like an individual court regardless of the formal district lines. Hence, consolidation has the greatest impact in creating a single court organization when the court is multi-member with a clear line of authority to the chief judge and when there is a single administrative unit contiguous with the judge-defined court.

Perceptions among the judges and administrators of the court vary in the degree to which they perceive clear lines of organization among themselves. Some of our general findings on the impact of consolidation may be summarized:

- In terms of the larger organization, integration of judges and administrators is more a function of the intensity of working relationships than formal definitions of jurisdiction. An important finding in this regard is the general lack of identity between judges and trial court administrators.

- Chief judges across the states report significant differences in the distribution of time spent on administration of the court. The amount of time appears to have no bearing on the distribution of time spent by trial judges.
- There was little agreement, within or between states, on the official who should have primary responsibility for various administrative and management functions. The only significant exception was the universal opinion that judge activity should be monitored by judges.
- Court clerks and trial court administrators have different perceptions of the court as organization. Clerks emphasize case processing in their definition of organizational boundaries. Trial court administrators have a broader perspective on the court, viewing the courtroom, its participants and its needs as only one part of a complex organization.
- Consolidation appears to engender a concept of the trial court as a coherent, multi-member organization. But, differences in perceptions among general and limited jurisdiction judges and administrators indicate that basic adjudicating processes may be limitations on the development of a consolidated organization.
- Consolidation requires a strong management position -- chief judge or trial court administrator -- if structure is to translate into formal organization. Each, however, is likely to emphasize different areas of management. Chief judges concentrate on bench practices and performance. Trial court administrators are likely to focus on traditional public administration issues such as personnel, budget and fiscal performance, and clerical procedures.
- The effects of consolidation on basic organizational operations are not clear. The intervening effects of statewide judicial structures must be considered for the impact of consolidation to be understood fully.

Centralization of Courts

Two very clear dimensions of centralization emerged from the study. On the one side centralization may be centered almost solely in the administrative (support services) structure of the court as in Colorado. On the other side, centralization may be centered on the bench as it is in New Jersey. Connecticut had centralization of both dimensions although the administrative

side may have been less centralized than was expected. It should also be noted that New Jersey has some of the trappings of centralized administration, but the presence of the independent local clerks prevents full centralization of authority.

The bulk of our findings on centralization deals with the degree of administrative centralization. One particularly noteworthy finding on centralization of the bench should be mentioned however. Centralization of the bench with clear judge perception of the lines of authority provides the means for court integration. Only Connecticut and New Jersey actually assign judges as needed. Connecticut's assignment includes assignment across district lines while such assignment is rare in New Jersey. On the other hand, assignment power in New Jersey is routinely used on an as-need-basis across all of the various courts within a district. This practice is noteworthy because it creates a de facto court consolidation in New Jersey in spite of the many different local courts.

This cross-assignment seldom occurred in other states. In fact as an assignment, it never occurred. Judges do occasionally cross district or venue lines in the other states but only with the agreement (usually volunteering) of the judges.

All of the central administrative offices of the courts were heavily involved in the collection of court statistics and in the active use of these statistics and other resources for the purpose of representing the court system to the state legislature. All were involved in obtaining resources from the state legislatures for the court systems. On the other hand, full rulemaking authority was limited to the most centralized states.

There were no great differences in the resources available to the trial courts among the states when viewed from a total system perspective. However, the distribution of resources did vary. The more centralized systems of Connecticut, New Jersey and Colorado had a more even distribution of resources among the courts of the state. Iowa and Georgia, on the other hand, had more uneven distribution. Georgia, in particular, had great variations from the more affluent urban areas to the small rural ones.

Local perceptions of the state offices varied by urban and rural even in the centralized systems. The rural court officials were far more likely than their urban counterparts to see the state offices as providing assistance. Urban court officials, on the other hand, saw themselves as assisting the state office.

Operating procedures of the courts within a state also tended to be more uniform as the state was more centralized. Hence, it appears in general that the most significant impact of centralization is greater uniformity at all levels of operation. In contrast there is no clear advantage to the overall level of resources.

Productivity of the Courts

Cross-sectional analysis on 1980 data from the five courts provided little information of the effects of centralization and consolidation on court productivity. It should be noted, however, that the major reason for the lack of sharp differences among the states may be due to the fact that court organization and case statistics do not directly correspond with the types of adjudication processes noted earlier. Hence filing and disposition data from all of the states included different mixtures of cases involving different

adjudication processes. Iowa general jurisdiction courts include probate and juvenile cases as does Colorado's (except Denver). On the other hand, most but not all of the juvenile cases in Iowa were reassigned by the judges to the magistrates. New Jersey's statistics did not include misdemeanor cases, while all others did. Even in Georgia (where there is in principle a court for every case) the jurisdiction varied when rural general jurisdiction courts also have juvenile and, in some cases, traffic jurisdiction.

In spite of all of these limitations, consolidation does appear to produce slightly higher disposition rates. These differences show up under the control for environmental variables. Hence while the relationship is weak, it does hold up. Apparently the consolidation reforms do provide for better use of judge time although the exact reasons remain to be discovered.

Centralization, in general, did not provide any explanation for productivity as such. However, centralization did emerge of significant in the capacity of a state system to direct or redirect its efforts. Most notable was the apparent decision of New Jersey to clean up its criminal backlog in the year in which the statistics were taken. Hence while the overall dispositions per filing were in the middle range of the states, the criminal dispositions per filing created a ratio over 1.0 while the civil disposition ratio was correspondingly lower.

In general, we suspect that the disposition ratios are more a product of the adjudication type in which cases fall than they are of most other organizational issues. Clearly, however, juvenile and family case speed will probably depend upon the administrative resources available.

SUMMARY

Three types of adjudicatory process are used in American courts. These processes are apparent and distinct in court systems which differ by statutory definition. It is clear that the three -- procedural, decisional and diagnostic adjudication -- emerge regardless of the functional organization of the state court system. Hence, efforts at unification will be enhanced by careful consideration of the use and needs of each different type.

The two dimensions of unification studied were consolidation and centralization. Consolidation appeared to be the more significant dimension in its impact upon court efficiency. It was the consolidated court which generally showed higher disposition rates. These results would be sharper had any of the states taken account of the implications of the three adjudicatory processes.

Connecticut did have three levels of court which basically corresponded to the different adjudicatory processes. However, the judicial rotation in the state did not take adequate notice of the necessary adjustment judges had to make when moved from one type of procedure to another. This is not an argument against rotation as one might wonder about the degree of consolidation if judges were not subject to cross-assignment. It is, nonetheless, a suggestion that the benefits of rotation must be examined in light of the inherent costs of the adjustment time.

It is clear that consolidation of courts implies the need for divisions which correspond to the adjudication process types. Moreover, these divisions must have a level of administrative support which facilitates the procedures used in the different courts. The realities of geographic dispersion of

the population in large states make these assertions easier in principle than in fact. Rural areas provide small case loads for all types of courts. For the court of general jurisdiction, circuit riding appears to be necessary; but the result may be a fragmented administration. For the juvenile court, the existence of the necessary support services is difficult to maintain under any condition.

The second dimension of unification can provide systemwide coordination of effort but it may have no effect on the efficiency of the court. Centralization has two significant impacts. First, the centralization of the court provides greater uniformity of court and administrative procedures throughout the state. Second, the state office exercises a major influence where the bench is centralized; it can redirect court efforts from one type of case to another.

Again, failure to recognize the three adjudicative processes in practice can interfere with the efforts of a centralized state's AOC. Where disposition rates are used as a measure of court performance, recognition must be given to the different standards of the three processes. The dispositions per judge for the decisional courts should be expected to be very large, while those for procedural adjudication courts should be relatively small.

The development of performance measures for the different types of adjudicatory process is at the core of future research needs. The development and use of measures by state offices entail a number of problems. While the three processes represent orientations of a court, it is not clear where each type of case should be assigned. The dividing line between a civil suit which requires the usually lengthy procedural process and a civil suit which gives

a greater sense of justice when the decision is reached with speed is not an easy line to draw. In addition, the jurisdictional boundaries of the courts are not drawn with these adjudication processes in mind. Hence, the application of performance measures will require additional study.

Although there is much research to be done, it is clear that centralization and consolidation have made a difference in the operation of the courts. These attempts at reform have brought forth simplification and uniformity within the court systems. It is also clear that court unification is not as simple as many have thought. The persistence of the three types of adjudicatory processes enforces the conclusion that these processes must be considered and reflected in continuing efforts at court unification.